

Student Code of Conduct Procedure

1.0 Purpose

This procedure provides operational guidance on the standards for behavioural expectations of all Bendigo TAFE and Kangan Institute (the TAFE) students. It documents the procedure for managing alleged breaches to the Student Code of Conduct (the Code), progression from alleged breach to the Misconduct Panel and potential outcomes for students.

2.0 Scope

This procedure applies to all TAFE students, regardless of mode of study delivery, physical presence or geographic location, and at all TAFE sites, campuses and auspice and other collaborative relationships. It also applies to all student conduct, whether it is related to TAFE activity, which is considered to affect adversely the safety, interests or reputation of the TAFE, its students, employees or on any member of the TAFE community.

This procedure should be read in conjunction with Policies outlined in Section 3.0 and Related Documents outlined in Section 9.

Policy Reference

Children, Youth and Families Act 2005 (Vic)

Education and Training Reform Act 2006 (Vic)

Education and Training Reform Regulations 2007 (Vic)

Children's Services Act 1996 (Vic)

Child Wellbeing and Safety Act 2005 (Vic)

Children's Services Regulations 2009 (Vic)

Charter of Human Rights and Responsibilities Act 2006 (Vic)

Privacy and Data Protection Act 2014 (Vic) Disability Discrimination Act 1992 (Cth)

Equal Opportunity Act 2010 (Vic)

Health Records Act 2001 (Vic)

3.0 Procedural Principles

Bendigo TAFE and Kangan Institute are committed to providing our diverse cohort of students with a safe, supportive and a respectful adult learning environment, where learning and growth is encouraged and rights, responsibilities and diversity respected.

When dealing with all matters related to the Student Code of Conduct (the Code), the rules and principles of natural justice and procedural fairness must be adhered to. The rules or principles of natural justice involve investigators informing people of the case against them, giving them a right to be heard (the 'hearing' rule), not having a personal interest in the outcome (the rule against 'bias'), and acting only based on evidence (the 'no evidence' rule) or balance of probabilities.

All students have the right to a fair hearing relating to any alleged breach. A student under the age of 18 years, must have a parent or legal guardian present during any meeting. A parent or legal guardian must also be notified immediately if the alleged behaviour warrants removal from

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a classroom (suspension). A parent or legal guardian has the right to lodge a complaint with the TAFE for any breach of student misconduct, including bullying, cyberbullying, harassment, victimisation or vilification reported to them by the student. When a student is vulnerable or under 18 and living independently of a parent or carer the Education Director of the program advised so as to appoint a support person as deemed appropriate in consultation with the student. This should be lodged in accordance with the Feedback (Compliments and Complaints) Policy and Procedure.

All enrolled students are expected to abide by the Code. Any alleged breaches of the Code must be dealt with procedurally as outlined in this document. While teaching departments can apply short-term suspensions according to the Student Misconduct Matrix (the Matrix), only the Chief Executive Officer (CEO) or in the absence of the CEO, their delegate, may impose the following consequences for student behaviour; exclusion, decision not to re-enrol a student or expulsion.

4.0 Student Misconduct Matrix

The Student Misconduct Matrix should be used to determine the severity of the alleged adverse behaviour. Indicative adverse behaviours are described at each level but are not exhaustive. The Matrix should be applied sensibly and taking into account the individual circumstances. All responses must be proportionate to the behaviour.

