



New College Durham

Student Disciplinary Procedure

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1. Scope and Purpose

- a. The following Policy and Procedures provide a framework for maintaining good order at the College to allow all students and staff to study and learn in the most conducive environment.
- b. 'The College' is defined as any College sponsored event or anywhere New College Durham provides education and training.
- c. The Policy and Procedures apply to all students enrolled with the College.
- d. As the College provides education to a wide age range of students the procedures to be applied will differ depending on whether the student is 16 years of age or greater or less than 16 years of age. If the student is less than 16 years old and from another educational establishment, e.g. a local school, then the College will seek to involve representatives of that educational establishment (e.g. school) and utilise the school's established discipline procedure, and draw guidance from the College's Code of Behaviour for under 16 year olds.

If the student is not from another educational establishment the College will use this Procedure, and seek to obtain support for the student from a parent or guardian.

- e. A breach of discipline is defined as an 'act of misconduct' i.e. improper interference with the proper functioning or activities of the College or those who study or work in or visit the College. The Policy and Procedures will also apply to students when they are out of College on organised College events or when it is found that there is a link to the College or its reputation.
- f. A separate Policy 'Procedures for dealing with cheating and plagiarism' applies to matters relating primarily to academic performance.

2. Examples of Misconduct

- a. The following illustrates behaviour, which is likely to signify misconduct, but it is **neither exclusive not exhaustive**:
 - i. Any failure to follow the reasonable instructions of a member of staff;
 - ii. Any smoking in non-smoking areas;
 - iii. Any unduly noise, or unruly behaviour, or the use of foul or abusive language;
 - iv. Disrupting any class or any other College activity, whether or not involving staff or other students;
 - v. Any drunkenness or intoxication on College premises;
 - vi. Any activity associated with the College which leads to damage;
 - vii. Contravention of the College Equal Opportunities Policy;
 - viii. Contravention of the Student Code of Conduct;

- ix. Failure to disclose name and other relevant details to an officer or employee of the College in circumstances when it is reasonable to require that such information is given;
- x. Disruption of, or improper interference with, the academic, administrative, sporting, social or other activities of the College, including offensive behaviour, whether on College premises or elsewhere;
- xi. Any unauthorised interference with software, or data belonging to, or use by the College;
- xii. Obstruction of, or improper interference with, the functions, duties or activities of any student, member of staff or other employee of the College or any visitor to the College;
- xiii. Conduct, which constitutes a criminal offence where that conduct:
 - Takes place on College premises, or
 - Affects or concerns other members of the College, or
 - Damages the good name of the College, or
 - Itself constitutes misconduct within the terms of these Procedures.

3. Serious Misconduct

- a. The following illustrates behaviour, which is likely to signify serious misconduct, but it is **neither exclusive nor exhaustive**.
 - i. Deliberately, or by serious negligence, causing damage to, or defacement of, any College buildings, equipment, books or furnishings or any property of others;
 - ii. Acts of dishonesty, including theft, fraud, deceit, or deception in relation to the College, its staff, its students or its visitors;
 - iii. Misuse of any drugs (prescribed or otherwise) on College premises, or on any activity associated with the College;
 - iv. Behaviour, which has a significant adverse impact on the College's reputation;
 - v. Violent, indecent, disorderly, threatening, or offensive behaviour or language whilst on College premises or engaged in any College activity;
 - vi. Behaviour which constitutes harassment or is racially or sexually offensive or which is offensive to those with learning and/or physical disabilities or impediments.
 - vii. Significant breach of the student Code of Conduct;
 - viii. Physical or verbal assault;
 - ix. Action likely to cause injury or impair health and safety on College premises, e.g. acts involving damage to or discharge without just cause of, or other misuse of or interference with, a fire extinguisher or other fire safety equipment;
 - x. Any possession of offensive weapons.

