

# Student General Misconduct Procedure

## 1. Purpose and Scope

- 1.1 The Student General Misconduct Procedure outlines AIAT's management of an allegation of conduct which contravenes the obligations and expectations identified in the Student Code of Conduct.
- 1.2 Allegations of Academic Misconduct or Sexual Assault are excluded from this procedure as they are dealt with under separate procedures.
- 1.3 The Code applies to
  - 1.3.1 all enrolled students and their activities undertaken with other members of the AIAT community, including on-campus activities, and AIAT or student-related activities at other sites (including, but not limited to, placements); and
  - 1.3.2 former students, students not currently enrolled, and students previously enrolled, where the behaviour in question occurred whilst they were a member of the AIAT community.

## 2. Definition

Refer to *Glossary of Terms*.

Appendix A provides Types of General Misconduct.

## 3. Procedure

*Appendix B and C provide an overview of the workflow for this procedure. It is recommended that they be reviewed prior to reading it.*

- 3.1 General
  - 3.1.1 Any staff or student or member of the AIAT community or public should immediately refer an instance of suspected criminal conduct to the Police.
  - 3.1.2 If safe to do so, staff are expected to address general misconduct when it occurs in an educative manner. A General Misconduct Allegation Report should be completed if this is unsuccessful.
  - 3.1.3 A staff member or student who becomes aware of behaviour that breaches expectations of conduct by AIAT students, or other concerning behaviour by a student, will report the matter to the Campus Manager as per item 3.5.
- 3.2 Disruptive Behaviour
  - 3.2.1 If a staff member or student feels unsafe as a result of threatening or inappropriate behaviour by a student, they should ask the student to leave. If the student refuses, then all others in the room should leave and Campus Manager

should be called. Where there is concern for the health and wellbeing of the student exhibiting threatening or inappropriate behaviour, the Student Services Office should be called.

- 3.2.2 Depending on the type of threatening or inappropriate behaviour exhibited, consequential action may be initiated under this procedure or under other relevant AIAT Policy and Procedure.

### 3.3 Immediate Exclusion

3.3.1 Any person with responsibility for management of AIAT's facility or an activity, wherever they may occur, has authority to summarily exclude a student from those facilities or activity where the person believes that the student is committing or has committed an act of misconduct in relation to use of the facilities or participation in the activity. The staff member will report in writing both the incident with a detailed description of the behaviour and the action taken, including any additional supporting documentation, to the Campus Manager as soon as practicable.

3.3.2 An order for exclusion under 3.3.1 may be made orally and take effect immediately and must specify the period of exclusion within the following limits:

<b>Facility or activity</b>	<b>Period of exclusion</b>
Exclusion from a structured learning activity, including a lecture, tutorial, demonstration, or examination	Up to the duration of the activity
Exclusion in any other circumstances	Up to 24 hours

3.3.3 Within one full working day of the order being made

- a. A report of the incident must be provided to the Campus Manager and be placed on the Student General Misconduct Register.
- b. If the student's name is known, the terms of the order and the reasons for them must be confirmed to the student in writing as per item 3.12 Communicating with the student.

### 3.4 High Risk Behaviour

3.4.1 Notwithstanding any other provision in this procedure, where the conduct is assessed in a-f below, the CEO may determine that a student is subject to immediate suspension to protect against further misconduct.

- a. physical or psychological injury to a student or to any other person on AIAT premises, or
- b. damage to AIAT premises or to the property of any person or any public property
- c. ongoing disruption to any AIAT-sanctioned activity wherever it may be, or
- d. damage to AIAT's reputation or interests,
- e. further misconduct, or

