

E1. STUDENT CONDUCT AND BEHAVIOUR

Purpose and scope

- 1.1. This section of the Consolidated Academic Policies and Regulations (CAPR) explains how the College deals with concerns about students' behaviour and the process for appeal against the decision of the 'Student Conduct and Behaviour Panel'.
- 1.2. These regulations apply to all current students of the College, and to any concern or allegation of misconduct raised on or after 01 January 2019 regardless of the date of the event giving rise to the concern.
- 1.3. These regulations do not apply in the following circumstances:
 - (a) A student has deferred or interrupted their studies. If so, the College will normally consider the matter on their return to the programme.
 - (b) A student has been recommended for an award and is due to graduate (a graduand). If so, the College will investigate any concern or allegation that may give rise to a suspension or exclusion. This will happen as quickly as possible but the College may delay a graduation where necessary.

Definitions

- 1.4. 'Discipline' means obeying the regulations, rules and code of behaviour of the College as an academic community.
- 1.5. 'Behaviour' means the physical, verbal, and social conduct of members of the academic community as it affects themselves and others, including planned and unconscious or accidental actions.

Introduction

Overview

- 1.6. It is important that all members of the academic community behave in a polite and courteous way to everyone involved in College activities. These regulations apply to all current students of the College, and to any concern or allegation of misconduct raised on or after 1 June 2016 regardless of the date of the event giving rise to the concern.
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- 1.7. The College understands education can be stressful and difficult. However, the College expects all participants in its activities to maintain a professional and respectful environment. The College takes the maintenance of this environment very seriously. It will deal effectively and efficiently with any disruption.
- 1.8. The College respects the right of all members of our academic community to work and play in a safe and secure environment. So the College will treat seriously any threatening or abusive behaviour, if necessary by informing the relevant authorities.
- 1.9. The College will put any report of misconduct through an objective test to decide whether another member of the academic community involved in or witnessing the behaviour would find it uncooperative, impolite, threatening or abusive.
- 1.10. To help all members of the academic community and visitors, the College publishes a brief Code of Conduct to remind members of actions or activities it expects.

Principles

- 1.11. There are three (3) categories of concern, reflecting different levels of student indiscipline and misbehaviour.
 - 1.11.1. Level 1 concerns are incidents or actions that create local disruption of the learning community and raise questions about the student's ability to engage politely and appropriately with others. These concerns include:
 - (a) addressing staff, fellow students, or people in the local community rudely or offensively;
 - (b) inconveniencing or distressing people in the local community;
 - (c) persistently arriving late for appointments and classes;
 - (d) repeatedly using mobile phones in classes or in areas where their use is banned;
 - (e) obstructing or disrupting College processes and procedures, or the roles, responsibilities and activities of College members;
 - (f) failing to follow efficiently a fire-alarm warning; or
 - (g) disobeying rules for acceptable behaviour in class.
 - 1.11.2. Level 2 concerns are incidents or actions that disrupt the academic community's safety, stability or coherence and raise questions about the student's current study at the College. These concerns include:
 - (a) disobeying local-level regulations;
 - (b) misuse or unauthorised use of College facilities or property;
 - (c) bringing the College into disrepute (e.g., damaging its good name or reputation);

- (d) petty thieving;
- (e) intentionally or recklessly damaging or defacing College property or that of a College member; or
- (f) stealing College property or that of a College member.

1.11.3. Level 3 concerns are incidents or actions that significantly harm the academic community's safety, stability or coherence and raise questions about a student's registration at the College. These concerns include:

- (a) conduct that could jeopardise the academic standards of College awards;
- (b) use of or dealing in illegal substances on or outside College property;
- (c) conduct that brings the College into disrepute;
- (d) abusive or threatening behaviour towards a staff member or a student;
- (e) bullying or harassing a College staff member or a student by any means, including publishing offensive material about an individual, e.g. via social media;
- (f) tampering with fire-safety equipment;
- (g) falsely or maliciously making allegations against College staff or students;
- (h) physically assaulting College staff or students;
- (i) using or threatening to use a weapon;
- (j) committing violent or sexual offences against people;
- (k) committing fraud or acts of deceit or dishonesty in relation to the College or its staff, or in relation to being a student at the College;
- (l) maliciously activating fire alarms;
- (m) not complying with a disciplinary penalty;
- (n) not genuinely co-operating with a regulatory investigation; or
- (o) getting a criminal conviction for any of the above.

