

# Student Conduct Policy and Procedure

Institute of Skills and Training Australia has a student-centred approach to teaching, learning, scholarship and a commitment to the intellectual and personal welfare of its students. Institute of Skills and Training Australia aims to provide a safe, secure and inclusive learning environment that enables students to fulfil their academic potential and graduate to make a positive social, economic and cultural contribution to society.

Consistent with its mission, Institute of Skills and Training Australia celebrates the diversity of its community. It supports the principles of fair treatment, respect of persons, integrity and procedural fairness and aims to produce graduates who are future leaders committed to social justice and human rights. Institute of Skills and Training Australia actively discourages behaviours and actions that are inconsistent with a safe, equitable and respectful environment in which to work and study. It expects all members of the Institute of Skills and Training Australia community to comply with anti-discrimination and equal opportunity laws and the provisions under this policy. Breaches falling within the parameters of this policy may result in disciplinary action or other appropriate penalties or sanctions.

## Definitions

**Bullying** - the persistent and ongoing ill treatment of a person that victimises, humiliates, undermines or threatens that person.

**Criminal offence** - an offence deemed harmful not only to the community but also to the community, society and state. It is punishable by law.

**Discrimination** - occurs when a person treats, or proposes to treat, someone unfavourably because of a personal characteristic protected by law.

**Exclusion** - the cancellation of a student's enrolment and the termination of their rights and privileges as a student at Institute of Skills and Training Australia including the right to re-enrol in their course or be admitted to another course, for a defined period (two years). The student may re-apply for admission to any Institute of Skills and Training Australia course/s at the end of the period of exclusion.

**Expulsion** - the permanent exclusion of a student with no right to re-apply for admission.

**Harassment** - is repeated, unwelcome and unsolicited behaviour or comments aimed at a person or group that makes that person or group feel offended, humiliated or threatened.

**Procedural fairness** - a fair and proper procedure appropriate to the circumstances, where decisions are made without bias and are supported by evidence and communicated with reasoned argument.

**Restriction** - a limit on access to premises and/or facilities and/or services for a defined period.

**Sexual assault** - when a person is forced, coerced or tricked into sexual acts against their will or without their consent, or if a child or young person under 18 is exposed to sexual activities. Sexual assault is a form of sexual activity without explicit consent. Sexual assault is attempted, or actual sexual contact performed without the active, verbal consent and positive physical cooperation of another individual.

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**Sexual harassment** - any unwelcome sexual advance, request for sexual favours or conduct of a sexual nature in relation to the person harassed in circumstances where a reasonable person would have anticipated the possibility that the person harassed would be offended, humiliated or intimidated.

*(Sex Discrimination Act 1984 (Cth) as cited by the Australian Human Rights Commission, 2018)*

**Note: sexual harassment is a form of sex discrimination, can be obvious or indirect, can be physical or verbal, can be repeated or one-off and can be perpetrated by any gender towards any gender.**

**Suspension** - the cancellation of a student's enrolment and the withdrawal for a specified time of the rights and privileges of a student, including the right to re-enrol as a student. Unless otherwise advised, the student has the right to recommence their studies at the end of the suspension.

**Institute of Skills and Training Australia community** - students, staff, agents, titleholders, alumni, officers, contractors, volunteers, and other people who are formally involved in an Institute of Skills and Training Australia-related activity, regardless of the location of that activity.

**Victimisation** - subjecting a person to some form of detriment because that person has lodged a complaint or is associated with a person who has lodged a complaint or has had a complaint made against them or is associated with a person who has had a complaint made against them.

**Vilification** - occurs when a person speaks or writes in an insulting, abusive or defamatory way about or to a person or group. Vilification is commonly associated with the incitement of hatred towards a person due to their race, religion, or beliefs.

