

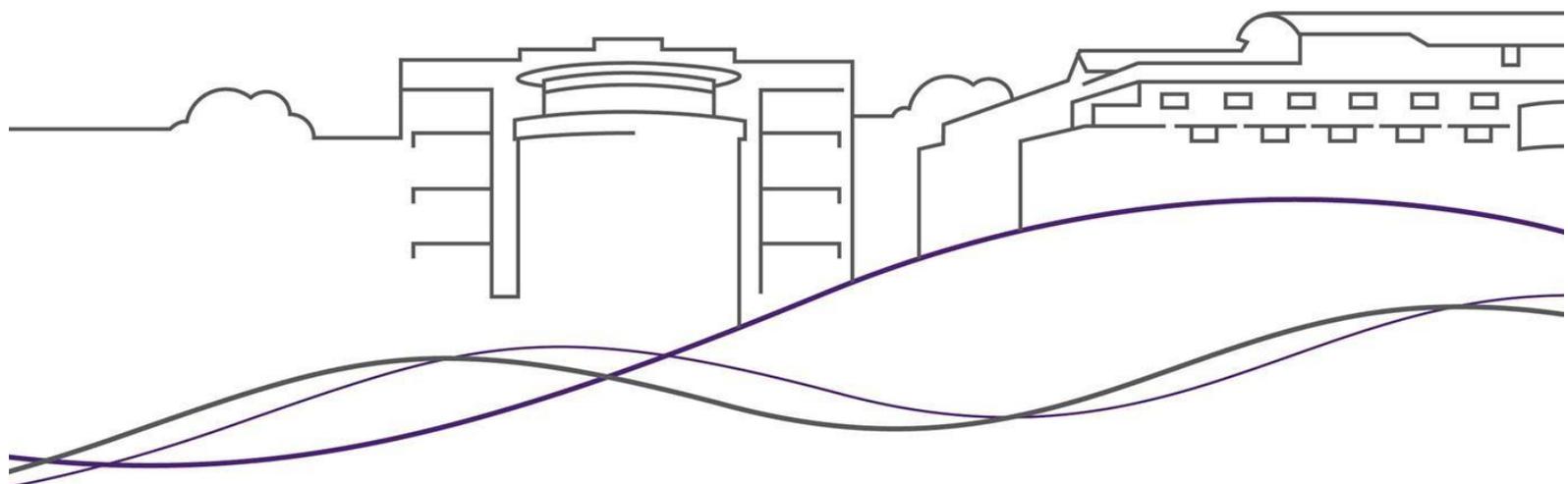
Procedure



HIGHER EDUCATION

**STUDENT CODE OF CONDUCT AND
DISCIPLINARY PROCEDURE (P29)**

2016-17



Student Code of Conduct and Disciplinary Procedure

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1. INTRODUCTION

- 1.1 South Devon College is a large and vibrant community. We must treat each other with respect, honesty, fairness and consideration so that all our stakeholders have a positive and enriching experience in our community.
- 1.2 The Student Code of Conduct and Disciplinary Procedure (this Code) provides a framework for the regulation of students' behaviour and applies to all Higher Education students of South Devon College, whether full-time or part-time. This Code will apply primarily when students are on campus or engaged in related activities. However it may also be applicable to behaviour off the College campus if, in the widest sense, such behavior harms or presents a risk of harm to other members of the College community or members of the public, or the reputation of the College.
- 1.3 The College, as a community, has obligations relating to the care of, and responsibility for, its staff and students.
- 1.4 The College has a duty to protect its reputation.
- 1.5 The College is committed to maintaining the standards set out in its Vision, Mission and Values statement.
- 1.6 The College will share student information in line with its data sharing arrangements with the Police and relevant Councils
- 1.7 Separate procedures exist for the consideration of examination and academic offences.
- 1.8 For the avoidance of doubt, all references in this Code to a Section Head, Assistant Principal, Higher Education Manager, Vice Principal or Principal shall include any of their respective nominees duly authorised to act on their behalf and to discharge their functions under this Code.

