

Student Non-Academic Misconduct Policy

1. Purpose and scope

King's Own Institute (KOI) is committed to providing a fulfilling and rewarding learning experience that assists students to achieve their full academic potential. KOI relies on the cooperation of all its students to contribute to the achievement of this commitment and maintain a safe, ethical, harmonious and tolerant study environment.

The key expectations of student conduct at KOI are:

- acknowledgement that all members of the KOI student community have individual *rights*
- respect for the rights of others
- recognition that rights come with *responsibilities*

This policy applies to any non-academic misconduct committed by a KOI student at a KOI location or while using KOI services or facilities and whether in connection with an academic program or not. This policy also applies if the misconduct is committed while performing tasks as part of a KOI academic program while the student is located elsewhere than at a KOI location.

A student who does or attempts to do any of the behaviours set out in Section 2 of this Policy is guilty of non-academic misconduct. For other forms of misconduct relating to academic integrity see KOI's *Student Academic Integrity Policy*. These policies should be read in conjunction with the *Complaints and Appeals Policy* and the *Student Code of Conduct*.

If students are in doubt about any aspect of their conduct or that of others, they should normally raise these matters with a KOI staff member in the first instance. All such enquiries will be treated in the strictest confidence.

2. Related Documents

This Policy is to be read in conjunction with KOI's:

- Student Non-Academic Misconduct Form
- Student Complaints and Appeals Policy
- Student Complaints and Appeals Form
- Student Code of Conduct
- Student Handbook

3. Definitions

Student misconduct	Student conduct contrary to the accepted standards at KOI as set out in the Student Code of Conduct
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4. Policy

A student is guilty of non-academic misconduct if, without reasonable cause, they:

- a) breach any KOI non-academic policy or rule
- b) fail to comply with a lawful direction, order or request of any KOI staff member, and/or

- c) obstruct or attempt to interfere with a KOI staff member's lawful performance of their duty
- d) fail to follow normal safety practices (e.g. fail to follow directions either written or verbal given by KOI staff)
- e) damage or steal property of KOI, or any person on KOI premises, or any other organisation while the student is performing tasks as part of a KOI academic program
- f) enter a KOI campus with unauthorised drugs, alcohol or weapons or enters a KOI campus under the influence of drugs or alcohol
- g) smoke anywhere in campus buildings, or within fifteen metres of any building entrance where KOI is located
- h) use offensive or threatening language or behaviour
- i) harass, vilify, bully, intimidate or threaten any KOI staff member or student
- j) unlawfully assault, attempt to assault, or threaten to assault any person or cause any person to hold reasonable fear for his or her safety or physical or psychological well-being
- k) do anything which disrupts the peace or good order of KOI or brings KOI into disrepute
- l) disclose confidential information concerning any matter relating to KOI, or any of its staff or students where there is no reasonable or lawful justification for doing so
- m) misuse the information technology facilities (including software) or communication facilities of KOI to engage in illegal activity (e.g., computer hacking or infringing copyright)
- n) publish or distribute recordings of classes without permission of the subject coordinator.
- o) make a false representation regarding a matter affecting themselves as a student of KOI
- p) alter or falsify an academic transcript or other document provided by KOI, or purported to be provided by KOI
- q) fail to comply with any decision or order made under this policy.

5. Allegations of student non-academic misconduct

Serious breaches of student non-academic misconduct may be reported directly to the Vice-President (Operations) and/or the CEO and President. Where the alleged behaviour appears to be in breach of the law, KOI will report the activity to the relevant authority.

All allegations of student non-academic misconduct will be managed using the following process:

5.1 Allegations of Student Non-Academic Misconduct may, in the first instance, be reported to any KOI staff member verbally. As soon as practicable, the breach should be reported using the *Student Non-Academic Misconduct Form* (see Attachment 1), by either the person making the allegation, or the KOI staff member to whom the allegation has been made.

5.2 The *Student Non-Academic Misconduct Form* will be passed to the Student Services Manager for investigation. The Student Services Manager will review all the evidence and provide a report to the Vice-President (Operations). If the Vice-President (Operations) decides there is a case to answer, the Student Services Manager will give notice of the allegation to the student against whom the allegation has been made. The allegation notice must:

- provide details of the alleged misconduct
- state the relevant sub-section(s) of Section 2 that are alleged to have been breached and then quote the relevant sub-section(s)

- if the allegation is related to a breach of any KOI Policy or rule, the relevant Policy or rule must be specified
- explain the process that will be followed
- include a copy of this policy.