- f. covering up or attempting to cover up an incidence of misconduct.
- 3.4.2 The CEO:
- a. is not required to conduct a hearing for the student before making the decision but must make a reasonable effort (having regard to the seriousness and urgency of the risk) to provide the student with an opportunity to explain why the suspension ought not to be imposed or ought to be limited,
  - b. may inform the student in any way in relation to the matter, and
  - c. may impose terms and conditions on the executive suspension.
- 3.4.3 The CEO's decision continues to operate until revoked, varied or expired.
- 3.4.4 The CEO must within 1 working day of the decision to executively suspend the student, provide written notice to the student:
- a. of the decision, any terms and conditions of the decision, and a summary of the reasons for the decision;
  - b. of the right to appeal to the Non-Academic Appeals Committee within 5 working days of the date of the written notice; and
  - c. a copy of this procedure.
- 3.4.5 The CEO must within 1 working day of notifying the student refer the matter to the Student Misconduct Committee for determination and provide a copy of the student notification to:
- a. Campus Manager, and
  - b. Any other staff member whose responsibilities, in the opinion of the CEO, require them to know of the order against the student.
- 3.5 Reporting an Allegation of General Misconduct
- 3.5.1 Any staff, student, or member of the AIAT community or public may refer an instance of suspected General Misconduct to AIAT.
- 3.5.2 Allegations shall be lodged with the Campus Manager normally using the General Misconduct Allegation Report who will conduct a preliminary evaluation of the allegation as presented. The report should be lodged within 5 working days of detection.
- 3.5.3 The Campus Manager will undertake a preliminary investigation, determination and notification of student within 5 working days of receipt of the report.
- 3.5.4 The outcomes from the preliminary evaluation include
- a. an educative response to the allegation of student general misconduct is appropriate;
  - b. where appropriate, referral of the matter to the Police or other relevant external authority; or
  - c. referral to the Student Misconduct Committee.
- 3.5.5 An educative response is appropriate when:
- a. it appears that the behaviour or action of the student may have been unintentional; and/or
  - b. where what appears to be student general misconduct is minor and thus an educative response would be more appropriate; and

- c. the student has not previously had an allegation of student general misconduct made against them.

3.5.6 The Campus Manager must notify the student of the outcome in writing addressing the following:

<b>Outcome</b>	<b>Information to be provided in writing</b>
Educative Response	<ul style="list-style-type: none"> <li>• that the conduct, while inappropriate, is not deemed to be student general misconduct, and that an educative response will be offered to raise awareness of AIAT’s behavioural expectations of its students; and</li> <li>• that the consequences of not meeting AIAT’s expectations in relation to student conduct in future may include a finding of student general misconduct and may lead to any of the available penalties for student general misconduct, including termination of enrolment.</li> </ul>
Referral to Police or other relevant external authority	<ul style="list-style-type: none"> <li>• That the conduct is considered inappropriate and has been referred to an external authority.</li> </ul>
Referral to Student Misconduct Committee	<ul style="list-style-type: none"> <li>• Identifying the policies and/or procedures which are alleged to have been breached as well as all relevant allegations of fact, action or omission in support of the allegation;</li> <li>• Attaching copies of any primary supporting documents related to the alleged misconduct;</li> <li>• Offering the student an opportunity to               <ul style="list-style-type: none"> <li>○ Provide in writing an explanation or submission or evidence in response to the allegation no less than 24 hours prior to the matter being heard by the committee; and/or</li> <li>○ Be heard by the committee in relation to it;</li> </ul> </li> <li>• Referring the student to the provisions of the relevant policy and procedure; and</li> <li>• Advising the student               <ul style="list-style-type: none"> <li>○ of the student’s right to a support person who is not a legal practitioner; and</li> <li>○ that they may seek independent advice from Student Services Office.</li> </ul> </li> </ul>

### 3.6 Student Misconduct Committee (SMC)

### 3.6.1 Membership

- a. Voting members
  - Campus Manager (who acts as the chair);
  - Two senior members of the academic staff;
  - A member of the Student Services Office; and
  - A student nominated by the recognised student organisation who has received appropriate training.
- b. The committee may include an administrative staff member to assist with coordinating the meeting, taking minutes and corresponding with the student, but is not a voting member.
- c. The committee cannot include the person who referred the allegation to the Campus Manager.

3.6.2 The committee will ensure the principles of natural justice are applied to any hearings and the management of the allegation.

