

# PROCEDURE

## Procedure Title

Non-Academic Student Misconduct Procedure

## Parent Policy

Non-Academic Student Misconduct Policy

## Preamble

These procedures outline the process for dealing with student non-academic misconduct or illnesses, including measures to suspend or exclude the student.

For the purposes of these procedures;

- a student who is excluded from Monash College ceases to be a student of the College
- a power to exclude from Monash College includes a power to exclude from the College precincts; and
- a reference to Monash College or to the property or precincts of Monash College includes a reference to the property or precincts of a person or institution, other than Monash College, occupied or used by one or more students in the course of or in relation to academic or practical work forming part of a course of study and a power to suspend or exclude from Monash College includes a like power to suspend or exclude from the property or precincts of any such person or institution.

Without otherwise affecting the operation of these procedures, a person who is excluded from the Monash College remains a student;

- until the expiration of the time allowed for lodging a notice of appeal (20 working days); or
- where a notice of appeal is lodged, until the appeal process is finalised.

## Definitions

### Bully

Bully means repeated unreasonable behavior, whether verbal, physical or written, directed towards another person that creates a risk to health and safety.

### Director

Director of Monash College Diplomas (MCD), Director Monash University English Language Centre (MUELC), Director Monash University Foundation Year (MUFY), Executive Director MPP or Director Student Services.

### Exclude

A student who is excluded from Monash College ceases to be a student of Monash College.

<b>Extenuating circumstances relating to the welfare of the student</b>	Circumstances relating to the student that the relevant Director considers involve a serious risk to the student or any other person, or the property of Monash College.
<b>Illness</b>	Illness or disability, considered by a doctor or psychologist to present risk to the health or safety of the student, to other students and staff, or to property of Monash College and includes notifiable conditions under the Public Health and Wellbeing Act 2008.
<b>Misconduct</b>	Any behaviour, which is contrary to a policy of Monash College or to generally accepted standards of behaviour and includes the conduct specified in the procedures below.
<b>Harassment</b>	Any behaviour, whether verbal, physical or online, that is unwelcome and could reasonably be expected to make someone else feel offended, humiliated or intimidated.
<b>Sexual Assault</b>	A broad term describing all sexual offences and includes any type of sexual behavior or act that happens without the consent of everyone involved. It can include unwanted kissing, unwanted sex, unwanted touching and rape.
<b>Sexual harassment</b>	Any form of unwelcome sexual behaviour that is offensive, humiliating or intimidating such as sexual comments about someone's appearance.
<b>Sexual consent</b>	Sexual consent is to give permission for a sexual activity to happen or agreement to participate in a sexual activity. Sexual activity without consent is sexual assault.
<b>Power to exclude</b>	A power to exclude from Monash College includes a power to exclude from the College precincts; and a reference to Monash College or to the property or precincts of Monash College includes a reference of the property or precincts of a person or institution, other than Monash College, occupied or used by one or more students in the course of or in relation to academic or practical work forming part of a course of study and a power to suspend or exclude from Monash College includes a like power to suspend or exclude from the property or precincts of any such person or institution.
<b>Student</b>	A person who is enrolled in a Monash College course or Professional Year program.
<b>Suspension</b>	Suspension is the temporary exclusion for a specific period with a specific start date and a specific end date, determined by a Senior Manager.
<b>Working days</b>	Days other than a Sunday or a public holiday under the Public Holidays Act 1993.

