

Student Management Procedure (Mitcham Campus – Junior School)

1. Purpose

The purpose of this procedure is to outline the principles and processes that are followed when managing the contravention of a College policy by a student.

2. Guiding Principles

- 2.1** The College implements a range of policies that are designed to ensure the effective operation of the College, including the safety and wellbeing of its students and staff.
- 2.2** The College believes in the principles of natural justice and is committed to transparency and procedural fairness in its dealings with students, parents, and staff.
- 2.3** The College is committed to making decisions that are made on the *balance of probabilities* using information collected from a *procedurally fair* process.
- 2.4** The College believes that disciplinary decisions for students must never be taken lightly or randomly, rather, decisions should be calibrated for consistency and balance the interests of both the student and the wider College community.

3. Scope

This procedure is to be used to guide the College's investigation and response to a contravention of a College policy by a student on the Mitcham Campus – Junior School

4. Procedural Fairness

Procedural fairness is concerned with the procedures used by a decision maker, rather than the actual outcome reached.

- 4.1** The investigation and decision-making procedures used by the College are underpinned by the *Principles of Natural Justice* (see **Appendix A – The Principles of Natural Justice**).
- 4.2** Investigation and decision-making procedures are consistent between students and policy contraventions; however, the outcome reached for different students may be different depending on the findings of an investigation procedure and various factors considered during the decision-making procedure.

5. Investigation Procedure

When the College becomes aware of a possible contravention of policy involving students, the College's response will begin with the undertaking of an investigation.

5.1 Initial Investigation

An initial investigation involves the gathering of information only, to determine if a contravention has, or very likely has, occurred.

5.1.1 A College staff member who becomes aware of a possible contravention of policy will speak with students to obtain an understanding of what has occurred to determine the most appropriate member of College staff to investigate or respond.

5.1.2 The most appropriate member of College staff to investigate and respond to a contravention of policy is dependent on the possible type of contravention (see **Appendix B – Student Incident Assessment Matrix**):

- Low-level policy contraventions – Home Group teacher/ Specialist Teacher/ Co Curricular staff/ Duty Teacher/ Boarding Staff
- Concerning policy contraventions – Home Group Teacher with Deputy Head of Junior School / Teaching and Learning Leader
- Problematic policy contraventions – Deputy Head of Junior School / Head of Junior School
- Serious policy contraventions – Head of Campus/Principal

5.1.3 Staff members who are most appropriate to investigate a contravention of policy may also be considered in context of the known needs of the student(s).

5.1.4 Factual and clarifying information is gathered by the appropriate staff member, who ensures the right to know the matter alleged, the right to respond and the right to access support (see **Appendix A – The Principles of Natural Justice**).

For problematic and serious contraventions, information will be gathered with at least one other staff member present in a support role for the student. This may also occur at the decision of a staff member, or request by a student, for low-level and concerning contraventions.

5.1.5 The safety and wellbeing of those directly and indirectly involved must be evaluated during the initial investigation. This may involve:

- making a first aid assessment (and if necessary, seeking medical support).
- conducting a risk assessment (which may involve the College Psychologists).
- safely collecting any suspected items (for example, weapons or substances).
- confiscating devices (such as laptops and mobile phones).

5.1.6 During the initial investigation, the situation is to be isolated from other students, if possible. This may involve, but is not limited to, things such as students being removed from normal class activities until they have been spoken to, or, handing in their devices to limit communication or the obstruction of an investigation.

5.1.7 If the outcome of the initial investigation is:

- conclusive that a contravention has not taken place – then the student management process ceases.
- conclusive that a contravention has taken place – then the staff member may proceed to the decision-making process.
- not-conclusive that a contravention has taken place – then the staff member may proceed to a further investigation.

5.1.8 For some contraventions, the College is required to consult other relevant guidelines (for example, the *Sexual Behaviours in Children and Young People Guideline* and the *Responding to Online Safety Incidents in South Australian Schools Guideline*).

5.2 Further Investigation

Further investigations may be required following the initial investigation to meet the standard of proof (see **Appendix A – The Principles of Natural Justice**), or, to gain a better understanding of the roles of individuals, or, if the issue requires escalation to a more senior member of College staff.

5.2.1 For contraventions that are, or likely are to be, considered problematic or serious (see **Appendix B – Student Incident Assessment Matrix**), the College will notify the parents or caregivers of a student *prior* to a further investigation of:

- the findings from the initial investigation,
- the specific contravention of the relevant school policy,
- the College’s next actions, such as the intent or need to investigate further or likely disciplinary responses, and,
- available support for students involved.

5.2.2 The College, student, or parent or caregiver, may request a parent or caregiver be present for any further interviews with a student during a further investigation.