## Principles

This policy is based on the principle that all members of the Institute of Skills and Training Australia community benefit from:

- acting honestly and with integrity, demonstrating mutual respect
- the right to be heard in an environment free of bias and unfair treatment.
- the proper use of Institute of Skills and Training Australia facilities and information
- practices that are inclusive and do not unreasonably prevent access to learning.
- responsiveness to individual needs, whether they relate to age, gender, cultural or ethnic background, health, sexuality, employment, location or other personal circumstance.
- adherence to relevant State and Federal legislation and Institute of Skills and Training Australia policies and guidelines
- the right to make a complaint without subsequent detriment.
- prompt resolution of complaints, according to the principles of procedural fairness.

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## SECTION A: Student expectations

All students have the right to be treated fairly to study in a positive and safe learning environment that allows them to reach their full potential, and to have access to clear, consistent and timely information.

### Fairness

Students can expect to:

- be treated with courtesy and respect.
- learn in an environment free of discrimination, intimidation and harassment.
- have access to fair and transparent complaints and appeals procedures.
- have their rights respected, including intellectual property rights and their right to privacy.
- be considered for admission based on fair, consistent and transparent criteria.
- have opportunities to provide feedback on their experience at Institute of Skills and Training Australia
- have opportunities to participate in the decision-making and cultural life of their institution.
- have freedom to voice alternative views in rational discussion and debate.

### Learning environment

Students can expect to:

- have access to a diverse range of high-quality learning experiences.
- have access to up-to-date materials, equipment and other resources to pursue their course-related goals.
- have access to counselling, advisory and academic support services.
- receive guidance, instruction and support from qualified staff.
- study in a safe, productive and stimulating academic environment

### Timely and accurate information

Students can expect to:

- receive complete, clear and accurate information in relation to content, objectives, workload, timetable, costs and assessment of subjects.
- receive timely and constructive feedback on assessment tasks.
- have access to a clear statement of acceptable academic conduct by students.
- have access to clearly stated policies and procedures.
- have reasonable access to records held about them.

### Code of conduct

*Note: The purpose of the Code of Conduct is to provide guidance on the standards of conduct expected of students. It does not address all possible issues concerning the conduct of students but provides a framework of appropriate behaviour. If a circumstance or situation arises which is not expressly covered by the Code, students must comply with the underlying principles of the Code.*

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## Honesty and integrity

Students are expected to:

- carry out their studies with honesty and integrity and not engage in academic misconduct.
- inform themselves of, and comply with, Institute of Skills and Training Australia policies and procedures.
- comply with the conventions of academic scholarship.
- comply with all laws of the Commonwealth and relevant State.
- participate fully in the learning process, attending classes and submitting assessments.
- reasonably engage in the course
- read and respond to all official Institute of Skills and Training Australia communications in a timely manner.
- refrain from influencing or appearing to influence academic decisions, including giving gifts.
- pay all Institute of Skills and Training Australia fees and charges for which they are liable by the set deadline.

## Courtesy and respect

Students are expected to:

- treat all members of the Institute of Skills and Training Australia community with courtesy and respect.
- refrain from behaviour that disrupts others in the safe pursuit of their work or study.
- refrain from conduct that may be detrimental to the reputation of Institute of Skills and Training Australia and its verticals.
- contribute to the orderly and safe functioning of Institute of Skills and Training Australia and its verticals.
- respect the opinions of others and their right to express religious or political views.
- refrain from behaviour that could reasonably be considered offensive to others.

## Appropriate use of Institute of Skills and Training Australia resources

Students are expected to:

- use Institute of Skills and Training Australia resources in a manner that is considerate to others.
- use Institute of Skills and Training Australia resources for Institute of Skills and Training Australia purposes, unless otherwise expressly permitted.
- not wilfully damage or remove property belonging to members of the Institute of Skills and Training Australia community.
- not participate in any learning activity while under the influence of alcohol or other drugs
- not use, possess or supply any prohibited drug, substance or weapon on Institute of Skills and Training Australia premises or while participating in learning activities or representing Institute of Skills and Training Australia in social or cultural activities
- not engage in fraudulent or corrupt conduct
- safeguard their own wellbeing by observing all workplace health and safety procedures.
- obey all reasonable instructions by Institute of Skills and Training Australia staff.