3.6.3 The committee may, at any time:

- a. refer any matter initiated under this procedure to be dealt with under another AIAT policy or procedure as appropriate; and
- b. stop any actions commenced under this procedure.

### 3.7 Student Misconduct Committee Activities

<b>Activity</b>	<b>Responsibility</b>	<b>Timeline</b>
Constitute the Student Misconduct Committee	SMC Chair	Within 10 working days of report being received
Inform student in writing <ul style="list-style-type: none"> <li>• of date, time and location for meeting</li> <li>• of all items identified in item 3.5.6 including providing copies of any primary supporting documents related to the alleged misconduct</li> <li>• invite the student to provide in writing an explanation or submission of evidence in response to the allegation no less than 24 hours prior to the meeting; and/or be heard by the committee in relation to it.</li> <li>• that if the student chooses not to be heard at the meeting, the allegation will be heard and decided in their absence</li> </ul> The meeting date must be at least 5 working days from the date on which the notice is sent.	SMC Chair	Within 10 working days of committee being constituted
The committee will: <ul style="list-style-type: none"> <li>• Conduct a hearing</li> <li>• Determine penalty in accordance with item 3.11 Potential Penalties</li> </ul>	SMC Committee	At meeting

<ul style="list-style-type: none"> <li>Notify student of penalty in writing including the opportunity to appeal to the Student Appeal Committee</li> </ul>		Within 5 working days of meeting
Provide written information on misconduct details and outcomes for the student file and copied to the student file.	SMC Chair	Within 5 working days of meeting
Record information about misconduct details and outcome in Student General Misconduct Register.	SMC Chair	Within 5 working days of meeting

### 3.8 Conduct of Hearing

- 3.8.1 The Student Misconduct Committee must conduct a hearing in the manner that it considers appropriate in accordance with the requirements of procedural fairness.
- 3.8.2 The meeting should be held in person; however, internet telecommunications may be utilised to conduct the meeting.
- 3.8.3 The student may bring a support person who is not a legal practitioner to the committee meeting.
- 3.8.4 The support person has no right to be heard, except with permission from the Chair. If the support person becomes disruptive or unreasonably impairs the meeting, the support person may be excluded from the meeting by the Chair at the Chair's discretion. This includes severing the internet telecommunications being utilised for the meeting, even if this means cutting off the student.
- 3.8.5 At the hearing, the committee must
- Allow the student to provide written or oral evidence (including witnesses) related to the allegation; and
  - Consider any written or oral statements made by the student in relation to the allegation.
- 3.8.6 The Chair will maintain order at the hearing and, for this purpose only, the Chair has the power to order the removal of a person, including a student.
- 3.8.7 In considering a case, the committee must make a decision based on findings of facts that are established on sound reasoning and relevant evidence.

### 3.9 Factors to consider when determining an outcome

- 3.9.1 In determining an allegation of student general misconduct, the committee must
- make a decision based on the evidence before them that it is more probable than not that:
    - the allegation is proved or not proved; and/or
    - a proposition is true or false;
  - balance the rights of the individual student with the need for fair and impartial decision-making for all students;
  - preserve the expectations and standards of student conduct on behalf of AIAT;
  - be scrupulously honest and exercise all due care and diligence in the performance of their duty;

- e. avoid any action which could affect their judgement when dealing with committee matters;
- f. not improperly influence other committee members; and
- g. not consider prior findings of this student's general misconduct when deciding whether to uphold an allegation of misconduct.

3.9.2 In determining the severity of the alleged student general misconduct, the following factors may be considered in determining Student General Misconduct:

- a. the type of behaviour that constitutes the alleged breach;
- b. the level of the student's course;
- c. the need to deter the student and others from misconduct in future;
- d. the student's knowledge, understanding and exposure to accepted practices and cultural norms;
- e. the nature and extent of the alleged behaviour;
- f. whether there is evidence of a deliberate and premeditated decision to engage in misconduct;
- g. the impact of the conduct on other people;
- h. the impact on AIAT's integrity, good governance and reputation;
- i. whether the student has been found to have breached AIAT's expectations of student conduct in the past - the student's previous record on the Student General Misconduct Register will not be used to determine whether an alleged breach actually occurred, but may be used in determining the category of the failure, and hence the nature of the process to be conducted and the appropriate outcome;
- j. whether any institutional failures contributed to the alleged breach;
- k. any mitigating or aggravating circumstances.