Students with mental health difficulties

- 1.12. If a staff member suspects that a student who is alleged to have committed a breach of these regulations is suffering from a mental health difficulty, they should seek advice from a Senior Officer of the College.
- 1.13. If appropriate, any disciplinary process may be adjourned by a Senior Officer for the preparation of a medical report. If there is medical evidence that a student has mental health difficulties that may have contributed to the behaviour against which disciplinary action is sought, the College may suspend or end the disciplinary process if it thinks this is appropriate. It may refer the case to be dealt with under more appropriate regulations.
- 1.14. The College may make it a condition of disciplinary process being suspended or ended that the student seeks medical treatment. If the student does not co-operate with the College on the investigation of health matters (for example, by refusing to get medical reports or meet relevant staff), the College may consider the matter under the appropriate regulations.

Misconduct that is also a criminal offence

- 1.15. If the College regards a criminal offence as not serious and a criminal prosecution for it unlikely, it must carry out its own investigation. Action under these regulations may continue but will normally be deferred pending any police investigation or prosecution.
- 1.16. In all other criminal offences, the College may only suspend or exclude the student under the relevant regulations pending the matter being reported to the police and a decision being made as to prosecution. The Chair of the Student Disciplinary Panel may then recommend to the Academic Registrar whether or not disciplinary action under these regulations should continue.
- 1.17. The College may refer any criminal offence to the police. However, if a person claims to have been the victim of a serious offence committed by a student but does not wish the police to be involved, any Senior Officer of the College may agree not to report the matter to the police unless the law requires it. Examples where a report is required include offences against children or vulnerable adults.

1.18. Students who are prosecuted must be referred to be dealt with under the regulations on students who acquire a criminal conviction.

Procedures

Overview

1.19. The Student Disciplinary Procedure has three (3) stages:

Stage 1: Internal resolution.

Stage 2: Consideration by the Chair of the Student Conduct and Behaviour Panel.

Stage 3: Consideration by the Student Conduct and Behaviour Panel.

1.20. Before using the procedure above, the relevant tutor or supervisor should first discuss any Level 1 disciplinary concerns with the student informally. If this fails to produce a resolution acceptable to all parties, the concern may be referred for internal resolution.

Power of staff to stop disorder

1.21. Nothing in these regulations limits the authority of all staff members to stop disorder or any breach of regulations by students in any part of the College. They may exclude students from any College building or activities (or both) for 24 hours or less.

1.22. If a staff member regards the breach as a serious threat to the safety or coherence of the academic community, they may refer it immediately for consideration under the appropriate regulations.

1.23. Stage 1: Internal resolution

1.23.1. Allegations of misconduct should be made within ten working days of the incident or the latest in a series of incidents. The College will consider out-of-time allegations only in exceptional circumstances.

1.23.2. The request for internal resolution should be sent in writing to the Student Support Office within three (3) working days of receiving information about the student's misconduct.

1.23.3. The Student Support Office will normally have to decide the outcome of a case submitted for internal resolution within five (5) working days of the date of receiving it.

1.23.4. The student will normally be invited to attend a meeting at which their conduct can be further discussed.

1.23.5. If an allegation of misconduct is upheld, any staff member who is duly authorised by their Department may issue an official warning notice to a student. This notice will remind the student that they must keep to the College's rules and regulations.

1.23.6. The staff member must ensure the letter issued is a correctly administered regulatory notice. The notice will stay on the student's file for at least three (3) and at most twelve (12) months from the issue date.

1.24. Stage 2: Consideration by the Chair of the Student Conduct and Behaviour Panel

1.24.1. If a breach is thought to be a repeated or an unresolved Level 1 disciplinary concern or a more serious Level 2 concern, the staff member will report it to the Chair of the Student Conduct and Behaviour Panel.

1.24.2. The Chair will ask a suitable person to investigate the facts. The investigation will normally include an opportunity for the student to make written comments or attend a meeting, if appropriate.

1.24.3. On concluding the investigation, the Chair may:

- (a) fully or partly reject the allegation;
- (b) fully or partly uphold the allegation;

- (c) refer the allegation to be joined with another currently being considered by the panel, and decide on a joint outcome; or
- (d) refer the allegation to a meeting of the full panel if the Chair thinks the incident may be more serious or complex (or both) than they should examine alone.

1.24.4. If the allegation is upheld, the Chair must decide on suitable action. With reference to previous penalties, the Chair must do any or all of the following:

- (a) give the student a written warning;
- (b) give the student a notice to provide a written apology to those affected by their behaviour;
- (c) give the student a notice to make good any loss or damage to College property or to the property of affected staff, students or visitors.
- (d) The Chair must notify the student of the decision in writing, normally within ten (10) working days of the incident being reported.

