

# Non-Academic Misconduct Policy and Procedure

<b>Supporting plans, policies and procedures</b>	<ul style="list-style-type: none"> <li>• Academic Integrity Policy and Procedure</li> <li>• Student Handbook</li> <li>• Staff Complaints and Appeals Policy and Procedure</li> <li>• Student Complaints and Appeals Policy and Procedure</li> <li>• Student Orientation Policy and Procedure</li> <li>• Academic Integrity Committee Terms of Reference</li> <li>• Code of Conduct</li> <li>• Privacy Policy</li> <li>• Bullying, Harassment, Discrimination, Sexual Assault and Sexual Misconduct Policy and Procedure</li> <li>• Facilities, ICT Infrastructure and Resources Policy</li> <li>• Resource Access and Usage Policy</li> <li>• Health and Safety Policy and Procedure</li> <li>• Non-Academic Misconduct Register</li> <li>• Workforce Plan</li> <li>• Conflict of Interest</li> </ul>
<b>Related legislation and references</b>	<ul style="list-style-type: none"> <li>• Higher Education Standards Framework 2015</li> <li>• Tertiary Education Quality and Standards Agency (TEQSA) Act 2011</li> </ul>
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<b>Approved by</b>	Board of Directors and Academic Board
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<b>Document review</b>	This document is to be reviewed every two years at a minimum from the date of final approval

Version	Review Date and Person/Body	Notes
0.1	Draft prepared by LTC	
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2.1	Approved by Academic Board on 15 September 2020	Minor updates included after internal and external independent review Reference to Conflict of Interest Policy added
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3.0	Reviewed and approved by the Board of Directors and Academic Board via email circulation on 23 July 2021	Updates made following the response to the TEQSA Request for Information 23 July 2021

## Background and Scope

This policy and procedure supports MIHE's commitment to ensure that non-academic misconducts are dealt with fairly. MIHE strives to provide a satisfying and rewarding learning experience for all students in achieving their full potential. All students, staff, facilities and amenities must be treated with care and respect in order to ensure safe teaching and learning experiences.

This document aims to provide guidelines for identifying the actions that constitute non-academic misconduct by students and outlines the process for investigating allegations of student misconduct. It also describes the potential consequences should an allegation be proven.

Other forms of misconduct that are academic in nature are covered in the *Academic Integrity Policy and Procedure*. These policies and procedures should be read in conjunction with the Code of Conduct that describes the expectations of the students' behaviour. This is also covered in the Student Handbook and further reinforced during student orientation (see Student Orientation Policy and Procedure).

This policy and procedure applies to any non-academic misconduct committed by a student at the MIHE campus or while using MIHE facilities and/or amenities. This policy and procedure also applies if the misconduct is committed during events or activities conducted under the name of MIHE such as excursions, educational placements with external organisations and while the student is located elsewhere other than at a MIHE campus. This policy and procedure applies to all courses, students, staff including casual staff and contractors.

## Definitions

Appeal	An application to a higher authority for a decision to be reversed.
Misconduct	Inappropriate, unacceptable, improper, wrong or potentially unlawful conduct or behaviour
Non-Academic Misconduct	Unacceptable or improper behaviour on the part of a student. It can occur as a single instance, a number of instances or in a pattern of behaviour and is not limited to campus or an online class space but includes physical and virtual private and public spaces such as the internet and social media.
Staff	People employed to work on an ongoing, fixed term, sessional or casual basis under the terms and conditions of an employment agreement (contract) issued by MIHE.
Support Person	The student is entitled to be supported by another person who is willing to support and assist the student at any stage of the process.

Also, refer to Glossary of terms.

## Policy

### Non-academic Misconduct Policy Statement

A student will be guilty of non-academic misconduct if, without reasonable cause any of the following occurs:

#### Unacceptable behaviours:

- (a) Contravention of any MIHE rules, demonstration of disregard for the provisions of the non-academic rules, policies, procedures or whether specified *in Code of Conduct* or as otherwise defined by MIHE from time to time.
- (b) Negatively impact the good name, reputation or academic standing of MIHE.
- (c) Disruption, interference or detrimental to the conduct of teaching, study, assessment, research, use of the MIHE facilities/amenities or administration of MIHE.
- (d) Inappropriate, disrespectful, disorderly behaviour when at the MIHE location or located elsewhere than at a MIHE location during events or activities conducted under the name of MIHE such as excursions, performances, productions of kinds, off-campus visits or educational placements with external organisations.
- (e) Breach of the terms or conditions (such as suspension or exclusion) imposed for any other misconduct, whether academic or non-academic.
- (f) Refusal or failure to identify oneself truthfully, or presentation of false identification when required to do so by authorised MIHE staff.
- (g) Refusal or failure to leave premises or classroom when rightfully required to do so by authorised MIHE staff.
- (h) The use or carriage of alcohol or any illegal substances at any point, such that it impedes or impairs conduct at the MIHE location or while the student is located elsewhere than at a MIHE location during events or activities conducted under the name of MIHE such as excursions, performances, productions of kinds, off-campus visits, educational placements with external organisations.
- (i) Putting oneself or other students, staff or MIHE facilities or amenities in danger or possible damage.
- (j) The use or carriage of any weapon, or article deemed to be inappropriate whether specified in the *Code of Conduct* or as otherwise defined by MIHE from time to time.
- (k) Harassment, endangerment, intimidation, assault, threat or bully any student or staff, student or causes them to fear for their personal safety.

- (l) Encouragement or persuasion towards other students or staff to engage in conduct of behaviour constituting non-academic misconduct.
- (m) Engagement in criminal acts or behaviour including but not limited to offensive behaviour, engagement in unlawful or terrorism activities, breach of criminal law or laws relating to copyright, discrimination, harassment or defamation.
- (n) Presentation of false documents or other information such as records or official files.

### **Breach of Privacy**

- (a) Disclosure of confidential information, breach of confidentiality or privacy requirements relating to the HEP, staff, students, clients or other members of the community.
- (b) The publication of abusive, offensive, harassing, discriminatory or inappropriate materials relating to the MIHE, staff, students, clients or other members of the community.
- (c) Disclosure of confidential information, breach of confidentiality or privacy requirements through inappropriate communication on social media.

### **Conduct against Property**

- (d) Failure to follow standard safety procedure (such as written or verbal safety instructions)
- (e) Unauthorised entry or use of MIHE property including computer laboratory, library, facility, classroom, or office.
- (f) Theft, misuse, damage or removal of MIHE property including stationery, documents, books or other library materials, computers, laptops and audio-visual materials or any other materials provided by MIHE.
- (g) Generation of a situation that unnecessarily endangers or threatens the health, safety, or well-being of students, staff or any other person at MIHE premises, or could cause damage to MIHE property.

### **Conducts against People**

- (a) Cause, assault or attempt of causing physical or psychological harm to another student, staff or any other person at MIHE premises.
- (b) Cause another person to fear physical abuse or fear damage to their property.
- (c) Use of abusive language or act of aggression towards other students, staff or any other person at MIHE premises directly, in class, on campus, in other locations and online in any forum or media, including but not limited to print, internet, social media, email, SMS digital or electronic communications and broadcasting forums.

- (d) Discrimination against other students or staff including but not limited to discrimination in relation to race, ethnic or national origin, gender, marital status, sexual preference, disability, age, political conviction or religious belief.
- (e) Written or verbal harassment or intimidation includes the use of threatening, bullying or encouraging any such behaviour towards any student, staff or any other person at MIHE premises.
- (f) Sexual harassment and assault in the forms of but not limited to unwelcome remarks, jokes, innuendos, taunts, practical jokes, unwelcome invitations, unwelcome physical contact or displaying pornographic or other offensive or derogatory images to any student, staff or any other person connected to MIHE.

### **Non-Academic Misconduct Procedure**

MIHE is committed to procedural fairness and natural justice which includes the right to be informed, heard, treated without bias and the right to be given reasons for any decision. Non-academic misconduct procedure is in three steps:

1. Reporting non-academic misconduct
2. Investigating non-academic misconduct
3. Appealing non-academic misconduct

#### **Step 1 – Reporting non-academic misconduct**

Any misconduct must be reported immediately to the Administration Manager in the occasion of a staff identifying any of the actions (specified in the policy above) has occurred. All reporting must be made through a written report of the incident including the following:

- Background details of the alleged misconduct.
- Identification of alleged student(s).
- Names of any witnesses and their contact details.
- All supporting documents relevant to misconduct including witness statements, photographic evidence, copies of communication such as emails, and/or text messages.re

## **Step 2 – Investigating non-academic misconduct**

All allegations of non-academic misconduct will be investigated by the Administration Manager based on the evidence attached to the written report. The investigation process will commence no more than ten (10) business days after the matter was first referred to the Administration Manager.