2. AUTHORITY

- 2.1 This Code is made under the College's Higher Education Board of Studies, which has been authority by the College to implement this Code.

3. STUDENT CODE OF CONDUCT

- 3.1 The major principles that form the basis of acceptable student conduct are:

3.1.1 Students are expected to respect and observe the rules and regulations of the College, and the Regulations of Plymouth University, including Appeals, Academic Offences and Extenuating Circumstances during their period of registration throughout their intended programme

3.1.2 Students are expected to conduct themselves in an orderly manner in their academic and recreational activities while they are registered with the College. For the avoidance of doubt, this includes students':

- a) attendance at the College;
- b) engagement in any College activity;
- c) occupancy of College owned or managed accommodation; and
- d) conduct within the wider community.

3.1.3 Students are expected to behave in a considerate manner towards staff, fellow students, visitors and members of the public in the wider community. In particular, rights to freedom of expression must be respected and there shall be no harassment on any grounds specifically noting Protected Characteristic under the equity Act 2010

3.1.4 Students undertaking programmes leading to a professional qualification are required to conduct themselves in a manner appropriate to that profession. Any breaches of this Code by a student on a professional programme may be referred to a Fitness to Practise Panel for consideration under the relevant Fitness to Practise procedures

3.2 Definition of Misconduct

3.2.1 Under the terms of this Code, 'misconduct' is defined as:

- a) Improper interference, in the broadest sense, with the proper functioning or activities of the College or with those who work or study at the College; and / or
- b) Any action which otherwise damages the College, its interests or its reputation.

3.2.2 In particular (but without limitation), the following will be deemed to constitute misconduct under the terms of this Code:

- a) Any conduct which constitutes a criminal offence;
- b) Disruption of, or improper interference with, the academic, administrative, sporting, social or other activities of the College, whether on College premises or elsewhere;
- c) Obstruction of, or improper interference with, the functions, duties or activities of any student or member of staff of the College or any authorised visitor to the College;
- d) Violent, indecent, disorderly, threatening, intimidating or offensive behaviour or language (whether expressed verbally or in writing, including blogs, social networking websites or other electronic means);
- e) Bullying or harassment of any student or member of staff of the College, or any visitor to the College, on the grounds of sex, race, disability or other grounds;
- f) Fraud, deceit, deception or dishonesty in relation to the College or its students or staff or in connection with holding any office in the College or in relation to being a student of the College. Such action may (without limitation) include failure to reveal details of an 'unspent' criminal conviction, or failure by a student (who undertakes paid or unpaid activity which brings him or her into frequent contact with children or vulnerable adults whilst in his or her student role) to reveal any conviction or offence, whether committed pre or post-admission;
- g) Action likely to cause injury or impair safety either on College premises, at College organised events or on any other sites associated with the College through its professional or other programmes;
- h) Defacement of, or damage to, any property of the College, or any property of a student or member of the College (whether caused intentionally, recklessly or negligently);
- i) Breach of the provisions of any College code, rule or regulation (including this Code);
- j) Failure to comply with a reasonable instruction relating to discipline,
- k) Failure to comply with any sanctions or penalties imposed under this Code;

- l) Unfounded and malicious complaints brought against a member of staff or another student of the College under the Student Complaints Procedure;
- m) Possession or misuse of drugs which also constitutes a criminal offence.
- n) Causing a nuisance (including causing excessive levels of noise)

3.2.3 The above list is for illustrative purposes only and is not exhaustive.

4. FITNESS TO STUDY

- 4.1 Where a student is deemed to be in a state of mind or health which is perceived to pose a threat to, or affect the welfare of staff and/or students of the College, or is disruptive of the learning and teaching process, the College reserves the right to refer the student under the Fitness to Study Procedure.

