

Non-Academic Misconduct

Policy and Procedure

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1. PURPOSE

The purpose of the Non-Academic Misconduct Policy and Procedure is to promote wellbeing and safety of all JMC's workforce members and students, define actions that constitute non-academic misconduct, and set out process for investigation and management of all alleged cases of non-academic misconduct in a fair and equitable manner.

2. SCOPE

The Non-Academic Misconduct Policy and Procedure applies to all JMC's workforce members and students. The management of sexual misconduct is governed by the *Sexual Harassment Procedure and Sexual Assault Procedure*.

For the purpose of this Policy and Procedure, JMC's workforce members are referred to as 'staff'.

3. DEFINITIONS

All definitions are located in the *JMC Glossary*.

4. POLICY

- 4.1. JMC promotes safety, wellbeing, and positive relationships by:
 - 4.1.1. Ensuring staff, students, and guests know and comply with JMC's expectations regarding conduct in the organisation,
 - 4.1.2. Developing, implementing, and maintaining effective procedures to manage misconduct incidents,
 - 4.1.3. Ensuring easy access to the Student Code of Conduct, policies and procedures, and guidelines,
 - 4.1.4. Recording and monitoring incidents, which inform and improve processes,
 - 4.1.5. Actively working together to promptly resolve incidents of misconduct when they occur.
- 4.2. Non-academic misconduct includes but is not limited to:
 - 4.2.1. Acts against people:
 - Any physical violence, or threats of physical violence against another person or people,
 - Verbal, visual, or other abuse, intimidation, or bullying,
 - Harassing or discriminating against others, whether visitors, students, or staff of JMC for reasons of, but not limited to:
 - Age,
 - Gender, gender identity, transgender experience,
 - Sexuality (including intersexuality and homosexuality), sexual orientation,
 - Mental health,
 - Religious or political belief or activity,
 - Colour, race, nationality, descent, or ancestry and ethno-religious or national origin,
 - Marital relationship or domestic status,
 - Pregnancy, childbirth, and breastfeeding,
 - Disability (which includes physical, intellectual, psychiatric, or psychological, learning, or cognitive disabilities, and any virus or bacteria that can cause disease, such as HIV. It also includes any disability a person had in the past, has now, or may have in the future).
 - 4.2.2. Acts against property:

- Theft of property of any kind, whether belonging to JMC or any other individual or group,
 - Misuse and/or intentional damage of JMC's property,
 - Misuse and/or damage to the property of any other individual or group,
- 4.2.3. Breach of privacy:
- Breaching the privacy or confidentiality of any individual or group,
 - The publication of material, which is malicious, abusive, offensive, harassing, discriminatory or inappropriate about any member of the JMC's community, whether student, staff, or alumni,
- 4.2.4. Unacceptable behaviour:
- Prejudicing the good name, reputation, or academic standing of JMC,
 - Disrupting the orderly conduct of teaching,
 - Unreasonably interfering with the freedom of other persons to pursue study, conduct their work or engage in the use of JMC facilities and equipment,
 - Breaching the terms or conditions (such as suspension or exclusion) imposed for any other misconduct, whether academic or non-academic,
 - Refusing to identify themselves when required to do so by authorised JMC's staff,
 - Failure to exit the premises of JMC when rightfully required to do so by authorised staff,
 - Failing to leave a classroom when rightfully required to do so by authorised staff,
 - The use of alcohol or any illegal substances within the precincts of JMC,
 - The use of alcohol or any illegal substance at any point, such that it impedes or impairs conduct - this may be considered improper behaviour.
- 4.2.5. Any other behaviour considered improper, disgraceful, or disorderly when:
- Within the precincts of JMC,
 - When on fieldtrips, performances, off-campus visits, workplace placements, or in any other way conducting oneself as a student of JMC,
 - While pursuing any activity related specifically to the enrolment,
 - The forging or falsification of documents, deliberate falsification of information.
- 4.3. The Campus Manager is responsible for:
- 4.3.1. Investigating the non-academic misconduct and determining:
- 4.3.1.1. Whether a student has been innocent/culpable of any form of non-academic misconduct,
 - 4.3.1.2. The severity of non-academic misconduct (minor or serious), if a student is found guilty,
- 4.3.2. Notifying the student of the outcome of this determination,
- 4.3.3. Registering and reporting non-academic misconduct.
- 4.4. The investigation, determination, recording and reporting of alleged acts of student non-academic misconduct will be conducted in a strictly confidential manner and in accordance with the principles of natural justice and procedural fairness.
- 4.5. A respondent student will be unable to graduate until after a misconduct matter has been dealt with in accordance with this Policy and Procedure, and any appeal by the student has also been dealt with or the time for lodging an appeal has expired, and any penalty imposed has been finalised.
- 4.6. JMC reserves the rights to contact the police for advice and assistance on the appropriate action to be taken if it deems the act of the misconduct was:
- Severe to warrant such action, and/or

- Involved a minor.
- 4.7. Student may appeal any decision in relation to this policy and procedure within 20 business days in accordance with the *Students Complaints and Appeals Policy and Procedure*.

5. PROCEDURE

- 5.1. If a staff member or student experiences or witnesses any instance of non-academic misconduct, then they should report the matter to the Campus Manager.
- 5.2. Where an instant response is required, any supervising lecturer/tutor or person having responsibility for the facility or precincts of JMC may temporarily remove a student from all activities when conduct is considered:
- 5.2.1. A disruption in an activity such as a lecture, tutorial, examination, or field trip that adversely affects the running of that activity, for the duration of such activity,
- 5.2.2. Serious in consequences including but not limited to:
- Where persons are threatened, harassed, abused, intimidated, or bullied,
 - Where there is immediate deliberate damage to property,
 - Where a student's actions have been clearly impaired or affected by the use of alcohol and/or illegal substances,

for a period of up to five (5) business days or until outcome of investigation is reached.

