

Learner Discipline

Section	Academic		
Approval Date	01 Jun 2020	Approved by	Chief Executive
Next Review	30 Nov 2022	Responsibility	Chief Executive
Baldrige Criteria	Customers		

PURPOSE

This policy defines the process to be followed when a learner, domestic or international, has breached the rules and regulations of Otago Polytechnic Limited as detailed in the institution's policies and outlined in **Learner Rights and Responsibilities** information as published online at <https://www.op.ac.nz/students/important-information/learner-rights-and-responsibilities/>.

This policy also sets out the rights of the learner whose case is being dealt with and the appeal processes they can access.

In all disciplinary investigations and decision-making Otago Polytechnic Limited will not discriminate on the grounds of gender, gender identify, race, ethnicity, sexual orientation, marital status, age, disability, religious or ethical beliefs, or political opinions.

COMPLIANCE

[Education \(Pastoral Care of Domestic Students\) Interim Code of Practice 2019](#)

The [Education \(Pastoral Care of International Learners\) Code of Practice 2016](#)

[Ombudsmen Act 1975](#) and all subsequent amendments.

[Privacy Act 2020](#)

[Human Rights Act 1993](#) and all subsequent amendments

POLICY

1. The Chief Executive delegates the investigation of all learner disciplinary matters directly to the Te Kaihāpai.
2. The Te Kaihāpai has the authority to action a range of disciplinary measures, including but not limited to, suspension or exclusion, cancelling academic results, issuing fines, seeking damages or reparation.
 - 2.1 In making decisions and imposing disciplinary measures the Te Kaihāpai will apply the principles of natural justice and procedural fairness to ensure impartiality, balanced and considered assessment of information and decisions based on evidence.
3. Every learner has the right to representation, advice, advocacy, and support at all stages of the investigation of allegation(s) and/or appeal process, by a support person, whanau, representative or nominee of the Otago Polytechnic Limited Students Association.
4. Any matter of concern that might lead to actions under this policy, will be raised with the learner as early as possible with the intention of resolution as directly and informally as possible.
5. With reference to policy *Smokefree / Auahi Kore* any learner who is found smoking in any part of the Polytechnic premises will be asked to move off the premises. If the same learner is found smoking again on Polytechnic premises an instant fine of \$20 may be imposed by the Te Kaihāpai. Any money collected from these fines will be donated to the Otago Polytechnic Limited Education Foundation.

Allegation and Investigation

6. A learner who allegedly breaches Otago Polytechnic Limited rules and/or exhibits unacceptable behaviour, such as

but not limited to:

- cheating
- use of offensive language, imagery, or gestures,
- stealing,
- vandalism,
- threatening or intimidating behaviour,
- acts of aggression,
- or other behaviour that interferes with the rights of other people refer to [learner rights and responsibilities / unacceptable behaviours](#);

will be reported to their Head of College in the first instance who will carry out a preliminary investigation then discuss the allegation with the learner concerned.

8.1 The Head of College may refer the matter directly to the Te Kaihāpai for investigation, support or decision making, if the Head of College feels that such action is appropriate for any reason.