Level	Description
Level 1 – Low	Inappropriate learning and social behaviour of a minor concern, which may be of a repeated nature. The behaviour has minimal impact on others, including fellow students and the teacher.
	Determination options: <ul style="list-style-type: none"> Allegation dismissed or unfounded Finding of Level 1 general misconduct (up to 3 instances) in a course or program of study
	Outcome options: A Teacher may apply: <ul style="list-style-type: none"> Detention* (where possible and age-appropriate) to catch up on work missed. Where a student's behaviour significantly interferes with the rights of other students to learn or the capacity of a teacher to teach a class or where there is possibility of harm to others, the student may be temporarily removed from regular classroom activities. Suspension for maximum of 1 day. (Education manager only) An Education Manager may apply: Detention is intended to be an immediate consequence for inappropriate, irresponsible behaviour. Where appropriate, detention is intended to provide an opportunity for students to reflect on their behaviour.
	Examples of Level 1 behaviours: <ul style="list-style-type: none"> Littering; Lateness to class which impacts on learning outcomes; Refusal to cooperate with a reasonable instruction from a staff member; Eating or drinking in the classroom; Minor disruptive behaviour in class or in surrounding areas of classrooms; Swearing in any language;

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	<ul style="list-style-type: none"> • Refusal to complete set learning tasks; • Unapproved use of mobile phones in class.
Level 2 – Medium	<p>Inappropriate behaviour or action that is in breach of the Code.</p> <p>Medium level inappropriate behaviour or action which impedes work, safety or the comfort of staff and/or students and may affect the reputation of the Institute.</p> <p>A pattern of behaviour may be identified which may require further investigation.</p>
	<p>Determination options:</p> <ul style="list-style-type: none"> • Allegation dismissed or unfounded • Finding of Level 2 general misconduct
	<p>Outcome options: A teacher may apply:</p> <ul style="list-style-type: none"> • Suspension from the remainder of the class or for the remainder of the day (Parent/guardian to be contacted if under 18 before this action is taken) <p>An Education Manager may apply:</p> <ul style="list-style-type: none"> • Student Behavioural contract • A suspension for up to 3 teaching days
	<p>Examples of Level 2 behaviours:</p> <ul style="list-style-type: none"> • Unacceptable repetition of Level 1 behaviours; • Smoking on Institute grounds; • Taking photographs and recordings without the permission of the subject; • Bringing animals onto campus other than support assistance animals or as part of a student's course (i.e. Animal Studies); • Being in an unauthorised area; • Cheating and/or plagiarism (first instance) • Inappropriate mild sexual activity; • Public display of inappropriate nudity; • Failure to pay a fine within timelines; • Minor damage to property – under \$100 to repair or replace; • Viewing, sharing or transmission of objectionable material; • False representation; • Sending inappropriate social media messages to students or staff;

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Level	Description
<p>Level 3 – High</p>	<p>Misconduct at this level is serious but not:</p> <p>Dangerous to self and others A possible criminal act</p> <p>Inappropriate behaviour or action that interferes with the work, safety or comfort of students or staff and may affect the reputation of the Institute.</p> <p>It may involve either a first offence or repeated Levels 1 or 2 behaviours A pattern of behaviour may be identified which may require further investigation.</p>
	<p>Determination options:</p> <ul style="list-style-type: none"> • Allegation dismissed or unfounded • Level 3 general misconduct founded • Referral to the Registrar to form a Student Misconduct Panel (the Panel)
	<p>Outcome options:</p> <p>An Education Manager may apply:</p> <ul style="list-style-type: none"> • Suspension for up to 7 teaching days whilst the matter is investigated, if required • Behavioural contract <p>A Director may apply</p> <ul style="list-style-type: none"> • Suspension for up to 10 teaching days • For all instances of bullying, cyberbullying, harassment, victimisation or vilification the student will receive support, training and intervention tailored for each individual involved. This must be discussed with the Student Services Counselling team and may include mediation, coping and decision-making strategies, and or counselling
	<p>Examples of Level 3 behaviours:</p> <ul style="list-style-type: none"> • Repetition of level 1 or 2 behaviours or a total of 3 suspensions at level 1 and/or 2 behaviours • Bullying, including Cyberbullying • Harassment, including sexual harassment • Victimisation or vilification • Viewing, sharing or transmitting objectionable materials on any type of technology or social media • False, misleading or incomplete information • Publishing confidential information of the Institute such as examination papers • Negligent behaviour that causes damage to equipment, property, signage, grounds, buildings or garden