### 3.10 Student Misconduct Committee decision making process

3.10.1 The student misconduct committee will discuss each allegation of student general misconduct.

3.10.2 A majority of members of the committee must be satisfied that the allegation has been upheld or the allegation must be dismissed.

3.10.3 The committee will dismiss an allegation if they are satisfied that it is not proven on the balance of probabilities.

3.10.4 The committee will uphold an allegation of student general misconduct, if it finds that the alleged misconduct is proven on the balance of probabilities.

3.10.5 If the committee upholds an allegation of student general misconduct, it may, if appropriate, apply one or more penalties on the student as per item 3.11 Potential Penalties.

3.10.6 The student will be informed of any decision within 5 working days and provided with

- a. written notice of the terms of the decision;
- b. any penalty imposed or recommended; and
- c. the right to appeal including a copy of the Student Complaints and Appeal Policy.

### 3.11 Potential penalties

3.11.1 Penalties for a finding of student general misconduct include, but are not limited to these categories.

- a. Financial
  - Make restitution financially where practical or pay damages
- b. Suspension
  - Recommend to the Head of Institute that the student's enrolment be suspended for any period and on any terms and conditions. Suspension can be from one or more subjects or courses, the campus or other approved AIAT activity.
  - Suspension from accessing or using all or any specified AIAT facilities or services for a period and any terms and conditions.
- c. Restrictions
  - Restrictions to undertake certain activities on campus or placements for a defined period
  - Restrict or deny access to AIAT campus and campus services (including library, ICT, study facilities)
- d. Exclusion
  - Exclusion to undertake certain activities on campus or placements for a defined period
  - Exclusion from AIAT for a specified period
- e. Expulsion
  - Recommend to the Board of Directors that the student be expelled from AIAT
- f. Other
  - A written warning to the student
  - Caution or other precautionary measure
  - Refer student to counselling
  - Student required to undertake activities designed to improve their behaviour
  - Remediation action to be undertaken
  - Loss of privileges such as email or access to LMS for a period of time
  - Withholding of results for a defined period
  - Probationary enrolment
  - Refuse or cancel credit for a course

### 3.12 Communicating with student

3.12.1 Written communication with students may be delivered and received in accord with the following table:

<b>Notice is sufficient if it is in writing and delivered by one of the following means:</b>	<b>Notice is deemed to have been received:</b>
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1. emailed to the student's allocated AIAT email account. If the student does not have an AIAT email account, one of the three methods below must be used.	24 hours after the time it was sent
2. given to the student in person	Immediately
3. posted by ordinary or express post to the student at <ul style="list-style-type: none"> <li>• the address shown on the student's record on the student document management system or,</li> <li>• if the student is not on the student document management system, the last recorded address for that student,</li> </ul>	on the third working day after it was sent
4. delivered by courier to the student at <ul style="list-style-type: none"> <li>• the address shown on the student's record on the student document management system or,</li> <li>• if the student is not on the student document management system, the last recorded address for that student,</li> </ul>	on the date recorded in the courier's records as the date of delivery

### 3.13 Appeals

3.13.1 A student may appeal any penalty for General Misconduct which is imposed under the provisions of the Student Appeal Procedure provided they are able to establish grounds to do so.

3.13.2 The student will be informed of the right of appeal in the correspondence advising of the imposition of a penalty.

### 3.14 Records and reports

3.14.1 At each stage of the process, appropriate records of all relevant documentation will be maintained including:

- a. Any documents or other media related to the General Misconduct allegation;
- b. Records of any meetings, telephone calls and emails with the student or any other details in anyway connected with the allegation and inquiry;
- c. Copies of all correspondence;
- d. Decision reached on the allegation.

