



## STAFF MISCONDUCT MANAGEMENT POLICY

<b>Authorised By:</b>	President (CEO)	<b>Revision:</b> 1.5
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<b>Responsible Officer:</b>	Registrar	
<b>Review:</b>	Senior Executive	

Any person who requires assistance in understanding any aspect of this document should contact the Responsible Officer.

### 1. Overview

Tabor is committed to providing a workplace where staff can undertake their duties in the context of a safe Christian community environment. This policy outlines the procedures for addressing staff misconduct.

### 2. Scope and Applications

This policy applies to all employees.

### 3. Policy Principles

- 3.1. Tabor expects high standards of Christian conduct to be demonstrated by all staff members, who it expects will serve as role models for students.
- 3.2. The principles of procedural fairness will be applied to all misconduct processes. The preferred outcome of the misconduct processes is that a staff member will improve their conduct and continue to contribute to the ongoing success of the College.
- 3.3. A staff member may seek assistance from a union or staff representative and may seek procedural advice from the Human Resources Department at any time during the processes.
- 3.4. Every effort must be made by the President's nominee (usually the HR Manager) to address instances of misconduct in a timely and effective manner through guidance, counselling, appropriate personal development, and, where applicable, appropriate work allocation before referring matters involving misconduct to the President.
- 3.5. Adequate opportunities will be given to employees to respond to any allegations of misconduct made against them and the College will take the employee's response into consideration.
- 3.6. Disciplinary action will only be taken as a last resort and an employee will be given reasonable opportunity and support to improve his / her behaviour except in the instance where the misconduct is of such seriousness as to warrant instant dismissal.

### 4. Procedures

- 4.1. Before the President takes disciplinary action against a staff member for reasons amounting to misconduct or serious misconduct, the President's nominee must take the steps in this clause, except that, where a matter which may involve misconduct or serious misconduct has been dealt with in good faith as if it were a case of unsatisfactory performance, the procedures of this policy are not required, but the provisions of clause 40

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(Unsatisfactory Performance) of the **Enterprise Agreement** including notice periods and review procedures must be followed.

- 4.2. Any allegation of misconduct/serious misconduct shall be considered by the President's nominee. If the President's nominee believes such allegations warrant further investigation he/she shall:
  - 4.2.1. Notify the staff member in writing and in sufficient detail to enable the staff member to understand the precise nature of the allegations, and to properly consider and respond to them
  - 4.2.2. Require the staff member to submit a written response within ten (10) working days
  - 4.2.3. Notify the President.
- 4.3. The President's nominee may suspend the staff member on full pay at the time of notifying the President in accordance with 4.2 above, or may suspend the staff member without pay if the President's nominee is of the view that the alleged conduct amounts to conduct of a kind envisaged in sub clause 5.2. provided that:
  - 4.3.1. where suspension without pay occurs at a time when the staff member is on paid leave of absence the staff member shall continue to receive a salary for the period of leave of absence;
  - 4.3.2. the staff member may engage in paid employment or draw on any recreation leave or long service leave credits for the duration of the suspension without pay;
  - 4.3.3. the President's nominee may at any time direct that salary be paid on the ground of hardship;
  - 4.3.4. where a suspension without pay has been imposed and the matter is subsequently referred to a Review Committee, the President's nominee shall ensure that the Committee at its first meeting considers and recommends whether the suspension without pay should continue or not.
- 4.4. If the allegations are denied by the staff member and the President's nominee is of the view that there has been no misconduct or serious misconduct he/she shall immediately advise the staff member in writing, and may, by agreement with the staff member, publish the advice in an appropriate manner.
- 4.5. If the allegations are admitted in full by the staff member and the President's nominee is of the view that the conduct amounts to misconduct or serious misconduct the matter will be referred to the President. The President shall advise the staff member in writing of their decision on the recommendations and the operative date of the disciplinary action.
- 4.6. If the allegation is denied in part or in full or if the staff member has not responded to the allegations the President's nominee shall refer the matter to a Review Committee within a reasonable period of time, unless he/she decides to take no further action or refer the matter to the President. The President may counsel or censure the staff member for unacceptable behaviour and take no other action.
- 4.7. During any period of suspension the staff member may be excluded from the College, provided that he or she shall be permitted reasonable access to the College for the preparation of his or her case and to collect personal property.
- 4.8. The Review Committee will comprise:
  - A representative chosen by the President
  - A representative chosen by the HR Manager (or equivalent role)
  - An independent Chair agreed by the President and the staff representative chosen by the HR Manager (or equivalent role)