5.2.3 A student and/or their parent or caregiver may request the opportunity to respond to the matters alleged in a further investigation after they have had the opportunity to obtain advice from other parties (providing this can be done in a timely manner).

5.2.4 When there is reasonable suspicion that a student is, or has been, in possession of an item that is stolen, or, where its possession is in contravention of College policies, or, that may impact the safety and wellbeing of themselves and/or others, then a ‘search’ may be appropriate as part of a further investigation:

- The College will not conduct a physical search of a student’s person.
- The College may, *without consent*, conduct a search of College property used by the student, such as desks and lockers.
- The College may, *without consent*, conduct a search of a student’s room in boarding
- The College may, *with consent* of a student or their parents or caregivers, conduct a search of a student’s bag or other possessions.
- The College may request that a student consent to hand over any items on their person.
- Where the College requests consent to a search and consent is not provided, or, the search is obstructed, then the College may conclude the student is in possession of an item on the balance of probabilities.
- Searches will be conducted, where reasonably practicable, by at least two staff members, in the presence of the students to which it relates to, in a discrete way, and by staff considered to be the most appropriate in context of any known needs of the student.

- Staff will document and countersign, as soon as possible in writing, any consent given to the search, the terms of such consent, and the results of the search.

5.3 Contravention & The Law

It may be found during investigation that a contravention of policy is also in breach of the law and hence considered either an illegal or unlawful act.

5.3.1 Illegal acts are pursued by the police. In instances where an illegal act may have occurred, the College is required to coordinate its actions with those of the Police and/or the Department of Child Protection before further action is taken. The Police or the Department for Child Protection must decide *who* contacts parents or caregivers, *when* this occurs, and *what* information is given. This is so that the stress for young people, their families, and staff is limited as much as possible and to avoid the unintentional compromise of an investigation.

5.3.2 Unlawful acts are pursued by the aggrieved party. In instances where an unlawful act has occurred and students or parents or caregivers wish to pursue the matter through the Police, the College is required to not investigate further until Police investigations have concluded. The College will cooperate with the police in these matters and respond according to the findings of a Police investigation.

6. Decision-Making Procedure

When the outcome of an investigation concludes that the contravention of a policy by a student has, or very likely has, taken place, the College will determine an appropriate outcome.

- 6.1** The decision-making process is undertaken by at least two staff members, to ensure the rule against bias is upheld (see **Appendix A – Principles of Natural Justice**).
- 6.2** The standard of proof and relevant evidence (see **Appendix A – Principles of Natural Justice**) will be considered when assessing the findings of an investigation procedure.
- 6.3** Decisions are made on *the balance of probabilities*. In situations where there are different versions of the truth, or inconclusive evidence, the college will consider the evidence and decide on the version of truth that is *most probably true*.
- 6.4** Contraventions will be assessed for their severity type using the **Student Incident Assessment Matrix (Appendix B)**.
- 6.5** Outcomes for policy contraventions are dependent on their severity type and are decided using the **Student Incident Response Guidelines (Appendix C)**.
- 6.6 Consideration of Individual Circumstances**
There may be situations that require individual circumstances of students to be considered during the decision-making process.

6.6.1 Separated Parents

Significant disciplinary action is considered a 'major long-term issue'. In circumstances where there are separated parents and a presumption of 'equal shared parental responsibility', the College will endeavour to ensure all parents are notified of any

decision-making processes and invited to be involved in these where possible (except where Court Orders are in effect).

6.6.2 Boarding Students

A student should not be disadvantaged by their boarding status; policy contraventions by boarding students should be considered with reference to the environment where it occurred.

6.6.3 First Nations Students

The First Nations Coordinator should be engaged in the decision-making processes for First Nations students as specific cultural considerations may be required. The First Nations Coordinator will liaise with parents or caregivers and relevant external agencies where appropriate.

6.6.4 International Students

The International Student Coordinator should be engaged in decision-making processes for international students, as specific cultural considerations and considerations for visa conditions may be required (see **CRICOS Policy**). The International Student Coordinator will liaise with parents or caregivers and relevant external agencies where appropriate.

6.6.5 Mental Health & Trauma

Consideration may be given to students when behaviour is a manifestation of a diagnosed or suspected mental health disorder, or a known or suspected trauma. The College Psychologist is engaged in the decision-making process in these instances and consideration is given to the recommendations given by the College Psychologist. In circumstances when this occurs, it is an expectation that external support agencies are engaged to work with the student in partnership with the College.

6.6.6 Disability

The *Disability Standards for Education (2005)* requires consideration to be given to students when behaviour is a manifestation of a disability, such as a diagnosed social or learning need. This may require *reasonable adjustments* to be made to expectations of behaviour or the outcomes from the decision-making process.