5.3 During the investigation, the Vice-President (Operations) may, in accordance with the principles of natural justice and procedural fairness, conduct hearings, authorise investigations, and seek written or oral submissions from anyone who the Vice-President (Operations) is of the view can assist in his/her deliberations by way of evidence or expert opinion.

5.4 During the investigation, all parties have the following rights:

- to be invited to make an oral presentation to anybody convened to hear the allegation and respond to questions
- to be accompanied and assisted by a support person chosen by them at such a meeting but may not have legal representation
- to receive and respond to any documentation concerning them, that is submitted in connection with an allegation
- to have an allegation treated confidentially with details only disclosed with permission, unless KOI has reasonable grounds for believing the information will be a threat to the life or health of any person, or the disclosure is authorised by law
- to be given a copy of outcome(s) and reason(s) in writing by the reporting body, through the CEO and President.

5.5 On reaching a decision regarding the allegation, the Vice-President (Operations) may

- dismiss the allegation and advise all relevant parties of the reasons for dismissing the allegation

or

- find the allegation proved
- recommend a penalty and/or further action
- advise the CEO and President who may approve the recommended penalty or refer it back for further investigation.

5.6 If the allegation is considered proven, the CEO and President will make an order to apply the following penalties as appropriate:

- reprimand the student
- impose a probationary enrolment, provisional on the student's good behaviour
- suspend the student from accessing or using all or any specified KOI facilities or services for a specified period not exceeding six months
- refuse or cancel credit for any course
- exclude the student, (and for students holding an *International Student Visa*) report the student to the Department of Home Affairs (DHA)
- cancel or revoke an award
- nominate any other remedial action that appears appropriate given the nature and seriousness of the offence

In making an order to apply an appropriate penalty, the CEO and President must apply a penalty that is proportionate to the misconduct and having regard to what is just in all the circumstances.

- 5.7 The Student Services Manager, will communicate the outcomes of the investigation, including penalties, to all involved parties:
- verbally to relevant parties where appropriate
 - in writing (email to the student's KOI email address and a letter via registered mail) to the student against whom the allegation is proven (copy placed on the student's file).
- 5.8 When advising the student against whom the allegation of misconduct has been found, the Student Services Manager, will include the following information:
- the details of the allegation
 - the reasons / evidence on which the allegation is proven
 - the penalties imposed, including timeframes
 - the student's right of appeal as per the *Complaints and Appeals Policy*
 - a copy of the *Complaints and Appeals Policy*.
- 5.9 It is mandatory for notetaking at all meetings and interviews related to investigations. The standardised format for recording meeting notes should be used. The guidelines for storing and accessing these notes in the central database should also be always followed. The template for documenting and reasoning behind recommendations made during investigations should also be always followed.

6. Appeals

6.1 Right to appeal

If dissatisfied with the outcome of a misconduct offence, a student has the right to appeal.

The first stage for an appeal is through informal consultation. The student should seek a meeting with the Student Services Manager to discuss the outcome of the case. Any such request should be made within twenty working days of the date of the letter from the Student Services Manager in which the decision on the misconduct was notified.

If the student remains dissatisfied, there are options for a *Formal Internal Appeal* and *External Appeal*. Full details of the *External Appeals Process* are found in the *Complaints and Appeals Policy*.

6.2 Formal appeal procedures

Students who wish to appeal formally must lodge their appeal in writing within twenty working days of receipt of an official notification from KOI of the decision or matter they wish to appeal. Receipt of the appeal will be notified to the student in writing (email to the student's KOI email address and a letter via registered mail) by the Student Services Manager within five working days.

A student can appeal on one of the following grounds:

- procedural grounds, i.e. where it is thought that the *Student Non-Academic Misconduct Procedures* were not followed;
- where the student believes that evidence has not been appropriately considered, or new evidence is available, or the impact of the penalty on the student is unreasonably harsh;
- severe extenuating circumstances which must be validated with supporting documentation, or a letter of support from the KOI Student Counsellor.

The appeal should include the following details:

- the student's full name (family/surname and first name), student number and contact details;
- the nature of the decision or matter being appealed;
- the basis for the appeal;
- details of the specific outcome(s) sought by the student; and
- copies of all relevant documents.