7. If found that there is no case to answer no further action will be taken.
8. If there is a case to answer, the learner will be provided with a written decision, warning, and/or any resulting actions within **five** (5) working days of the discussion of allegation.
 - 8.1 All dates, details, (using the learner number rather than name), copy of letter(s) and evidence will be forwarded to the Te Kaihāpai by way of notification to be entered in the Notification, Complaints, Discipline, and Appeals Register.
9. If the learner believes this decision is unfair, they may write to the Te Kaihāpai within **seven** (7) working days of receiving notice of the decision to request reconsideration of the decision by indicating which part of the decision and the grounds for the reconsideration.
10. If necessary the Te Kaihāpai may ask the learner to attend an additional hearing to further investigate the allegation. If the learner does not attend without notification and good reason the Te Kaihāpai may consider the allegation in the learner's absence.
11. The learner will be provided with a written decision by the Te Kaihāpai within **five** (5) working days of the hearing.
12. The Te Kaihāpai will also notify the Head of College of the decision who in turn may inform their staff as they see fit. The Register will also be updated.
13. The University of Otago's Proctor, who manages Campus Watch, has delegated authority from Otago Polytechnic Limited to deal with Otago Polytechnic Limited learners found behaving inappropriately, or illegally, by way of actions that are unreasonably disruptive to other members of the local community, in the same way as for a University of Otago learner.
 - 13.1 If, after reasonable enquiry and after meeting with the learner concerned, the University of Otago Proctor is satisfied that a learner is guilty of an offence, the Proctor may deal with that learner in one or more of the following ways:
 - a: discharge the learner conditionally or absolutely
 - b: advise or reprimand the learner
 - c: impose a fine not exceeding \$500
 - d: direct the return of any property acquired through misconduct
 - e: direct the payment of compensation of up to \$5,000 in respect of any damage incurred through the misconduct
 - f: direct the learner to carry out work of value to the Polytechnic or the local community for up to 40 hours
 - g: direct the learner not to attend a specific social function or functions, or not to visit some specific part of the Polytechnic (or University), including Halls of Residence for a period of up to 31 December in the year in which the penalty is imposed.
 - 13.2 A learner may appeal the decision of the Proctor by writing to the Te Kaihāpai, Otago Polytechnic Limited within **seven** (7) days outlining the grounds for the appeal. The Te Kaihāpai may uphold the appeal, investigate the matter further, or reject the appeal.

14. In any case the where Proctor considers that the circumstances of a learner’s offending or alleged offending require formal consideration or that the circumstances of a learner’s offending or alleged offending may warrant penalties beyond those which the Proctor is empowered to impose, the Proctor may refer the learner to the Te Kaihāpai who may deal with a complaint in one or more of the following ways:
- a: discharge the learner conditionally or absolutely
 - b: advise or reprimand the learner
 - c: impose a fine not exceeding \$1,000
 - d: direct the return of any property acquired through misconduct
 - e: direct the payment of compensation up to \$5,000 in respect of damage to property
 - f: direct the learner to carry out work of value to the Polytechnic or the local community for up to 60 hours
 - g: direct the learner not to attend a specific social function or functions, or not to visit some specific part of the Polytechnic, including Halls of Residence for a period of up to 31 December in the year in which the penalty is imposed.

Suspension

15. If the Te Kaihāpai considers an allegation to be sufficiently serious (i.e. threaten the safety of the learner or others), the Te Kaihāpai may suspend the learner while the allegation is investigated.
16. Suspension is a short-term exclusion and is the formal process by which the learner is temporarily prohibited from attending classes or refused access to services provided by Otago Polytechnic Limited.
17. If a learner's performance or participation in any off-site excursion, practical, or work experience is, at the absolute discretion of Otago Polytechnic Limited, unsatisfactory for whatever reason, the Polytechnic may temporarily remove that learner's attendance at the off-site excursion, practical, or work experience, and the Polytechnic’s relevant procedures will be instigated.

Exclusion

18. In the case of serious misconduct or breach of discipline a learner may be excluded form Otago Polytechnic Limited. All exclusions must be authorised by the Te Kaihāpai following consultation with the Chief Executive or by the Chief Executive directly.

Appeals

19. If the learner is dissatisfied with the Te Kaihāpai’s decision, they can request that the Te Kaihāpai review the decision. If the learner remains dissatisfied following this review they may make a complaint to the Commerce Commission, or the Privacy Commission, or New Zealand Qualifications Authority (NZQA), or under section 13(1) of the Ombudsman Act 1975, or take legal action.
- 19.1 An international learner who is dissatisfied with the Te Kaihāpai’s decision can contact NZQA via their website <https://www.nzqa.govt.nz/about-us/make-a-complaint/make-a-complaint-about-a-provider/> or emailing risk@nzqa.govt.nz

Reporting

20. The Te Kaihāpai will sign off the actions in the Register once the matter is concluded.
21. Using the information in the Register, the Te Kaihāpai shall prepare in February of each year, a summary report of the previous year’s investigations and notifications. Copies are to be sent to the Chief Executive and Otago Polytechnic Limited Board.

REFERENCES

[Learner Rights and Responsibilities](#)

Smokefree / Auahi Kore Policy

Application, Entry, and Enrolment Policy

International Learner Attainment and Attendance Policy

Harassment and Bullying Prevention and Management Policy



Signed by: Dr Megan Gibbons
Chief Executive

Date: 01 June 2020