



## **Student Discipline (Library Resource Materials) Mandatory Procedure**

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## Student Discipline (Library Resource Materials) Mandatory Procedure

### Contents

<b>1</b>	<b>Introduction.....</b>	<b>3</b>
<b>2</b>	<b>Definitions .....</b>	<b>3</b>
<b>3</b>	<b>Context .....</b>	<b>4</b>
<b>4</b>	<b>Withholding of borrowing privileges.....</b>	<b>4</b>
<b>5</b>	<b>Library material not returned by the due date.....</b>	<b>5</b>
<b>6</b>	<b>Library Material returned in a damaged condition.....</b>	<b>6</b>
<b>7</b>	<b>Appeals.....</b>	<b>7</b>
7.1	Lodging appeals .....	7
7.2	Effect of appeal.....	7
7.3	Review Committee .....	8
7.4	Procedure at appeal .....	8
7.5	Determination by Review Committee .....	9
<b>8</b>	<b>Miscellaneous .....</b>	<b>9</b>
8.1	Orders as to costs .....	9
8.2	Recovery of fines and compensation from students.....	9
8.3	Service of notices .....	10
8.4	Relationship with Student Discipline Policy .....	10
<b>9</b>	<b>Roles and Responsibilities.....</b>	<b>10</b>
<b>10</b>	<b>Further Information .....</b>	<b>11</b>

## 1 Introduction

The Student Discipline (Library Resource Materials) Mandatory Procedure covers aspects of student discipline related to library materials. The Student Discipline (Library Resource Materials) Mandatory Procedure applies to students throughout the TAFE Commission.

Students have a need to borrow books and other resources from libraries at TAFE establishments (referred to in this Procedure as “library material”). In order to meet that need, the TAFE Commission grants to each student the privilege of borrowing library material, but such privilege is subject to the student complying with certain rules, those rules being necessary to ensure that all other students who require access to library material are reasonably and equitably able to gain such access. A breach of those rules (referred to in this Procedure as a “breach of library discipline”) may result in action being taken in accordance with this Procedure.

Students are required to return library material by the due date and in good condition. Failure to do so may result in withdrawal of privileges, withholding of results, imposition of penalties and orders to pay compensation.

## 2 Definitions

In this Procedure:

*Authorised Officer* of a TAFE establishment means a member of the staff of the TAFE establishment appointed by the Executive Officer of that TAFE establishment as the Authorised Officer for the establishment, and includes any person acting as an Authorised Officer for the establishment. Each TAFE establishment at which there is a library is to have at least one Authorised Officer. The Library Manager is deemed to be an Authorised Officer.

*Breach of library discipline* means any of the following:

- the failure by a student to return an item of library material by the due date;
- the return of an item of library material in a damaged condition (after allowing for fair wear and tear).

*Breach of Library Discipline Notice* is defined in clauses 4.2 and 4.3 for the respective purposes of those clauses.

*Due date* means, in respect of any item of library material, the date on which it is due to be returned.

*Employer report* means a document produced by or on behalf of the TAFE Commission for the purpose of advising the employer of a student of the student’s results, level of attainment, competency or attendance in respect of a course or program or part of a course or program.

*Executive Officer* of a TAFE establishment means the member of staff in charge of the establishment (whether under the title of College Director or Campus Manager or otherwise), and includes any person acting as the person in charge of the establishment.

*Institute* means a group of TAFE establishments within a single administrative unit and, in relation to a particular TAFE establishment, means the Institute (if any) to which the establishment belongs.

*Institute Council* means the Council appointed by the Managing Director for an Institute, and includes any person authorised to exercise the functions of the Council.

*Institute Director* of a TAFE establishment that forms part of an Institute means the person holding office (or acting) as the Director of the Institute.

*Library Manager* means the member of staff in charge of a library at a TAFE establishment (whether under the title of Library Manager or Campus Librarian or Librarian in Charge or otherwise), and includes any person acting as the person in charge of the library.

*Library material* means a book or any other material or resource capable of being borrowed from the library by a student.

*Managing Director* means the Managing Director of the TAFE Commission.

*Member of staff* means a person employed to do work for the TAFE Commission.

*Review Committee* means a committee appointed under clause 5.3

*Result notice* means a document produced by or on behalf of the TAFE Commission that evidences a student's results in a course or program or part of a course or program.

*Student* means:

- a person enrolled in a course or program conducted by the TAFE Commission, or
- a person attending a TAFEPLUS course or program, or
- an overseas student attending a course or program conducted by the TAFE Commission, or
- a person attending a course or program conducted by the TAFE Commission for an external organisation on a fee for service basis.

