

1 Higher Education Student Rules and Disciplinary Procedures

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Mapping to Quality Code	B3/6

1.1 General

- 1.1.1 Students are reminded that they are now embarking on training for a physically and emotionally demanding and highly competitive career. You should be aware that a great deal of self-discipline and dedication will be expected of all the students.
- 1.1.2 Ballet West has a considerable reputation in providing excellent training and producing graduates with a high standard of technical ability and impeccable behaviour. You will be expected to uphold the reputation of Ballet West at all times; during classes with our own and, especially, with visiting teachers and outside Ballet West when attending exams or other dance related events. You should also be aware that you are responsible for the good standing of Ballet West in the local community and should do nothing to bring Ballet West into disrepute.
- 1.1.3 Students are expected to conform to agreed policies which are available from the Ballet West website <http://balletwest.ac.uk/policies-regulations/>
- 1.1.4 Students should note that misconduct of any form may have implications for their continuation on their programme
- 1.1.5 Throughout any investigation of alleged Misconduct Ballet West will comply with the principles of natural justice. (for definition see Appendix 3 Glossary)
- 1.1.6 The burden of proof of the allegation of Misconduct lies with the person or persons alleging the misconduct. The judgement of the allegation will be based on 'balance of probabilities' (see for definition see Appendix 3 Glossary).
- 1.1.7 Disciplinary Procedures will be conducted with strict confidentiality. Where sanctions are imposed, Ballet West will ensure that only the Student upon whom such sanctions are imposed, and appropriate Ballet West staff will be informed.
- 1.1.8 Disciplinary action may be invoked against a Student if there is a complaint from any person either from within or outside Ballet West community that a Student has committed Misconduct.
- 1.1.9 These rules will normally be applied in respect of alleged misconduct in relation to activities engaged in, or services and facilities enjoyed, as a student, or occurring

on or in the vicinity of the premises of Ballet West. However, Ballet West reserves the right to take disciplinary action against a student in respect of any Misconduct wherever it may have taken place;

1.2 Misconduct

1.2.1 'Misconduct' for the purposes of the Ballet West disciplinary regulations includes, but is not limited to, the following:

(i) Obstruction or disruption of any academic activity or of the management, administration or operation of Ballet West, including wasting staff time;

(ii) Theft or any other criminal offence on Ballet West premises, misappropriation of Ballet West funds or assets, misuse or falsification of any records or documents belonging to or in the possession of Ballet West, its staff, students or visitors;

(iii) Damage to, defacement or wrongful treatment of, the property of Ballet West, its staff, students or visitors or any deliberate, reckless, negligent or careless act which causes, or is likely to cause, loss, damage or injury, or puts others at risk or which threatens the safety of the premises or its occupants;

(iv) Assault (including sexual assault);

(v) Sexual, racial or other harassment (bullying) or behaviour which causes fear or distress to others (including distress resulting from material placed on social networking sites, see note 1) threatening, abusive, disorderly or unreasonable behaviour; behaviour damaging or contrary to race relations and equality and diversity policies.

A complaint of harassment by another student is 'an allegation of misconduct' and will be covered by these disciplinary regulations.

(vi) Academic Misconduct (including cheating in examinations and plagiarism);
Note: Cases of cheating and plagiarism will normally be dealt with by Academic Misconduct Procedures. However, circumstances may arise where Ballet West or the Examination Board decide that the matter should be dealt with as a disciplinary matter as well as, or instead of, being considered as an academic matter;

(vii) Behaviour which interferes with freedom of speech, thought, action or enquiry of any other student or member of staff or lawful visitor to Ballet West;

(ix) Failure to comply with any ruling made as a result of disciplinary proceedings;

(x) Breach of the regulations for the use of the library and computing facilities,

(xi) Smoking on Ballet West premises

(xii) Any behaviour which brings Ballet West into disrepute; (see note 2 Guidance to Students Living in the Local Community)

(xvi) Any act which the principal has reason to believe is a breach of good discipline of Ballet West.

