

Suspension and Refusal/Cancellation of Enrolment

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| Applies From: | Immediately | | |

Major changes/additions since the last version was approved are indicated by a vertical line in the left-hand margin.

1 Introduction

1.1 Purpose

The purpose of this policy is to ensure that the processes of excluding learners (that is, suspension and/or cancellation of current enrolment(s) and/or refusal of future enrolment(s)) are carried out in accordance with the values and vision set out in the Ara Institute of Canterbury Ltd¹ Strategic Plan, the provisions of s255 of the *Education and Training Act 2020*, and the principles of natural justice and procedural fairness.

1.2 Scope and Application

- a This policy applies to all learners and potential learners.
- b This policy does not relate to non-engagement. For details and process for a non-engagement cancellation see *APP514 Withdrawals, Refunds and Compassionate Consideration*.

1.3 Formal Delegations

- a Ara Academic Committee to Heads of Department:
A learner who is believed on good evidence to be guilty of misconduct or a breach of discipline may be suspended for up to five teaching days by:
 - i a Deputy Chief Executive (Executive Director)
 - ii a Head of Department
 - iii a Manager of a Student Service or
 - iv Complaints Coordinator.

In all cases, the relevant Head of Department will be advised.

¹ From herein referred to as Ara

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| <p>Related Ara Procedures and Forms</p> <ul style="list-style-type: none"> • APP301b Flowchart for Learner Responsibilities and Rights • APP511a Learner Support at Ara • APP517b Application for Academic Appeal Form • CPP120d Academic Delegations Register | <p>Related Ara Policies</p> <ul style="list-style-type: none"> • APP203 Ara Academic Committee Membership and Terms of Reference • APP301 Learner Responsibilities and Rights • APP304 Academic Misconduct • APP504 Regulations Governing Admission and Enrolment • APP517 Academic Appeals Committee Terms of Reference • APP506 Probation • APP511 Academic Support and Progression • APP514 Withdrawals, Refunds and Compassionate Consideration • CPP105a Code of Conduct for ICT Users • CPP110 Legislative Compliance • CPP222 Addressing Bullying, Harassment and Discrimination |
| <p>Related Legislation or Other Documentation</p> <ul style="list-style-type: none"> • Education and Training Act 2020 • Trespass Act 1980 • Privacy Act 2020 | <p>Good Practice Guidelines</p> |
| <p>References</p> <ul style="list-style-type: none"> • Programme Handbook • Admission and Enrolment Guide | |
| <p>Notes</p> <p>2014 – The policy <i>APP506 Regulations Governing Probation, Suspension, and Cancellation/refusal of Enrolments</i> was divided into three new policies to better reflect the three main components of the policy. The new policies are <i>APP511 Academic Progression</i>, <i>APP506 Probation</i> and <i>APP512 Exclusion</i>.</p> <p>2016 – new branding</p> <p>2017 – additional item 3.2f</p> <p>2017 – additional statement that Formal Appeals are reported publicly every six months</p> <p>2018 – Restructure of Te Kāhui Manukura.</p> <p>2020 – name of policy changed from “Exclusion” to “Suspension and Refusal/Cancellation of Enrolment”. Organisation name changed to Ara Institute of Canterbury Ltd.</p> <p>2020 – NZIST changes – Academic Board becomes Ara Academic Committee; Ara Council becomes Ara Board; Standardised text relating to appeals, new Appeal Application Form; APP301 – Rights and Responsibilities changed to Responsibilities and Rights; Changing ‘student’ to ‘learner’.</p> <p>11-2020 – Changed Education Act 1989 to Education and Training Act 2020</p> <p>3/2/21: Changed Infoweb to Waituhi in footer</p> <p>28/9/21: Privacy Act date updated</p> <p>28/8/22: Added APP511a Learner Support at Ara and CPP209 Harassment Prevention links; Customer Experience and Engagement becomes Ākonga Success; DCE became Executive Director; Corrected <i>Human Rights Act 1903 to Human Rights Act 1993</i>; Added updated APP301b</p> <p>21/12/22: CPP209 replaced by CPP222 Addressing Bullying, Harassment and Discrimination</p> | |

2 Principles

- 2.1 Every person has the right to know what is alleged of them and the consequences of any allegation being proved.
- 2.2 Every person has the right to respond to any allegation about them before any final decision is reached under any of the processes in this policy.

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- 2.3 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 that the concerns will be resolved as directly and informally as possible.
- 2.4 Every person has the right to representation, advice, advocacy, and support at all stages of any of the processes under this policy. This includes information on the availability of the services of the Student Advocate. It also includes the right to be accompanied by one or more appropriate people of his/her choice at any meetings. If more than three people are to accompany the learner, prior notice must be given to the convenor of the meeting and their attendance is subject to the agreement of Ara.
- 2.5 In the case of exclusion for unacceptable behaviour (especially where danger to health or safety are an issue), it may be necessary to act summarily and it may not, therefore, be possible to accord the learner all the rights listed in these principles.