*Student Discipline Policy* means the policy published on the DET intranet as the [TAFE NSW Student Discipline Policy](#) (Reference Number PD/2002/0075/V02).

*TAFE Commission* means the New South Wales Technical and Further Education Commission constituted by the Act.

*TAFE establishment* means an institution providing technical and further education (as such expression is defined in the Act), being an institution established and maintained by the TAFE Commission.

*TAFE Gazette* means the official publication of the TAFE Commission published from time to time.

*Testamur* means a document (such as a diploma or certificate) that evidences a student's attainment, competency or attendance.

*The Act* means the Technical and Further Education Commission Act 1990.

### **3 Context**

Under section 7 (1) (f) of the Act the TAFE Commission may impose penalties (including pecuniary penalties) for breaches of discipline by students of TAFE establishments.

## **4 Withholding of borrowing privileges**

If a student commits a breach of library discipline, that student shall not be permitted to borrow any library material:

- 4.1 If the item of library material has not been returned – until such time as the item is returned (or any amount of compensation ordered to be paid under this Procedure has been paid), and any monetary penalty imposed under this Procedure has been paid; or
- 4.2 If the item of library material is returned in a damaged condition (allowing for fair wear and tear) – subject to the terms of this Procedure, until such time as any amount of compensation ordered to be paid under this Procedure has been paid, and any monetary penalty imposed under this Procedure has been paid.

## **5 Library material not returned by the due date**

- 5.1 If a student fails to return an item of library material by the due date, an Authorised Officer may on any date after the due date cause a notice to be served on the student (referred to in this clause as the “First Notice”) advising the student:
  - a) that the return of the item is overdue;
  - b) that, as from the day after the due date, the student’s borrowing privileges have been withdrawn pending the return in good condition of the item; and
  - c) that other consequences may follow if the item is not returned.
- 5.2 If a student is served with a First Notice, and if the student has not returned the item of library material referred to in the First Notice by a date seven (7) days after the date of the First Notice, then an Authorised Officer may, on that date or any date thereafter, cause a second notice to be served on the student (referred to in this clause as the “Final Notice”):
  - a) confirming that the return of the item is overdue;
  - b) confirming that, as from the day after the due date, the student’s borrowing privileges have been withdrawn pending the return in good condition of the item;
  - c) advising that unless the item is returned by not later than a date specified in the Final Notice (being a date not earlier than twenty-one (21) days after the due date):
    - 1. the sum of \$10 will then become due and payable by the student by way of penalty (with borrowing privileges continuing to be withdrawn until it is paid);
    - 2. the cost of replacement of the item (plus GST) will then become due and payable by the student by way of compensation (with borrowing privileges continuing to be withdrawn until it is paid) unless the item is returned in good condition; and
  - d) advising that any testamur, result notice or employer report to, or in respect of, the student will not be issued until such time as the sums in 5.2 (c) have been paid.

5.3 If a student is served with a First Notice and a Final Notice, and if the student has not returned the item of library material referred to in the First Notice and the Final Notice by a date seven (7) days after the date of the Final Notice, then an Authorised Officer may on that date or any date thereafter cause a third notice to be served on the student (referred to in this clause as the "Breach of Library Discipline Notice"):

- a) confirming that the return of the item is overdue;
- b) advising that, as from the day after the due date, the student's borrowing privileges have been withdrawn until such time as the student:
  1. pays the sum of \$10 by way of penalty; and
  2. either returns the item or pays the sum specified in the Breach of Library Discipline Notice, being an amount reasonably determined by the Authorised Officer to be the cost of replacing the item, by way of compensation;
- c) advising that any testamur, result notice or employer report to, or in respect of, the student will not be issued until such time as the sums in 5.3 (b) have been paid; and
- d) providing a brief summary of the appeal procedure.

5.4 As from the date of service of the Breach of Library Discipline Notice, the sums referred to in the Breach of Library Discipline Notice shall become due and payable by the student to the TAFE Commission, and any testamur, result notice or employer report to, or in respect of, the student shall not be issued until such time as the sums specified in the Breach of Library Discipline Notice have been paid.

## **6 Library Material returned in a damaged condition**

6.1 If at any time, a student returns an item of library material in a damaged condition (allowing for fair wear and tear), an Authorised Officer may, not later than fourteen (14) days after the item is returned, cause a notice to be served on the student (also referred to in this clause as the "Breach of Library Discipline Notice"):

- a) advising the student that the item has been returned in a damaged condition (allowing for fair wear and tear);
- b) advising that, as from the day of the item's return, the student's borrowing privileges have been withdrawn (or remain withdrawn, if the item was also returned late) until such time as the student:
  - pays the sum of \$10 by way of penalty; and
  - pays such other sum as shall be specified in the Breach of Library Discipline Notice, being an amount reasonably determined by the Authorised Officer to be the cost of repairing or replacing the item, by way of compensation;
- c) advising that any testamur, result notice or employer report to, or in respect of, the student will not be issued until such time as the sums in 6.1 (b) have been paid; and
- d) providing a brief summary of the appeal procedure.