#### 3.14.2 Student General Misconduct Register

- a. There is a Student General Misconduct Register. The Campus Manager owns and manages the Register.
- b. Requests from staff for information contained in the Register must be made to the Campus Manager.
- c. Students are entitled to access any entries about them in the register.
- d. Aggregated data may be reported for the purposes of academic integrity monitoring, quality improvement and research, but must not disclose the identity of individuals.
- e. Records will be retained in accordance with the Records Management Policy.

#### 3.14.3 Annual Report

- a. The Campus Manager submits a report listing breaches by category, severity, the penalties imposed, the number that proceeded to Appeal, and including trend analysis and actions to address identified root causes to the EMG.

### 3.15 Confidentiality

- 3.15.1 All matters discussed in any phase of this procedure must be treated with strictest confidence, except where necessary for the discharge of that person's or committee's responsibilities under this procedure or as otherwise required or permitted by law.

## 4. Roles and responsibilities

- 4.1 The Campus Manager is responsible for:
  - 4.1.1 receiving and assessing Student General Misconduct Allegation reports;
  - 4.1.2 addressing educative issues with students;
  - 4.1.3 escalating allegations to the Student Misconduct Committee;
  - 4.1.4 chairing the Student Misconduct Committee;
  - 4.1.5 managing the Student General Misconduct Register; and
  - 4.1.6 providing annual reports to the EMG regarding activities associated with the Student General Misconduct Register.
- 4.2 Staff are responsible for:
  - 4.2.1 addressing general misconduct when it is safe to do so;
  - 4.2.2 reporting instances of general misconduct in a timely manner;
  - 4.2.3 cultivating, with their students, a climate of mutual respect for the safety and wellbeing of the AIAT community.
- 4.3 Students are expected to:
  - 4.3.1 report general misconduct if they witness it;
  - 4.3.2 acknowledge responsibility and participate, in good faith, in restorative activities to put things right when required;
  - 4.3.3 respond to meeting requests in a timely manner; and
  - 4.3.4 keep a record of all material and evidence submitted in relation to an allegation of General Misconduct.
- 4.4 The CEO may determine that a student is subject to immediate suspension to protect against further misconduct.

## 5. Procedure Details

Institution	Australian Institute of Advanced Technologies (AIAT)
Procedure name	Student General Misconduct Procedure
Procedure Reference No.	PROC – 31b
Procedure Approval	Board of Directors in consultation with Academic Board regarding academic matters

Procedure Authority	Executive Management Group
Responsible Officer	CEO
Governance Reference Threshold Standards	HESF 2021: 6.2.1.j, 7.2.2.c, 7.3.3.c
Related Documents	Privacy Policy Records Management Policy and Procedure Student Appeals Procedure Student Code of Conduct Student Complaints and Appeal Policy
Related Legislation	Commonwealth Education Services for Overseas Students Act 2000 (ESOS) Higher Education Standards Framework (Threshold Standards) 2021 (HESF) National Code of Practice for Providers of Education and Training to Overseas Students 2018
References	AIAT has referred and benchmarked with the following institutions and procedures during the creation of this procedure: University of Adelaide (unknown) Student Misconduct Rules, <i>retrieved from web on 19 Oct 2021</i> Charles Sturt University (2020) Student Misconduct Rule 2020 James Cook University (2021) Student General Misconduct Procedures Melbourne Institute of Technology (2020) Student General Misconduct Policy and Procedure University of Melbourne (2021) Student Conduct Policy (MPF1324)
Date of approval	31 March 2022
Review date	December 2024
Policy Category	Academic

## 6. Document Version Control

Document No	PROC – 31b	Last Modify Date	Summary of Changes
Version No	1.0	NA	Initial version approved by Board of Directors
	1.01	31/3/2022	Fixing typos; removing legislation; modifying policy number
Created Date	Feb 2022		