1.24.5. The outcome letter must state that the student may request a review by the full panel, if they have a reasonable belief that:

- (a) there is new evidence that could not reasonably have been made available as part of the initial investigation;
- (b) there is a material procedural irregularity which, had it not occurred, may have significantly affected the original judgment or penalty, or both;
- (c) the penalty was too severe, given the nature of the offence or compared to penalties on other students in similar positions, or both.

NOTE: Dissatisfaction with the outcome is not itself a reason for review.

1.24.6. A student may only submit a request for review:

- (a) in writing on the prescribed form with the applicant's full name, student number and signature;
- (b) by 4pm within ten (10) working days of the decision or recommendation being published; and
- (c) to the place and person stated in the written instructions.

1.24.7. The request for review must include:

- (a) a clear statement of the grounds for request (i.e., why the student believes there has been an error);

- (b) all relevant evidence or details of events in support of the request;
- (c) all relevant details of the departmental internal resolution or an explanation of why the student could not provide such details;
- (d) a list of any people who are known to have relevant information; and
- (e) a case that is reasonably arguable.

1.24.8. The College may consider an application that is made out of time if the student proves to its satisfaction that they were mentally or physically incapable of making a request within the prescribed time limit.

1.24.9. The College must inform the student or referrer in writing of the outcome of the request for referral, normally within ten (10) working days of receiving it, giving its reasons for the outcome.

1.24.10. Stage 3: Consideration by the Student Conduct and Behaviour Panel

A Student Conduct and Behaviour Panel may receive a case if:

- (a) a breach is thought to be a repeated or unresolved Level 2 disciplinary concern or a more serious Level 3 concern; – if so, the staff member will refer it to the Chair, who may decide that the matter will be resolved by a full meeting of the panel; or
- (b) following the Chair's decision at Stage 2, the student requests that the decision be referred to a full panel meeting for review.

1.24.11. The panel must meet to discuss all cases referred to it by the Chair, or exceptionally by the Academic Registrar. Before meeting, the panel must ensure that no member is disqualified by actual or perceived bias in the matter before it.

1.24.12. To hear an individual student case, the panel must normally convene within twenty (20) working days of referral. It may convene to hear more than a single case.

1.24.13. The panel may consider a case 'by written representations' or 'by hearing':

- 1.24.14. Consideration by written representation will generally occur for the review of cases decided upon by the Chair or if it is not thought necessary to hold a hearing into the matter.
- 1.24.15. Consideration by hearing will generally occur for all cases where serious penalties may be imposed if the case is upheld.
- 1.24.16. For consideration by hearing, the Clerk to the panel must identify a member of the Office of Student Complaints and Appeals Department or a member of the College academic staff to present the case. The Clerk will make the choice based on the substance of the case and in consultation with the relevant Senior Officer. The person chosen is referred to here as 'the Presenting Member of Staff'.
- 1.24.17. The student must be given at least seven (7) working days' written notice of the date of the consideration of the case including, as relevant:
- (a) a statement of the allegation;
 - (b) all further documents gathered and to be considered by the panel;
 - (c) names of all members of the hearing panel;
 - (d) the name of the Presenting Member of Staff at a hearing;
 - (e) a copy of the relevant sections of these regulations;
 - (f) the general guidance on conduct of proceedings in hearings;
 - (g) the right, before the hearing, to submit a further statement or additional relevant supporting evidence (or both) and to call witnesses, where relevant;
 - (h) the date, time and place of the hearing; and
 - (i) the right to be accompanied by a representative or friend (or both), in line with relevant College regulations.
- 1.24.18. A copy of the notice and the documents must also be sent to the Presenting Member of Staff. The student's Head of Department must also be notified of the hearing date.
- 1.24.19. The student and the Presenting Member of Staff may each nominate witnesses to attend the hearing. At least five (5) working days before the hearing date, the student

and the Presenting Member of Staff must inform the Clerk to the panel who all their witnesses are and give brief reasons for calling them.

1.24.20. The panel must inform all parties in writing who all the witnesses are at least five (5) working days before the hearing. The party calling a witness is responsible for ensuring they attend the hearing. The panel reserves the right to proceed in the absence of any particular witness. The Chair's decision on this matter is final. The student, the staff member and the panel must have the opportunity to ask questions of all witnesses called.

1.24.21. Having completed its consideration of the allegation, the panel must decide on one

(1) of the following outcomes:

- (a) To fully or partly reject the allegation.
- (b) For matters considered by written representation, to refer the allegation to a Hearing Panel to give the appeal further consideration and to decide an outcome.
- (c) To refer the allegation to be joined with another currently being considered by the panel, and decide a joint outcome.
- (d) To fully or partly uphold the allegation.