6.6.7 Consideration of individual needs involves determining if a *reasonable adjustment* needs to be made. A reasonable adjustment is one that 'balances the interests of all parties'. In determining whether an adjustment is reasonable, consideration is given to the following:

- the student's individual circumstance(s) and possible adjustments that would be less disruptive and intrusive, but possibly more supportive and beneficial.
- the views of the College, student, and parents and caregivers about possible adjustments and their reasonableness.
- the effect of the adjustment on the student's independence, ability to achieve outcomes, meet behavioural expectations, and participate in educational programs.
- the effect of the adjustment on anyone else effected, including the education provider and other members of the community.
- the costs of making an adjustment and its potential benefits.
- whether the adjustment can be provided, or outcomes of the adjustment achieved, within a reasonable time.

7. Right of Appeal

- 7.1 Students and/or their parents or caregivers can appeal an outcome to a more senior member of staff when this is an available option.
- 7.2 Students and/or their parents or caregivers may appeal an outcome at any time using the **Grievance Procedure – Students and Parents.**
- 7.3 The process for appealing a suspension or termination of enrolment is outlined in the **Suspension and Termination Policy.**

8. Communication & Confidentiality

There are varying levels of communication required in the follow up of a policy contravention by a student to members of our community.

- 8.1 Due consideration is given to the confidential and private nature of an investigation and the outcome of a contravention of policy by a student.
- 8.2 At the conclusion of any matter, it is appropriate to directly inform those members of our community who have a direct connection to the matter. This may involve students, staff, designated student cohorts, and designated cohort parents.
- 8.3 It would be unusual to inform the entire parent and student body unless the matter was impacting in a significant way upon the day-to-day running of the campus and general student wellbeing.
- 8.4 If the media become involved in a contravention of policy by a student, the Principal, or their nominated delegate, is the only person who has permission to speak on behalf of the College.
- 8.5 For students receiving a scholarship, the relevant organisation or benefactors may be informed.

Appendix A – The Principles of Natural Justice

The *National Children's Youth and Law Centre's 'A Procedural Fairness Manual for Australian Schools' (1999)* states that Natural Justice applied to individuals is based on two rules:

1. The Fair Hearing Rule

The Fair Hearing Rule has several aspects:

(a) The Right to Know the Matters Alleged

If the decision is to be made about a person, then that person must be entitled to know any allegations made against them and any matter which will be considered by the decision maker. The decision maker must not assume that it is obvious that, for example, previous or similar behaviour or the severity of behaviour, has been part of the decision.

(b) The Right to Respond

The person has a right to respond to the allegation. The person against whom the allegation is made must have a real opportunity to respond and have their views and experience heard. It has been suggested that the right to be heard extends to questioning of witnesses and other third parties. There are many reasons why this may not be appropriate in schools. However, one way of addressing this is to invite the person against whom something has been alleged to name others that the investigator will interview.

(c) The Right to Access Support

The right to be aware of and respond to allegations is meaningless if the person is not fully able to comprehend or respond properly. The concept of some advocacy or support may be relevant for several students (e.g., a counsellor, trusted teacher, AEW, ESO, translator). This may be a question of capacity (e.g., NESB, intellectual impairment, mental illness) or a question of cultural understanding, emotional distress, or power imbalance. *The right to representation also applies to parents at suspension and exclusion conferences.*

(d) The Standard of Proof

Administrative decisions have as a standard of proof "the balance of probability", i.e. the decision-maker must decide that, on the evidence, one version is more probable than the other. However, the onus is still on the person making the allegations to satisfy the decision maker rather than on the person complained of to prove their innocence. One area where this can be problematic for school leaders is where it is the teacher's word against a student's word. It would not be natural justice to assume that, *prima facie*, a teacher is more honest than a student. In this situation, it is strongly urged that other parties be interviewed to seek further information.

(e) Decisions Based on Relevant Evidence

Evidentiary rules of court do not apply. However, administrative decisions must not ignore pertinent evidence or take irrelevant factors into account. It is appropriate to consider any other penalty the party has already incurred because of their actions.

2. The Rule Against Bias

The rule against bias in an administrative matter does not require bias to be proved, rather that there is a real likelihood that it exists. The need to monitor one's own bias and consult where one feels a danger of pre-judging is very important. Hence, any investigations into incidents, or decisions made regarding the outcomes of any investigations, are not conducted, discussed and/or decided by a singular member of staff; they seek the council of other staff to reduce the likelihood of impact of any potential bias.