5. INITIATION OF THE STUDENT DISCIPLINARY PROCEDURE

- 5.1 An allegation may be brought by a member of staff, another student or a member of the public.
- 5.2 An alleged incident of misconduct by a student which cannot be resolved satisfactorily between the parties themselves should be reported either to the student's Section Head (if known) or to the Higher Education Manager, via the Higher Education Faculty Office located with the University Centre
- 5.3 If the Faculty Office receives a complaint, it will pass it to the appropriate Section Head (or nominee).
- 5.4 Any misconduct as defined in this Code will be considered under one of the following three levels of disciplinary action in the first instance:
 - 5.4.1 In cases of minor infringements, the College will seek to resolve disciplinary matters *informally* under Stage 1 of the procedure (see section 6 below). The Stage 1 procedure is operated by the Personal Tutor or Higher Education Lead.

5.4.2 If the matter cannot be resolved informally, the Section Head, will conduct a formal *investigation* under the Stage 2 procedure (see section 7 below).

5.4.3 Where a Section Head determines that matters are sufficiently serious, they may refer the matter to the Stage 3 procedure (see section 9 below). Where a student has already been dealt with under the Stage 2 procedure for a previous matter during his or her time as a student of the College, any repeat disciplinary offences should be referred to the Stage 3 procedure. This will be done via the Higher Education Faculty Office.

5.5 Students will have the right to appeal against decisions at each stage of this Code.

6 STAGE 1 - MISCONDUCT OF A MINOR NATURE

6.1 In cases where an act of misconduct is of a minor nature, the student will be cautioned by the Personal Tutor or Higher Education Lead, as appropriate. This will be recorded on the student's file but will be removed after the completion of the student's studies provided that there are no further instances of misconduct. If the student is found guilty of misconduct on a subsequent occasion, a previous caution (and any other previous penalty) can be taken into account when deciding on the level of penalty on that subsequent occasion.

6.2 Where the Personal Tutor or Higher Education Lead cautions a student, the matter will also be reported to the Faculty Office.

6.3 The person dealing with the matter will submit a report to the Higher Education Faculty Office, a copy of which will be held for audit purposes.

6.4 If the student is not satisfied with the outcome of the Stage 1 procedure s/he may submit an appeal to the Higher Education Faculty Office to be considered the Vice Principal Curriculum as set out in section 7 below.

7 STAGE 2 - DISCIPLINARY CASES INVOLVING MISCONDUCT

7.1 In the case of a more serious breach of this Code, or of reoffending after a previous caution, the Section Head as appropriate will:

- 7.1.1 Undertake an investigation into the allegation.
 - 7.1.2 Inform the student of the nature of the alleged misconduct and, having given reasonable notice, permit the student an opportunity to be interviewed. A student attending such an interview may be accompanied by a representative who may speak on the student's behalf; and
 - 7.1.3 Determine, in light of the evidence, whether a breach of this Code has been committed;
- 7.2 The Section Head having considered matters, may take one or more of the following courses of action:
- 7.2.1 Resolve that no action be taken;
 - 7.2.2 Issue a written warning to the student indicating the consequences of future misconduct, to be entered into the student's file, removable after the completion of the student's studies. This may set out actions and expectations for the student to comply with
 - 7.2.3 Require the student to compensate for or make good any damage caused to College property or that of a placement;
 - 7.2.4 Require the student to make appropriate recompense or apology for any offence or harm caused, or any damage done, to the College's relations with its members or the outside community;
 - 7.2.5 Recommend to the Assistance Principal for the Curriculum area where the student is studying, that the student is suspended with immediate effect from College premises and/or services for a set period of time, as set out in section 13, below.
 - 7.2.6 Refer the matter to a Stage 3 Disciplinary Panel.
- 7.3 On completion of the disciplinary investigation under the Stage 2 procedure, the student will be sent, within 10 working days if practicable, a notice in writing stating the outcome of the investigation, the reasons for that outcome, a summary of the alleged facts on which the disciplinary action is based and any penalty imposed. The notice will include a statement on to the procedure for an appeal against the decision (see section 8 below). A further copy of the notice will be sent to the Higher Education Faculty Office be held for audit purposes.

