

# Student Appeal Procedure

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## Table of Contents

Introduction .....	1
Purpose .....	1
Scope .....	2
Definitions .....	2
Actions .....	4
Grounds for appeal .....	4
Confidentiality .....	5
Appeals under Legislation .....	5
Appeals under University policies and/or procedures .....	6
Applying for a review of a Final Grade .....	7
Appeals to the Student Appeals Committee .....	8
General principles and guidance .....	9
Obligations of all parties .....	9
Seeking guidance .....	10
Obligations of the University .....	10
External Appeal and additional legal remedies .....	10
Legislative context .....	11
Supporting documents .....	11
Responsibility .....	11
Forms and record keeping .....	11
Implementation .....	12

## Introduction

This procedure provides a framework for the University to respond to Appeals by a Student in a way that contributes to the University's supportive and fair learning environment, and is consistent with the principles of fairness, equal opportunity and Natural Justice.

## Purpose

As part of the University's student appeals policy framework, the Student Appeals Procedure provides a framework for the University to respond to appeals in a way that contributes to the University's supportive and fair learning environment, and is consistent with the principles of fairness, equal opportunity and natural justice.

To provide information about the process for lodging an Appeal and guide both Students and Staff through the formal stages to ensure fair equal, and just outcomes.

## Scope

This procedure provides a process for students to make an appeal against decisions made by the University that may have an adverse effect on students (dependent on the relevant University policy or Legislation).

This Procedure is applicable to:

- all students and staff of the University, including at partner providers, both on and offshore and online
- prospective students whose complaint or appeal relates to administrative practices during application, selection or admission

An Appeal may be an Internal or External Appeal against an adverse decision made by the University under a procedure, Legislation or other process where a right of appeal is available.

## Definitions

Term	Definition
<b>Academic Board</b>	Means an Academic Board established pursuant to the <i>Federation University Australia Act 2010</i> .
<b>Academic Divisions</b>	Means a division of the University including: <ul style="list-style-type: none"> <li>• The Institute of Education, Arts and Community;</li> <li>• The Institute of Health and Wellbeing;</li> <li>• The Institute of Innovation, Science and Sustainability;</li> <li>• Federation TAFE;</li> <li>• Global Professional School;</li> <li>• Graduate Research School; and</li> <li>• Federation Online.</li> </ul>
<b>Agency</b>	Includes the Victorian Ombudsman, the Privacy Commissioner, the Victoria Equal Opportunity and Human Rights Commissions, the Department of Education or other relevant State or Federal government agencies or departments.
<b>Appeal</b>	Means an escalation step which may be open to a Student if the Student is dissatisfied with an adverse decision, or perceives an adverse outcome. This term covers both Internal Appeals and External Appeals.
<b>Committees</b>	Means a committee constituted under University Legislation and may include an Appeals Committee or a Student Misconduct Committee.
<b>Complaint</b>	A complaint is an expression of dissatisfaction with one or more aspects of:  a student's experience with the University or with the University environment. A complaint may be made about a partner provider, contractor or agent.

