Rule for Student Discipline

1.0 POLICY

Holmesglen will provide a framework within which Institute staff are delegated the power to impose penalties on students whose conduct is prejudicial to the good order and discipline of Holmesglen. This framework will include a process for students who wish to appeal any penalty imposed.

2.0 DEFINITIONS

2.1 Misconduct

Misconduct is defined as:

- any conduct that is prejudicial to the good order and discipline of the Institute, impairs the reasonable freedom of other persons to pursue their studies or research at the Institute or to participate in the life of the Institute, or is likely to bring the Institute into unjustified disrepute; and without limiting the generality of the foregoing

- failure to comply with any reasonable instruction of a member of the Board or staff of the Institute whether pursuant to the Institute Rules or generally, including any instruction given to a student to identify themselves by the production of an identity card or otherwise

- any act that represents fraudulent activities including the falsification of certification documentation in paper or electronic format with the intention that he/she, or another person, shall use it to induce another person to accept it as genuine

- failure to comply with any instruction relating to the safety of the student or of any other person

- any assault upon any person within or near the precincts of the Institute

- any wilful false representation whether oral or written on a matter concerning or affecting the student in their capacity as a student

- grossly negligent or wilful conduct that adversely affects the due conduct of the business of the Board, or the Institute, or the work of any person in that person's capacity as a student or member of the staff of the Institute

- conduct within the precincts of the Institute that is disorderly or interferes with the comfort or convenience of any person who is acting lawfully and entitled to be present

- discriminating against other students or staff in a way which is against the spirit or content of the Equal Opportunity legislation;

- being persistently late or absent for classes, lectures or other timetabled activities of the Institute
- wilfully cheating or attempting to cheat, or knowingly assisting any other student 
to cheat, or attempt to cheat at or in respect of any examination, test, assignment 
or other means of assessment conducted by or on behalf of the Institute
- obscene language, drunkenness;
- wilful or negligent damage, destruction, removal or interference with any property of the 
Board, including infringement of Copyright legislation, wheresoever situated or that of any 
other student or member of the staff of the Institute, or of any person, firm or corporation 
within the precincts of the Institute;
- wilfully entering any part of the precincts of the Institute, or any other place to 
which students may have access for the purposes of tuition, when not entitled to 
do so, or having so entered, refusing to leave;
- knowingly publishing any confidential information of, or held by, the Institute;
- knowingly violating any of the guidelines in the Electronic Mail and Web Services 
Code of Practice published on the student intranet;
- possession of weapons within or near the precincts of the Institute;
- possessing, using or trafficking in a Drug of Addiction or Drug of Dependence 
within the meaning of the Crimes Act 1958 or the Drugs, Poisons and Controlled 
Substances Act 1981, or any Act in substitution thereof;
- failure by or within the required date or period to pay or otherwise to observe any 
Learning Commons fine or other penalty imposed under any Institute Rule;
- failure by or within the required date or period to pay any fee or charge payable under any 
Institute Rule;
- participation in, or conviction for a criminal offence committed within the 
precincts of the Institute or in any way related to the Institute or any student or 
member of the staff.

3.0 RESPONSIBILITIES

3.1 The Board has delegated power to the Chief Executive, Executive Directors, Deans, Head of 
Departments, Manager, Learning Commons and members of the teaching faculties, Technology 
Services Department, Learning Commons and other support staff to impose summarily the 
penalties prescribed where, in the opinion of the staff member, a student is guilty of misconduct 
and the imposition of a penalty is warranted.

4.0 DISCIPLINARY POWERS OF INSTITUTE STAFF

4.1 Any delegated power to impose penalties shall also include power to take all consequential action 
that may reasonably be required to give effect to and enforce penalties including a power to 
 impose any alternative penalty in default of the observance or performance of the original penalty.
4.1.1 The Chief Executive may:

4.1.1.1 expel the student;

4.1.1.2 impose a claim for compensation for damage as specified under clause 4.11;

4.1.1.3 exclude the student for a period of up to one semester;

4.1.1.4 exclude the student from any particular course or any part of a course or program for a specified period not exceeding one academic year including the right to re-enrol;

4.1.1.5 exclude the student from examinations or tests held in a particular period provided that this penalty shall not apply to an enrolled V.C.E. student;

4.1.1.6 require the student to sit for any V.C.E. examination at another examination centre as notified by the Registrar;

4.1.1.7 reprimand the student;

4.1.1.8 withhold a statement of results.

