

# Student Misconduct Procedure (Non-Academic)

## Intent

To ensure consistency and fairness for all students in the University through the application of the procedure for the arbitration of cases of non-academic student misconduct. It is also to ensure that all students study and socialize in an environment that is based on inclusivity, respect, and free from bullying, discrimination, harassment, and sexual violence.

## Scope

This procedure should be read in conjunction with the Dignity Policy- Policy against Bullying Discrimination Harassment and Sexual Misconduct for Students and the Student Code of Conduct. This procedure applies to all students at the Singapore campus of James Cook University (also described as JCU Singapore or the University) at all times as long as they represent the University in their capacity as students (from enrolment until the completion of their program of study at the University including whilst on University activities such as internship placements, field trips) within and outside University premises. This also includes alleged misconduct which takes place in relation to any activity associated with or organized by the University.

The Student Misconduct Procedure (Non-Academic) does not apply to allegations of academic misconduct.

## Offences

Offences are categorized into the following:

- a. Minor Offences
- b. Serious Offences
- c. Aggravated Offences

## Definitions

**Misconduct** is any unacceptable or improper behaviour of a student in violation of the JCU Singapore Dignity Policy- Policy against Bullying Discrimination Harassment and Sexual Misconduct for Students, Student Code of Conduct, and/or the Singapore Laws.

**Student** refers to an individual who has registered and/or accepted into any programmes, activities, courses offered by the University.

The person may have ceased to be a student by the time the investigation proceedings start, however, this procedure includes circumstances giving rise to the investigation proceedings that arose while the person was still a student at the University.

**Minor Offences** are offences that cause disturbances, nuisance, disruption, or interference with the general peace in the University. This could happen under all conditions, activities, and in all departments of the University. i.e., administrative, and academic functions.

**Serious Offences** would potentially have great impact and affect the interests and/or proper functioning of the University, including but not limited to:

- a. any criminal offences
- b. any act or behaviour that may be detrimental to the University's reputation
- c. any forms of harassment, both physically and/or emotionally
- d. sexual assault and misconduct.

**Aggravated Offences** are additional factors that were involved in circumstances surrounding the alleged offence. These factors must have increased the seriousness of the offence. If the offence is considered aggravated, harsher sanctions will ensue.

**Sexual Misconduct** refers to instances of sexual harassment or sexual assault that the University is notified of, or is responding to. If proven, allegations of sexual misconduct are a breach of the Dignity Policy- Policy against Bullying Discrimination Harassment and Sexual Misconduct for Students and also of the Student Code of Conduct.

**Sexual Harassment** is any unwelcome sexual advance, unwelcome request for sexual favours, or other unwelcome conduct of a sexual nature that is done either to offend, humiliate, or intimidate another person, or where it is reasonable to expect the person might feel that way. Sexual harassment may include:

- Displays of sexually graphic materials including posters, cartoons, or messages left on noticeboards, desks, or common areas
- Repeated invitations to develop a closer or intimate relationship after prior refusal
- Unwelcome and uncalled for remarks or insinuations about a person's sex or private life
- Comments of a sexually suggestive nature about a person's appearance or body
- Sexually offensive phone calls
- Offensive emails and text messages of a sexual nature
- Unwanted sexual attention using the internet, social networking sites, and mobile phones
- Sexually offensive screensavers or posters
- A publication, such as sexually offensive emails or graphics
- Threats online of a sexual nature
- Revenge porn
- Sexual propositions
- Indecent exposure
- Stalking
- Pressuring a student or staff member to engage in sexual behaviour for some educational or employment benefit, or
- Making a real or perceived threat that rejecting sexual behaviour will carry a negative consequence for the student in education, accommodation, or University programme or activity.

Sexual Harassment is a serious criminal offence in Singapore as per the Protection from Harassment Act.

**Sexual Assault** e.g., the outrage of modesty, is any unwanted or forced sexual act or behaviour without consent. Sexual Assault occurs when a person:

- Touches or makes contact with another person (and the touching or making contact is sexual in nature) without their consent – groping and any physical contact such as patting, pinching, or touching in a sexual way is a form of sexual assault
- Forces another person against their will to commit an act of gross indecency – a sexual act that does not involve penetration, for example, a person forces another person to touch their genitals
- Forces another person to see an act of gross indecency, for example, the person masturbates in front of the other person.

Rape is the most serious form of sexual assault and occurs when a person or persons force another person or persons to have sexual intercourse without his or her consent. Rape includes forcing someone to perform oral sex, digital penetration, and inserting any object into the vulva, vagina, or anus of another person without their consent.