- 6.2 As from the date of service of the Breach of Library Discipline Notice, the sums referred to in the Breach of Library Discipline Notice shall become due and payable by the student to the TAFE Commission, and any testamur, result notice or employer report to, or in respect of, the student shall not be issued until such time as the sums specified in the Breach of Library Discipline Notice have been paid.
- 6.3 Subject to subclause 6.4, if a Breach of Library Discipline Notice under this clause is not served within fourteen (14) days of an item of library material's return, the item shall have been deemed to have been returned in an undamaged condition.
- 6.4 If an Authorised Officer is unable to quantify the cost of repair within fourteen (14) days of the item's return an Authorised Officer may cause a provisional Breach of Library Discipline Notice to be served on the student within that period noting that the amount of the cost of replacement or repair of the item is yet to be ascertained. If after serving an Provisional Notice an Authorised Officer is unable to serve a Breach of Library Discipline Notice within twenty-eight (28) days of the return of a damaged item of library material the item shall be deemed to have been returned in an undamaged condition.

## **7 Appeals**

### **7.1 Lodging appeals**

- 7.1.1 A student may lodge an appeal against one or more of the following:
- a) a determination that the student is guilty of a breach of library discipline; or
  - b) a penalty imposed on the student in respect of the breach; or
  - c) an amount of compensation ordered to be paid by the student.
- 7.1.2 The appeal must be lodged within twenty-one (21) days after the date on which the Breach of Library Discipline Notice under clause 5.3 or clause 5.4 is served on the student.
- 7.1.3 A student lodges an appeal by giving written notice of the appeal to the Executive Officer of the TAFE establishment concerned.
- 7.1.4 The notice must be signed by the student and must specify:
- a) the determination, penalty or compensation amount against which the appeal is lodged; and
  - b) the grounds of the appeal; and
  - c) the student's residential address.
- 7.1.5 The notice may, if the student wishes, nominate a person for the purposes of clause 7.3.3 (a) to sit on the Review Committee.
- 7.1.6 Within twenty-one (21) days after a student has lodged a notice of appeal, the Authorised Officer must cause the student to be notified in writing of the place, date and time for the hearing of the appeal.

### **7.2 Effect of appeal**

- 7.2.1 Subject to subclause 7.2.2, the lodging of an appeal suspends any penalty or order for compensation:

- a) against which the appeal is made, or
  - b) arising from the determination against which the appeal is made with the suspension taking effect when the appeal is lodged.
- 7.2.2 The lodging of the appeal does not affect the withdrawal of borrowing privileges nor the withholding of any testamur, result notice or employer report to, or in respect of, the student.
- 7.2.3 The suspension ceases to have effect if the appeal is withdrawn or determined.

### **7.3 Review Committee**

- 7.3.1 The TAFE Commission must convene a Review Committee to hear and determine an appeal.
- 7.3.2 A Review Committee is to be constituted by 3 members.
- 7.3.3 One of the members of the Review Committee is to be:
- a) a member of staff of the TAFE establishment concerned nominated by the student in the notice of appeal, or
  - b) if no such nomination is made or if the nominated person refuses to sit on the Review Committee, a member of staff of the TAFE establishment concerned nominated by:
    - 1. the Institute Director for the TAFE establishment, or
    - 2. in the case of a TAFE establishment that does not form part of an Institute, the Executive Officer of the TAFE establishment.
- 7.3.4 One of the members of the Review Committee is to be a person nominated by the senior body responsible for the operational management of the Institute for the TAFE establishment concerned or, if there is no such body, by the Authorised Officer.
- 7.3.5 One of the members of the Review Committee is to be a person nominated by the Institute Council for the TAFE establishment concerned or, if there is no such Council, by the Managing Director. This member is to preside at meetings of the Review Committee.
- 7.3.6 An Authorised Officer who issued any notice in respect of the item of library material, the subject of the appeal, is ineligible to be a member of a Review Committee.