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## Fair treatment

All members of the Institute of Skills and Training Australia community are prohibited from engaging in the following behaviours whilst on Institute of Skills and Training Australia premises or undertaking Institute of Skills and Training Australia activities, regardless of the location of the activities:

- harassment, bullying or vilification.
- racial vilification or racist behaviour
- sexual harassment
- discrimination based on a personal characteristic such as age, gender, relationship status, pregnancy, sexuality or race.
- discrimination on the grounds of disability or medical condition
- discrimination on the grounds of religion, political opinion, criminal record (when irrelevant), freedom of movement or trade union activity
- discrimination on the grounds of family responsibilities
- discrimination because of an association with someone identified based on a personal characteristic.
- victimisation of any member of the Institute of Skills and Training Australia community who makes a complaint under this policy.

For the purposes of this policy, harassment and bullying do not include:

- reasonable direction from a staff member
- fair application of appropriate teaching, including guidance and assessment feedback
- implementation, with procedural fairness, of academic or non-academic misconduct procedures.

## Social media

Students must adhere and act in accordance with relevant policies which include, but are not limited to, the following:

- Copyright Compliance and Intellectual Property Policy
- Student Conduct Policy
- not disclose confidential information and respect privacy in accordance with the Privacy Act 1988.
- respect the rights of other students and staff in line with the Australian Human Rights Commission Act 1986 and other related Australian legislation and international instruments (e.g., Racial Discrimination Act 1975, Sex Discrimination Act 1984, Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief
- not portray themselves as representing or speaking on behalf of Institute of Skills and Training Australia unless officially appointed by Institute of Skills and Training Australia in that capacity.
- adhere to the terms and conditions of use of the social media provider. Institute of Skills and Training Australia will act in accordance with the spirit and requirements of relevant legislation and guidelines. Institute of Skills and Training Australia may:
- delete a poster's comment on any official Institute of Skills and Training Australia social media account if it violates the provisions of this policy, other relevant policies and/or legislation.
- modify, delete, suspend, or discontinue (temporarily or permanently):
- any official Institute of Skills and Training Australia social media account with or without notice if Institute of Skills and Training Australia deems that any content posted on these

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accounts are in breach of the provisions of this policy, other relevant policies and/or legislation.

- any poster's access to official Institute of Skills and Training Australia social media accounts if they have been found to breach the provisions of this policy, other relevant policies and/or legislation.

## Section B: Managing complaints of misconduct

*Note: Complaints of misconduct by students will be dealt with under this policy. Complaints of misconduct by staff will be dealt with under the relevant Human Resources Policy.*

*Note: This policy does not prevent complaints of unfair treatment being made directly to an external body such as the Commonwealth Equal Opportunity Commission or the Office of Ombudsman (in the relevant State). If Institute of Skills and Training Australia receives notification that a complaint is the subject of formal external enquiry or legal action, internal processes may be suspended until external action is completed.*

### Misconduct resolution

Institute of Skills and Training Australia acknowledges the right of all members of the Institute of Skills and Training Australia community to make a complaint and aims to resolve such complaints fairly and promptly, wherever possible resolving conflict at the local level and maintaining working relations.

### Principles

Institute of Skills and Training Australia will:

- investigate allegations of misconduct in a consistent, transparent and timely manner and in accordance with the principles of procedural fairness and confidentiality
- advise students of allegations of misconduct against them in a timely manner
- ensure that students have an opportunity to respond to any allegation against them and to appeal any penalties imposed for misconduct.
- ensure that staff with any direct interest in an allegation against a student are not involved in deciding of misconduct in relation to that student.
- not consider previous misconduct determinations against a student when determining guilt relating to the current allegation but may consider previous offences when deciding on penalties to be imposed.
- make decisions on whether an act of misconduct has occurred after the facts have been established to the satisfaction of the decision-maker.
- protect all parties involved in a misconduct case from victimisation.