Sexual assault is serious sexual misconduct and a criminal offence subject to the Singapore Penal Code.

**Report** Information provided to JCU Singapore about an incident or suspected wrongdoing that the person making the report believes to be misconduct.

**Offences** Please refer to the list of Offences listed in **Annex A** (below). This list of offences is to be updated periodically and it is not an exhaustive list.

## 1. Procedure

Any member of the University Community may be a Witness. A Witness should call 999 in an emergency. A Witness can address the person offending at the time if they are able and it is safe to do so.

1.1 All reports of student misconduct must be done formally by sending an email to the Manager, Student Feedback, and if necessary, a report to JCU Security. The report of misconduct must provide sufficient details of the alleged misconduct, and clearly describe the obligations that are alleged to have been breached. If uncertain, students may reach out to the Manager, Student Feedback for advice.

1.2 The person lodging the misconduct report should identify himself/herself and also the name of the person whom he/she is reporting about. Without the details of both parties, investigations could cease to be carried out. In most instances, the decision to proceed with the investigation lies with the person lodging the misconduct report.

1.3 The Manager, Student Feedback would, depending on the nature of the offence, refer to **Annex A**, and determine whether it constitutes a Minor, Serious, or Aggravated Offence. **Annex A** spells out specifically the types of penalties and/or actions taken for Minor, Serious, and Aggravated Offences. Annex A will be updated periodically.

1.4 Repeat Minor Offenders may be referred to the Investigation Committee (IC). Repeat offence after the third time will be treated as a Serious/Aggravated Offence.

1.5 For Serious and Aggravated Offences, the University may lodge reports with the State Authorities e.g., Police, Central Narcotics Bureau, Immigration & Checkpoint Authorities, etc. In addition, the IC may carry out the following actions for Serious and Aggravated Offences:

- a. To impose a fine of an amount it deems appropriate
- b. To request the offender to make restitution an amount equivalent to the cost of repairs or replacement of properties
- c. To impose heavier disciplinary action including suspension or expulsion.

1.6 The above actions taken by the IC for Serious and Aggravated Offences are independent of whether reports with the State authorities are lodged or not. In addition, the University reserves all rights to conduct its investigations and impose disciplinary measures, even if the State authorities decide not to persecute the alleged offender.

1.7 The action to trigger a reference to the IC is via the submission of an incident report to the Chairman of the Investigation Committee (IC).

1.8 The IC comprises the following University Staff:

- a. Chief Operating Officer (Chairman)
- b. Head, Academic Group (Member)
- c. Associate Director, Student Affairs (Member)
- d. Associate Director Marketing (Member)
- e. Manager Student Ambassador (Member)
- f. Manager Student Feedback (Member)

1.9 The Investigation Committee may have the following options for Serious and Aggravated offences:

- a. Convene an internal inquiry and submit the recommendations to the Head of Campus, Singapore, and Campus Dean for approval
- b. Refer the matter to the Head of Campus, Singapore who in turn may convene an external independent Committee of Inquiry chaired by an external member
- c. The above two courses of action are done independently of whether reports with the State authorities have been lodged or not.

## **2. Investigation Committee Inquiry Process**

2.1

- a) Formal disciplinary proceeding(s) shall be conducted with the student who is the subject of it
- b) The student shall be given a fair and reasonable opportunity to make submission and provide documentary evidence
- c) Even if the student refuses to participate in the disciplinary proceedings, the Investigation Committee may use its best efforts to reach a conclusion concerning the allegation(s), noting in its recommendation report the student's failure to cooperate and its effect on the

Investigating Committee's review of all the evidence. Failure of the student to assist or cooperate with the Investigation Committee shall be taken into account

- d) All parties subject to the investigation will have the right to have a support person/Representative with them
- e) The Investigation Committee shall not reach any decision in respect of the disciplinary proceedings against the student until it is satisfied that a fair hearing has been given
- f) In the event that the members of the Investigation Committee are unable to reach a unanimous decision, the Investigation Committee shall render its decision by majority vote
- g) When considering suspending or expelling a student for Misconduct, the student may be placed on suspension pending the outcome of the decision-making process with the approval of the Head of Campus, Singapore
- h) A final recommendation will be submitted to the Head of Campus, Singapore for approval.
- i) Student shall be notified of the sanction(s) imposed within seven days or as soon as reasonably practicable.

### **3. Appeals against actions taken by the University**

3.1 All appeals against actions taken for Minor Offences must be done formally by writing in to the Chief Operating Officer within seven days of the notice. A review shall be conducted before making a decision. The decision by the Chief Operating Officer is final.