- 7.4 Where a Section Head determines that the matters are sufficiently serious that the student may be permanently excluded from the College, the matter should be referred to the Higher Education Faculty Office so that a Stage 3 Disciplinary Panel can be convened in accordance with section 9 below.

8. APPEALS AGAINST STAGE 1 AND 2 DISCIPLINARY DECISIONS

- 8.1 Any appeal against a decision or penalty imposed by the Section Head under the Stage 1 or 2 procedures should be submitted in writing to the Higher Education Faculty Office within 10 working days of any decision or penalty being notified to the student concerned.
- 8.2 A student may submit an appeal on the following grounds;
- a) Procedural irregularity or other administrative error;
 - b) Where there is new evidence of extenuating circumstances which, for good reason, was not available at the time that the Section Head made the decision;
 - c) Where the Section Head has acted unfairly or imposed an unfair penalty.
- 8.3 Appeals will be reviewed by the Vice Principal Curriculum
- 8.4 The Higher Education Faculty Office will request the Section Head to supply a written summary outlining the facts of the case and the reasons for their decision. The Higher Education Faculty Office will send a copy of this summary to the student concerned with an invitation to comment.
- 8.5 When the documentation referred to in section 8.5 has been received, the information will be passed to the Vice Principal Curriculum to either reject or uphold the appeal. The decision is final and a decision letter and a 'Completion of Procedures' letter will be issued unless the matter has been referred to Stage 3, as set out in paragraph 7.2.8 above.
- 8.6 Following completion of the College's internal appeals procedure, a student may make a complaint to the Office of the Independent Adjudicator for Higher Education (OIA) (see section 14).

9. STAGE 3 DISCIPLINARY PROCEDURES

- 9.1 In a case where the Section Head has decided to proceed to the Stage 3 procedure, a panel convened in accordance with this section 9 (the 'Disciplinary Panel') shall normally aim to hear such a case within 20 working days of notification.

- 9.2 In the event of a decision to proceed to the Stage 3 procedure, the Higher Education Faculty Office, will collect evidence, call for papers, identify and summon witnesses and conduct such other enquiries as it may think fit. Higher Education Faculty Office will also provide the student with a letter setting out the allegations and a copy of this Code. If the allegation relates to a student on a programme leading to professional registration, the case will be referred directly to the Fitness to Practise procedures, which will supersede the Stage 3 procedure.
- 9.3 The Disciplinary Panel will be chaired by the Higher Education Manager, who will sit with two Assistant Principals. The Deputy Higher Education Manager (or his or her nominee) will also be in attendance as observer and to provide advice.
- 9.4 No person who has previously had any involvement with the case will sit on the relevant Disciplinary Panel.
- 9.5 The procedure for a hearing before the Disciplinary Panel is as follows:
 - 9.5.1 Written statements will be submitted to the Higher Education Faculty Office by the student and any other relevant parties. These papers together with any additional information will be circulated to the Disciplinary Panel, and the student no later than 5 working days before the Disciplinary Panel hearing.

