

# Higher Education Student Disciplinary Procedure

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**Related Documents:** HE Academic Offences Procedure, Access & Higher Education Student Terms and Conditions, Access & HE Student Tuition Fees & Refund Policy

## **Higher Education Student Disciplinary Procedure**

### **1. Introduction**

At Joseph Chamberlain Sixth Form College we believe that:

- All staff have a right to:
  - teach without undue disruption
  - learn how to improve their practice
  - feel physically and emotionally safe at all times
  - be treated with dignity and respect at all times
  - express their feelings in an appropriate way
- All students have a right to:
  - learn, and to make demonstrable progress
  - feel physically and emotionally safe at all times
  - be treated with respect and dignity at all times
  - express their feelings in an appropriate way
- It is the professional responsibility of all teaching staff to manage the conduct and behaviour of those students in their classroom. The College expects that members of staff will work with students, tutors and managers to resolve poor behaviour and other minor issues informally before the formal disciplinary process is invoked. This responsibility should not be abdicated except in exceptional circumstances where the member of staff feels that their personal safety is at risk; in such cases help should be sought immediately. The College also expects staff (teachers as well support staff) to supervise the conduct and behaviour of students generally across the college.
- Students want to behave well. We believe that our students are happy when they behave well and want that behaviour recognised by college staff and their peers.
- Students can learn to improve their behaviour. Our students come to college to improve their academic performance but also to develop positive behaviour skills that will support them after leaving us.
- Mistakes are part of the learning process. We understand that poor behaviour is a mistake which can be rectified. We don't make a judgment about it. Instead, we support our students to get it right. Practice improves performance.

- All staff can develop their own strategies to support students to improve their behaviour. Developing an understanding of why students behave as they do, coupled with a positive attitude to the student and effective strategies for managing their behaviour is essential for a highly supportive and aspirational college.
- Cases of serious misconduct will be referred to the Director of Professional Performance
- For quality assurance purposes, the College Disciplinary Policy and Procedure will be monitored and reported to the Higher Education Committee (HEC) and the senior leadership team

## **2. How we support students to develop positive behaviours?**

### **I. Relationships**

#### **The quality of our relationships with each other and students**

- a) We understand that our relationships with each other provide a framework to help us to provide good models of behaviour at all times for our students.
- b) The quality of these relationships is crucial. Each member of staff is a significant adult for our students. To foster successful, enabling relationships we need to:
  - actively build trust and rapport
  - demonstrate belief in the student that they can succeed and let the student know this.
  - treat the student with dignity and respect at all times
  - listen respectfully to the student, and make a judgement about how/when to respond appropriately
  - hear the message behind the word/behaviour; ask yourself why the student is behaving in this way – there will always be a reason; the behaviour is a symptom
  - keep to our word – do whatever we say we will do
  - look for the good in the student – identify it with the student and build on it.
  - apologise if you make a mistake – you are modelling this for the student and you will earn respect
  - name and manage our own emotional reactions to student's behaviour i.e. demonstrate emotionally intelligent behaviour at all times
  - let go of our memory/feelings of a student's previous poor behaviour – it's unhelpful history. Focus instead on getting it right in the future
  - quietly but firmly hold appropriate boundaries for the students

In rare cases, your misconduct may be so serious that we can exclude you from the College and prevent you from applying for further study for up to five years. As part of this Higher Education Student Disciplinary Procedure, we may need to suspend you from the College.

This procedure applies to all students who are enrolled directly with the College and to students enrolled through some of our partner organisations. Your Student Handbook will tell you if this procedure applies.

### 3. What is misconduct?

We define two types of misconduct - **academic and general**.

**a) Academic misconduct** is any behaviour which is likely to give you an unfair advantage in an assessment. Academic misconduct threatens the standards of awards we make as it is an attempt to gain credit for work which is not completely your own. This is covered in more detail with examples in the Higher Education Academic Offences Policy <https://www.jcc.ac.uk/about/policies/higher-education-policies/>.