### Misconduct

Academic and non-academic misconduct occurs when Institute of Skills and Training Australia standards, policies and codes of conduct are breached.

### Academic misconduct

Academic misconduct occurs when students fail to comply with the principles relating to academic integrity in this policy, and intentionally seek an advantage for themselves or another student by cheating in any form. Such breaches are dealt with under the Student Conduct Policy and Procedure but may be escalated for further action if repeated or significant.

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## Non-academic misconduct

Non-academic misconduct occurs when students breach other provisions of this policy and fail to act in a manner that upholds the standards of the Institute of Skills and Training Australia community. Examples include, but are not limited to:

- breaching any Institute of Skills and Training Australia policy
- misuse of information or communication technologies and equipment
- inappropriate, concerning or threatening behaviour
- carrying a weapon
- bringing or consuming prohibited drugs on Institute of Skills and Training Australia premises
- bringing or consuming alcohol on Institute of Skills and Training Australia premises except as lawfully authorised.
- damaging, misusing, stealing or using Institute of Skills and Training Australia property without proper authority
- hindering the use by others of Institute of Skills and Training Australia facilities, or entering premises without permission
- causing a member of the Institute of Skills and Training Australia community to hold reasonable fear for their safety or physical or psychological wellbeing.
- failing to observe workplace health and safety procedures.
- failing to comply with a reasonable direction from an authorised person or staff member.
- obstructing a staff member from performance of his or her duties
- failing to adhere to the requirements of external organisations while on placement.
- engaging in fraudulent and corrupt conduct such as making false and misleading statements or providing false or unauthorised documentation
- engaging in conduct that is likely to damage the reputation of Institute of Skills and Training Australia or prejudice the good management and governance of Institute of Skills and Training Australia
- making frivolous and unreasonable complaints under this policy.

## Allegations of misconduct

Any student, employee or other member of the Institute of Skills and Training Australia community who wishes to report an allegation of misconduct against a student must do so in writing to the RTO manager. Written allegations from external people or organisations will also be considered under this policy when the allegations relate to the conduct of a student while participating in activities associated with their study, including activities outside Institute of Skills and Training Australia and professional or clinical placements.

The RTO Manager may also initiate action against a student without a report from a third party.

## First offence and/or minor breaches

Where the RTO Manager or authorised officer considers that the nature of the allegation is such that, if proven, it can be appropriately dealt with without imposing a penalty for significant misconduct as described in this policy, they may determine that the allegation should be investigated and dealt with under a local review and resolution process.

Any student facing allegations of misconduct will be provided with the specific information about the allegations (although not necessarily be shown a complaint verbatim) and be provided with an opportunity to respond and/or provide evidence on the matter.

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After investigating, the RTO Manager or authorised officer may make one (or more) of the following determinations:

- that no further action is required
- that the student is directed to cease actions which are subject to the allegation
- that the student is directed to provide a formal apology to the aggrieved party
- that the student provides an undertaking in writing not to repeat the misconduct, or
- that the student be given a written warning.

The student will be advised in writing of the determination and the reasons for reaching the determination.

The RTO Manager may refer an allegation to the Chief Executive Officer (CEO) at any time during the investigation if it becomes clear that the allegation is too serious or complex to be dealt with at the local level. Failure to resolve the allegation at the local level will also result in the allegation being referred to the CEO for a determination.

## **Repeated offence and / or significant breaches**

In cases of serious misconduct, (e.g. suspected criminal offence such as assault and theft, or alleged misconduct that poses a significant risk to the safety and wellbeing of Institute of Skills and Training Australia and its staff and students) which, if proven, are likely to result in the imposition of a penalty under this policy, the allegation must be referred to the RTO Manager or authorised officer to oversee the investigation.