- 9.5.2 The Assistant Principal from the Curriculum area from which the student is studying (not a panel member) shall put the case in the presence of the student and may call witnesses, this might include the Section Head who was involved at Stage 2;
- 9.5.3 The student shall have the opportunity to ask questions (on the evidence given)
- 9.5.4 The Disciplinary Panel may ask questions of the witnesses. The witnesses will then withdraw.
- 9.5.5 The student (or his or her) representative will present his or her case in the presence of the Panel, and Assistant Principal from the curriculum area where the student is studying, and call witnesses; the student's representative may also speak on his or her behalf;
- 9.5.6 The Assistant Principal from the Curriculum area from which the student is studying will have the opportunity to ask questions of the student, his or her representative and his or her witnesses;
- 9.5.7 The Disciplinary Panel may ask questions of the student and his or her representative and witnesses. All witnesses shall then withdraw;
- 9.5.8 The Assistant Principal from the curriculum area from which the student is studying, and the student shall have an opportunity to sum up their respective cases if they so wish, the student's statement being heard last;
- 9.5.9 The Assistant Principal from the Curriculum area from which the student is studying and the student and representative shall withdraw;
- 9.5.10 The Disciplinary Panel, with the Deputy Higher Education Manager, will deliberate in private. They may choose to recall any witness if the Disciplinary Panel requires further clarification; and
- 9.5.11 When the Disciplinary Panel has reached a decision it will recall both the Assistant Principal and the student (and his or her representative) and confirm the decision verbally. The Higher Education Faculty Office will then confirm the decision in writing within 10 working days of the Disciplinary Panel hearing.

10. DECISION OF THE DISCIPLINARY PANEL UNDER STAGE 3.

- 10.1 The decision of the Disciplinary Panel shall be one of the following, namely to:
- 10.1.1 Dismiss the case unconditionally;
 - 10.1.2 Dismiss the case conditionally (in which case, no further action will be taken against the student concerned, provided that the student fulfils certain specified conditions);
 - 10.1.3 Issue a written reprimand and warning (in which case the student is warned that, if he or she were to commit further acts of misconduct of any nature in the future, his or her present offence would be taken into account in the course of any further hearings convened to consider such further misconduct);
 - 10.1.4 suspend the student from all or part of the College for a specified period;
 - 10.1.5 exclude the student from the award of a degree or other qualification, either permanently or for a specified period, and either absolutely or conditionally pending compliance with certain specified conditions;
 - 10.1.6 Permanently expel the student from the College; or
 - 10.1.7 Impose such other sanctions as may be considered appropriate by the Disciplinary Panel.
- 10.2 If a student has been found guilty of having caused injury, damage or loss to any person or property, he or she may, in addition to any one of the sanctions referred to in section 10.1
- 10.3 Details of the offence and penalties imposed shall be entered on the student's record. A copy of the decision will be held in the Higher Education Faculty Office for audit purposes.
- 10.4 The record of a student's case which has been dismissed unconditionally shall be destroyed
- 10.5 Where the actions of a student or students contravene the Health & Safety at Work etc Act 1974 and are so considered by a Health and Safety Executive Inspector, the student(s) may face prosecution under the Health and Safety at Work Act etc 1974 or other safety regulations in addition to any action taken by the College.

11. APPEALS AGAINST STAGE 3 DISCIPLINARY PANEL DECISIONS

11.1 A student may appeal against a decision or penalty imposed by the Disciplinary Panel under the Stage 3 procedures. Any such appeal must be submitted in writing to the Higher Education Faculty Office within 10 working days of any decision or penalty being notified to the student concerned.

11.2 A student may submit an appeal on the following grounds;

- a) Procedural irregularity or other administrative error;
- b) Where there is new evidence of extenuating circumstances which, for good reason, was not available at the time that the Disciplinary Panel made its decision; and / or
- c) Where the Disciplinary Panel acted unfairly or imposed an unfair penalty.

11.3 Appeals will be reviewed by the Vice Principal Curriculum, provided that he or she will not have been involved previously in the particular disciplinary procedure against the student

11.4 The Higher Education Faculty Office will submit notice of the student's appeal and a summary of the case and such other documentation as it shall consider relevant to the Vice Principal Curriculum (or his or her nominee) for review.

11.5 When all of the documentation referred to in section 11.4 has been received and considered, the Vice Principal Curriculum shall decide in his or her discretion whether to reject or uphold the appeal. The decision of Vice Principal Curriculum is final and a decision letter and 'Completion of Procedure' letter will be issued.

11.6 Following completion of the College's internal appeals procedure, a student may make a complaint to the OIA (see section 14).