4.1.1.9 refuse the enrolment of new and returning students due to the act of fraudulent activities including falsification of certification documentation, report such activities to the authorities and advise the national regulator for vocational education and training (VET) sector, The Australian Skills Quality Authority (ASQA) on such matters.

4.1.2 An Executive Director may:

4.1.2.1 exercise each of the powers contained in 4.1.1.3 to 4.1.1.9 above.

4.1.3 A Dean may:

4.1.3.1 exclude a student from class or related activities for a period of up to five days;

4.1.3.2 reprimand the student;

4.1.3.3 for misconduct related to assessment in a unit/module/subject (or part thereof) and following consultation with the teacher and/or manager concerned, grade the student as having failed in the unit/module/subject or vary the student’s assessment in that unit/module/subject.

4.1.4 A Head of Department may:

4.1.4.1 exclude a student from class or related activities for a period of up to two days;

4.1.4.2 reprimand the student.
4.1.4.3 for misconduct related to assessment in a unit/module/subject (or part thereof) and following consultation with the teacher and/or senior educator, vary the mark/grade for that particular assessment item only.

4.1.4.4 where a student makes an appeal following the variation of his/her mark/grade for that particular assessment items, forward the request of appeal to the Dean alongside supporting evidence for further action.

4.1.5 Teaching or other Institute staff members may:

4.1.5.1 for misconduct generally, exclude the student from the precincts of the Institute for a period of up to one day

4.1.5.2 exclude the student from the remainder of any class and/or next class, lecture or tutorial for which the staff person has responsibility

4.1.5.3 reprimand the student.

4.1.6 The Manager Learning Commons may:

4.1.6.1 for misconduct in the Learning Commons, reprimand a student

4.1.6.2 for inappropriate use of facilities in the Learning Common, exclude a student for a period of up to two days

4.1.7 Learning Commons staff may:

4.1.7.1 for misconduct generally, exclude the student from the use of the Learning Commons for the remainder of the day.

4.1.7.2 where a student, after due notice, fails to return Institute Learning Commons materials, the Manager, Learning Commons may fine the student at a rate approved by the Chief Executive, or withhold a student’s Statement of Results until:

- the materials are returned and fines duly paid
- a replacement cost is paid and fines duly paid
- a satisfactory explanation in writing for non-return has been made to the Manager, Learning Commons.

4.1.8 The Registrar may:

4.1.8.1 for misconduct pertaining to fraudulent activities and the falsification of certification documentation:

- deny enrolment of new and returning students
- provide advice to the Chief Executive on such matters.
4.2 Student Exclusion from Class

Where a student has been excluded from any class or facility on more than two occasions, the student will, upon incurring a penalty for misconduct following a subsequent offence, automatically incur exclusion from the precincts of the Institute for a period of five days and the matter will be referred to the Executive Director, Educational Development and Design for consideration of further penalty.

4.3 Misconduct related to student assessment

4.3.1 Where a penalty is imposed under sub-clause 4.1.3.3, the student shall be given written notice by the Registrar of such penalty.

4.3.2 Unless the student concerned, within five working days of the notice of imposition of the penalty, gives notice in writing to the Registrar of appeal against the penalty, the Registrar shall adjust the student’s record accordingly.

4.4 Reporting of summary penalty

4.4.1 A summary penalty imposed under sub-clauses 4.1.1 to 4.1.5 (inclusive) shall be documented on the Student Discipline Record (GOV101) by the person imposing the penalty to the Registrar not later than the next working day and a copy put on the student’s file held by the Registrar.

4.4.2 At the end of each week the Registrar shall report to the Chief Executive all summary penalties imposed, of which notice has been given in writing.

4.5 Referral for further disciplinary action

4.5.1 When any staff member under sub-clauses 3.2.1 to 3.2.5 (inclusive) considers that, in addition to any other summary penalty which is imposed, the alleged misconduct of a student is such as to warrant reference to a higher authority for further disciplinary action, it may be so referred.

4.5.2 The student must be advised about the referral to higher authority by the person who imposed the original penalty.

4.5.3 Upon referral, the higher authority may:

   4.5.3.1 exercise all or any powers delegated to them under sub-clause 3.0;
   4.5.3.2 refer the matter to higher authority for further disciplinary action under sub-clause 4.5.1.