4. General Principles

- a. All matters relating to the application of these Procedures will be confidential.
- b. The College recognises that in most instances minor in-discipline can and should be dealt with informally and promptly by the appropriate member of College staff, e.g. personal tutor, lecturer, security officer etc., without recourse to this formal disciplinary procedure. In such instances the student may be issued with a verbal warning, which will remain active for up to six months. A note of such an active warning will be notified to the Head of School and kept on the course file.
- c. The principles of natural justice underpin this disciplinary procedure. Should this formal Procedure be warranted the student will be informed of the nature of the allegation(s) against him or her, how the Procedure will be implemented and that he/she will be given the opportunity to state his or her case before any decision is made.
- d. No student will be permanently excluded from the College for a first breach of indiscipline except in the case of serious misconduct.
- e. No formal disciplinary sanction will be imposed without a disciplinary hearing. A student will have the right of appeal against any written disciplinary sanction imposed.
- f. At all stages the student may be accompanied by a friend, student representative or relative (but not by a legal or other professional adviser) at the interview and will be entitled to state his or her case (including any mitigating factors) before any decision is taken.
- g. All appeals against actions/decisions taken in accordance with this procedure will be addressed within this procedure.
- h. There are ranges of disciplinary sanctions available, which will normally be applied incrementally. However, offences of serious misconduct may receive a more serious sanction. For example there may be occasions when serious misconduct is considered not to be so serious as to justify exclusion, but serious enough to warrant a final warning.
- i. Students will be notified in writing of any disciplinary sanction, a copy of this letter shall be placed on the course file. When such warnings reach their time limits, the letter notifying the student of the disciplinary sanction shall be removed from the course file and destroyed, subject to the student's conduct having been satisfactory throughout the period.

5. Suspension

- a. Suspension is not in itself regarded as a disciplinary sanction.
- b. In cases of alleged serious misconduct or because of some other good and urgent cause it is inappropriate for the student to remain at the College, a Head of School may consider suspension of the student on receipt of the allegation(s) pending a full investigation, or if the nature of the initial allegation(s) is/are amended during the course of the investigation. The Deputy Principal and Chief Executive or his/her designated nominee should be notified of the suspension as soon as practicable.
- c. A suspended student will be given written confirmation of the suspension and the reason for the suspension. The student should not return to the College or contact students or members of staff of the College whilst suspended.

- d. The suspension will be kept under review, and time limits will be set for the review to take place, depending on the circumstances of the case and the availability of evidence and witnesses. It is envisaged that apart from the most exceptional cases the suspension would be for no longer than two weeks.

6. Disciplinary Sanctions

- a. The Formal Discipline Procedure has a number of disciplinary sanctions:-

First Written Warning*	Active for a maximum 6 months
Final Written Warning*	Active for a maximum 12 months
Time Limited Exclusion from the College*	Excluded for up to four weeks
Permanent Exclusion from the College*	Minimum period of exclusion for remainder of the current academic year

*In exceptional circumstances the times specified above may be varied by the Manager tasked with considering the case at the disciplinary hearing – any such variation being notified to the student at the disciplinary hearing or following the hearing in writing.

In addition to the disciplinary sanction the College may also see financial restitution where costs have been incurred to address the actions of the student, for example in cases of vandalism the additional cost may relate to the engagement of a specialist cleaning firm, these costs would be required to be met by the student in full.

- b. **First Written Warning**

A first written warning may be given to the student if, after a disciplinary hearing, it is found that:

- i. The student has committed an offence of misconduct which warrants entry to the disciplinary procedures at the first written warning stage;
- ii. Despite, having been given a verbal warning as the result of previous conduct, the student has committed a further offence.

- c. **Final Written Warning**

A final written warning may be given to the student if, after a disciplinary hearing, it is found that:

- i. Despite having been given, a first written warning as the result of misconduct, the student has committed a further offence of misconduct;
- ii. The student's misconduct, although not considered to be serious enough to justify exclusion, is sufficiently serious to warrant a final written warning.

- d. **Time Limited Exclusion**

In addition to the above first/final written sanctions the student may be temporarily excluded from the College for a period of up to four weeks. Such a sanction may be utilised in combination with a first/final written warning as an alternative to permanent exclusion.

