

## **The Marshall Commission's Disciplinary Policy**

The aim of the Disciplinary Policy is to provide a means for the Commission to ensure that the standards of the Marshall Scholarship are upheld by Scholars and for Scholars to have a fair means of explaining circumstances which may have given cause for concern to the Commission.

The Scholarship Disciplinary code is set out at the end of this document. The code outlines the procedures that the officers of the Commission may follow and the interventions and actions that they make take.

This procedure outlines the actions that may be taken when the Commission becomes aware of potential misconduct by Scholars.

Not all complaints relating to Scholar misconduct will result in disciplinary proceedings.

### **Procedure**

ASSISTANT SECRETARY &  
HEAD OF SCHOLARSHIP ADMINISTRATION

Identifies/suspects misconduct set out in the disciplinary code and raises it with the Executive Secretary and Chair of the Education Committee. Gathers written documentation of events related to misconduct



EXECUTIVE SECRETARY

CHAIR OF EDUCATION  
COMMITTEE

Consider what further action, if any, should be taken. Hold preliminary interview if deemed necessary



EDUCATION COMMITTEE

Responsible for oral hearings



MARSHALL COMMISSION

Responsible for appeals

## **MARSHALL SCHOLAR DISCIPLINARY CODE**

The discipline of Marshall Scholars shall be governed by the following Regulations made by the Marshall Aid Commemoration Commission.

### **REGULATIONS**

#### **COMPLAINTS OF MISCONDUCT**

These Regulations deal both with complaints alleging misconduct by a Marshall Scholar and also misconduct by a Marshall Scholar alleged by The Commission and their Secretariat. Any person or university alleging that misconduct serious enough to warrant action under these Regulations has been committed shall report the same in writing to the Assistant Secretary as soon as reasonably possible. The Assistant Secretary in consultation with the Executive Secretary has discretion to dismiss without further consideration complaints that are judged to be made after six months and therefore out of time, or to be frivolous, malicious or vexatious.

#### **MISCONDUCT AFFECTING A PERSON NOT PARTY TO THE COMPLAINT**

Where a complaint alleges misconduct directed against a named person other than the complainant, and that person refuses to support the complaint or co-operate in inquiries, these Regulations cannot be invoked, unless other misconduct is also alleged. However, where the alleged misconduct would constitute a criminal offence if proved in a court of law, the matter may be reported to the police.

#### **MISCONDUCT OBSERVED BY THE COMMISSION**

If a Marshall Scholar is suspected of misconduct (as described in this document) by the Commission and its Secretariat, the Assistant Secretary may initiate a complaint, which will be dealt with in the same manner as an external complaint.

#### **ACTION ON RECEIPT OF A COMPLAINT**

On receipt of a complaint, the Assistant Secretary after having made appropriate preliminary inquiries, shall send a written notice of the complaint, together with a copy of these Regulations, to both the Scholar and the Chair of the Marshall Education Committee. The notice shall be sent as soon as reasonably practical after the completion of the preliminary inquiries.

At the same time, the Assistant Secretary shall invite comments from the Scholar and the Chair of the Marshall Education Committee; the Scholar shall be entitled to reserve any comment, other than saying whether or not the alleged offence is admitted. The Assistant Secretary shall notify the complainant as to whether the complaint has or has not been accepted for consideration under these Regulations.

Once a complaint has been accepted for consideration, the Assistant Secretary shall be responsible for investigation of the circumstances of the misconduct and for the preparation of any case against the Scholar.

#### **MISCONDUCT THAT IS ALSO A CRIMINAL OFFENCE**

It is the Marshall Commission's policy to report all serious criminal offences to the police for investigation; the Chair of the Marshall Commission has absolute discretion as to which offences are considered serious and as to whether less serious offences should

be so reported by the Marshall Commission. However, it should be noted that any person has the right to report any matter to the police, irrespective of the Marshall Commission's procedures.

#### **CHAIR OF THE EDUCATION COMMITTEE'S DISCRETION TO DISMISS COMPLAINT**

At any stage of consideration of a complaint, the Chair may rule as a matter of absolute discretion that the complaint should not be the subject of further action under these Regulations, but such a ruling shall not preclude informal action by way of caution.

#### **CHAIR OF THE EDUCATION COMMITTEE'S PRELIMINARY INTERVIEW**

At an early stage in the consideration of the complaint, the Chair of the Education Committee shall normally offer the Scholar a preliminary interview, before deciding whether and how to proceed under these Regulations, including any exercise of the powers to suspend or exclude a Scholar pending a hearing. Where for any reason it appears to the Chair of the Education Committee that it is not possible for the Scholar to appear in person, he or she shall be entitled to make written representations.