1.24.22. If the allegation is upheld, the panel must consider previous penalties imposed, and then apply any or some of the following penalties:

- (a) Give the student a verbal reprimand.
- (b) Give the student a written warning.
- (c) Give the student a notice to provide a written apology to those affected by their behaviour.
- (d) Give the student a notice to make good any loss or damage to College premises or property or to the premises or property of affected staff, students or visitors.
- (e) Give the student a notice of fine.
- (f) Impose a good conduct penalty for a certain time that will come into effect if the student breaches the Student Disciplinary and Behaviour Concerns Regulations again.
- (g) Suspend the student from the College for a suitable period.
- (h) Exclude the student from the College for a suitable period.
- (i) Recommend the termination of the student's registration with the College.

1.24.23. In the case of (i), the panel must also consider whether or not to recommend withdrawing any credit awarded, or the award of a final or interim award.

1.24.24. The Clerk to the panel must communicate its decision to the student and give reasons for it as soon as reasonably possible and normally within five (5) working days of the decision.

1.24.25. In giving the student its decision, the panel must inform them that within ten (10) working days of receiving the decision, they may submit an appeal against the panel's decision under the relevant regulations.

1.26 Student Conduct and Behaviour Appeals procedure

This section explains how a student may ask the College to review a decision of the Student Conduct and Behaviour Panel for errors of process, what sort of errors the College will review, and what the outcome of this review may be. These are considered by the Student Conduct and Behaviour Appeals Panel. Appeals must be submitted to the Student Support Office within ten (10) working days of receiving the Student Conduct and Behaviour Panel decision.

1.26.1 The Student Conduct and Behaviour Appeals Panel will consider if an application should be considered by written representation or by hearing.

(a) Consideration by written representation is conducted during the Panel's next ordinary meeting. It means the Panel will consider one (1) or more individual appeals after reading written representations. The Panel deals with most student conduct and behaviour appeals this way.

(b) Consideration by hearing occurs when needed to consider an individual appeal through written submissions and an oral hearing. It is generally reserved for very complex cases where points of regulatory interpretation ¹ are also core issues to the appeal. It may not be used to enable the student to further present the factual basis for their appeal.

1.27 For consideration by written representation, the Panel may request extra written information, including written comments, that it considers appropriate; but it may not interview the student, members of staff or witnesses in this process. The normal deadline for response to such requests is five (5) working days.

¹ The Student Conduct and Behaviour Appeals Panel has the delegated authority of the Academic Board to interpret the policies and regulations

- 1.28 For consideration by hearing, the student must get at least seven (7) working days' written notice of the hearing date and receive at least the following rights and information, as relevant:
- (a) A statement of the appeal.
 - (b) All further documents gathered and to be considered by the Panel.
 - (c) Membership of the Panel.
 - (d) A copy of the relevant sections of the Student Conduct and Behaviour regulations.
 - (e) The general guidance on conduct of proceedings in hearings.
 - (f) The date, time and place of the hearing.
 - (g) The right, before the hearing, to submit a further statement or extra relevant supporting evidence (or both) and to call witnesses. No later than five (5) working days before the hearing date, the student must give the Clerk to the Panel the names of all their witnesses and state briefly why they are calling them.
 - (h) The right to be accompanied by a representative or friend (or both), in line with the regulations on representation
- 1.29 The student does not have a right to an alternative date but has the right to apply to postpone. The panel must be fair and reasonable in deciding whether or not to grant a postponement. A student who cannot attend can make written submissions.
- 1.30 The ruling of the Chair of the Panel about admitting evidence for consideration by the Panel is final. This includes admission of written evidence and of oral evidence from witnesses or other parties at the hearing. The Chair may refuse to admit irrelevant evidence. The Chair may refuse to hear or have present any witness whose presence is not relevant or is disruptive or may prejudice the hearing.
- 1.31 For consideration by written representation or hearing, the Chair may decide to postpone or adjourn consideration of a case if evidence is supplied without enough notice for it to be circulated and properly considered by the parties.
- 1.32 When consideration of a case has begun and if there is good reason, the Chair may adjourn it for normally no more than five (5) working days. If consideration of a case is adjourned, the Clerk must notify all parties in writing when and where it will restart, giving at least two (2) working days' notice.
- 1.33 The Chair's ruling is final on any point of procedure about the conduct of the consideration of a case.
- 1.34 Having considered the application by written representation or hearing, the Panel must decide on one (1) of the following outcomes:
- (a) To reject the appeal (in whole or part).
 - (b) To refer the application to a Hearing to consider it further and decide on an outcome. (This may take place in the student's absence if they have been given at least 48 hours' notice of the hearing and have indicated no intention to attend or failed to attend.)
 - (c) To refer the application to be joined with another currently being considered by the Panel and decide on a joint outcome.
 - (d) To uphold the appeal (in whole or part).
- 1.35 If the appeal is upheld (in whole or part), the Student Conduct and Behaviour Appeals Panel will:
- (a) confirm, vary or set aside the finding
 - (b) make a recommendation to the Chair of the original SC&B Panel to confirm, vary, increase or decrease or set aside the penalty.
- 1.36 The Chair of the original Student Conduct and Behaviour Panel will confirm the recommendation of the Appeals Panel, or, where, if for any reason they make an alternative decision a detailed rationale for that decision needs to be given. This decision of the Chair is final and a decision letter and 'Completion of Procedure' letter will be issued.