It is important that the manager who allocates these sanctions to students distinguishes any time limited exclusion from permanent exclusion and highlights the seriousness of the sanctions.

e. Permanent Exclusion from the College

The Deputy Principal and Chief Executive (or his/her nominated deputy) may give notice to a student of 'permanent' exclusion from the College, after a full investigation and disciplinary hearing; it is found that a student has committed:

- i. A further act of misconduct despite having been given a final written warning;
- ii. An act of serious misconduct which in the view of the College, fundamentally undermines the relationship between the student and the College;
- iii. Any permanent exclusion will be effective immediately.

7. Criminal Offences

- a. Where any member of staff has reason to believe that a student may have committed a criminal offence, the College may refer the matter to the police and may continue disciplinary proceedings under this procedure or suspend the proceedings pending the outcome of police enquiries and any charges, which may be brought against this student. Where the student has been suspended under this provision, when the results of those enquiries and any criminal proceedings are known, the College reserves the right to recommence proceedings under this procedure in relation to the matter.
- b. Any disciplinary action relating to alleged criminal offence will be based on the genuine belief of the member of staff taking the action after a proper investigation and will not require a criminal conviction. It is emphasised that in relation to the application of this procedure the College is not bound by the results of any criminal proceedings against students.

8. Disciplinary Hearing – Allegation of Misconduct

- a. Where allegation(s) of misconduct arise which prompt consideration of a formal investigation, it is important that these allegation(s) are notified to the Head of School. The Head of School will write to the student against whom the allegation(s) have been raised outlining:
 - i. That a hearing is to be carried out in accordance with the College's Student Disciplinary Procedure;
 - ii. The details of the allegation(s);
 - iii. His/her right to be accompanied by a relative or a friend (who must not be acting in a legal capacity) when attending meetings regarding the disciplinary process;
 - iv. The support available to the person, e.g. Student Union, ASC;
 - v. Date, time and venue of the hearing;
 - vi. The student will be notified of the ability to request adjournments and seek regular breaks during the investigatory meeting.

- b. If the student fails to attend the disciplinary hearing, the Head of School should decide whether to proceed in the student's absence or to reconvene the hearing at some other time. Before such a decision is taken, attempts should be made to contact the student to ascertain the reason for his/her absence. If the Head of School decides to proceed with the hearing in the student's absence, the representative of the student can attend the hearing to either present the student's case or simply observe the proceedings. Normally the postponement of the hearing should only be considered on one occasion.
- c. The confidentiality of the proceedings shall be observed by all parties involved.
- d. The proceedings shall be conducted as follows:
 - i. The Head of School will make the introductions and explain the purpose of the hearing, the sequence of presentations and questioning and confirm that adjournment(s) may be requested at any time during the proceedings;
 - ii. The Head of School will invite the student and his/her representative to present his/her case in response to the allegation(s). The student may call witness(es). Any witness(es) called should leave the room once s/he has given evidence and answered questions;
 - iii. The Head of School may ask questions of the student and his/her witness(es);
 - iv. The student or his/her representatives will be invited to sum up their cases if they so wish;
 - v. The student and his/her representative should withdraw;
 - vi. The Head of School should deliberate in private and determine his/her decision, the Head of School should consider if the allegation(s) are proven on the balance of probability, if not the case should be dismissed;
 - vii. If the allegation(s) is/are proven, then the Head of School should consider if a disciplinary sanction is reasonable (including any mitigation presented). If a disciplinary sanction is warranted the Head of School should consider the sanctions of either a first or written warning;
 - viii. The student should be re-called, and the Head of School may convey his/her decision immediately or determine that the facts need to be considered at length and the decision will be outlined in writing within five working days of the hearing. The warning will state that if the student commits a further offence of misconduct during the period specified in the warning, further action under the disciplinary procedure will be considered. The written warning will also advise the student of their right to appeal. A copy of the written warning will be placed on the student's file. This action will be reported to the Deputy Principal and Chief Executive.
 - ix. If, after an appropriate hearing, the determination that there is no evidence of misconduct, no further action will be taken and the student, will be informed of this verbally and in writing. This action will be reported to the Deputy Principal and Chief Executive.

