

Student Misconduct Procedure

Procedure Category			
Document Owner	Dean		
Responsible Officer	Dean		
Review Date	13/08/2022		
Related Documents	<i>Academic Integrity Policy</i> <i>Academic Integrity Procedure</i> <i>Acceptable Use of ICT Policy</i> <i>Discrimination, Bullying and Harassment Prevention Policy</i> <i>Equity and Diversity Framework</i> <i>Health and Safety Policy</i> <i>Health and Safety Procedure</i> <i>Privacy Policy</i> <i>Records Management Policy</i> <i>Records Management Procedure</i> <i>Student Code of Conduct</i> <i>Student Support Framework</i>		
Version	Authorised by	Approved	Effective Date
1.2	Executive Management Committee	13/08/2019	13/08/2019

This Procedure implements Waratah Institute's (the 'Institute') *Student Code of Conduct*.

This Procedure only deals with breaches of a non-academic nature. Breaches of academic integrity standards are covered in the *Academic Integrity Procedure*, which can be accessed from the Waratah Institute's website. This Procedure covers both on-campus and online misconduct.

The rules of procedural fairness, i.e. of a fair and proper process when making decisions which could affect a student's interests, underpin this Procedure and its application by Waratah Institute's staff.

1. Scope

This Procedure applies to Waratah Institute's students, staff and affiliates.

2. Definitions

Affiliate: any person appointed or engaged by Waratah Institute to perform duties or functions for the institution other than students and staff, and including members of advisory committees and governing bodies, contractors, consultants, and agency staff.

Breach: a failure to comply with Waratah Institute's Student Code of Conduct and related policies, procedures, directions or instructions - intentionally or unintentionally.

Compassionate or compelling circumstances: factors impacting on Waratah Institute's decision to respond to a given wrong, fault or breach.

Extenuating circumstances: factors reducing the gravity of a wrong, fault or breach.

Misconduct: an intentional breach of standards of conduct established under the Student Code of Conduct and other Waratah Institute's policies, procedures, directions or instructions.

3. Procedure

3.1. Communication

Students are made aware of Waratah Institute's policies and procedures, including the *Student Code of Conduct*, during orientation and/or during the first week of classes.

Policies and procedures are publicly available on Waratah Institute's website. A responsible officer is allocated to each document to answer students' questions. Students may also contact Student Services or a Lecturer for guidance.

Students are made aware that Waratah Institute's staff implement strategies for detecting breaches, such as:

- reporting mechanisms; or
- ad-hoc monitoring and audits of student use of Waratah Institute's digital platforms.

3.2. Dealing with breaches of the Code

This Procedure does not limit a person's right or duty to report an incident to Australian or State government agencies, including NSW Police.

3.2.1. Reporting suspected breaches

Students and staff are required to report suspected breaches of the *Student Code of Conduct* or related instruments to Waratah Institute as soon as reasonably practicable.

Students may report breaches in writing or verbally to Student Services or the Program Coordinator.

Staff must report breaches in writing to the Program Coordinator.

Where possible, the report should include evidence and relevant support documentation.

All reports of suspected breaches must be acknowledged if provided in writing.

Students and staff should discuss any privacy concerns at the time of reporting.

The report must be recorded in a confidential file in the student management system.

3.2.2. Reviewing suspected breaches

Suspected breaches are reviewed by the Program Coordinator at a minimum to ascertain the extent, degree, nature and credibility of the suspected breach.

The reviewer considers the evidence provided, determines whether a breach has occurred, and determines whether any action may be required.

At any stage of the review process, the reviewer may close the Procedure and communicate the outcome to the person who made the report and the student alleged to be involved in the suspected breach, as appropriate, if it is established that:

- there is insufficient evidence to confirm the occurrence of a breach;
- a breach occurred but was of no material significance or consequence; or
- there are compelling or compassionate circumstances for not pursuing the matter further.

If it is determined that no breach occurred, the reviewer notifies the person who made report of the outcome of the review in writing, including any relevant information leading to the conclusion.

Waratah Institute's response must be recorded in a confidential file.