#### **CHAIR OF THE EDUCATION COMMITTEE'S DECISION ON PROCEDURE**

The Chair shall decide whether the case shall be determined:

- (i) summarily at the preliminary interview, or
- (ii) by an oral hearing before the full Marshall Education Committee

#### **MARSHALL EDUCATION COMMITTEE**

The committee shall consist of:

- Chair of the Education Committee
- Academic members of the Marshall Commission

The Administrative Assistant will act as secretary to the committee. The secretary shall not be a member of the committee and shall not have a vote.

#### **SCHOLAR'S SUBMISSIONS**

Once investigations are complete, the Assistant Secretary shall provide the Scholar with a written summary of the case against him or her together with a copy of all written evidence and shall invite the Scholar to submit a written statement of defence.

#### **PROCEDURE FOR ORAL HEARING**

The Chair of the Marshall Education Committee shall conduct the oral hearing according to the principles of natural justice and the Chair's decision in this matter shall be final. In particular:

- (i) The case against the Scholar shall be presented by the Executive Secretary, who is entitled to be accompanied, assisted or represented.
- (ii) The Scholar is entitled to be accompanied, assisted or represented.
- (iii) The Scholar has the right to see all the evidence, to be present throughout the hearing and to make a final statement following the final statement on behalf of the Executive Secretary.

- (iv) The parties and their representatives shall withdraw while the case is determined, returning to hear the decision.
- (v) A statement may then be made in mitigation if the case is found proved.
- (vi) The Chair shall then determine the penalty, in accordance with the following section, or give a caution as appropriate; any penalty imposed shall be reported to the MACC for information.

## **PENALTIES**

The penalties available are:

- (i) **Termination** of the Scholarship.
- (ii) **Probation** involving monitoring of the Scholar's behaviour or performance for specified period; further misconduct could result in termination of the Scholarship.
- (iii) **Compensation/withdrawal of funds** Scholars may be required to repay all or part of their Scholarship or the Commission may withdraw part of the Scholarship funding.

These penalties may be combined as appropriate and reasonable. Where necessary, the effective period of the penalty shall be specified or a date given for review. The review shall be the responsibility of the Marshall Education Committee and the form of the review (taking in account of any written or oral representations) shall be decided by the Chair of the Education Committee.

## **APPEAL PROCEDURES**

A Scholar for whom a penalty has been determined under these Regulations has the right of appeal to the Marshall Commission consisting of:

- Chair of the Commission.
- Current Marshall Commissioners (excluding the current members of the Education Committee)
- Current Marshall Alumni Observers

The Administrative Assistant will act as secretary to the committee. The secretary shall not be a member of the committee and shall not have a vote.

The appeal will not take the form of a re-hearing of the case. The grounds of appeal shall be stated in writing in advance by the Scholar and the Scholar will be given the opportunity to be heard in person in support of these grounds. The Assistant Secretary shall notify the Scholar of this right of appeal and of the date and place at which he or she may appear to be heard in person accompanied, if desired, by a person of his or her choosing. The Scholar may be accompanied by a legal representative or send one in their place, but in such cases must give advance notice to the Assistant Secretary so that the Marshall Commission may consider its own legal representation. The Appeal Committee may amend, ratify or revoke any penalty and such decision shall be final and no further representations to the Commission shall be permitted.

## **TIME LIMITS**

Time limits for operation of the procedures in these Regulations will be specified by the Marshall Commission, having regard to the nature and complexity of the case and the progress of any parallel proceedings.

## **MISCONDUCT**

### **GENERAL STATEMENT OF MISCONDUCT**

The essence of misconduct under the Disciplinary Regulations is improper behaviour, in the broadest sense, towards the host University or the Marshall Commission or any action which might otherwise damage the reputation of the Marshall Commission or the Marshall Scholarship programme.

Further particulars of misconduct are contained below but if misconduct is to be proved the above general statement must be shown to apply to the conduct complained of.

### **PARTICULARS OF MISCONDUCT**

Subject always to the statement above, the following shall constitute misconduct:

- (i) any proven breach of the academic or disciplinary regulations of the host university
- (ii) failure to attend university course/laboratory regularly;
- (iii) violent, indecent, disorderly, threatening or offensive behaviour or language to any member of the Secretariat or whilst on the host University premises or engaged in any host University activity;
- (iv) fraud, deceit, deception or dishonesty in relation to the Marshall Commission or the host University, including false claims for monies;
- (v) action likely to cause injury or impair safety on the host University premises;
- (vi) conduct which constitutes a criminal offence where that conduct affected or concerned other members of the host University community or the Marshall Secretariat, or damages the good name of the Marshall Scholarship;
- (vii) behaviour which brings the Marshall Scholarship into disrepute;
- (viii) failure to follow rules of notification to the Marshall Commission;
- (ix) failure to comply with a penalty previously imposed under the Disciplinary Regulations.