The student appeal, together with all relevant supporting material, will be submitted by the Student Services Manager to the Appeals Committee for resolution. The Appeals Committee will comprise the Chair of the Council, the Chair of the Academic Board, or their nominees, and one other member approved by the Chair of the Council in the light of the nature of the issue which is the subject of appeal. The members of the Appeals Committee must not be the subject of the appeal and must not have been involved in earlier determinations related to the appeal. The Appeals Committee will review the evidence and make a final decision or appoint a mediator to try to resolve the matter.

The Appeals Committee may interview the student and anyone who may have information about the case. However, interviews are not required. If a student seeks to address the Appeals Committee, they may bring a support person with them.

The Appeals Committee will report its decision to the CEO and President. The CEO and President will advise the student in writing of the decision on their appeal within twenty (20) working days from the date the appeal is submitted. If the student's appeal is unsuccessful the notification will acknowledge their circumstances and explain why their appeal has been unsuccessful.

Should the student remain dissatisfied with the outcome, there remains a further avenue for *External Appeal*. The *Student Complaints and Appeals Policy* details the process for External Appeal.

If the appeal is successful, the offence will be removed from the *Misconduct Database* and the student's academic record.

6.3 Rejection of an appeal

An appeal at any level may be rejected if:

- no reasonable grounds are stated for the appeal;
- no new or different grounds are stated for the appeal from those already considered by the previous hearing/adjudicator;
- the student has not ensured that they are able to receive all notifications from KOI. Late or non-receipt of official letters will not be accepted as grounds for appeal if changes of address have not been notified and received by KOI; or
- the appeal is lodged outside the time limits stipulated in this policy.

6.4 External appeal

For further details of options and procedures for external appeal, see the external review procedures in the Complaints and Appeals Policy.

If the internal appeal to the Appeals Committee is unsuccessful and the student remains dissatisfied with the outcome of the *Formal Procedure*, the student may request that the matter is dealt with through an External Dispute Resolution process. There are avenues for external dispute resolution which can be followed by any student who is of the view that an appeal has not been satisfactorily resolved. Any student is entitled to take a matter outside KOI, however students seeking external review in the first instance are encouraged and often directed by external bodies to seek internal resolution of their complaint or grievance first.

- a) *External Mediation or Adjudication*. The student may contact KOI's *Dispute Resolution Service* and request mediation or adjudication of an unresolved complaint and appeal. The *Resolution Institute* is KOI's current *External Dispute Resolution Service*. Complainants can apply for *External Mediation or Adjudication* by completing the *Application for External Review* (available from KOI Reception or downloaded directly from the Resolution Institute's website (<https://www.resolution.institute/about-us/about>)). A fee may be charged to lodge an application. Details of the services of the Resolution Institute can be found at <https://www.resolution.institute>
- b) *Overseas Student Ombudsman (OSO)*. The Commonwealth Ombudsman investigates complaints about problems that overseas students have with private education and training in Australia. Contact details for the OSO are: telephone 1300 362 072; email: ombudsman@ombudsman.gov.au website: <https://www.ombudsman.gov.au/How-we-can-help/overseas-students>. The services provided by the OSO are free.
- c) *National Student Ombudsman (NSO)*. The National Student Ombudsman is a free, impartial, and independent service for students to escalate complaints about the actions of their higher education provider. The NSO can consider a range of issues including student safety and wellbeing, racism and racial vilification, discrimination, gender-based violence, course administration, and the fairness and effectiveness of student complaints processes. For complaints that students have not been able to resolve or do not feel safe talking to KOI about, the NSO can help. The NSO will ask students if they have raised the matter with KOI, but this is not mandatory. The NSO will work with students to consider the best resolution pathway. Find out more at www.nso.gov.au

7. Roles and Responsibilities

The Vice-President (Operations) is responsible for the carriage of this policy and for the application of penalties for offences.

The Student Services Manager is responsible for maintaining the Misconduct Database.

Responsibilities for actions under these procedures are detailed throughout this document.

8. Reporting

Each trimester, the Student Services Manager will provide a report to the Academic Board and the Council detailing the number and types of misconduct cases and penalties applied.

9. Privacy

KOI will maintain the confidentiality and privacy of student information. However, information collected from students may, as required in accordance with the Higher Education Support (HES) Act 2003 and other legislation be provided to the Department of Education, Department of Immigration and Border Protection and Commonwealth, State or Territory Government agencies.

KOI is bound by the *Privacy Act 1988* and the *Australian Privacy Principles (APPs)* under the *Privacy Amendment (Enhancing Privacy Protection) Act 2012* with respect to the collection, use and disclosure of personal information. Please see KOI's Privacy policy www.koi.edu.au for more information.

Document control

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