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<p>Level 4 – Extreme</p>	<p>Misconduct at this level is serious and considered:</p> <ul style="list-style-type: none"> • Dangerous to self or others • A possible criminal act <p>Inappropriate behaviour or actions that interfere with the work, safety or comfort of staff or students, and may affect the reputation of the Institute.</p> <p>It may involve a second offence at Level 3 or repeated Level 1 or 2 behaviours</p> <p>Certain behaviours require mandatory reporting to Victoria Police (See example behaviours below)</p>
	<p>Determination options:</p> <ul style="list-style-type: none"> • Report to Victoria Police • Allegation dismissed or unfounded • Sufficient belief that Level 4 misconduct has taken place and will be referred to Registrar to form a Student Misconduct Panel
	<p>Outcome options:</p> <p>An Education Manager may apply:</p> <ul style="list-style-type: none"> • Suspension for up to 10 teaching days whilst the matter is investigated, if required • Behavioural contract <p>A Director may apply</p> <ul style="list-style-type: none"> • A further suspension for up to 10 teaching days where the matter has been referred to the Registrar to form a Student Misconduct Panel • For all instances of bullying, cyberbullying, harassment, victimisation or vilification the student will receive support, training and intervention tailored for each individual involved. This must be discussed with the Counselling team in Student Services and may include mediation, coping and decision-making strategies, and or counselling
	<p>Examples of Level 4 behaviours:</p> <ul style="list-style-type: none"> • Bullying, including Cyberbullying • Harassment, including sexual harassment • Sexual exposure or sexual assault** • Victimisation or vilification • Physical assault requiring medical attention** • Theft of Institute property / personal property • Deliberate damage to Institute property • Damage to property – accidental but considerable damage • Dangerous driving in car park • Damage to staff or student vehicles or property • Student is under the influence of drugs and/or alcohol • Student seen taking drugs and/or alcohol on campus** • Seeking to purchase drugs on campus** • Selling drugs on campus**

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	<ul style="list-style-type: none"> • Assault with weapon** • Carrying or concealing a dangerous weapon** <p>** denotes mandatory reporting to Victoria Police to be undertaken</p>
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5.0 Procedural Steps

5.1 Informal resolution for alleged Level 1 and Level 2 breaches of the Student Code of Conduct	
Phases and Steps	Role
Assess the level of misconduct of the alleged breach in accordance with Section 4	Employee witnessing the behaviour or to who the behaviour is reported
Check Student ID and age of the student. If the student is under 18 years, a parent, carer or guardian must be notified immediately.	Teacher or Lead Educator
If the alleged breach involves an international student, contact International Student Programs to ensure compliance with international regulations and legislation.	Lead Educator or Education Manager
Upon report or witnessing alleged breach of student code of conduct, assess for severity according to the Student Misconduct Matrix in Section 4. Address the alleged breach with the student and attempt an informal resolution.	Employee or Teacher
If the student does not admit to the alleged breach, refer the matter to the relevant Education Manager for formal investigation as per Section 5.2 below. Establish a student file to record breach of Code of Conduct.	Teacher or Lead Educator
If the student admits to the breach, manage the student in line with the Student Misconduct Matrix, or refer the matter to relevant Education Manager if indicated.	Teacher or Lead Educator
If required, suspend the student from classes in line with the Student Misconduct Matrix in Section 4	Teacher Lead Educator Education Manager