### **7.4 Procedure at appeal**

- 7.4.1 A Review Committee may determine:
- a) the procedure to be followed by the Committee, and
  - b) the persons who may be present during proceedings before the Committee, and
  - c) the witnesses (if any) who may be called before the Committee.
- 7.4.2 Neither of the following persons is entitled to call witnesses to appear at a determination of an appeal:
- a) the student who is the appellant,

- b) the Authorised Officer who made the determination in respect of which the appeal was lodged.
- 7.4.3 However, the student concerned and the Authorised Officer may each nominate a person to represent him or her before the Review Committee making the determination.
- 7.4.4 A Review Committee must give the student concerned or the student's nominee (if any) and the Authorised Officer or that Officer's nominee (if any) an opportunity to be heard.
- 7.4.5 The student concerned or the student's nominee (if any) and the Authorised Officer or that Officer's nominee (if any) have the right to be present before the Review Committee at any time when any other person is present before it.
- 7.4.6 A Review Committee is not bound by the rules or practice as to evidence and may inform itself on any matter in such manner it considers appropriate.
- 7.4.7 A record must be kept of the Review Committee's proceedings in such form as the Committee determines and a copy of the record must be furnished by the Review Committee to the student concerned at his or her request without charge.
- 7.4.8 The Review Committee may determine an appeal even if there is no appearance before the Committee by or on behalf of a party to the appeal.

## **7.5 Determination by Review Committee**

- 7.5.1 A Review Committee may, in relation to an appeal:
- a) uphold the appeal, or
  - b) dismiss the appeal, or
  - c) alter a penalty, compensation amount or condition imposed.
- 7.5.2 The decision of a Review Committee is final.
- 7.5.3 Written notice of the Review Committee's decision must be served on the student concerned as soon as is reasonably practicable.

## **8 Miscellaneous**

### **8.1 Orders as to costs**

- 8.1.1 A Review Committee that upholds an appeal may order that the student be paid an amount not exceeding \$100 for any costs or expenses incurred by the student in connection with the appeal. Any such amount is to be paid by the TAFE Commission.
- 8.1.2 Except as provided by subclause 8.1.1, a Review Committee may not make any orders for the payment of any costs or expenses in relation to an appeal.

### **8.2 Recovery of fines and compensation from students**

Any amount that a student is ordered to pay under this Procedure (whether by way of penalty or compensation) may be recovered by the TAFE Commission as a debt in a court of competent jurisdiction.

### 8.3 Service of notices

- 8.3.1 Any notice required by this Procedure to be served on a student may be served:
- a) by its being given to the student in person, or
  - b) by its being sent by prepaid post to the address shown on the student's record of enrolment (or, if no such record is held by the TAFE Commission, to the student's address last known to the TAFE Commission).
- 8.3.2 A notice served as provided in subclause 8.3.1(b) is taken to have been served on the second day after it was posted.

### 8.4 Relationship with Student Discipline Policy

- 8.4.1 Subject to subclause 8.4.3, the taking of action against a student under this Procedure does not prevent the TAFE Commission also taking action under the Student Discipline Policy in relation to the same facts. Nor does the taking of action against a student under the Student Discipline Policy prevent the TAFE Commission taking action under this Procedure in relation to the same facts.
- 8.4.2 Without limiting the generality of subclause 8.4.1, the TAFE Commission may proceed to take action under both this Procedure and the Student Discipline Policy in circumstances where the student has previously been found guilty of, or has allegedly committed a number of offences or has allegedly committed serious and wilful damage to library material.
- 8.4.3 The TAFE Commission shall not be entitled to compensation under both this Procedure and the Student Discipline Policy in respect of the same item of library material.
- 8.4.4 If, in relation to a particular student, a Review Committee constituted under this Procedure consists of the same members as a Review Committee under the Student Discipline Policy, any appeals by the student may be heard concurrently.

## 9 Roles and Responsibilities

**The TAFE Commission** grants to each student the privilege of borrowing library material, but such privilege is subject to the student complying with certain rules, those rules being necessary to ensure that all other students who require access to library material are reasonably and equitably able to gain such access.

Under section 7 (1) (f) of the Act the TAFE Commission may impose penalties (including pecuniary penalties) for breaches of discipline by students of TAFE establishments.

**Students** have a responsibility to return library material by the due date and in good condition.

**Authorised Officers** have the responsibility to issue any notices in respect of items of library material as specified in this procedure and to cause the student to be notified in writing of the place, date and time for the hearing of any appeal as described in the procedure.

## 10 Further Information

The Student Discipline (Library Resource Materials) Policy came into effect as from the commencement of Term 2, 2002 (22nd April, 2002). For an online version of this superseded Policy, see Supplement to Issue No. 8 of 6 March 2002 at <https://detwww.det.nsw.edu.au/admin/gazette/2002/qzr0208s.htm>

Matters concerning the content of this procedure should be referred to the Director, Information, Marketing and Library Services – Ph: (02) 9266 8550.