9. Disciplinary Hearing – Allegation of Serious Misconduct

- a. Where an allegation of serious misconduct arises a Head of School will be tasked with investigating the allegation(s) thoroughly. The purpose of the investigation is to establish whether a prima facie case exists in relation to the allegation(s) and whether a disciplinary hearing is warranted.
- b. The student will be notified in writing prior to the hearing:
 - i. That an investigation is to be carried out in accordance with the College's Student Disciplinary Procedure;
 - ii. The details of the allegation(s) under investigation;
 - iii. His/her right to be accompanied by a relative or a friend (who must not be acting in a legal capacity) when attending meetings regarding the disciplinary process;
 - iv. The support available to the person e.g. Student Union, ASC;
 - v. The date, time and venue of the investigatory meeting;
 - vi. That the notes of the meeting will be sent to the student;
 - vii. That any information gained during the meeting may be presented at any subsequent disciplinary hearing;
 - viii. The ability to request adjournments and seek regular breaks during the investigatory meeting;
- c. The Head of School will, at the conclusion of the investigatory meetings, prepare a report detailing the salient points to emerge from the investigation. If, after an appropriate investigation, the Head of School determines that the Disciplinary Hearing is warranted in relation to the allegation(s) made against the student, then he/she will notify the Deputy Principal and Chief Executive that a Determining Manager should be appointed to consider the allegation(s) in a formal disciplinary hearing.
- d. The Determining Manager will either be an Director of Curriculum and Quality or in more serious cases where permanent exclusion is a possibility then the Determining Manager will normally be a Director of the College. The student, whom the allegations are against, will be notified in writing of the appointment of the Determining Manager.
- e. The Determining Manager will give the student at least five working days notice in writing of the hearing and this notification should also include the following:
 - i. The venue, date and time of the hearing;
 - ii. A copy of the report prepared by the Head of School;
 - iii. The nature of the allegation(s);
 - iv. That the hearing is of a formal disciplinary nature;
 - v. That s/he has the right to be represented by a friend (who must not be acting in a legal capacity);

- vi. That s/he has the right to call witnesses and/or present documentary evidence at the hearing.
- f. If the Head of School or student proposes to call witnesses to give evidence at the hearing, their identity should be disclosed in advance to the other parties. If either side wishes to produce documents or statements at the hearing, copies should be exchanged at least three working days before the hearing. If either side produces new evidence at the hearing, it shall be open to either side to request an adjournment for further investigation.
- g. The people involved in the hearing will normally be:
 - i. The Determining Manager who is tasked with: determining the operation of the disciplinary hearing within the parameters of this procedure; considering all the evidence and taking the appropriate action on the basis of this evidence;
 - ii. An independent manager to be both a discipline panel member and advise the Determining Manager;
 - iii. The student and his/her representative;
 - iv. The Head of School;
 - v. Any witness pertinent to the allegation(s).
- h. If the student fails to attend the disciplinary hearing, the Determining Manager should decide whether to proceed in the student's absence or to reconvene the hearing at some other time. Before such a decision is taken, attempts should be made to contact the student to ascertain the reason for his/her absence.

If the Determining Manager decides to proceed with the hearing in the student's absence, the representative of the student can attend the hearing to either present the student's case or simply observe the proceedings. Normally the postponement of the hearing should only be considered on one occasion.