**b) General misconduct** applies to any other type of misconduct that does not involve an assessment. Here are some examples of general misconduct.

- Any behaviour which is a criminal offence. Some criminal offences will result in you being automatically suspended from the College. More information is included in the College Student Suspension Guidance which is available on <https://www.jcc.ac.uk/about/policies/higher-education-policies/>.
- Possessing an offensive weapon or replica weapon on College premises, or when doing an off-site activity for the College (such as site visits, or field trips).
- Threatening, bullying, harassing, or indecent or violent behaviour (either in person, in writing or online), whether or not actual harm is caused.
- Any form of discriminatory behaviour. This includes using certain language or gestures, or behaviour which is likely to break current discrimination laws or which fails to respect other people's rights to freedom of speech and belief.
- Stealing or attempting to steal or misusing or attempting to misuse our property or the property of another member of the College.
- Damaging or trying to damage our property or the property of another member of the College.

- Not following a reasonable instruction we have issued. This includes failing to change inappropriate behaviour after we have asked you to do so.
- Stopping, or unreasonably delaying, us (or any of our members) from carrying out any of our work, duties or activities.
- Bribing or attempting to bribe any member of College staff.
- Fraud, deception or dishonesty relating to the College. This includes making a false claim for money that you are not entitled to or dishonestly preparing a reference about yourself that makes it seem as though it was written by a member of the College.
- Behaviour which harms or could harm our reputation. This includes using social media for this purpose.

Breach of any of the College's rules and codes of conduct.

The above are only examples and other types of misconduct may also result in disciplinary action being taken. If you are on a programme of study covered by the Fitness to Practise Procedure <https://www.jcc.ac.uk/about/policies/higher-education-policies/> we may investigate alleged misconduct under the Fitness to Practise Procedure rather than this Student Disciplinary Procedure.

#### **4. Levels of concern**

We consider all misconduct to be a serious matter. Most types of misconduct (either academic or general) can range from being minor to major in nature, and we will respond in a way that is in proportion to the seriousness of the particular issue raised.

#### **5. Proving the allegation**

It is our responsibility to prove the allegation against you. The person or panel responsible for deciding whether you have committed misconduct will accept the explanation that is most likely to be true. This is known as the balance of probability.

#### **6. Disability and misconduct**

This procedure applies to all students equally. We do not accept disability as a reason for your misconduct. However, we may reasonably adjust the process we follow to take account of any disability you have disclosed to us. For example, this could involve an extra person being present during an investigation and panel meetings to provide sign language interpretation, or more breaks during an investigation or panel meeting.

Where there are concerns about a student's wellbeing any action under this procedure may be deferred pending consideration under the Fitness to Study Procedure.

## **7. Time limits**

We will raise concerns that may relate to your behaviour as soon as possible so that you can take action to correct your behaviour. We aim to complete the formal stage, including any panel meeting, within 50 working days. To help us achieve this you must meet any deadlines we set for providing further information or documents and attending meetings. There will occasionally be circumstances when we need to extend the timeframe for different stages. (We will only do this if there is a good reason, for example if we need to wait for a key witness to be available to speak to us.) If this is the case, we will tell you and will explain the reasons for the delay and tell you the new timescales. We will provide regular updates on progress where appropriate.

## **8. Criminal offences**

Where the alleged misconduct would also constitute a criminal offence, the College shall have the discretion to continue action under this procedure but such action may be deferred pending any police investigation or prosecution.

## **9. Student representation**

You have the right to take someone with you to meetings. This person is not there to act in a legal capacity. They are there to provide advice and support to you, not to act on your behalf. Student Services can help you with this.

## **10. Confidentiality**

We will not share any information about you or any case against you unless we need to as part of our procedures or if there is good reason and urgent cause to do so. This could include passing information about your case to external agencies such as social services. If we learn that you are or have been involved in criminal activity then we may need to inform the police.