12. CRIMINAL ALLEGATIONS, POLICE and CRIMINAL COURTS

12.1 Where a student is the subject of an investigation by the Police or other agency in relation to an alleged criminal offence, he or she must report this to the Higher Education Faculty Office at the earliest opportunity. The Higher Education Manager will report any such disclosure to the Vice Principal Curriculum.

12.2 The College may report an allegation of misconduct by a student to the Police or any other agency as appropriate, although it shall be entitled (but not obliged) to take into account the wishes of a victim of the alleged misconduct if he or she does not want the Police or other agency to be involved).

- 12.3 A 'serious criminal offence' for the purposes of this Code is one which:
- a) Is triable only in a Crown Court;
 - b) Is punishable by a custodial sentence; and
 - c) If proven, is likely to result in expulsion or suspension of the student concerned from the College
- 12.4 If the Vice Principal Curriculum considers that the alleged misconduct is not a serious criminal offence within section 12.3 above), he or she will normally refer the matter to the appropriate Section Head to deal with under this Code .
- 12.5 If the Vice Principal Curriculum considers that the alleged misconduct is, or may be, a serious criminal offence within section 12.3 above) no internal disciplinary action will normally be taken (other than suspension from or restricted access to the College for a specified period in accordance with section 13 below), until the matter has been reported to the Police or other agency as appropriate and either a prosecution has been completed or a decision not to prosecute has been taken.

13. SUSPENSION AND RESTRICTED ACCESS TO COLLEGE PENDING CONCLUSION OF INVESTIGATION

- 13.1 The Vice Principal Curriculum at his or her discretion may suspend a student from the College or restrict the student's access to the College if:
- (a) The Vice Principal Curriculum considers that the misconduct which the student concerned is alleged to have committed is serious and is satisfied that such suspension or restriction is necessary to protect the students or staff of the College or their (or the College's) property; or
 - (b) The student's presence at the College (or part of the College) may inhibit a proper investigation of the misconduct alleged against him or her.
- 13.2 Written reasons for the decision shall be recorded and made available to the student. The document containing the written reasons shall also set out the terms of any suspension or restriction(s) (which may include a requirement that the student shall have no contact with a named person or persons) and the procedures by which the student may request the decision to be reviewed.
- 13.3 Unless the matter is deemed to be urgent by the Vice Principal Curriculum, no student shall be suspended or subject to an access restriction unless he or she has been given an opportunity to make representations to the Vice Principal Curriculum. The representations may be made in person (at a time and venue to be agreed between the student and the Principalship Office) or in writing (as the student

chooses), and may be put forward by the student or by a representative on the student's behalf. In cases deemed to be urgent by the Vice Principal Curriculum, a student may be suspended or have their access to specified facilities or persons restricted with immediate effect. An opportunity will be given to the student to make representations (in the manner mentioned above) as soon as reasonably practicable thereafter.

- 13.4 A decision to suspend a student, or to restrict his or her access, shall be subject to review by Vice Principal Curriculum, at the request of the student, after a period of 4 weeks following the original decision. Such a review will not involve a hearing, but the student, either personally or through his or her representative, will be entitled to make written representations.
- 13.5 In addition to the initial review, the Vice Principal Curriculum shall review the suspension or access restriction on receipt of fresh evidence or any change in circumstances which might affect the original decision.

14. OFFICE OF THE INDEPENDENT ADJUDICATOR

- 14.1 Where a student is dissatisfied with the outcome of the College's disciplinary procedure, he or she may refer the outcome of the case, as a complaint, to the Office of the Independent Adjudicator for Higher Education (OIA)
- 14.2 Further details about the OIA can be obtained from the Higher Education Faculty Office, or from the following website: <http://www.oiahe.org.uk/> or by contacting the OIA at the following address:

The Office of the Independent Adjudicator for Higher Education
Third Floor
Kings Reach
38-50 Kings Road
Reading
RG1 3AA
Telephone: 0118 959 981