- 1.37 Upholding the appeal in whole or in part does not necessarily mean the original decision will be reversed or altered.
- 1.38 The Clerk must communicate the Student Conduct and Behaviour Appeals Panel's decision to the student, giving its reasons for the outcome, as soon as reasonably possible and normally within five (5) working days of the decision.

1.39 **Referral to the Office of the Independent Adjudicator for Higher Education**

Students who remain dissatisfied after their appeal has been considered, as set out in 1.26-1.35, will be able to apply to the Office of the Independent Adjudicator for further review. You will be sent a letter by the College confirming that the institution's procedure has concluded; this will contain information on how to contact the OIA. Further information is available at www.oiahe.org.uk

1.40 **Advice and Support**

1.40.1 Advice for students on student conduct, behaviour and discipline, and the associated lower-level College rules, is available from the Office of Student Complaints, Appeals and Regulation (oscar@gsmlondon.ac.uk) or the GSM London Students' Union (student.union@gsmlondon.ac.uk). More complex queries may be referred to appropriate individuals.

1.40.2 Advice for staff on student conduct, behaviour and discipline is available from their nominated Academic Policy Partner, or Head of Department.

1.40.3 If any staff development needs are identified, they may be discussed with members of the Staff and Educational Development Team.

1.41 Fees

1.41.1 The minimum and maximum penalty charges are set out in the College's list of charges. However, in exceptional circumstances where significant damage or injury has occurred to College property or staff, the Chair to the panel may make a request to the College Executive Group to exceed the maximum penalty.

1.41.2 The College is not liable for financial or other consequences arising from action under these regulations.

1.42 Legal and regulatory context

1.42.1 These regulations have no specific legal or regulatory context, but all decisions will pay regard to the principles of good administrative decision-making outlined in *Associated Provincial Picture Houses Ltd. v Wednesbury Corporation* [1948] 1 KB 223.

1.42.2 The regulations have also had regard to the core principles of fairness in student matters outlined in *Ridge v Baldwin* (1963) 127 JP 295, [1963] All ER 66, 111 (HL), and further explored in *University College of Swansea v Cornelius* [1988] ICR 735.

1.42.3 The College recognises, too, that it has duties for the safety and security of all of staff, students and visitors under the Health and Safety at Work Etc. Act 1974, and under the statutory regulations made under this act. It has used these principles to inform its regulations on the conduct of students.

1.42.4 The College may not be bound by the principles in paragraph 1.11 and this policy alone may not provide the procedure to meet all of these principles, some of which may be met by other College policies and procedures. The College uses the principles as guidance only, to help it deal soundly with these matters.

1.43 Enforcement, monitoring and review

1.43.1 If any person or body in the College refuses to comply with a request or decision made to enforce these regulations, their refusal must be reported to the Academic Registrar, who will take such action to enforce this policy as they think necessary.

1.43.2 Each year, the College must receive a report that enables it to monitor, identify and act on any shortfalls in how these regulations are interpreted and applied.

1.43.3 The annual report must include statistical data on the number of cases at each stage; the outcomes, Departments and programmes from which they originate; the length of the process; and the equality characteristics (including sex, disability and ethnicity) separately of those referred to any stage, and those who have a penalty imposed.

1.43.4 Every two (2) years, the College must review these regulations to ensure that:

- (a) they remain up to date and continue to meet the expectations of the UK Quality Code, applicable legislation or guidance;
- (b) areas of improvement, or any concerns, raised by students, external examiners, or professional bodies have been addressed; and
- (c) opportunities to reduce unnecessary bureaucracy have been taken.

Schedule (not part of the policies or regulations):

Responsible Officer: Academic Registrar

Approved by: Board of Directors and Academic Board

Version: 3.0

Monitoring and Review Body: Academic Regulations and Awards Committee

Effective From: August 2019