Our 'Guidance on the production of references for students', which is available from your faculty, explains what information we will share if we are asked for a reference

## 11. Stages of the procedure

This procedure aims to provide a quick process that is proportionate to the concerns being raised. There is a strong focus on staff having the power to deal with concerns as soon as possible. The Student Disciplinary Procedure has an informal stage, a three-step formal stage, and a review stage (see the flowchart).

### a) Informal stage - guidance and advice

This stage is for minor misconduct concerns. These would include poor scholarly activity (for example, incorrect or confused referencing) due to lack of experience and, for general misconduct, situations where you were probably not aware of how your behaviour was affecting others and where you could quickly change your behaviour to avoid it happening again. During the informal stage, issues are dealt with quickly and locally, often by the relevant College teacher or tutor. In most cases, a conversation with you about your behaviour and how to improve will be enough to deal with the matter. To help with your ongoing development, we may put an action plan in place. If you do not make the necessary progress, repeat the behaviour or if the issue is serious, it may move on to the formal stage.

### b) Formal stage – triage, investigation and recommendation, and College panel

The formal stage is to be completed within 50 working days of the disciplinary concerns being raised using the *Student Disciplinary Concerns* form. It involves assessing the concerns being raised and, where appropriate, carrying out a formal investigation. We may hold a College panel to consider very serious or complicated cases. The formal stage will involve the following three stages.

#### (1) Triage

For concerns that are felt to be anything more than minor concerns that can be dealt with effectively through guidance and advice, the person raising the concerns must fill in the *Student Disciplinary Concerns* form and send it to the Vice Principal (Planning, Performance and Development) (VP (PPD)). The person completing the form must provide all supporting evidence within two weeks of submitting the *Student Disciplinary Concerns* form. If the VP (PPD) does not receive the evidence within two weeks, s/he will not investigate the concerns but may still discuss them with you to provide you with relevant guidance and advice.

For **academic misconduct**, see the Higher Education Academic Offences Policy

For **general misconduct**, the VP (PPD) will consider the completed *Student Disciplinary Concerns* form and the relevant evidence to decide whether there is a case to answer.

If s/he believes there is no case to answer, we will tell you about the concerns that were raised and, where relevant, put an action plan in place for you.

If s/he believes there is a case to answer, s/he will refer the matter to a suitably trained Case Officer who will carry out an investigation. We will tell you if we do this and will give you information about the Case Officer who will investigate your case.

**(2) Investigation and recommendation:**

The Case Officer will have no knowledge of you or of any previous disciplinary or fitness to practise matters you have been involved in.

Where the case has involved criminal proceedings heard by a court, we will not re-investigate any matters that formed part of those proceedings.

**Example**

The College learns that you have been convicted of theft by a Crown Court. We will open a disciplinary case against you for general misconduct. Since a Court has already found you guilty of theft, the Case Officer will not consider whether or not you did commit theft and will not revisit the facts of the Court case. The Case Officer will instead consider whether the fact of your conviction means you have committed general misconduct.

The Case Officer will provide specific information about the concerns being raised, and provide you a copy of the evidence. You will be invited to a meeting with the Case Officer to discuss the concerns and evidence. You have the right to take a companion with you to the meeting. This may be a friend, relative or member of the Student Council Union. As the meeting will be held during normal working hours on any of the College campuses, we will expect you to attend. The meeting will only be rescheduled if the Case Officer decides there is a good or urgent reason for this.

The Case Officer will consider the disciplinary concerns and may talk to relevant staff or students and refer to documents and other evidence. If you wish to present evidence, we expect you to give it to the Case Officer either before or at the meeting. This may include copies of emails or letters, or statements from witnesses if it is safe and helpful to provide these. In exceptional circumstances, the Case Officer may ask you or any other relevant person to provide evidence after the meeting. You will receive copies of all the evidence the Case Officer has considered during the investigation. The Case Officer will produce a report based on their investigation, which will outline the process they have followed, the information they have gathered, the evidence they have considered, their conclusions and their recommendations.