## Appendix A – Types of General Misconduct

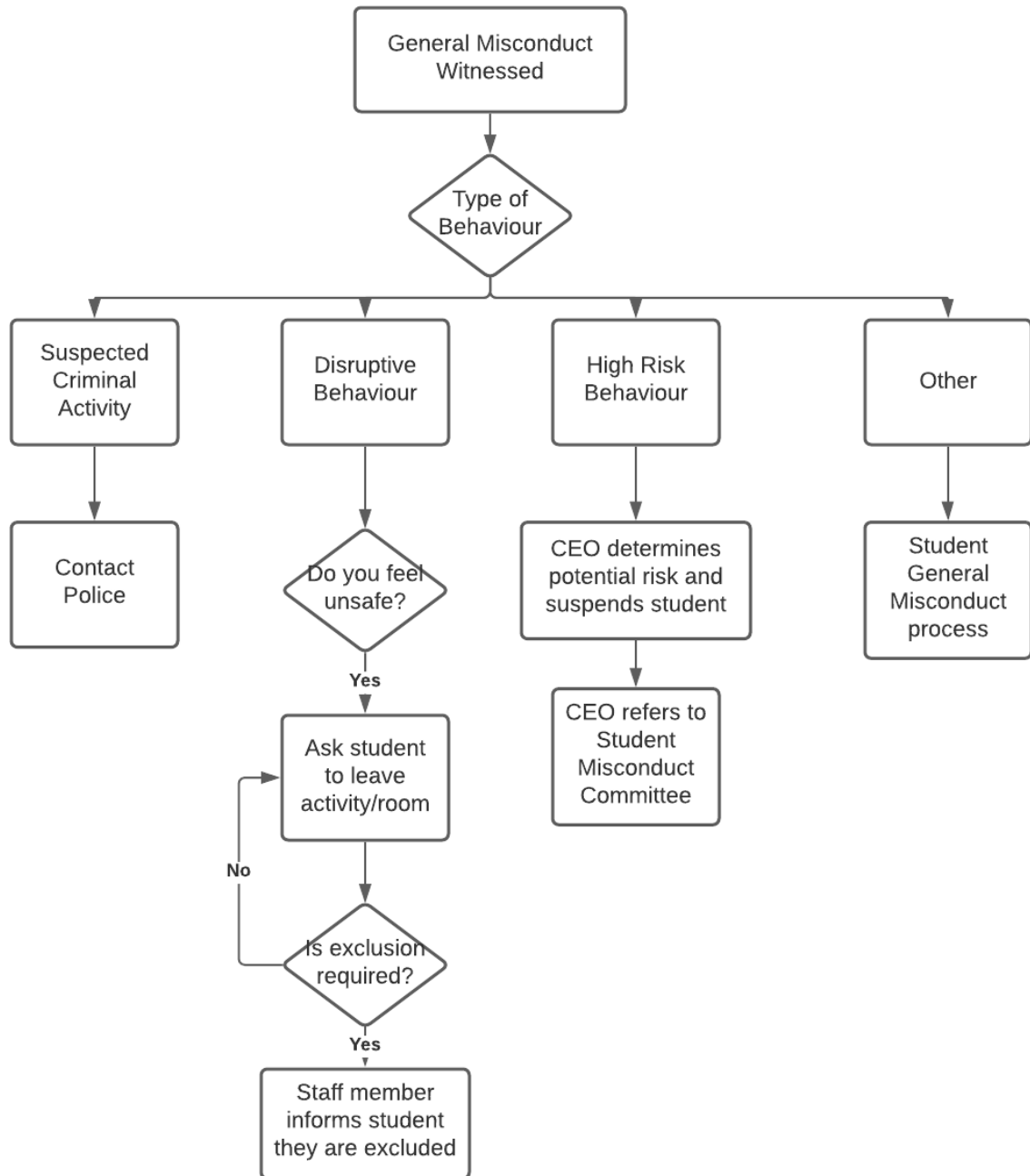
### A. General Misconduct

#### A.1 General Misconduct occurs when a student:

- A.1.1 causes or threatens to cause harm to another person;
- A.1.2 sexually assaults or sexually harasses another person;
- A.1.3 engages or threatens to engage in non-consensual conduct of a sexual nature in relation to another person where a reasonable person would, in the circumstances, consider the conduct an invasion of privacy or indecent, or otherwise unacceptable;
- A.1.4 attacks, harasses, intimidates, stalks or bullies another person or threatens to do so, this includes hate speech and racial vilification;
- A.1.5 behaves in a manner likely to cause harm to anyone;
- A.1.6 leads, organises or participates in hazing;
- A.1.7 behaves in a manner likely to damage, cause the loss of, interfere with or obstruct the use of, property of AIAT or of another person;
- A.1.8 fails to comply with a policy or procedure of AIAT;
- A.1.9 breaches the terms of use of any service or resource provided by AIAT;
- A.1.10 disrupts the orderly conduct of an AIAT activity;
- A.1.11 in their dealings with AIAT or a placement provider, a staff member or representative of AIAT or placement provider, knowingly:
  - a. makes a dishonest, deceptive or false statement or representation;
  - b. submits a forged document or a document that they have altered, or
  - c. behaves dishonestly or deceptively, including by withholding personal information;
- A.1.12 fails to comply with a reasonable direction of a staff member or other person authorised by AIAT, such as to produce identification, leave a place or not to enter a place in AIAT or a work placement location;
- A.1.13 enters any place in AIAT that a student is not authorised to enter;
- A.1.14 behaves in a way that tends to harm or undermine the good order and governing of AIAT;
- A.1.15 unreasonably hinders others in their studies or in participating in the life of the AIAT community;
- A.1.16 brings AIAT into disrepute (but see clause A.2);
- A.1.17 fails to meet the standards of behaviour defined by the AIAT Student Code of Conduct;
- A.1.18 if enrolled in a subject that is accredited by a professional body, fails to meet the standards of behaviour expected of students in the subject by the accrediting body;
- A.1.19 while on a workplace learning placement:
  - a. behaves in a manner likely to damage, cause the loss of, interfere with or obstruct the use of, property of the placement provider;