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If a student is placed on a contract, complete the Student Behavioural Contract template	Teacher Lead Educator Education Manager
If the student accepts the actions they must take, described in the Student Behavioural Contract the matter may be considered concluded and must be documented and filed.	Teacher Lead Educator Education Manager
If the student does not accept the actions taken to manage their breach of the Code, they may lodge an appeal in writing to the Registrar, stating their grounds for appeal. Examples of grounds for appeal include: <ul style="list-style-type: none"> • The TAFE did not adequately consider the student's circumstances or used incorrect procedures • A breach of the rules of natural justice occurred in connection with the determination • Personal bias or bad faith was involved in the determination • The determination was an improper exercise of power 	Student
Review the student appeal and investigate the matter to determine if there are reasonable grounds for appeal.	Registrar
If the Registrar agrees that there are grounds for an appeal, the Registrar will convene an appeal hearing and invite relevant parties to submit their case to reach an outcome to either uphold the original findings or to modify the actions/consequences of the original finding.	Registrar
5.2 Formal resolution for alleged Level 3 or 4 breaches of the Code	
Phases and Steps	Role
If the alleged breach involves an international student, contact International Student Programs to ensure compliance with international regulations and legislation.	Lead Educator or Education Manager
Check Student ID and age of the student. If the student is under 18 years, a parent, carer or guardian must be notified immediately and must be in attendance at any meetings the student is required to attend.	Teacher or Lead Educator
If a matter has been referred because a student has not admitted to an alleged breach of the Code inform the student in writing that there will be a formal investigation into the matter.	Education Manager

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<p>Hold a formal meeting, or meetings, with relevant parties to gain information, obtain written statements from the parties concerned and witnesses, establish intent and determine whether there is sufficient evidence to sustain the allegation, maintaining a written record of all discussions.</p> <p>The formal resolution process must be completed within 7 working days of the matter first being formally referred. Where the matter is complex, formal resolution must be completed within 10 working days.</p>	<p>Education Manager or Director</p>
<p>A staff member from the Counselling team in Student Services must be involved in all allegations of bullying, cyberbullying, harassment, discrimination, or victimisation of any type.</p>	<p>Student Services</p>
<p>If the investigation determines there has been no breach of the Code advise all relevant parties in writing why no further action is to be taken.</p>	<p>Education Manager or Director</p>
<p>If the investigation determines there has been a breach of the Code, manage the breach in line with the Student Misconduct Matrix. Assistance should be sought from the Counselling team in Student Services to support the student through the process as required.</p> <p>Where imposing consequences or placing a student on a contract, complete the <u>Student Behavioural Contract</u> template.</p> <p>Provide notification of the consequence to the student and their parents if the student is younger than 18 years.</p>	<p>Education Manager or Director</p>
<p>Where a breach is assessed as requiring consequences beyond the penalties available to the teaching area in Section 5, refer the matter to the Registrar with a request to form a Student Misconduct Panel.</p>	<p>Education Manager or Director</p>
<p>5.3 Handling alleged extreme breach of the Code involving dangerous or threatening behaviours</p>	
<p>Phases and Steps</p>	<p>Role</p>
<p>When threatened (online, verbally, sexually or physically) by a student, or where there is a risk to personal safety, or that of other students and/or employees are at risk, as required immediately:</p> <ul style="list-style-type: none"> • Seek support from a colleague and contact Security • Withdraw from the situation • Take whatever reasonable action is deemed necessary to ensure the safety of yourself and others • Call Police or other emergency services as necessary 	<p>Employee</p>
<p>If an alleged Level 3 breach of the Code has occurred, refer the matter to the relevant Education Manager for formal investigation as per 5.2 above and inform the Director.</p>	<p>Staff member</p>
<p>If an alleged Level 4 breach of the Code has occurred, refer the matter to the Registrar to form a Student Misconduct Panel following an investigation by the Director or delegate. The referral should be made within 10 working days of the determination of a breach.</p>	<p>Delivery area Director</p>