The Case Officer can make any of the following recommendations.

- There is no case to answer, so we will not hold a panel and will not take any further action.
- There is a case to answer, but it does not need to be considered by a panel. We may issue you with any of the following.
  - A guidance note about your future behaviour or requirements you must meet.
  - An academic penalty in line with the table of penalties for academic misconduct.
  - A written warning about your future behaviour or requirements you must meet.
  - A final written warning about your future behaviour or requirements you must meet.
  - A conditional learning agreement. You must meet the conditions set out in the agreement to be allowed to continue on the programme of study.
- There is a case to answer that needs to be considered by a panel.

The VP (PPD) will consider the Case Officer's recommendation. At this stage, the VP (PPD) may take into account any previous disciplinary or relevant fitness to practise matters against you when deciding whether to accept the Case Officer's recommendation. The AP (L&S):

- To accept the Case Officer's recommendation without change.
- To accept the Case Officer's recommendation with minor changes.
- Not to accept the Case Officer's recommendation, but take a different course of action instead.

In all cases, we will tell you the outcome of the investigation and what action, if any, we have decided to take.

This stage must be completed within 15 working days of the concerns being referred for investigation.

If the concerns are very serious and it is possible that we may decide to exclude you from the College, your case will be considered by a College panel.

While an investigation is ongoing you must continue to work towards any resubmission deadline. If an allegation of misconduct against you is found not justified then your work for that submission will stand regardless of whether you have made any further assessment attempt.

### **(3) HE College Panel**

A disciplinary HE College panel can make the following decisions as appropriate:

- You will receive no formal warning or penalty. We may give you a guidance note about your future behaviour.
- For academic misconduct, we may give you an academic penalty in line with the Higher Education Academic Offences Policy.

- We may give you an action plan or a learning agreement (or both) which you will need to keep to and show how you are making progress. If you do not meet the conditions, we may give you a written warning or a final written warning.
- We may give you a written warning which we will keep on your student file for a set time. If you commit another offence, we will take this written warning into account when deciding on any further penalty.
- We may give you a final written warning which means that if you commit another offence you are likely to be excluded from the College.

A College panel is authorised to make any of the above decisions, and also to exclude you from the College for up to five years.

When the panel decides on the penalty it will not normally take account of penalties you have already been given for a different type of misconduct. For example, if you had received a written warning for academic misconduct and then went on to commit general misconduct, the panel would not normally take the previous warning into account when deciding on the new penalty.

### **HE Panel meetings**

- a) The Director of Professional Performance (Chair)
- b) The HE Coordinator
- c) A subject representative
- d) The person making the complaint 'College representative'
- e) The student\* who may be accompanied by a friend/colleague (who is not a member of the legal profession)
- f) A minute taker

\*Where a student has additional needs the HE Keyworker should attend if appropriate.

The process of the HE Panel will be:

- A. Private meeting of the Panel
- B. Introduction of those present
- C. Presentation of evidence by the person 'College representative' making the allegation
- D. HE College panel question the 'College representative'
- E. Opportunity for the student to question, through the Chair, the 'College representative'
- F. Student and/or representative presentation
- G. Opportunity for the panel to question the student
- H. Opportunity for the College representative to question, through the Chair, the student

- I. Panel Chair summing up
- J. Private meeting of the panel to make a decision which will be notified in 24 working hours

Either party may call witnesses. Should witnesses be called they will attend only to present their evidence and to answer any questions that the Panel or the other party may put to them. Once their evidence has been heard and there are no more questions, witnesses will be required to withdraw.

## **12. Extending the time limit**

If there are clear and justifiable reasons for extending the time limit, we will set new time limits. We will tell you the new time limits and the reasons for the extension.

## **13. Closing the disciplinary action at the formal stage**

We will give you a clear explanation of the outcome of the formal stage of the disciplinary action in writing, setting out the reasons for each decision in simple, straightforward language. We will record the outcome on our disciplinary record system.