4.6 Student appeals

4.6.1 Subject to clause 4.10 any student upon whom a summary penalty has been imposed under clauses 4.1.2 to 4.1.2.1 (inclusive), may appeal to the Chief Executive or the nominated delegate.
4.6.2 Subject to clause 6 any student upon whom a penalty has been imposed under sub-clause 4.1.1 may appeal to the Student Discipline Appeals Committee.

4.6.3 All appeals under sub-clause 6 shall be heard and determined as soon as reasonably convenient.

4.6.4 The decision of the Student Discipline Appeals Committee in relation to an appeal shall be final. Dissatisfaction with the decision of the Student Discipline Appeals Committee can be raised in accordance with the relevant Student Complaint process (Grievance Resolution Procedure).

4.6.5 Subject to Clause 4.1.1.9, returning students shall not have the right to appeal decisions where his/her enrolment is denied following the identification of fraudulent activities including falsification of certification documentation.

4.7 Student Discipline Appeals Committee

4.7.1 The Board shall from time to time appoint a senior member of the Institute Executive as Chair of the Committee.

4.7.2 The Committee shall comprise three members, consisting of the Chair, one full-time member of the teaching staff and a Director’s nominee.

4.7.3 For any hearing, the Chair shall, from a panel of teaching staff comprising one nominated from each Faculty/Teaching Centre of the Institute, select the full-time teaching staff member of the Committee. From time to time Faculties/Teaching Centres will nominate a full-time member of their staff to serve on the Student Discipline Appeals Committee.

4.7.4 The Board member on the Appeals Committee will be a Director’s nominees.

4.7.5 Any casual vacancy on the Committee or teaching staff panel shall be filled by those who appointed the retiree in question. The person so appointed shall hold office for the balance of the appointed term.

4.7.6 All members of the Committee and the panel shall be eligible for re-appointment at any time.

4.7.7 The Registrar shall act as Executive Officer of the Committee and may attend its meetings and deliberations but shall not vote on any issue.

4.7.8 The Chair may from time to time appoint a Secretary to the Committee. The Secretary shall not take part in the deliberation of the Committee or vote on any issue.

4.7.9 No person who is directly involved in a matter referred to the Committee may serve as a member of, or act as secretary to, the Committee which hears the matter.

4.7.10 The Committee shall, subject to this Rule, regulate its own procedure in respect of any hearing.

4.7.11 A quorum of the Committee for any hearing shall be two members.
4.7.12 The decisions of the Committee on any matter shall be by a majority vote, with each member entitled to one vote. Any matter on which the vote is tied shall be determined in favour of the student.

4.8 Student Discipline Committee Hearings

4.8.1 The Committee shall when hearing and before determining any appeal made to it:

4.8.1.1 satisfy itself that the student concerned was notified in writing five working days prior to the hearing, and has received a brief written statement of the misconduct and the penalty imposed

4.8.1.2 have the right to hear the evidence given in support of or against the student and to question any persons giving evidence, and the right to call witnesses and otherwise to produce evidence relating to the matter in question; and

4.8.1.3 give the student concerned the right to be heard either orally or in writing or both.

4.8.2 At the hearing of any appeal before the Committee, the student may be accompanied by an observer being an enrolled student, or by a member of the staff or a family member.

4.8.3 Legal representation by either the Board or student is not permitted.

4.8.4 The Committee may proceed to hear and determine any appeal at the notified time, notwithstanding the failure of the student concerned to appear or otherwise to exercise any of the rights given under this Rule.

4.8.5 The Board will be advised of the Committee’s decision at its next meeting.

4.8.6 The decision of the Committee shall be final, and no further appeal is available.

4.9 Determination of appeals

4.9.1 When determining any appeal, the Student Discipline Appeals Committee, the Chief Executive or the nominated delegate may:

4.9.1.1 uphold the appeal

4.9.1.2 dismiss the appeal

4.9.1.3 set aside the penalty and, in lieu of that penalty, impose any other penalty that the Board, Chief Executive or the nominated delegate is empowered to impose under this Rule.