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Notify the student by phone and email of the date and time scheduled for the Student Misconduct Panel and advise them that they are to attend to provide their version of events and that they may bring a support person. The support person may not be legal representative and is not permitted to answer questions on behalf of the student. A parent or guardian must be included in all correspondence if the student is under 18 years of age.	Registrar
Chair the Student Misconduct Panel ensuring that the principles of natural justice are upheld and that findings are made on the balance of probabilities after collecting all available information. The Panel' deliberations must be documented. Records should include emails and phone communications leading up to the event as well as minutes of the Student Misconduct Panel and Notice of Consequences issued as a result of the findings.	Registrar
The findings of the Student Misconduct Panel will be provided to the CEO where the recommendation for consequences to be applied are expulsion or exclusion.	Registrar
If the CEO approves the Student Misconduct Panel recommendation, notice in writing must be provided to the student within five working days of the Panel's meeting, and parents/guardians if the student is younger than 18. The notice must include the process to appeal the decision within 5 working days.	Registrar
Notify the relevant Director and Education Manager of the decision to expel or exclude the student.	Registrar
Notify Student Administration of the expulsion and effective date and arrange for the student to be able to collect any belongings or personal equipment.	Registrar
Arrange for withdrawal of the student from the course and issue a Statement of Attainment for any completed units under the current enrolment. Make a note on the Student Management systems Only the CEO can decide whether a student may re-enrol after they have been expelled.	Student Administration

6.0 Re-entry following Exclusion or Expulsion

Re-entry following exclusion or expulsion (into the same program or a different program at the TAFE will be subject to the conditions listed in the original exclusion or expulsion notice. In certain circumstances, the exclusion or expulsion notice may prohibit any subsequent enrolment at the TAFE; in these circumstances, the student will not be eligible to re-enter a program offered at either campus of the TAFE.

Any subsequent breaches to the Code following re-entry will be treated based on the principles outlined in Section 3.0 of this procedure. The rules and principles of natural justice and procedural fairness must be adhered to with each alleged breach treated on its own merit. The student will be entitled to a fair and just hearing without prejudice to previous breaches.

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7.0 Roles and Responsibilities

Role	Responsibilities
All BKI Staff	Provide clear and concise information to students regarding the Code of Student Conduct Policy, procedure, and expectations Report and manage incidents of student misconduct in line with the Matrix. Apply the principles of natural justice and procedural fairness.
Chief Executive Officer	Decision maker where a recommended penalty is expulsion or exclusion from studies
Registrar	Provision of recommendations to the CEO on penalties involving expulsion or exclusion from studies. Policy advice to BKI staff. Chair of Student Misconduct Panel
Lead Educators	Appropriate management of breaches of the Code of Student Conduct including ensuring natural justice, procedural fairness and accurate records kept.
Education Manager	Appropriate management of breaches of the Code of Student Conduct including ensuring natural justice, procedural fairness and accurate records kept
Education Delivery Director	Appropriate management of breaches of the Code of Student Conduct including ensuring natural justice, procedural fairness and accurate records kept. Referral to Student Misconduct Panel as appropriate. Ensuring vulnerable students have appropriate independent support available
Counselling team, Student Services:	Support for staff and students through the process.

8.0 Definitions

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Role	Responsibilities
Bullying	<p>Is a deliberate misuse of power in relationships through repeated verbal, physical and/or social behaviour that intends to cause physical, social and/or psychological harm. It can involve an individual or a group misusing their power, or perceived power, over one or more persons who feel unable to stop it from happening.</p> <p>Bullying can happen in person or online, via various digital platforms and devices and it can be obvious (overt) or hidden (covert). Bullying behaviour is repeated, or has the potential to be repeated, over time (for example, through sharing of digital records). (Source Department of Education and Training Victoria)</p> <p>Types of bullying include but are not limited to:</p> <ul style="list-style-type: none"> • Harassing someone based on their race, sex, religion, gender, or a disability. • Face to face (involves physical actions such as punching and kicking or direct verbal actions such as name calling and insulting; • Covert bullying (less direct) Can include things such as excluding people from groups or spreading lies or rumours; • Cyberbullying: Occurs through the use of using information or communication technologies such as instant messaging, text messaging, email and social; networking sites or forums.
Harassment	<p>Harassment can be against the law when a person is treated less favourably based on certain personal characteristics, such as race, pregnancy, marital status, breastfeeding, age, disability, sexual orientation, gender identity or intersex status. Some limited exemptions and exceptions apply.</p> <p>Harassment can include behaviour such as:</p> <ul style="list-style-type: none"> • telling insulting jokes about racial groups • sending explicit or sexually suggestive emails or text messages • displaying racially offensive or pornographic posters or screen savers • making derogatory comments or taunts about someone's race • asking intrusive questions about someone's personal life, including his or her sex life. <p>(Source: Australian Human Rights Commission)</p>
Sexual Harassment	<p>Sexual harassment is an unwelcome sexual advance, unwelcome request for sexual favours or other unwelcome conduct of a sexual nature which makes a person feel offended, humiliated and/or intimidated, where a reasonable person would anticipate that reaction in the circumstances.</p> <p>Examples of sexually harassing behaviour include:</p>