## Procedure

Ref	Steps	Responsibility
1.	<p><b>Misconduct</b></p> <p>An act of misconduct means conduct which is contrary to accepted standards of behaviour and includes but is not limited to, conduct by which a student knowingly or recklessly:</p> <ul style="list-style-type: none"> <li>• Causes or threatens personal injury or harm of any kind to another person;</li> <li>• Attacks, harasses, intimidates, stalks or bullies, threatens to attack, harass, intimidate, stalk or bully another;</li> <li>• Commits an act of sexual assault against another;</li> <li>• Commits an act of sexual harassment against another;</li> <li>• Causes or threatens or behaves in a manner likely to cause damage to, loss of, interference with or obstruction of the use of, the property of Monash College or another person;</li> <li>• Breaches or contravenes a law of a country in which the student is located for the purposes of a Monash College activity;</li> <li>• Breaches any rule, instruction or published policy or procedure of Monash College;</li> <li>• Disrupts the orderly conduct of a Monash College activity;</li> <li>• Engages in a dishonest or fraudulent activity or makes a dishonest, fraudulent or false statement or representation to another person, in the course of any dealings with Monash College or an officer or staff member of Monash College;</li> <li>• Fails to comply with a reasonable direction of an officer or staff member of Monash College;</li> <li>• Fails to comply with a decision, direction or order of a decision maker made under and in accordance with this policy and procedure.</li> <li>• Is in possession of material contrary to the instructions of the chief examiner or other authorised person in an examination (explanatory note: The instructions of a chief examiner or other authorised person may be provided verbally, in writing or displayed in an examination room or venue);</li> </ul>	

	<ul style="list-style-type: none"> <li>Without appropriate authority, enters a file belonging to another person, the file being on a computer which is property of Monash College, or the property of a student or teacher;</li> <li>Breaches the Monash University Acceptable Use of Information Technology Facilities by Students Policy which applies to Monash College students;</li> <li>Assists or encourages a student to commit an offence of general misconduct;</li> <li>Engages in any other act of general misconduct prescribed.</li> </ul>	
<p>2.</p> <p>3.</p> <p>4.</p> <p>5.</p>	<p><b>Exclusion or Suspension for Misconduct</b></p> <p>Subject to professional confidentiality, a person in the employment of Monash College who has reasonable grounds to believe that an act of misconduct has been committed by a student must report the matter to the relevant Director or their nominee who may, after taking the steps in 3 - 4 of this procedure, inform the student of Monash College's intention to suspend or exclude the student.</p> <p>The allegations of misconduct will be presented to the student formally in writing and notification of period of suspension or exclusion. In the case of legal breach, the Director will set conditions of suspension to align to key aspects of legal procedures.</p> <p>The student will be given an opportunity to present their version of events at a meeting with the relevant Director or their nominee. The student may be accompanied at the meeting by a support person, staff member or student at Monash College, or any other person who is not a legal practitioner and is not subject to a professional conflict of interest.</p> <p>After considering any student response, should the Director or their nominee find the student engaged in misconduct, then a decision will be made as to the action Monash College will take to address the misconduct. This includes the ability to suspend or</p>	<p>Director/ Executive Director</p>

<p>6.</p>	<p>exclude for a specific period or evidence of completion of conditions.</p> <p>The student will be notified of the decision in writing and that he or she has 20 working days to access the Monash College's Student Grievance and Appeals Policy and Procedures to appeal. For international students on a student visa, if the student is suspended or excluded the notice will state that the College intends to notify the Department of Education, Skills and Employment via PRISMS as required under section 19 of the ESOS Act after the time for the appeal has passed or the appeal is decided.</p>	<p>Student</p>
<p>7.</p>	<p>If the student accesses Monash College's Student Grievance and Appeals Policy and Procedures, the suspension or cancellation of the student's enrolment will not take effect until this appeal is completed, unless there are extenuating circumstances relating to the welfare of the student or it is determined the student poses a risk to the welfare of other students or staff.</p>	<p>Director</p>
<p>8.</p>	<p>Where the Director or their nominee forms the view that there is a substantial risk of harm to any person or property by the attendance on campus by the student while the allegation is determined, he or she may temporarily suspend or exclude a student prior to taking the action under steps 3 - 4 in this procedure. If the student is directed to remain off Monash College premises and ignores this direction, this will be considered a further breach.</p>	<p>Director</p>
<p>9.</p>	<p><b>Exclusion or Suspension for Illness</b></p> <p>If a student produces proof of an illness where a medical certificate states that the student is unable to attend classes, the relevant Director may approve the student's non-attendance at classes for a period of time. If the inability to attend extends beyond the duration of the course, the Director may suspend or cancel the student's enrolment.</p>	<p>Director</p>