The RTO Manager or authorised officer may then delegate responsibility for resolving the complaint to the relevant staff member, depending on the nature of the complaint. In cases of criminal offences (e.g. drug use within Institute of Skills and Training Australia premises, theft), the RTO Manager (or delegate) will immediately refer the matter to the relevant external authorities (e.g. police) except in cases of sexual assault and sexual harassment. In line with the provisions of the Employee Code of Conduct, Institute of Skills and Training Australia cannot and will not make a report to the police on a person's behalf but can provide support for a student or staff member if they choose to do so.

Any student facing allegations of misconduct will be provided with the specific information about the allegations (although not necessarily be shown a complaint verbatim) and be provided with an opportunity to respond and/or provide evidence on the matter.

- After investigating, the RTO Manager (or delegate) may make one of the following determinations:
- that no further action is required
- that the student is directed to cease actions which are subject to the allegation
- that the student is directed to provide a formal apology to the aggrieved party
- that the student provides an undertaking in writing not to repeat the misconduct, or
- that the student be given a written warning
- that the student pay restitution to the value of repair / replacement costs for property damaged or stolen
- cancellation of a prize, scholarship or bursary awarded by Institute of Skills and Training Australia
- that the student's grade or outcome be adjusted to a fail or Not Yet Competent (where the misconduct involved a form of academic misconduct relating to the subject)

*Note: this may result in non-conferral of an academic award or the revocation of a conferred award*

- that the student be restricted



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- from all, or a specified portion of, Institute of Skills and Training Australia premises for a defined period, and/o
- from use of any Institute of Skills and Training Australia facility or service for a defined period
- that the student's enrolment be suspended for a defined period
- that the student be excluded from Institute of Skills and Training Australia for a defined period
- that the student be expelled from Institute of Skills and Training Australia.

*In determining the penalties, the RTO Manager (or delegate) will consider:*

- the nature and seriousness of the misconduct
- the student's previous record of misconduct and the penalties imposed.
- whether there are any mitigating circumstances
- whether the student admits the misconduct and has expressed remorse
- the potential impact on the student, including their capacity to complete their course.
- the potential impact on any other students or staff members involved.

*The student will be advised in writing of:*

- the determination and the reasons for reaching the determination, and
- for international students, that Institute of Skills and Training Australia will also notify the Secretary of the Department (via PRISMS) of the suspension or exclusion, and that the notification may affect their student visa.

The availability of internal misconduct resolution processes does not preclude Institute of Skills and Training Australia from referring a student to external authorities.

## **Urgent suspension or restriction, pending investigation.**

The RTO Manager (or delegate) has the authority to temporarily suspend or restrict a student from all or part of Institute of Skills and Training Australia's premises or classes or from access to its facilities in urgent circumstances. This includes where there is a threat to the safety of persons or property and if a student is disrupting the use of facilities or participation in activities.

## **Records of misconduct**

A full record will be kept of all stages of misconduct proceedings including all actions, evidence, correspondence, meetings and minutes. These records must be stored on a confidential file. When misconduct is determined to have taken place, a summary of the investigation and determination will be recorded on the student's file.

## **Appeal**

Under the Complaints and Appeals procedure, a student may lodge an appeal with the RTO Manager against a determination made under this policy within 20 working days of the date of notification of the determination. Appeals can be made on the grounds that:

- there was a lack of procedural fairness in the investigation.
- the determination was clearly unreasonable or cannot be supported by the evidence.
- there is new evidence not available at the time of the original investigation.

The outcome of such an appeal will be final.

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## References

*Note: this list is not exhaustive and other Acts may apply in some circumstances.*

- Commonwealth Racial Discrimination Act 1975, incorporating the Racial Hatred Act 1995
- Commonwealth Sex Discrimination Act 1984
- Commonwealth Human Rights and Equal Opportunity Commission Act 1986 Commonwealth Equal
- Opportunity for Women in the Workplace Act 1999 Commonwealth Age Discrimination Act 2004
- Commonwealth Disability Discrimination Act 1992 Commonwealth Copyright Act 1968
- Commonwealth Privacy Act 1988