- i. All parties shall observe the confidentiality of the proceedings.
- j. The Head of School will present the salient evidence collected as part of the investigation.
- k. The proceedings shall be conducted as follows:
 - i. The Determining Manager will make the introductions and explain the purpose of the hearing and the sequence of presentations and questioning;
 - ii. The Head of School will present the evidence collected in the Investigation and may call witnesses;
 - iii. The student or his/her representative have the opportunity to ask questions of the Head of School and of any witnesses;
 - iv. The Determining Manager may ask questions of the Head of School and witnesses;
 - v. Each witness should leave the room once s/he has given his/her statement and answered questions;
 - vi. The student or his/her representative may put his/her case in the presence of the Head of School and may call witnesses;

- vii. The Head of School may ask questions of the student and his/her witnesses;
- viii. The Determining Manager may ask questions of the student and his/her witnesses;
- ix. Both sides should have the opportunity to sum up their cases if they so wish, the student's statement being last;
- x. The student and his/her representative, and the Head of School should withdraw;
- xi. The Determining Manager may agree to an adjournment at any time during the procedure;
- xii. The Determining Manager should deliberate in private and determine his/her decision;
- xiii. The Determining Manager should consider if the allegation(s) is/are proven on the balance of probability, if not the case should be dismissed.
- xiv. If the allegations is/are proved, then the Determining Manager should consider if a disciplinary sanction is reasonable (including any mitigation presented);
- xv. If a disciplinary sanction is warranted the Determining Manager should consider all the sanctions detailed in Paragraph 6.a;
- xvi. The student and Head of School should be re-called, and the Determining Manager may convey his/her decision immediately or determine that the facts need to be considered at length and the decision will be outlined in writing within five working days of the hearing.

10. Appeals

a. Appeals against Disciplinary Sanction(s) other than permanent Exclusion

A student who wishes to appeal against a disciplinary sanction(s) other than permanent exclusion, should inform the nominated Director of Curriculum and Quality in writing within five working days of receiving written confirmation of the decision.

Any appeal will be on one of the following grounds:

- i. Procedural error(s) which has **fundamentally*** undermined the application of the Disciplinary Procedure;
- ii. Disciplinary Sanction applied is inequitable against similar cases in the College;
- iii. New evidence relating to the allegation(s) has come to light which would **fundamentally*** affect the outcome of the original disciplinary hearing.

**fundamentally – an action or evidence which would have had a significant effect on the outcome of the original decision.*

When lodging an appeal the student must also state which of the above grounds the appeal is based on, supplying sufficient detail to sustain the grounds of appeal. An Independent Panel appointed by the Deputy Principal and Chief Executive will hear the appeal. The entire panel will have had no involvement in the previous stages of the disciplinary process.

The appeal hearing will be conducted as soon as possible and normally no later than fifteen working days after the notice to appeal has been received. The appeal hearing will be conducted in accordance with College procedures. At the appeal, the disciplinary sanction imposed will be reviewed. The decision of the Panel will be notified to the student in writing within five working days of the appeal hearing and will be final and binding.

b. **Appeals against Permanent Exclusion**

A student who wishes to appeal against exclusion or notice of permanent exclusion should inform the Principal and Chief Executive in writing within 10 working days of posting of written confirmation of exclusion from the College.

Any appeal will be on one of the following grounds:

- i. Procedural error(s) which has **fundamentally*** undermined the application of the Disciplinary Procedure;
- ii. Disciplinary sanction applied is inequitable against similar cases in the organisation;
- iii. New evidence relating to the allegation(s) has come to light, which would **fundamentally*** affect the outcome of the original disciplinary hearing.

**fundamentally – an action or evidence which would have had a significant effect on the outcome of the original decision.*

A panel comprising of the Principal and Chief Executive and a Corporation Member will hear the appeal.

The appeal will take place as soon as possible and normally no later than fifteen working days after the Principal and Chief Executive has received the notice of appeal. The hearing will be conducted in accordance with College procedures.

The decision of the appeal panel will be notified to the student in writing within five working days of the appeal hearing and will be final and binding.

11. College Support Mechanisms

- a. The College has a number of specific support mechanisms available to all students to assist in supporting individuals. These are available from the ASC Department who can be contacted by telephoning 0191 375 4400, or visiting the ASC office (located by main reception of the College). The services provided by ASC are confidential.

12. Policy Review

- a. The effectiveness of this Policy will be monitored annually and reviewed every five years in light of experience and best practice. This mechanism recognises that changes to legislation may prompt a review of the policy before the five years stipulated.
- b. This Policy is due to be reviewed in July 2014.