- b. fails to comply with a reasonable direction of a staff member of the placement provider;
  - c. breaches reasonable requirements of the placement provider for conduct or work of its staff;
  - d. enters any part of the provider's premises that the student is not authorised to enter; or
  - e. behaves in a way that is reasonably likely to damage AIAT's reputation and/or relationship with the placement provider, other placement providers or the wider community;
- A.1.20 possesses a weapon, unless:
- a. the weapon is authorised to be possessed or used by AIAT, or
  - b. the weapon is authorised to be possessed or used by law;
- A.1.21 uses or intends or threatens to use a weapon;
- A.1.22 behaves in any other way that a reasonable person would consider reprehensible behaviour on the part of a member of the AIAT community.
- A.2 General misconduct does not include participating in any demonstration, protest or rally where a student exercises their lawful right to peaceful assembly. A student will, however, be committing general misconduct if they participate in or propose a demonstration, protest or rally that:
- A.2.1 causes or threatens to cause harm to persons or property;
  - A.2.2 breaches or threatens to breach any law including anti-discrimination laws or laws against hate speech;
  - A.2.3 is reasonably likely to humiliate or intimidate other persons, or
  - A.2.4 unreasonably restricts AIAT in:
    - a. carrying out teaching and research activities;
    - b. ensuring the wellbeing of students or staff, or
    - c. meeting its legal obligations.
- A.3 A student commits general misconduct if they:
- A.3.1 organise or advertise an activity or event that they might reasonably expect will involve general misconduct as defined above; or
  - A.3.2 as an organiser of an event, where participants in the event unexpectedly engage in general misconduct as defined above, do not take reasonable steps to stop the misconduct from continuing or recurring.
- A.4 Poor behaviour
- A.4.1 On receiving an allegation that a student has committed general misconduct, an AIAT staff member may decide that the student has behaved poorly, but has not committed general misconduct as defined above.
  - A.4.2 Where, however, a student again engages in poor behaviour, after receiving a warning, or being fined, this may be handled as general misconduct.

## Appendix B – General Misconduct Witnessed Flowchart



## Appendix C – Student General Misconduct Process Flowchart