If it is determined that a breach may have occurred, the reviewer assesses whether additional information is required, in particular discussing the matter with any person involved in the suspected breach. If hearing from the student allegedly responsible for the suspected breach is required, a request for meeting with Waratah Institute staff is sent within 5 days of the report to the student involved in the suspected breach. The notification will:

- notify the student of the suspected breach;
- advise the date and place of the meeting (to be held within 10 days of the notification);
- indicate that the student may bring a support person;
- provide a copy of the *Student Code of Conduct* and this Procedure;
- indicate alternative means to discuss the matter (e.g. teleconference); and
- give the student an opportunity to submit a written statement by the date of the meeting as an alternative to, or supplement to, the meeting;

The reviewer determines the privacy requirements of the person who made the report and proceeds as appropriate to ensure that the person who made the report is protected from victimisation or reprisal throughout the process.

The support person may not act as legal representation or intercede on behalf of the student.

If, based on the outcome of the meeting, it is determined that no breach occurred, the reviewer notifies the student(s) involved in the suspected breach and the person who made report of the outcome of the review, indicating that no action was taken with regards to the report.

Waratah Institute's response must be recorded in a confidential file.

3.2.3. Responding to breaches

If, based on the outcome of the meeting, it is determined that a breach occurred, the reviewer assesses the breach based on the following categories:

- major – deliberate, planned, significant in scale, significant in scope, and/or in breach of legislation;
- minor – a breach that is not deemed major;
- misconduct – an intentional breach;
- initial – first time a breach has been confirmed; and
- repeated – a similar breach has previously been confirmed.

The reviewer determines appropriate required action, penalty or sanction for the breach, if any, using the categories above and the presence of any extenuating, compelling or compassionate circumstances. Required actions, penalties and sanctions may include:

- an apology;
- counselling;
- attending relevant training;
- warning or reprimand;
- suspension of access to Waratah Institute's facilities;
- suspension from the program;
- exclusion; or
- referral of the matter to relevant authorities.

The reviewer may, with the Dean's concurrence, establish a committee to review the breach and make recommendations on an appropriate response to the breach.

Any actual misconduct, major breach, or repeated breach must be referred to the Dean. An accompanying recommendation on how to respond to the breach must also be provided.

Waratah Institute's response to the breach is communicated to the relevant parties, safeguarding confidential information as appropriate and including the outcome of the review, including findings, decision and penalties and sanctions.

Waratah Institute's response to the breach must be recorded in a confidential file.

3.2.4 Following up on breaches

Waratah Institute may be obligated to report the breach to Australian and State government agencies, depending on its type and applied sanction (e.g. for overseas students).

The reviewer is responsible for ensuring that the person who made the report or any person involved in the breach are not victimised or subject to reprisals.

Breaches of the Code of Conduct, along with management actions and outcomes, are communicated to the officer responsible for Waratah Institute's *Risk Register* who may conduct a review of relevant controls.

4. Staff Breaches

If a staff member is found to be in breach of this Procedure, she or he may be subject to disciplinary action in accordance with the *Staff Code of Conduct* and *Staff Misconduct Procedure*, which can be accessed from the Waratah Institute's website.

5. Appeals

Appeals concerning any decision taken in relation to this Procedure should be made under the *Student Complaints and Appeals Policy*, which can be accessed from the Waratah Institute's website. Overseas students may lodge an appeal with the Overseas Students Ombudsman.

6. References

Higher Education Standards Framework (Threshold Standards) 2015 – Part A, Standards 2.4, 5.2, 7.2

National Code of Practice for Providers of Education and Training to Overseas Students 2018, Standards 8, 9

7. Acknowledgements

In developing this Procedure, Waratah Institute acknowledges:

- *TEQSA Guidance Notes:*
 - o *Academic Integrity;*
 - o *Academic Quality Assurance.*

Document History:

Version	Date	Author	Reason	Sections
0.1	31/7/2017	Lincoln & DM	Updated as per the minutes of the AB meeting 20 th July 2017.	Sections 4 and 7
0.2	29/05/2018	Julien Marechal	Revised as per the Academic Board's feedback from 16/05/18 meeting	All
0.3	29/06/2018	Julien Marechal	Revised as per the Academic Board's feedback from 25/06/18 meeting	Opening statement, 4.
1.0	11/07/2018	Julien Marechal	Revised as per the Executive Management Committee's feedback from 3/07/18 meeting	3.2.2
1.1	13/8/19	Julien Marechal	Revised in response to TEQSA feedback and approved by Executive Management Committee 13/8/19	Introduction
1.2	06/01/2020	Philippa Ryan	Amended to reflect new trading name 'Waratah Institute'.	All