

A04: Misconduct Policy

1.0 Objectives

This policy provides for the consistent interpretation and application of processes to manage learner misconduct.

2.0 Scope

The policy covers all enrolled learners. Cases involving learners who are potential enrolments, whānau/family of learners, agents or other visitors to campus are not covered by this policy. Learner misconduct in assessment is dealt with under Policy A08 Misconduct in Assessment.

3.0 Policy

3.1 Learners are to respect:

- the rights of other NZSEG learners and staff;
- the environment and property of the New Zealand Skills and Education Group (NZSEG).

Learners will adhere to the Learner Code of Conduct as outlined in Policy A03 and observe the directions pertaining to conduct during a course (or on campus) as made by Staff members.

NZSEG will address with any learner, behaviour or attitudes which are potentially unsafe, illegal or detrimental to the learning of others or to the ability of staff members to perform their duties. All allegations will be dealt with in a prompt, equitable, considerate and consistent manner. Any learner that breaches any New Zealand legislation, rules or regulations, so as to commit an offence under the laws of New Zealand may be referred to the Police and/or other appropriate authorities.

Principles of promptness, natural justice, impartiality, consistency and non-punitiveness are applied by NZSEG in the event of a breach or suspected breach of the Learner Code of Conduct.

The Head of School/Academic Director (Seafield) or Senior Teacher will hear and adjudicate on allegations of serious learner misconduct or breach of discipline. If unresolved it will be escalated to the Group Academic Director.

In cases of serious alleged misconduct, a learner may be stood down from class/campus for a period of three working days, where on reasonable grounds it is considered necessary to maintain order, safety or an effective learning environment.

A learner subject to disciplinary action may lodge an appeal. The CEO will consider the appeal and make a decision as outlined in A10 – Academic Appeals Policy.

4.0 Procedures

4.1 Urgent actions in the event of misconduct

The Head of School/Academic Leader/Academic Director (Seafield) (or Academic Director if HoS is absent) may dismiss learners from attending class or campus and if appropriate, have their access to NZSEG computer systems suspended for a period not exceeding three working days. Where learners have been stood down from class/campus under section 3 the alleged incident shall immediately be referred for full investigation in accordance with section 3.3.

4.2 Suspension

In serious cases of alleged misconduct, the Head of School/Academic Director (Seafield) may suspend learners from attending classes and/or the campus and access to NZSEG computer systems, to allow an investigation to take place, where it is determined that:

- learners should not be allowed to attend classes until a decision on expulsion has been made;
- there is likely to be harm to staff or other learners.

The Group Academic Director will be informed by the Head of School/Academic Director (Seafield) of the circumstances of suspension to ensure impartial oversight of the process.

4.3 Investigation

All alleged incidents of misconduct should be investigated within three working days of the incident or becoming known by NZSEG.

All cases shall be referred to the Head of School/Senior Teacher for investigation. Should the Head of School/Senior Teacher be absent, have a conflict of interest or the alleged incident is such that it is not appropriate for the Head of School/Senior Teacher to deal with, the Academic Director shall assume responsibility.

When an alleged incident of misconduct is to be investigated, learners shall be:

- advised in writing of the substance of the alleged incident of misconduct and the support services available to them.
- requested to attend a meeting to provide an explanation or any other relevant information, pertaining to the incident.
- advised of their right to bring a support person to the meeting, if they so wish;
- provided with information regarding the alleged incident of misconduct before the meeting (being aware of any privacy rights and responsibilities), including a copy of a relevant NZSEG policy, information on NZSEG's process for dealing with such incidents and the likely timeframe for the investigation; and
- provided with a reasonable opportunity to respond to the allegation at the meeting.

The Head of School/Senior Teacher shall outline the timeline and steps of the investigation process at the meeting. Should the student/s fail to attend the meeting, this will not prevent a decision from being made.

The Head of School/Senior Teacher shall give due consideration to all the information presented and any explanations/extra information presented by the learner/s before deciding.

Learners will be advised in writing within five working days following the meeting of the outcome of the investigation, including any penalties imposed where misconduct has been proven.

Should a learner/s fail to attend the meeting, then the outcome will be notified to them in writing. All written communication shall be sent post or in writing to the last recorded address on the student management system or handed to the learner personally, and receipt of such recorded.

4.4 Penalties

NZSEG shall impose penalties for proven instances of misconduct in a considerate and consistent manner, considering all circumstances of the incident.

When making a decision of penalties, in respect of misconduct, the Academic Directors shall take into account:

- the seriousness of the misconduct;
- any previous incidents of misconduct;
- the welfare and possible re-engagement of the learner concerned;
- the broader implications of the behaviour and proposed penalty on other learners; and
- any factors mitigating the learner's actions such as expressions of contrition, payment of full restitution, a willingness to seek medical treatment or other professional counselling.
- penalties that may be imposed by the Academic Directors for misconduct are:
 - a written warning detailing further penalty to be applied should the learner re-offend;
 - the sum or action required for reasonable restitution for damage caused;
 - second or subsequent incidents of misconduct may be referred to the CEO for consideration. Penalties that may be imposed by the CEO for misconduct are:
 - any of the above penalties;
 - suspension from attendance at the institute or any of its classes for a period the CEO sees fit;
 - refusal of enrolment for a period of time, as seen fit by CEO;
 - cancellation of enrolment for a period as CEO sees fit.

4.5 Appeal of Misconduct Decisions

Learners who believe they have been unjustly treated, may appeal the decision to the CEO. Grounds for appeal include, but are not limited to:

- unfair procedures used for investigating or resolving the misconduct
- new evidence that has become available;
- all relevant factors not being taken into account; and
- the penalty imposed being out of proportion to the nature of the misconduct and the circumstances of the case.
- appeals must be made within ten working days of the date the misconduct decision was communicated, inclusive of an outline of the grounds of the appeal.
- learners will be able to appear personally, accompanied by a support person if so wished, to submit any further explanations, reasons or facts relevant to the appeal.
- every appeal will be heard and considered on its merits. When determining the outcome of an appeal, decision makers may:
 - uphold the appeal;
 - dismiss the appeal and either confirm the penalty imposed or imposed any other penalty that is authorised under this policy.

Decisions made by the Executive Leadership Team will be final, with no further right of appeal.

4.6 Records

When learners are found to have committed misconduct, the decision, penalties imposed shall be kept on their learner file. If the allegation has not been proven or is overturned through the appeal process, no records are to be kept.

5.0 Document Control

5.1 Monitoring and Evaluation:

The Academic Board is responsible for monitoring and evaluating this policy.

Version	Type of Change	AB Reference	Approval Date	Effective from (Day/month/Year)
1	Development of Policy	AB Action Items 27, 28 and 29	26 May 2015	26 May 2015
2	Minor Review and Re Format of Policy	Approved by AB	20 Oct 2015	20 Oct 2015
3	Inclusion to NZSEG QMS and Policies.	Approved by the Executive Management Team	16 Jan 2017	31 Jan 2017
3.1	Small grammatical changes and title changes	Approved by AB	20 Sept 2018	20 Sept 2018
4	Changes in Hierarchy throughout the for resolution of alleged misconduct, Formatting, Branding and full review, and to include online/and distance learning,	Approved by AB	21 July 2020	21 July 2020
5	Full review of policy	Approved by ELT	February 2025	February 2025