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	<ul style="list-style-type: none"> • unwelcome touching; • staring or leering; • suggestive comments or jokes; • sexually explicit pictures or posters; • unwanted invitations to go out on dates; • requests for sex; • intrusive questions about a person's private life or body; • unnecessary familiarity, such as deliberately brushing up against a person; • insults or taunts based on sex; • sexually explicit physical contact; and • sexually explicit emails or SMS text messages. <p>(Source: Australian Human Rights Commission)</p>
<p>Discrimination</p>	<p>Discrimination happens when a person, or a group of people, is treated less favourably than another person or group because of their background or certain personal characteristics (direct discrimination).</p> <p>It is also discrimination when an unreasonable rule or policy applies to everyone but has the effect of disadvantaging some people because of a personal characteristic they share (indirect discrimination).</p> <p>Discrimination can be against the law if it is based on a person's:</p> <ul style="list-style-type: none"> • age • disability, or • race, including colour, national or ethnic origin or immigrant status • sex, pregnancy, marital or relationship status, family responsibilities or breastfeeding • sexual orientation, gender identity or intersex status. <p>(Source Australian Human Rights Commission)</p>
<p>Victimisation</p>	<p>Victimisation means subjecting or threatening to subject a person to some form of detriment because they have:</p> <ul style="list-style-type: none"> • lodged, or is proposing to lodge, a complaint of discrimination or harassment • provided information or documents to an internal investigation or an external agency • attended a conciliation conference • reasonably asserted their rights, or supported someone else's rights, under federal anti-discrimination laws • made an allegation that a person has acted unlawfully under federal anti-discrimination laws. <p>(Source Australian Human Rights Commission)</p>

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Vilification	Conduct that incites hatred, serious contempt, revulsion or severe ridicule’.
Expulsion	The permanent removal of a student from the educational setting. This will usually be as a result of a an extreme incident.
Suspension/Exclusion	The temporary removal of a student from the educational setting for a defined period.
Conciliation/Mediation	A flexible approach to resolving complaints – which may include an exchange of emails or telephone conversation.
Child	A person under the age of 18 per the Commission for Children and Young People

9.0 Related Documents

Title
Student Code of Conduct Policy
Feedback (Compliments and Complaints) Policy and Procedure
Student Welfare and Accessibility Policy
Child Safety Policy and Procedure
Behaviour Contract Template

10.0 Version Control and Change History

Ver.	Approved By	Approval Date	Issue Date	Summary of Changes	Next Review Date
1.0	L Bayly	09/12/2016	09/12/2016		Following review of BKI Code of Behaviour Policy, but no later than 30 November 2017

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2.0	Board of Studies	28/8/2019	28/8/2019	Changes made to include the VCAL policy and include Corrections Students	01/12/2023
3.0	CIEEDO	18/08/2021	20/08/2021	Material changes, strengthened definitions of bullying and cyber bullying, development of misconduct matrix	28 Feb 2023

11.0 BKI Policy and Procedure

Category	Key Words
Teaching and Learning	Conduct, behaviour, misconduct.