4.9.2 Where an appeal is upheld in whole or in part, opportunity should be given to the student, so far as may be practicable, to make up any academic ground lost during any period of exclusion. This may include the waiving of additional tuition fees which are incurred for up to one academic year.
4.10 Method of student appeal

4.10.1 Any appeal by a student to the Chief Executive or the nominated delegate shall be exercised by the student delivering to the office of the Registrar during ordinary office hours and within five working days of the notice of imposition of the penalty being appealed against, a written and signed notice of appeal. The Chief Executive may, at his discretion, vary these requirements.

4.10.2 Any appeal by a student to the delegated committee of the Board - the Student Discipline Appeals Committee, shall be exercised by the student delivering to the office of the Registrar during ordinary office hours and within five working days of the imposition of the decision being appealed against, a written and signed notice of appeal. The Student Discipline Appeals Committee may at its discretion, vary these requirements.

4.10.3 A written notice of appeal shall contain:

4.10.3.1 the name of the officer who imposed the original penalty

4.10.3.2 brief details of the alleged misconduct

4.10.3.3 an outline of the grounds of the appeal

4.10.3.4 a statement of whether or not the student proposes to appear and to be heard or to provide a written submission or both and if the student wishes to be represented at the hearing, a statement to that effect with the name, address and occupation of the proposed representative;

4.10.3.5 the names and addresses of witnesses to be called by the student to give evidence;

4.10.3.6 the name and address of any observer nominated by the student.

4.10.4 The Chief Executive or the nominated delegate may, at his/her discretion, on any appeal, grant any extension of time applied for, or may waive any of the requirements of sub-clause 4.10.1.

4.10.5 The Student Discipline Appeals Committee may at its discretion, on any appeal, grant any extension of time applied for, or may waive any of the requirements of sub-clause 4.10.2.

4.11 Compensation for damage

4.11.1 The Board, or the Chief Executive, may, in addition to any other penalty imposed, require a student to pay to the Institute compensation for damage to Board property so caused by the student.

4.11.2 The certification of the Chief Financial Officer as to the value of the property damaged shall be conclusive.
4.12 Suspension of penalty

4.12.1 Any officer who proposes to impose or has imposed any penalty under this Rule may when doing so, or subsequently, subject to such conditions as that officer thinks fit, suspend or defer the operation of the penalty or grant the student time to pay any compensation whether on the grounds of the student’s financial position or otherwise and shall hear and determine any application made at the time of the decision or subsequently by the student concerned for any such suspension or deferment or time for payment.

4.13 Notification of financial penalty and/or decision of appeal

4.13.1 Where a penalty is imposed under sub-clauses 4.1.1.1, 4.1.1.2 and clause 4.11, the student shall be given a notice in writing by the Registrar that includes:

4.13.1.1 brief details of their misconduct for which the penalty was imposed; the provision of this Rule under which the penalty was imposed; a statement of the penalty including particulars of any compensation payable;

4.13.1.2 the date on which the penalty was imposed; the office at and the date by which any compensation must be paid; a statement that the student may apply for a suspension or deferment of any penalty imposed including time in which to pay any compensation;

4.13.1.3 a statement that the Rule confers certain rights of appeal and should therefore be consulted by the student.

4.13.2 Upon determination of any appeal against the imposition of any penalty, the student concerned shall be given a notice in writing that includes details of the determination of the Appeal.

4.14 Withdrawal of student enrolment

4.14.1 A student may have the enrolment in all/individual subjects/modules/units of a program withdrawn by the Institute when:

4.14.1.1 the penalty of expulsion has been imposed, under the Student Discipline Rule by the Chief Executive, or the Board and when any appeals which may arise have been dismissed;

4.14.1.2 the student has been absent from all/individual enrolled subjects/modules/units for the six consecutive weeks immediately prior to the intended withdrawal without notifying the Program Coordinator/Course Leader, Dean or Centre Administration Officer of their intent to continue the program.

4.14.2 A student whose enrolment in any or all subjects/modules/units has been withdrawn must receive the necessary authority to re-enrol and pay all associated charges if the academic record is to be restored for the current year.

4.14.3 A student whose enrolment in all/individual subject/module/unit is withdrawn shall no longer be considered a student of the Institute and shall no longer have the right as a student to enter and to remain in any of the precincts of the Institute or to participate in
any of the classes, examinations, tests or other activities of, or under the control of, the Institute.

5.0 DOCUMENTS

Student Discipline Record (GOV101)

Crimes Act, 1958

Authorisation, Institute Board Meeting held on 13 April 2016.