In conducting the investigation, the Administration Manager must:

- Make all relevant and necessary enquiries including speaking to the person who reported the misconduct and relevant witnesses as well as reviewing all relevant documents and evidence.
- Be unbiased and fair by giving the student an opportunity to address the allegation before further actions are taken. The student will be given an opportunity to correct information, explain mitigating circumstances and to submit a written response to the allegation(s) and provide evidence in defense.

After investigation, if the student is found to have committed misconduct, the penalty imposed on the student will depend on the following:

- The student has previous record of misconduct.
- The student admits of misconduct.
- The student comes forward with the misconduct.
- The nature and seriousness of the misconduct.

Each case must be investigated and determined based on its circumstances. If a student has a previous record of non-academic misconduct, the second offence will result in a more severe penalty and the third offence will usually result in permanent exclusion from MIHE.

The Administration Manager will impose the outcome of the disciplinary action, which may include more than one penalty action depending upon the severity of the incident. If the alleged misconduct is deemed to be a low-level misconduct, the Administration Manager (or their delegate) may take the following actions:

- Caution or reprimand the student
- Issue a formal warning letter
- Require the student to submit a formal apology to those impacted by the misconduct
- Require the student to refrain from contact with specified person(s)/situation (group/class)
- Restrict the student's access MIHE services, activities, facilities or premises
- Require the student to pay the costs of repair replacement of damage to property caused by the misconduct

- Seizure of equipment or items from the student that has caused damage to property or disruption to activities

If the alleged misconduct deemed to be major misconduct, the Administration Manager may take the following actions:

- Temporarily withdraw permission for the student to participate in MIHE activity, use or enter MIHE premises for a reasonable period (not exceeding one week).
- Impose condition(s) on enrolment of and participation by the student in a subject or a course for a specific period of time.
- Exclude the student from or impose condition(s) on attendance at specified classes or subjects for a specified period
- Suspend the student from the entitlement of any MIHE benefits for a specific period of time.
- Suspend the student from a subject or a course for a specific period of time.
- Withhold the student's academic results or academic transcript, including deferral or withdrawal of permission to graduate for a specified period of time.
- Terminate the student enrolment for a specific period of time. The student will not be permitted to enrol in any course of study during the period of exclusion. The student is permitted re-apply for enrolment to the course at the end of the exclusion period.
- Permanently terminate the student enrolment. The student is not permitted re-apply for admission at MIHE in the future.
- Recommend to the Academic Board to revoke the student award, in consultation with the Dean and/or Course Director.
- Report the misconduct incident to Police if needed for investigating a criminal act.

The student must be informed of the outcome of the investigation decision within five (5) business days of the decision being made. The Administration Manager will notify the student of the outcome of the alleged non-academic misconduct including the reasons for the decision. The decision will be in writing and sent to the student via email. The student may be required to attend a further meeting with the Administration Manager to discuss the outcome of the investigation.

The Student Welfare and Support Officer will record the outcome to the student's file and Non-Academic Misconduct Register to allow for verification of repeated infringements. The Student Welfare and Support Officer will also advise the student about the provision to appeal in accordance with the *Student Complaints and Appeals Policy and Procedure*.

### **Step 3 – Appealing non-academic misconduct**

If the student is dissatisfied with the outcome, the student may appeal against the decision. If the student wishes to appeal, they must respond to the written notification of the outcome within 10 working days of receipt of the decision. Receipt of the appeal will be notified to the student in writing via email by the Student Welfare and Support Officer.

The Student Welfare and Support Officer will submit the appeal with all relevant documents to the Appeals Committee (made up of the Dean and Course Director) for resolution. The Appeals Committee may interview the student and anyone who may have information about the case. However, interviews are not mandatory. If a student seeks to address the Appeals Committee, they may bring a support person with them. The Appeals Committee will review the evidence and make a final decision. The Student Services will notify the student of the outcome of the Appeal. If the appeal is unsuccessful the notification will acknowledge their circumstances and explain why their appeal has been unsuccessful. If the appeal is successful, the offence will be removed from the Non-Academic Misconduct Register and from the student's file.

If, after taking this final step, students or staff are not satisfied, they should follow the steps in the *Staff Complaints and Appeals Policy and Procedure* or *Student Complaints and Appeals Policy and Procedure* (whichever is more applicable), where there are further steps provided to progress to appeals external to MIHE.

### **Compliance, Monitoring and Reporting**

The Administration Manager is responsible for maintaining the Non-academic Misconduct Register and the Chief Executive Officer is responsible for monitoring compliance and for reporting this to the Board of Directors twice yearly.