(xvii) Failure to attend classes will not usually be considered as misconduct, however persistent, frequent or prolonged absence without reasonable explanation and/or repeatedly failing to follow the procedures set out in the Attendance Policy and Procedures may result in disciplinary action, particularly when unexplained absence has a negative impact on other students' work, for example in collaborative work (see (i) above).

1.3 Misconduct that is also a criminal offence

Note: The purpose of this section is to differentiate between those areas which fall to be dealt with under the jurisdiction of the criminal law and those which are appropriate to Ballet West's jurisdiction. Ballet West's processes are not a substitute for, and will not be used to replace, the criminal law.

1.3.1 The following procedures apply where the alleged Misconduct would also constitute an offence under the criminal law if proved in a court of law:

- where the offence under the criminal law is considered to be not serious (having regard to the penalties attached to such offences, and other relevant factors), action under these Rules may continue, but such action may be deferred at the discretion of the principal pending any Police investigation or prosecution;
- in the case of all other offences under the criminal law, no action (other than Suspension or Restriction) may be taken under these Rules unless the matter has been reported to the Police and either prosecuted or a decision not to prosecute has been taken, at which time the principal may decide whether disciplinary action under these procedures should continue or be taken;
- where the Police investigation results in no further action being taken against the Student, Ballet West may still take action under these Rules applying the proof of 'balance of probabilities' as its standard of proof;
- where a finding of Misconduct is made, and the Student has also been sentenced by a criminal court in respect of the same facts, the court's penalty shall be taken into consideration in determining the penalty under these Rules;
- where in any particular case there is doubt as to whether or not the alleged offence should be referred to the Police, Ballet West's decision will rest with the principal in consultation with legal representatives as appropriate.

1.4 Student Disciplinary Procedures - Stage 1 The Informal Stage

1.4.1 It is likely that most cases of misconduct will be of a minor nature and will be dealt with locally and informally by the individual member of staff most closely involved, simply and quickly by an oral warning and/or by advice and guidance to correct behaviour or conduct. If the member of staff judges that the situation warrants it, they may place a note describing the incident on the student's file. Such a note may be referred to in any further disciplinary incidents.

- 1.4.2 Where, however, the complaint is more serious, or if it calls for an investigation, or the alleged offence is outside the normal jurisdiction of the staff directly involved, the matter should be referred to the Principal who will decide whether the case warrants going to Stage 2 (Formal Stage).

1.5 Stage 2 The Formal Stage

- 1.5.1 The Principal gathers preliminary evidence from staff, students and others involved in the allegation and determines whether -

- the matter is sufficiently serious to justify a Formal Disciplinary Hearing
- it constitutes an offence under the criminal law and a decision is taken to report it to the Police.

- 1.5.2 The principal will also consider whether it is appropriate to Suspend or Restrict the student pending a hearing.

- Suspension should be used only where Restriction from specified activities or facilities would be inadequate to appropriately manage risk.
- An order of Suspension or Restriction may include a requirement that the Student should have no contact of any kind with a named person or persons.
- Suspension or Restriction pending a Hearing is not used as a penalty. The power to suspend or restrict under this paragraph is based on:
 - minimising the risk to other members of Ballet West community;
 - minimising the risk of the student re-offending or further offending;
 - minimising any risk of actions that would inhibit a proper disciplinary investigation.
- The power shall be used only where the Principal is of the opinion that it is urgent and necessary to take such action. Written reasons for the decision shall be made available to the Student.
- Any Student suspended or restricted pending a Hearing shall be given an opportunity to make written representations to the Principal. Any such representations should be made within three working days of receiving the notice.
- The Principal will consider such representations and will either confirm or amend the suspension or restriction. This judgement will normally be provided to the student within three working days of submission of the representations.

1.6 Disciplinary Hearing

- 1.6.1 The Panel for the hearing will comprise The Principal, a representative of the Ballet West Staff, a representative of the Board of Trustees. In the event that the Principal has a conflict of interest in the alleged misconduct, a second representative from the board of trustees will chair the hearing.