<b>Complainant</b>	The Student lodging the Appeal in relation to the Complaint.
<b>Domestic Student</b>	Means a Student that is not an International Student.
<b>External Appeal</b>	An Appeal or Complaint made to an external Agency against a Final Decision of the University.
<b>Executive Officer</b>	Means the person appointed by the Vice-Chancellor to be the Executive Officer of the Student Appeals Committee.
<b>Final Decision</b>	A written decision made by the member of Staff authorised to make that decision and communicated to the Complainant in writing when all Internal Appeal avenues within the University's Procedures and processes, including under Legislation, or, if applicable, under this procedure have been exhausted.
<b>Good Faith</b>	Means to act with honesty and sincerity of intention.
<b>Internal Appeal</b>	An Appeal against a Final Decision where the Appeal is brought under University Legislation or where there is a process for Appeal within other University Procedures.
<b>International Student</b>	A person holding an Australian student visa, enrolled in a CRICOS registered unit, as a student of the University, studying in Australia.
<b>Legislation</b>	The <i>Federation University Act 2010</i> (Vic) and the University statutes and regulations.
<b>Natural Justice</b>	<p>is a concept made up of two rules – the fair hearing rule and the bias rule. This may include, but not be limited by, the following:</p> <ul style="list-style-type: none"> <li>• Prior notice that a decision that may affect a person's interests (the respondent) will be made.</li> <li>• The critical issues to be addressed, and of information that is credible, relevant, and significant to the issues will be disclosed to the respondent.</li> <li>• A substantive hearing with a reasonable opportunity for the respondent to present a case.</li> <li>• The decision maker must not be biased or be seen by an informed observer to be biased in any way.</li> </ul>
<b>Partner Provider</b>	A third-party provider who has entered into an agreement with the University to deliver all or part of a unit or course to Students.
<b>Party</b>	Means any person within the University who is directly involved in the Appeal process or the circumstances surrounding it.
<b>Privacy</b>	Means information protected by Commonwealth and Victorian Privacy legislation.
<b>Procedures</b>	Means University procedures published in the University's policy library.
<b>Regulations</b>	Means the Federation University Australia Regulations 2022 as applicable to an appeal.

<b>Staff</b>	Any person who is an employee of the University at any stage during the appeal process or the events preceding it, including full time, part time, sessional or casual employees, and those at Partner Providers.
<b>Statute</b>	Means the <i>Federation University Australia Statute 2021</i> .
<b>Student</b>	Any person enrolled as a student of the University. This includes full-time, part-time, block-mode or distance education students, VET students and those enrolled at Partner Providers.
<b>Student Integrity Officer</b>	The officer who administers the University's Complaint processes (excluding Staff Complaints or grievances) and online complaints portal. The Student Integrity Officer can be contacted at <a href="mailto:Student.Integrity@federation.edu.au">Student.Integrity@federation.edu.au</a> .
<b>Support Person</b>	Means a person who accompanies a party to a complaint during any stage of the procedure. May be internal or external to the University and not be acting in a legal capacity.
<b>Teaching period</b>	A teaching period outlined in the academic calendar for the year in which the appeal was lodged.
<b>University</b>	Means Federation University Australia.
<b>VCAA</b>	Means the Victorian Curriculum and Assessment Authority
<b>VCAA Appeals Procedure</b>	Means appeals and requests for review forming part of specific VCAA processes set out in the <a href="#">VCE and VCE VM Administrative Handbook</a> .
<b>VCE VM</b>	Means the Victorian Certificate of Education Vocational Major
<b>Working Day</b>	Means an ordinary business day of the University (excluding weekends, public holidays or days on which the University is officially closed, eg. Christmas close-down).

## Actions

Where a Student is dissatisfied with the outcome of a decision made by the University, the Student may appeal the decision through this Procedure. If there is no Internal Appeal process in relation to the decision prescribed by Legislation, or a policy or other formal process, then the Student may be directed to a right of External Appeal.

Students may seek information about Student Appeal and Complaints processes from [Student Advocacy](#).

VCE VM Students, in the first instance, should refer to the Federation College Student Handbook & Student Advocacy for direction to the VCAA Appeals Procedure.

## Grounds for appeal

Appeals may be lodged against decisions made under University Legislation, Policies or Procedures, if the relevant document includes a right of appeal.

Appeals may occur because of decisions made including, but not limited to, the following:

- Appeal against a selection decision

- Appeal of a final grade;
- Special consideration;
- Student discipline (including cheating, unfair advantage and plagiarism);
- Examinations;
- Unsatisfactory progress;
- Exclusion;
- Admission, enrolment, transfer and withdrawal;
- Credit;
- Fees and charges;
- Bullying;
- Discrimination;
- Harassment;
- Privacy; and
- Conduct that has an unreasonable negative impact on the student.