3 Associated procedures for Ara Academic Policy: Suspension and Refusal/Cancellation of Enrolment

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3.1 General Provisions

- a The formal processes set out in these procedures will normally only be initiated after attempts have been made to address the issues of concern through less formal approaches. These may include, but are not limited to, discussions with teaching staff, referral to support staff, and discussions with programme leaders.
- b An exclusion may apply to one or more specified courses, a whole programme, or all enrolment at Ara. An exclusion may also apply to one or more specified services or facilities. The scope of the exclusion must be stated at the time.
- An exclusion does not apply generally to other courses or programmes and does not prevent a person from seeking enrolment in another programme or course.
- c When an exclusion will prevent a person from progressing to a further stage of a programme or from completing a qualification, those consequences must be clearly acknowledged.
- d Every process under this policy must be documented (including notes of any discussions recording the date on which they took place, who was present, what was discussed, and what decisions if any were reached).
- e Every outcome of a process under this policy must be notified to the person concerned in writing. Notification must include information about appeal rights.
- f Once a decision has been finalised, the fact that a learner has been excluded will be recorded on the Student Management System.

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3.2 Suspension

- a Suspension is a short-term exclusion and is the formal process by which a learner is temporarily prohibited from attending classes in one or more courses and/or is refused access to one or more services/facilities provided by Ara.
- b A learner who is believed on good evidence to have breached terms and conditions of a Formal Academic Contract and/or Probation may be suspended for up to five teaching days by the Head of Department.
- c A learner who is believed on good evidence to be guilty of misconduct or a breach of discipline may be suspended for up to five teaching days by a Deputy Chief Executive, a Head of Department, a Manager of a Student Service or Complaints Coordinator. In all cases, the relevant Head of Department will be advised.
- d Every person specified as having authority to suspend a learner may do so only within the parameters of their position; for example, the ICT Manager has jurisdiction only over use of/access to computing services and facilities and cannot, therefore, suspend a learner from attending classes.
- e Notice of suspension, together with a brief statement of the circumstances and any recommendation for extension, must be forwarded to the Complaints Coordinator within three working days of the learner being suspended.
- f A learner may be suspended from a programme or course where there is concern there may be risks to the safety of themselves or others. The suspension would be imposed by the Head of Department for a period of up to 5 working days or until safety concerns have been addressed.
- g The person authorising a suspension under Section 3.3b or 3.3c may recommend to the Chief Executive that the suspension be extended. The recommendation must include the reasons for extension and the period of time recommended.
- h The Chief Executive will consider the recommendation for extension, seek any further information she or he requires, invite a response from the learner and having considered the learner's response, if any, determine whether the suspension should be extended and for what specified time.
- i A learner may for just cause be suspended by the Chief Executive for a specified time not exceeding twenty teaching days in addition to any suspension imposed under Section 3.3b or 3.3c.
- j The effect of suspension on the learner's chances of satisfactorily completing the programme or course, progressing to a further stage, or completing the qualification must be considered.
- k In every case of suspension, the learner must be notified verbally at the time if possible and then in writing (which includes communication via electronic means) within three working days, setting out the facts of, the reasons for, and the length of the suspension, as well as any appeal rights.
- l Every learner who is suspended may apply to the Chief Executive for a review of the suspension as set out in Section 3.5 below.
- m Depending on the reasons for suspending a learner, suspension may be followed by other actions such as placing the learner on a Probation Contract, the signing of a good behaviour agreement, the imposing of other conditions, requirements, or expectations, or the cancellation/refusal of enrolment. (Refer *APP506 Probation / APP511 Academic Support and Progression*).

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3.3 Cancellation of Enrolment

[See APP504 Regulations Governing Admission and Enrolment.]

- a Cancellation of enrolment (initiated by Ara and applying to a single learner) must not be confused with voluntary withdrawal (initiated by the learner) or with cancellation of a whole course or course occurrence (initiated by Ara).
- b Ara may cancel a learner's enrolment on any of the *Education and Training Act 2020* grounds.
The *Education and Training Act 2020* s255(5) grounds are that:
 - i The person is not of good character
 - ii The person has been guilty of misconduct or a breach of discipline
 - iii The person is enrolled for full-time instruction in another institution or in a school
 - iv The person has made insufficient progress in the person's study or training after a reasonable trial at the institution or at another institution.
- c The decision to cancel (other than a non-engagement cancellation) or refuse an enrolment may be made only by the Chief Executive or nominee under specific delegation.
- d Under Immigration New Zealand requirements, international learners must have an appropriate permit to study at a New Zealand tertiary institution. A condition of the permit is that the learner makes satisfactory progress and attendance in his/her course of study, as determined by the institution.
- e The *Education and Training Act 2020* and Ara Strategic Plan commit Ara to preserving and enhancing academic freedom and developing intellectual independence including questioning and testing received wisdom, putting forward new ideas, and stating controversial or unpopular opinions. Such activities must not be seen in themselves as constituting bad character, misconduct, or lack of progress.
- f Failure to meet the terms and conditions of Academic Contract and/or probation may lead to exclusion.
- g When a cancellation is being considered, the Head of Department must invite the learner to an interview. The learner has the right to representation, advice, advocacy, and support. This includes information on the availability of counselling, Student Advocate, and other services. It also includes the right to be accompanied by one or more appropriate people of his/her choice at any meetings.