Appendix B – Student Incident Assessment Matrix	<ul style="list-style-type: none"> ▪ First occurrence ▪ Accidental or unintentional ▪ Developmental stage, limits child's understanding of impact ▪ Presence of a disability that impacts on social awareness 	<ul style="list-style-type: none"> ▪ Repeated occurrence ▪ Negligent or careless ▪ Prior education on behaviour through inexplicit interventions ▪ Optional appropriate tools provided for students with disability ▪ Developmentally able to understand impact 	<ul style="list-style-type: none"> ▪ Regular occurrence ▪ Deliberate or Intentional ▪ Prior education on behaviour through explicit interventions ▪ Has a demonstrated understanding of impact of action
Low – Possible indicators: <ul style="list-style-type: none"> ▪ recalcitrant towards standards or expectations (ie. Uniform and appearance, Device Use, Tardiness, Disorganisation) ▪ None or minor/ minimal adverse impacts 	Low-Level	Low-Level	Concerning
Moderate – Possible indicators: <ul style="list-style-type: none"> ▪ Disruptive and / or offensive to others ▪ Disengagement (i.e., effort, non-participation, non-submission) ▪ Requires a response to prevent immediate or future adverse impacts 	Low-Level	Concerning	Problematic
High – Possible indicators: <ul style="list-style-type: none"> ▪ Has definite adverse impacts (i.e., Truancy, bullying and harassment, damage /theft, academic honesty) ▪ Requires an explicit management response (i.e., de-escalation, intervention) 	Concerning	Problematic	Serious
Severe – Possible indicators: <ul style="list-style-type: none"> ▪ Has, or potential to have, significant adverse impacts (i.e., assault, racism, sexual harassment, involvement with substances, major damage/ theft). 	Problematic	Serious	Serious

<ul style="list-style-type: none"> ▪ Behaviours that are illegal or unlawful ▪ Requires a significant management response (i.e., emergency response, medical treatment) 			
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Appendix C – Student Incident Response Guidelines

Contravention	Managed by	Educative / Supportive Response	Consequential Response	Notification
Low-Level	Home Group Teachers Specialist Teacher Co-Curricular staff Duty Teacher Boarding Staff	Reminders of standards and expectations, with formal (age-appropriate) acknowledgement by student. A plan / commitment for student to work to improve or rectify issue.	Direct / natural consequences that relate to the behaviour and help the student to develop understanding of impact and effect of actions. e.g. loss of a privilege, confiscation of an item, reflection time, movement away from peers, loss of break time with age guidelines (1 minute for each year of age as a rule of thumb.)	Recorded in SETQA as a FYI if behaviour is repeated and/or likely to be escalated if repeated. Addressed as wellbeing note at JS briefing for supervision awareness. Parents/caregivers may be notified.
Concerning	Home Group Teacher with Deputy Head of Junior School (or Teaching and Learning Leader as appropriate)	Formal reflection on behaviour(s) (with age-appropriate scaffolds), including understanding of the motivations or triggers around the behaviour and its impact on other members of the community. Undertaking of an educative task to build / improve understanding of inappropriateness of behaviour. Restorative action that repairs relationships that have been damaged.	Natural consequences that help the student to develop understanding of impact and effect of actions. Service-based consequences that allow for a positive contribution to the community to be made in response to a negative contribution. Escalated punitive consequence that discourage a repeat of the behaviour (i.e., direct supervision at play, restricted play areas, short-term exclusion from an activity). Restorative action, including restitution (i.e., repairing or replacing damage or stolen property).	Recorded in SETQA. Addressed as wellbeing note at JS briefing for consistent strategy implementation. May be raised with Student Review Team for strategies / planning Parents/caregivers notified – a meeting may be requested to discuss
Problematic	Deputy Head of Junior School / Head of Mitcham Campus	Completion of a sufficient, directed, undertaking of restorative age-appropriate action and/or educational development. Involvement of the College Psychology Team (or external family-based Psychologist) in understanding motivations for the behaviour. Development of a relevant support plan. A request for support from external professionals	Escalated punitive consequence that discourage a repeat of the behaviour (i.e., exclusion from activities / programs). Use of the Suspension and termination Policy (i.e. Internal suspension or external suspension) Restorative action, including restitution (i.e., repairing or replacing damage or stolen property).	Recorded in SETQA & wellbeing note at JS briefing. Monitored by Student Review Team. Parents/caregivers notified, and a meeting requested to discuss.
Serious	Head of Campus / Principal	Completion of a sufficient, directed, undertaking of restorative action/ and or educational development. Requires support from external professionals. Development of a relevant support plan.	Use of Suspension and Termination Policy (i.e. long-term external suspension, termination of enrolment). Restorative action, including restitution (i.e., repairing or replacing damage or stolen property).	Recorded in SETQA & wellbeing note at JS briefing. Monitored by Student Review Team. Meeting with parents/caregivers required
<i>Note: Sexual behaviours are managed and responded to using the 'Sexual Behaviour and Children and Young People Guidelines'</i>				

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