3.2 All appeals against decisions taken for Serious and Aggravated Offences must be done formally by writing in to the Head of Campus, Singapore within fourteen days of the notice. The Head of Campus, Singapore may seek factual clarifications from the Investigation Committee, or any staff with knowledge of the case, before making a decision. This decision by the Head of Campus, Singapore is final.

3.3 No appeals will be allowed for actions taken for Serious and Aggravated Offences carried out on the recommendations made by the External Independent Committee of Inquiry.

3.4 Student shall be permitted to remain enrolled in their subjects until the appeal has been determined or the timeframe to appeal has expired. At any time during this process, the University may take action against the student under the Student Code of Conduct on the basis that such action is prudent or necessary having regard to the university's duty of care to its students, staff, and/or placement agencies.

### **4. Co-operation**

4.1 During the course of any investigation proceedings conducted by the Investigation Committee, the student shall cooperate fully with the respective members of the University and supply to them such information and documents as any of them may require.

### **5. Confidentiality**

5.1 All investigation proceedings or disciplinary action(s) taken according to this procedure shall be strictly confidential. Students and/or staff requested to appear before the Investigation Committee shall not disclose to third parties any information pertaining to the proceedings, except with the written consent from the University and/or unless disclosure is required by the laws of Singapore.

## **6. Students under 18 years old**

6.1 In the case of a student who is below 18 years old, the parents/guardian shall be informed of the student's misconduct. Whenever necessary, the student concerned shall be counselled by the Student Counsellor.

6.2 For Serious Offences and especially when reports with the State authorities are made, the University will inform the parents of the offence and that reports have been made regardless of what decisions the student has made in the consent form.

## **7. Fines**

7.1 Any fines imposed shall be paid within seven (7) working days after it is imposed, and a copy of the payment receipt shown to the University as proof of payment. Failure to pay the fine within the seven days shall be reported to the Head of Campus, Singapore, who may take such action as deemed fit.

7.2 Any fines paid will be consolidated and used as part of the expenses for new student orientation.

## **8. Withdrawal or referral of allegations**

8.1 At any stage, the person who referred the allegation of Student Misconduct may withdraw the allegation. All parties will be notified in writing that the allegation(s) has been withdrawn. In most instances, the University will then deem the matter resolved.

8.2 In certain circumstances, the University may deem the matter serious enough to continue to investigate the allegation and make a determination or to refer the matter to an external agency (such as the Police).

## **9. Precautionary Measures**

9.1 JCU Singapore reserves the right to undertake precautionary measures or actions to ensure the safety and well-being of all parties involved in misconduct. Precautionary measures may be undertaken at an early stage and do not require the outcome of an investigation or criminal/disciplinary proceedings.

9.2 Precautionary measures may be put in place if they are necessary to ensure a full and proper investigation can be carried out (whether by the Police, the University, or an investigative body); and/or for the well-being of the person subjected to the alleged assault or any other persons whilst the allegation is being dealt with.

9.3 A precautionary measure is not a penalty or sanction and must be reasonable and proportionate.

## 10. Liability of the University

10.1 The University shall have no liabilities for any losses, damages, claims, or other expenses that a person may suffer or incur, whether directly or indirectly as a result of any disciplinary action(s) taken in accordance with this procedure.

## 11. Support

11.1 The University understands that students may require counselling support in addition to having the matter resolved. JCU Singapore has a designated 24-hour hotline for students to call in case of emergency. Contact details are as follows:

- 24-hour hotline: + 65 9321 6833

Counselling Support Email: [studentcounselling-singapore@jcu.edu.au](mailto:studentcounselling-singapore@jcu.edu.au)

11.2 External counselling and support may also be provided by the [Sexual Assault Care Centre](#), with safe, free, and confidential services for people who have faced sexual assault and/or sexual harassment. They can be contacted on:

- + 65 6779 0282
- Email: [sacc@aware.org.sg](mailto:sacc@aware.org.sg)
- 5 Dover Crescent #01-22, Monday-Friday, 10 am to 6 pm

11.3 If overseas, if the victim chooses to lodge a police report with the local authorities or if they wish to return home, the field trip supervisors/support Staff can contact the relevant Ministry of Foreign Affairs representative office who will guide them through the relevant countries' medical/police system. The field trip supervisors/support shall also assist the student if medical attention is needed. The trip supervisor/support must call the James Cook University Singapore emergency hotline at +65 9321 6833 to report the incident as soon as possible.

## 12. Continuous Improvement

12.1 This procedure shall be reviewed periodically, as part of JCU Singapore's effort towards reviewing its effectiveness and for continuous improvement.