We will tell you about:

- your right to take the case to the review stage;
- the grounds on which you can do this (see below);
- the time limit for moving to the review stage (within 10 working days of us sending you the outcome of the formal stage);
- the appropriate procedure to follow; and
- where and how to access advice and support

If you do not take the case to the review stage within the time limit for doing so, we will close the matter.

## **14. Review stage – to be completed within 15 working days of receiving your request for a review**

a) If you are not satisfied with the outcome of the formal stage, you have **10 working days** to ask for a review. There are limited grounds for asking for a review, which are as follows.

1. There is new evidence which you were unable, for valid reasons, to provide earlier in the process, and which would have had a significant effect on the outcome of the formal stage.
2. The correct procedure was not followed during the formal stage and this has had a significant effect on the outcome.

3. The outcome was unreasonable given all the circumstances and the evidence considered.

b) The purpose of a review is to consider whether the outcome was reasonable. At the review stage, we will not usually consider the issues again or investigate the matter further. Your case must have been considered at the formal stage before it can move to the review stage. If your expectations appear to be beyond what can be achieved at the review stage, we will tell you this as soon as possible in writing to manage your expectations about possible outcomes.

c) You must submit a request for a review electronically, by email, to the AP (L&S). We will only accept a request submitted by someone else on your behalf if you have given the other person written permission to act as your representative for the review stage and have supplied a copy of that written permission to us in with the 10 working days noted above. You must set out your concerns clearly and briefly and provide evidence, where possible, of the issues raised. Only evidence that is clearly referenced will be considered. We will acknowledge the request for a review within **five working days**.

d) The VP (PPD) will assess your request for a review, or someone they nominate to act on their behalf, and will use this assessment to decide between the following two possible outcomes.

- There are no grounds for taking the matter further. If this is the case, the VP (PPD) will tell you in writing and also let you know about any right you may have to ask the Office of the Independent Adjudicator (OIA) to review your case.
- There are grounds for reconsidering the case.

e) If there are grounds for reconsidering the case, the VP (PPD) or someone they nominate to act on their behalf, will consider the following.

- Was the outcome reasonable in all the circumstances?
- Was there a mistake in how we used this procedure to assess your case and the outcome has been less favourable to you as a result?
- Have you received clear reasons for the outcome at the formal stage?
- If you have provided new evidence, have you provided valid reasons for not providing it earlier?
- Would any new evidence you have provided have affected the outcome (if there were valid reasons for not providing this earlier)?

f) The VP (PPD) or someone they nominate to act on their behalf, will decide between the following two options:

- The case will be referred back to the formal stage with a recommendation.
- The issues are complicated and so it would be better to deal with them through a review panel.

## **15. Extending the time limit**

If there are clear and justifiable reasons for extending the time limits, we will set new time limits. The maximum extension will be **10 working days** (that is, not more than **25 working days** in total from the date we receive your request for a review).

## **16. Closing the case at the review stage**

We will give you a clear explanation of the outcome of the review in writing. This explanation will set out the reasons for each decision in simple, straightforward language and clearly state any action to be taken (if appropriate). We will record the outcome on our disciplinary record system. We will also let you know about any right you may have to ask the OIA to review your case.

## Student Disciplinary Concerns form

Details of person raising concerns:

|                                    |                |
|------------------------------------|----------------|
| <b>Name</b>                        | Miss/Ms/Mrs/Mr |
| <b>Job title (if staff member)</b> |                |
| <b>Student number (if student)</b> |                |
| <b>Faculty</b>                     |                |