- 1.6.2 The principles of natural justice (see [glossary](#)) will be applied with when

investigating and considering an allegation of Misconduct.

- 1.6.3 The student will be informed of the composition of the Panel beforehand. If the Student feels there is good reason why there would be a conflict of interest or other good reason why any one of the Panel members would not be able to fairly judge their case, they should submit their argument in writing to the Principal within two working days of receiving notice of the composition of the Panel. They should fully explain the basis of their concerns and support this with evidence in so far as this is possible. The Principal will consider the submission before making a judgement as to whether the proposed composition of the Panel should be changed. The judgement of the Principal on this matter will be final. Papers will only be sent to Panel members after the composition of the Panel has been confirmed.
- 1.6.4 Confidentiality will be maintained in so far as is consistent with these regulations and the need to conduct a full and fair investigation.
- 1.6.5 When arranging a Hearing to consider a case of alleged Misconduct the Principal will notify the student of the nature of the allegation.
- 1.6.6 The student shall be given not less than five working days' notice in writing of the Hearing date and be informed that he/she may be accompanied by a Friend (see glossary), and may call witnesses, at the Hearing. The facts shall be established as fully as possible, calling witnesses where necessary.
- 1.6.7 A student accused of Misconduct should normally be entitled to see and be provided with copies of all relevant documentary material or other evidence at least five working days in advance.
- 1.6.8 A student accused of Misconduct should normally be entitled to question the complainant(s) or other witness(es) However in some wholly exceptional cases this may not be appropriate. Examples of such wholly exceptional cases include (but are not limited to) cases where a complainant or witness alleges that a student is guilty of intimidation, harassment, or violence and the complainant or witness has a reasonable fear of reprisal or otherwise has a valid reason to remain anonymous and does not wish for such valid reasons to be personally identified, or has a valid reason not to be questioned by the student accused of Misconduct.
- 1.6.9 In such wholly exceptional cases, the Principal shall consult with other officers of Ballet West as he/she considers to be appropriate. Following such consultation, he/she may decide to provide the student accused of misconduct with suitably redacted copies of all documentary evidence to remove all references which may identify the names and addresses (as the case may be) of such complainant(s) or witness(es).
- 1.6.10 The Principal must ensure that the student is made aware of the case against him/her and is given an adequate opportunity to provide evidence in rebuttal and to present his/her case. In presenting his/her case, the student shall normally be permitted to question a complainant or witness. If the Principal does not agree to allow the student to question a complainant or witness, the Principal should invite the student to provide the questions they wish to pose. If the Principal considers

such questions to be relevant, they shall put such questions (in the absence of the student and his/her Friend) to the complainant or witness and provide the Student with a full report of the response subject to any redaction they judge necessary to preserve anonymity or appropriate protection.

- 1.6.11 In the event that a student accused of Misconduct who has been requested to attend a meeting conducted under these Regulations fails to attend at the appointed time without reasonable explanation, he/she shall be deemed guilty of Misconduct for which separate disciplinary action may be taken against him/her.
- 1.6.12 Notwithstanding 1.6.11 failure by a student to attend a Hearing under these regulations after being properly served with notice does not prevent the case being proceeded with in the student's absence and disciplinary action taken.
- 1.6.13 In reaching a decision regarding a penalty, notice should be taken of the nature and extent of the alleged Misconduct and the current conduct record of the student.
- 1.6.14 The Principal will establish the facts and may impose one or more of the following penalties as he/she considers appropriate and proportionate in the circumstances:
- a warning with a record placed on the student's file. The Principal will specify the period of time for which such a warning will be taken into account in any future disciplinary case if deemed relevant;
 - a fine or penalty not exceeding £500 (or such revised sum as the Principal may from time to time determine);
 - restitution and/or compensation for damage to, or any loss of, any property, or for wasting staff time;
 - confiscation of any property considered to be dangerous to others;
 - withdrawal of any benefit, facility or privilege relevant to the Misconduct;
 - such other penalty or penalties as the Principal deems fit
 - A recommendation of Expulsion, Suspension, or Restriction to be made to the board of trustees.
- 1.6.15 In the event of a student being expelled or suspended he/she will still be required to pay the full fees for the year including any amount expected to be received from the Student Loans Company but not paid due to the student no longer being enrolled on a course of study.
- 1.6.16 The Principal may also provide pastoral advice regarding behaviour management and signpost the student to relevant support services. This advice will not however be issued as a penalty in accordance with these procedures.