The Review Committee shall act in such a way as to ensure that fairness, natural justice and due process are observed and practiced. This will include, but not be limited to, providing the opportunity for the staff member to be heard, to be given adequate opportunity to answer findings or allegations, to be represented in proceedings of the Committee, to present and challenge evidence, and to make submissions. Proceedings shall be conducted in camera unless otherwise agreed between the staff member and the College. The committee shall keep a tape record of the proceedings, but not its own deliberations, which shall be available on request to either the College or staff member. The committee may interview any person it thinks fit, in the presence of the staff member and advocate, in order to establish the merits of the case or facts of the matter under dispute. The tape recording of the proceedings will be kept with all records of the investigations for a period of 5 years by the Human Resources Manager.

- 4.9. On receipt of the report of the Review Committee, and having considered its findings on the facts related to the alleged misconduct or serious misconduct, the President may take disciplinary action. The staff member shall be

advised of the President's decision within ten (10) days of the President receiving the report from the Review Committee.

- 4.10. Where a staff member has been suspended without pay pending the decision of the President, then any lost income shall be reimbursed if there was no serious misconduct. However, a decision taken by the President in his or her discretion not to dismiss or impose another penalty shall not be construed as an admission that there was no conduct justifying suspension without pay.
- 4.11. If having considered the Committee's findings on the facts relating to the alleged misconduct or serious misconduct, the President is of the view that there has been no misconduct or serious misconduct he / she shall immediately advise the staff member in writing, and may, by agreement with the staff member, publish the advice in an appropriate manner.

## 5. Definitions

- 5.1. **Misconduct:** For the purposes of this policy, misconduct occurs when a staff member breaches their obligations under their contract of employment and may include but is not limited to:
  - 5.1.1. Significant and wilful breaches of policies, codes of conduct and other reasonable instructions;
  - 5.1.2. Wilful unauthorised absence from duty; and
  - 5.1.3. Inappropriate use of College property and facilities.
- 5.2. **Serious Misconduct:** Serious misconduct means:
  - 5.2.1. Serious misbehaviour of a kind that constitutes a serious impediment to the staff member, or the staff member's colleagues, carrying out their duties;
  - 5.2.2. Serious dereliction of the duties required of a staff member in his or her position; and/or
  - 5.2.3. Conviction by a court for an offence that constitutes a serious impediment of the kind referred to in 4.2.1 above.
- 5.3. **Disciplinary Action:** Action to discipline a staff member for misconduct or serious misconduct may only be taken by the President, and means:
  - 5.3.1. Formal censure or counselling; and/or
  - 5.3.2. Suspension with or without pay for a reasonable period; and/or
  - 5.3.3. Withholding of an increment; or
  - 5.3.4. Demotion by one or more increments; or
  - 5.3.5. Demotion by one or more classification levels; or
  - 5.3.6. Termination of employment (for serious misconduct only).
- 5.4. **Academic Freedom, Whistle Blowing and Participation in College Governance:** Statements by staff which are perceived as damaging the reputation or business of the College will not be treated as misconduct if the statement:
  - 5.4.1. Is justifiable on the grounds of academic freedom
  - 5.4.2. Brings to public attention a matter on which the College has breached its Act or policies, providing the statement is made after reasonable attempts to address the matter with College authorities
  - 5.4.3. Is made in good faith as a contribution to debate of a matter being considered by one of its Committees

See also [Global Definitions](#)

## 6. Communication / Training

- 6.1. HR Manager will ensure this policy is communicated to all Managers.
- 6.2. Deans of Faculties / Heads of Departments will ensure that staff are aware of this policy and follow its procedures in relation to the management of identified misconduct.