Details of student being referred:

|                          |                 |
|--------------------------|-----------------|
| <b>Student name</b>      | Miss/Ms/Mrs//Mr |
| <b>Student ID number</b> |                 |
| <b>Course of study</b>   |                 |

|   |   |
|---|---|
| <b>Academic misconduct</b>  | ✓ |
| Cheating in a live assessment.  |   |
| Trying to see an exam paper or trying to get confidential information about an exam paper before the exam.  |   |
| Getting someone else to take or try to take an assessment.  |   |
| Not following the exam invigilator's instructions.  |   |
| Poor scholarly activity due to inexperience or misunderstanding, including plagiarism up to 10%. This only applies to students in the early stages of their programmes, usually at level 4.                         |   |
| Plagiarism, including self-plagiarism.  |   |
| Collusion   |   |
| Buying assignments or answers from others.  |   |
| Helping another student to cheat, including by allowing them to copy your work.   |   |
| Falsifying information, resources or data. This includes making up research responses, inventing or changing someone else's work to fit your assessment or theory or forging a signature on an assessment document. |   |

|  |  |
|--|--|
| Failing to get the necessary permission before carrying out research.  |  |
| Other  |  |
|  |  |
| <b>General misconduct</b>  |  |
| Any behaviour which is a criminal offence. Some criminal offences will result in you being automatically suspended from the College.   |  |
| Possessing an offensive weapon or replica weapon on College premises, or when doing an off-site activity for the College (such as site visits or field trips).   |  |
| Threatening, bullying, harassing, or indecent or violent behaviour (either in person, in writing or online), whether or not actual harm is caused.   |  |
| Any form of discriminatory behaviour.  |  |
| Stealing or attempting to steal or misusing or attempting to misuse our property or the property of another member of the College.   |  |
| Damaging or trying to damage our property, or the property of another member of the College.   |  |
| Not following a reasonable instruction we have issued.   |  |
| Stopping, or unreasonably delaying, us (or any of our members) from carrying out any of our work, duties or activities.  |  |
| Bribing or attempting to bribe any member of College staff.  |  |
| Fraud, deception or dishonesty relating to the College. This includes making a false claim for money that you are not entitled to or dishonestly preparing a reference about you that makes it seem as though it was written by a member of the College. |  |
| Behaviour which harms or could harm our reputation.  |  |
| Other  |  |

If 'other' please give details.

My knowledge of the events relevant to this matter is as follows.

[List events in date order. Please refer to any relevant documents which support the account, and attach the documents to this statement with reference numbers. Please make sure that your statement could be read and understood by someone with no knowledge of the case so that they would be left understanding what the allegation was and how the evidence you have provided is relevant to the allegation.]

I am attaching (or will provide within two weeks) the following evidence to support this statement.

Example

| <b>Document reference</b> | <b>Brief description of document</b>                    | <b>Attached or to follow</b> |
|---------------------------|---|------------------------------|
| <b>1</b>                  | Submitted assignment – plagiarised material highlighted | Attached                     |
|                           |   |                              |
|                           |   |                              |
|                           |   |                              |

I have read the Student Disciplinary Procedure and understand that:

- within two weeks of sending this statement to the College I must provide all evidence referred to in this statement;
- you may provide this statement to the student named above in the course of any College investigation into the concerns being raised; and
- due to confidentiality restrictions, you may not keep me informed of the progress of your investigation.

Your signature:

Date:

Send this form and any queries to the AP (L&S).

Notes to consider:

1. Try to make sure the statement covers all relevant issues and only those that you have direct knowledge of.
2. Make sure that the statement does not include details that are not relevant or could be unfair, such as earlier offences or evidence about other similar offences.
3. Wherever possible, try to avoid any second-hand (hearsay) evidence, although we will accept hearsay evidence if there is no better evidence available.
4. Consider whether the witness statement is an important part of the case or whether it adds little to it or simply duplicates other evidence. Although it can be helpful to include more than one account supporting the same events, there will be a point at which duplicating evidence will just unnecessarily extend the time needed to deal with the case.

| Date student started the current programme | Level of study | Has the student interrupted their study?                 |
|--|----------------|--|
|  | 4 5            | Yes <input type="checkbox"/> No <input type="checkbox"/> |