10.	Subject to professional confidentiality, a person in the employment of Monash College who has reasonable grounds to believe that a student has an illness as defined in these procedures must report the matter to the relevant Director or their nominee who may after taking the steps in 3 - 4 of this procedure, inform the student of the College's intention to suspend or exclude the student.	Director
11.	The grounds for a proposed suspension or exclusion will be presented to the student formally in writing.	Director
12.	The student will be given an opportunity to present a response to the proposal at a meeting with the relevant Director or their nominee. The student may be accompanied at the meeting by one person such as a Learning Consultant, staff member or student at Monash College, or any other person who is not a legal practitioner and is not subject to a professional conflict of interest.	
13.	After considering any student response, should Monash College decide to suspend or exclude after the meeting, the student will be notified of the decision in writing and that he or she has 20 working days to access the Monash College Student Grievance and Appeals Policy and Procedures to appeal. For international students on a student visa, the notice will state that the College intends to notify the Secretary of Department of Education, Skills and Employment via PRISMS as required under section 19 of the ESOS Act after the time for the appeal has passed or the appeal is decided, whichever is the latter. For Professional Year students, the College will notify the relevant Professional Body.	
14.	If the student accesses Monash College's Student Grievance and Appeals Policy and Procedures, the suspension or cancellation of the student's enrolment will not take effect until this appeal is completed, unless there are extenuating circumstances relating to the welfare of the student.	
15.	The Director/Executive Director or their nominee may temporarily suspend or exclude a student prior to taking the actions under steps 3 - 4 of this procedure where he/she forms the view that there is a serious risk of harm to any person or property by the attendance by the student while the matter is determined.	

<b>16.</b>	<b>Return to Study after Exclusion or Suspension for Illness</b>  A student who has been excluded or suspended under this policy and procedure for illness may only return to study where Monash College is satisfied on the basis of evidence that the student is fit for study and does not present an unacceptable risk to themselves or others or College property. This process will be handled via Monash College's Fitness to Study Procedure.	
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<b>Legislation and Standards</b>	<a href="#">Public Health and Wellbeing Act 2008</a>  <a href="#">Public Holidays Act 1993</a>  National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2018 (National Code 2018 Standard 10)  Standards for RTOs 2015
<b>Reference Policies and Supporting Documentation</b>	Non-Academic Student Misconduct Policy Student Grievance and Appeals Policy Student Grievance and Appeals Procedure Fitness to Study Procedure Student Code of Conduct Professional Year Student Handbook RTO Learners' Handbook
<b>Responsibility for Implementation</b>	Director, Monash College Diplomas (MCD) Director, Monash University Foundation Year (MUFY) Director, Monash University English Language Centre (MUELC) Director, Student Services Executive Director, Monash Professional Pathways
<b>Status</b>	Revised
<b>Key Stakeholders</b>	Chief Executive Officer, MCPL Executive Director, Pathways Director, MCD Director, MUFY Director, MULEC Director, Student Services Academic Governance Team Student Administration Team Concierge / Security Learning Consultants Students
<b>Approval Body</b>	Monash College Senior Leadership Team
<b>Date Effective</b>	23/08/2012
<b>Next Review Date</b>	17/09/2022

<b>Owner Job Title Division</b>	Director Governance
<b>Procedure Author</b>	Academic Governance and Quality Manager
<b>Contact</b>	Academic Governance and Quality Manager

## Change History

Version number	Approval date	Approved by	Brief outline of changes
2.0	23/08/2012	Senior Leadership Team	
2.1	24/10/2017	Policy Owner	Update links to current legislation and minor changes to the wording Updated formatting
2.2	11/12/2019	Director, Governance	Legislation Updates
2.3	14/02/2020	Director, Governance	Review with update of roles and policy references and minor clarifications
2.4	18/01/2021	Senior Leadership Team	<ul style="list-style-type: none"> <li>- Inclusion of all Monash College students.</li> <li>- Include definitions: harassment, sexual assault, sexual harassment and consent.</li> <li>- Title change to: Non-Academic Student Misconduct Policy.</li> </ul>