## Related Policy Instruments

Dignity Policy- Policy against Bullying Discrimination Harassment and Sexual Misconduct for Students

Student Code of Conduct

Student Feedback Management Policy

Student Feedback Management Procedure

Students aged under 18 Policy

## Related Documents and Legislation

Protection from Harassment Act (Chapter 256A)

Singapore Penal Code (Cap. 224)

Singapore Laws

## Administration

### Approval Details

Approval Authority:	Head of Campus Singapore
Approval date:	3 Jan 2023
Version no:	V2.4
Date for next review:	31/12/2023

### Revision History

Version	Revision date	Description of changes	Author
1.0	01/08/2017	Process established	Savaran Kor (Swan)
1.1	15/12/2017	Reviewed the process and added a component when a student commits a crime in Singapore. Change Approval Authority from Deputy Vice-Chancellor to Head of Campus, Singapore	Associate Director, Student Affairs
2.0	30/09/2019	Full review Classification of minor & major Formation of a new investigations committee Compliance committee approval of penalty table	Associate Director, Student Affairs
2.1	31/12/2020	Minor review Removed the numbering Change in designations	Associate Director, Student Affairs
2.2	8/10/2021	Added numbering and letters Reviewed and updated Procedure and Offences	Manager, Student Feedback
2.3	25/05/2022	Updated Procedure for reporting misconduct Updated definitions of sexual misconduct, harassment, and assault Updated precautionary measures and support information Reviewed to align with related policy instruments Updated Dignity Policy title for alignment	Manager, Student Feedback
2.4	19/12/2022	Change of document name from "Handling of Student Disciplinary Procedure (Non-Academic)" to "Student Misconduct Procedure (Non-Academic)"	Manager, Student Feedback

### Contact Person/Unit

Contact Person/Unit:	Manager, Student Feedback
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Keywords:	Student Discipline, Misconduct, Offences, Code of Conduct, Sexual Harassment, Sexual Assault, Bullying, Harassment, Discrimination
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## ANNEX A

**Minor Offences** include but are not limited to the following:

- Smoking on Campus
- Littering

Offence*	Penalty			
	1 <sup>st</sup> offence	2 <sup>nd</sup> offence*	3 <sup>rd</sup> offence	4 <sup>th</sup> offence onwards
<b>Smoking on Campus</b>	Email Warning	Email warning & Fine of \$50	Fine of \$50 AND suspension	Offence will be treated as Serious or/and Aggravated Offence
<b>Littering</b>	Email Warning	Email warning & Fine of \$50	Fine of \$50 AND suspension	

\*Students with unpaid fines will have their final results withheld.

**Serious Offences** include but are not limited to the following:

- Causing damage to University property or vandalism
- Theft of University or personal property
- Deliberate breaking and entering / deliberate unauthorized entry
- Submissions of fraudulent medical certificates or other official documents
- Gambling
- Bullying
- Physical assault and fighting (with or without dangerous weapons)
- Intrusion of privacy of an opposite gender e.g., a male student entering the female toilets
- Repeated Minor offences.
- Possession or taking of illegal drugs
- Sexual misconduct on Campus
- Sexual Harassment
- Sexual Assault

**Sanctions** impose on Serious Offences include but are not limited to the following:

- To impose a fine of an amount the University deems appropriate
- To request the offender to make restitution an amount equivalent to the cost of repairs or replacement of properties
- Final warning
- Suspension or expulsion.

**Aggravated Offences** include but are not limited to the following:

- Perpetrating a significant number of incidents
- Extensive duration of the misconduct
- Affecting a significant number of people
- Possessing child pornography
- If the victim is a child
- Causing substantial harm, damage, or trauma to the victim
- Abusing authority.

**Sanctions** impose on Aggravated Offences include but are not limited to the following:

- Long-term suspension
- Expulsion.

1. For all serious and aggravated offences, the approach taken should be victim-centered.
2. If the “victim” is the University, we reserve all rights to decide whether to lodge any reports with any State authorities.
3. The University reserves all rights to conduct its investigations and impose disciplinary measures, including but not limited to, placing sanctions on the offender, even if the State authorities decide not to persecute the alleged offender.
4. Students with outstanding debts are not permitted to graduate.

Note: The above lists for Minor, Serious, and Aggravated Offences, are to be updated periodically or as and when the need arises.

\* Serious offences may be criminal in nature according to Singapore Law. The Victim’s wishes must be respected, and this principle should be taken into consideration in whether reports with the State authorities should be lodged or not, notwithstanding mandatory reporting requirements.