If the learner does not accept the invitation to an interview, the Head of Department may proceed to the next step.
- h The Head of Department must forward a recommendation to the Chief Executive that the learner's enrolment(s) be cancelled. The recommendation must include:
 - Any request for suspension to be extended.
 - Details of any terms and conditions.
 - The *Education and Training Act 2020* grounds is the basis of the recommendation.
 - Evidence supporting the recommendation.
- i The Chief Executive will consider the recommendation, seek any further information he/she requires, and invite the learner to respond. The response from the learner may

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be in written form (including communication by electronic means) or made at a personal interview.

Note that any or all of the steps set out in Section 3.3f – 3.3i may be carried out at a facilitated meeting of the learner, the Head of Department, and the Chief Executive.

j After hearing from the learner, the Chief Executive will determine whether the learner's enrolment(s) are to be cancelled. If the learner does not respond, the Chief Executive may proceed with the cancellation.

k If the decision is to cancel the enrolment(s), the Chief Executive will write to the learner setting out the fact of cancellation, the reasons for it, and the learner's appeal rights. (Refer Section 3.5),

Once the appeal period has elapsed or any appeal has been heard and cancellation decided, notice of cancellation will be sent to the Department concerned, and the Ākonga Success Division.

The learner must be reminded of his/her obligation to return all Ara property including ID card, library books, textbooks, equipment, and keys.

The learner must be advised that no refund of fees and charges is normally made when an enrolment is cancelled. The normal refund policy applies; that is, there is no automatic right to a refund when an enrolment is cancelled.

l The fact that a learner has had an enrolment cancelled will be notified to the Complaints Coordinator and will be recorded in the SMS.

m If the learner is an international learner, the Director International or delegate will advise Immigration New Zealand at this point that the learner is no longer enrolled at Ara.

3.4 Refusal of Enrolment

a Any person may, for good reason and on good evidence, be refused enrolment at Ara generally or in a particular programme or course only by the Chief Executive or nominee under specific delegation.

b Enrolment may be refused on any of the *Education and Training Act 2020* grounds.

c In general, applicants may not be refused admission on any of the grounds listed in the *Human Rights Act 1993*, including disability, however refusal of enrolment may occur if (refer also to *APP504 Regulations Governing Admission and Enrolment*):

- The person's disability requires special services or facilities which cannot reasonably be provided; *or*
- The person's disability is such that there would be a risk of harm to the person or to others if the person were admitted.

d Failure to meet the terms and conditions of probation may lead to Refusal of Enrolment.

e The Head of Department must forward a recommendation to the Chief Executive that the person's application(s) to enrol be refused.

The recommendation must state which of the *Education and Training Act 2020* grounds is the basis of the recommendation and must include the supporting evidence.

f The Chief Executive will consider the recommendation, seek any further information he/she requires, and invite the person to respond. The response from the person may be in written form (including communication by electronic means) or made at a personal interview.

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- g After hearing from the person, the Chief Executive will determine whether the person's application(s) to enrol be refused. If the person does not respond, the Chief Executive may proceed with the refusal of enrolment.
- h If the decision is to refuse the enrolment(s), the Chief Executive will write to the person setting out the fact of refusal, what programmes, courses, or course occurrences it applies to, the reasons for it, the person's appeal rights and any other rights.
- i If the refusal applies to a person who is already enrolled as a learner, notice of refusal will be sent to the Department, and the Ākonga Success Division once the appeal period has elapsed or any appeal has been heard and decided.
- j The fact that a person has been refused enrolment will be notified to the Complaints Coordinator and will be recorded in the SMS