1.7 Stage 3: Appeal

- 1.7.1 A student who is dissatisfied with the ruling of a Disciplinary Hearing may, within

10 working days of being notified of the Hearing's decision, submit an Appeal under the Appeals Policy.

1.8 Note 1: Social Networking Sites

- 1.8.1 Social networking sites are now widely used for both socialising and work. They are readily accessible and offer an immediate means of communication. However, they are relatively public and posted comments may be stored permanently. Care must therefore be taken by students and staff not to cause offence or distress when making comments about individuals or their work.
- 1.8.2 Ballet West has policies and procedures in place regarding the expected conduct towards others, whether that be verbal or written conduct. Breaches of these policies and procedures will result in disciplinary action being taken in accordance with Ballet West's disciplinary regulations.
- 1.8.3 Legislation is also in place to ensure that individuals are protected from online abuse. Criminal legislation includes, but is not limited to the following:
- Malicious Communications Act 1988, which makes it a criminal offence to send a communication with the intention of causing distress or anxiety
 - Criminal Justice and Public Order Act 1994
 - Protection from Harassment Act 1997
 - Communications Act 2003, which makes it a criminal offence to send "...by means of a public electronic communication network a message or other matter that is grossly offensive or of an indecent, obscene or menacing character"
- 1.8.4 There is also a body of civil law dealing specifically with libel and slander.
- 1.8.5 The following points should therefore be borne in mind when using any website discussion forum (including discussion groups associated with your programme of study):
- Never say anything that you know may cause offence or distress to others
 - Remember that unknown others may see what you write
 - Remember that your comments may be saved and become a permanent record
- 1.8.6 Therefore, always think before writing any comments about others, especially if they may in any way cause offence or distress.

1.9 Note 2: Guidance to Students Living in the Local Community

- 1.9.1 Ballet West plays a positive role in the local community and works closely with community representatives to both explain the value of the contribution of its

students and staff and to deal with any problems that may arise. Students living in the community are subject to the various statutory and other legal requirements and agencies that protect society as a whole. They may also be seen as representatives of Ballet West and it is important that they act responsibly and sensitively to others in the community.

1.9.2 An issue for Ballet West is the extent to which it should take action in relation to Misconduct away from Ballet West's premises or when not on Ballet West business. Ballet West's position is that:

- When students are off Ballet West premises but taking part in Ballet West activities (e.g. performances) Ballet West will treat Misconduct in the same way as Misconduct committed on Ballet West premises.
- When students are away from Ballet West's premises and not taking part in Ballet West activities any Misconduct that involves or affects other students may be treated in the same way as Misconduct committed on Ballet West's premises.
- When external Misconduct involves neither of the conditions above, such as anti-social behaviour towards neighbours, Ballet West may act on the grounds that students may have damaged the reputation of Ballet West.

1.9.3 Anti-Social Behaviour in the Community

- Ballet West receives complaints from the public about the behaviour of people believed to be students of Ballet West. Often, although not always, these complaints relate to behaviour as neighbours (principally unreasonable noise or other anti-social behaviour).
- Ballet West, out of a sense of responsibility, and out of a concern for its reputation, does respond to complaints about individual students, or groups of students.
- In many cases the action will be taken at the Informal Stage, with students given advice as to how to best behave within the community. However, Ballet West has the right to deal with particularly serious cases under the Formal Stage of the Disciplinary Procedures. Penalties may range from a fine through to expulsion from Ballet West in the case of gross Misconduct.