- 5.3. The Campus Manager will:

- 5.3.1. Investigate the alleged case of non-academic misconduct. Actions may include but are not limited to any of the following:
- 5.3.1.1. Discussing the matter with those involved,
- 5.3.1.2. Discussing the matter with the Head of Department and/or Dean and/or Director of Finance and Operations, and/or Director of International Services,
- 5.3.1.3. Referring to past cases of student non-academic misconduct in the *Non-Academic Misconduct Register*,
- 5.3.1.4. Reviewing any available documents and/or video footage of the alleged incident.
- 5.3.2. Establish culpability or innocence,
- 5.3.3. Rate the alleged act of student non-academic misconduct, applying due consideration to the following, when determining if an alleged case of student non-academic misconduct is to be rated minor or serious:
- Is the student new to tertiary education?
 - Is the student new to study in Australia?
 - Was the misconduct significant in scale or scope?
 - Was the misconduct deliberate with a clear intention of wrongdoing?
 - Was the misconduct carefully and deliberately planned?
 - Has the misconduct resulted in the removal of student from the JMC's premises?
 - Has the misconduct been recurring or is likely to recur?
 - Does the misconduct represent a threat to the health and/or safety of others?
 - Has the misconduct directly resulted in a physical or non-physical injury, including fear and apprehension, to another person?
 - Has the misconduct resulted in theft/damage to JMC property?
 - Does the respondent student dispute the matter?

- 5.3.4. Determine the course of action based on the result of the investigation,

- 5.3.4.1. Where non-academic misconduct has been established the Campus Manager will determine the response as set in the *Appendix 1 – Schedule of penalties for confirmed cases of student Non-Academic Misconduct*.
 - 5.3.5. Document each meeting and outcomes,
 - 5.3.6. Notify in writing the people involved as to the outcome of the investigation and what penalties apply, and at the same time advising them that any student found to have engaged in misconduct may appeal this decision,
 - 5.3.7. Record the incident and outcomes in the *Non-Academic Misconduct Register*,
 - 5.3.8. Make the appropriate notes in the Student Management System, and
 - 5.3.9. Inform their Head of Department of the outcome of the investigation,
 - 5.3.10. Report breaches of this policy regularly to the Senior Management Committee, and
 - 5.3.11. Provide to the Governing Council through the Senior Management Committee, and to the JMC Risk Management Committee, bi-annual reports (with comparative data from previous years) summarising breaches of this policy identified by type of misconduct, course of study, campus location, level of penalty imposed, student appeals against academic misconduct decisions and the outcomes of these appeals.
- 5.4. Most of the non-academic misconduct cases concluded as *minor* are typically satisfactorily settled by way of informal resolution, discussion, explanation, warning, and apology.
- 5.5. All the cases of non-academic misconduct concluded as *serious* must be consulted with:
- The Head of Department, and/or
 - The Dean and/or
 - The Director of Finance and Operations, and/or
 - The Director of International Services
- before the outcome is determined.

6. RELATED DOCUMENTS

- 6.1. JMC Glossary
- 6.2. Student Code of Conduct
- 6.3. JMC Principles of Procedural Fairness Policy
- 6.4. Discrimination, Bullying, Harassment, and Sexual Misconduct Policy
- 6.5. Sexual Harassment Procedure
- 6.6. Sexual Assault Procedure
- 6.7. Academic Integrity Policy and Procedure
- 6.8. Students Complaints and Appeals Policy and Procedure

7. RELEVANT LEGISLATION

- 7.1. Standards for Registered Training Organisation (RTOs) 2015
- 7.2. Higher Education Support Act 2003 (Cth)
- 7.3. Higher Education Standards Framework (Threshold Standards) 2021

8. POSITIONS RESPONSIBLE

- 8.1. Director of International Services
- 8.2. Dean
- 8.3. Director of Finance and Operations
- 8.4. Heads of Department
- 8.5. Campus Managers
- 8.6. Students

9. APPROVAL INFORMATION

Approval Authority	Governing Council
Health Check approval authority	JMC CEO
Review date	01/12/2024

Version	Approved by	Approval date	Effective date	Modifications	Status
1.0	JMC CEO	05/08/2021	01/12/2021	Policy content has been moved to the new template. Position titles have been updated. Responses have been amended and included in the appendix. Purpose have been strengthened, appendix has been created for the suggested responses of minor and serious cases of non-academic misconduct. Sections 5.3.10 and 5.3.11 added.	Superseded
1.1	JMC CEO	12/08/2022	12/08/2022	Positions updated.	Current

Version control tables from previous Policies and Procedures reside in the original documents.

Appendix 1 – Schedule of penalties for confirmed cases of student Non-Academic Misconduct

Suggested Responses	
Minor Non-Academic Misconduct	Serious Non-Academic Misconduct
<p>Suggested responses:</p> <ul style="list-style-type: none"> • Formal apology to other concerned parties, • Warning or reprimand, • Meeting with the Head of Department, • Personal or academic counselling, • Withholding of academic grades for the current study period, • Suspension from a unit or a course for not more than 10 business days, • Escalation of the case to the Serious Non-Academic Misconduct. 	<p>Suggested responses:</p> <ul style="list-style-type: none"> • Formal apology to other concerned parties, • Meeting with the Head of Department and member of Senior Management Committee, • Personal or academic counselling, • Withholding of academic grades for the current study period, • Withholding permission to graduate including issuance of academic documents, • Monetary compensation in case of the damage to JMC's property, • Exclusion from JMC without readmission, or • Suspension from JMC without readmission for a period of up to 12 months, • Imposition of other conditions on enrolment and participation in a specific course or subjects.