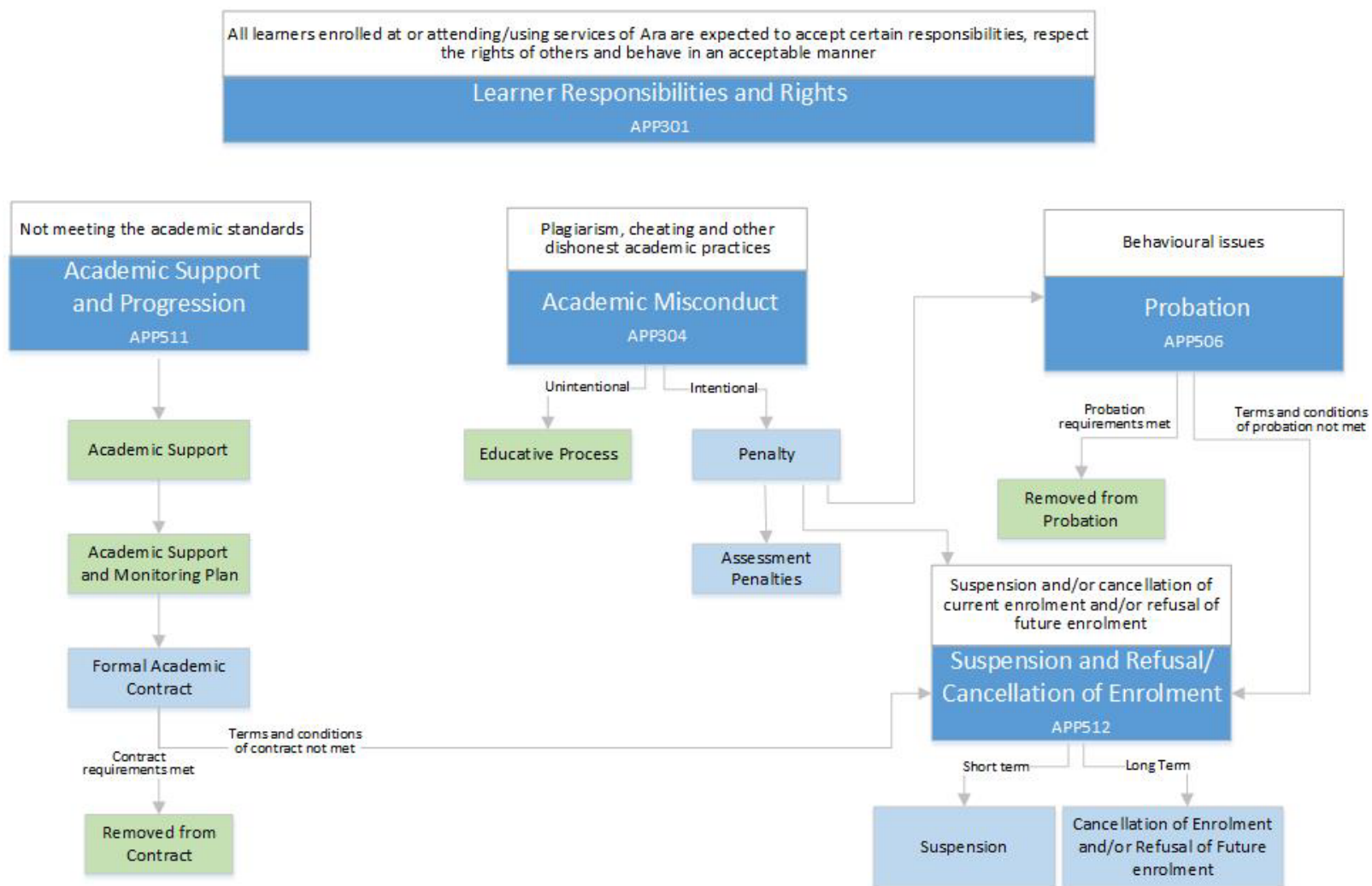
Appeal Rights and Other Rights

- k Any learner affected by a decision made under this policy (suspended, enrolment is refused, or enrolment is cancelled) may appeal that decision in writing to the Chief Executive within ten working days from the date on the advice of the decision (refer *APP517b Application for Academic Appeal Form*).
- l The Chief Executive will, within ten working days of receiving a notice of the appeal, determine the matter and communication decisions to all the parties.
- m The learner may, within ten working days of the date of the Chief Executive decision, appeal to the Chair of the Board for a review of the decision.
- n The Chair of the Board will, within ten working days of receiving a notice of appeal, establish an Enrolment Appeal Committee.
- o The Enrolment Appeal Committee thus established will, in accordance with the Committee's terms of reference determine its own procedures for hearing the appeal (subject to the requirements of natural justice and procedural fairness) including the time, date, and venue for the hearing.
- p The Enrolment Appeal Committee will determine the matter and communicate its decision to all the parties.

Advice to the appellant must include information about any other relevant rights.
- q A report on the decision together with a brief statement of the circumstances must be presented to the Ara Board at its next ordinary meeting with the public excluded.
- r Appeal decisions are reported publicly every six months. Please note no identifying information is published.

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Flowchart for Learner Responsibilities and Rights and Associated Policies



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