## Confidentiality

All persons involved in the Appeal process, including the Support Person, must maintain confidentiality and only discuss the Complaint with persons who need to know in order to assist in the Appeal process. This responsibility extends to the Complainant. Failure to maintain confidentiality may result in disciplinary action. This does not prevent any Party from discussing the matter with any confidential support service.

Public interest disclosures, including Complaints about the improper or corrupt conduct of University officers (within the meaning of the Public Interest Disclosures Act 2012), must be made to the Independent Broad-based Anti-Corruption Commission (IBAC). Further information regarding public interest disclosures can be found in the University's Public Interest Disclosures Procedure.

## Appeals under Legislation

The University's Legislation is the main source of information about the Appeal processes. If a Student is dissatisfied with a decision made about the Student under University Legislation, the Student must consult the relevant Legislation, or consult with Student Advocacy to find:

- a. whether there is a right of Appeal; and
- b. the criteria for lodging an Internal Appeal; and
- c. the process for lodging an Internal Appeal.

University Legislation that includes an Internal Appeal process includes, but is not limited to:

Type of Complaint	Applicable Statute or Regulation
Applying for a review of a final grade	Statute 32, Regulation 34
Special consideration	Regulation 33
Academic misconduct	Statute 34, Regulation 44
Student Misconduct Committee	Regulation 51

Protecting the integrity of an examination	Regulation 47
Appeal to Student Appeals Committee	Regulation 59
Unsatisfactory Progress	Regulation 38 and 39
Exclusion	Statute Part 6, 35 and 36, Regulation 53
Admission, enrolment, transfer and/or withdrawal	Statute 29, Regulation Part 2 and Regulation 23
Credit	Regulation 24 and 25
Fees and charges	Statute 49, 50, 51 and 52, Regulation 16, 17, 18 and 19
Intellectual Property	Statute Part 7

## Appeals under University policies and/or procedures

The University may make decisions that affect a Student under its policies or Procedures. These decisions may be made by a Portfolio, Academic Division, or Student Integrity Officer. A Student adversely affected by such a decision will be notified of it by a University Staff member, any right of Appeal and the applicable process.

A decision is an *appealable decision* if it is:

- decision by the University that a person has committed Student misconduct;
- a Final Decision made by the University in response to a Student Complaint, other than a frivolous or trivial Complaint;
- a Student unsatisfactory progress decision;
- a decision in respect of which University Legislation or other legislation or an applicable Commonwealth or State regulatory framework allows or requires a right of review or Appeal; or
- a deemed refusal within the meaning of Regulation 58.

University policies and procedures that may have an Appeal process include, but are not limited to:

Type of Complaint	Applicable policy or procedure
Bullying behaviour by University staff or Students	<a href="#">Bullying Prevention and Management Procedure</a>
Direct and indirect discrimination	<a href="#">Equal Opportunity and Valuing Diversity Guidelines</a>
Complaint about personal or other information held by the University	<a href="#">Freedom of Information</a>
Harassing behaviour including racial or sexual harassment	Discrimination Complaint Procedure and Student Sexual Harm Procedure
Privacy or breaches of Privacy	Information Privacy Policy and Information Privacy Statement – Collection, Use and Disclosure of Personal Information
Conduct that has an unreasonable negative impact on a student	The <a href="#">Complaints Management Procedure</a>

## Applying for a review of a Final Grade

In accordance with Regulation 34 - Assessment, a Student may apply for a review of a unit final grade or result by submitting an application for review to the Executive Dean or nominee.

A Student may apply for review of a final grade only on one of the following grounds:

- the unit description and accompanying assessment materials were not sufficiently explicit in identifying the learning tasks students are required to complete in the unit or how students will be assessed;
- the assessors failed to comply with the assessment procedures set out in the unit description and accompanying assessment materials; or
- the criteria set out in the unit description and accompanying assessment materials were not applied fairly and appropriately.

	ACTIVITY	RESPONSIBILITY	STEPS
1.	Applying for a final grade review	Student	<p>A Student applying for a review of a final grade for a unit must submit an application for review in written form. A verbal application for review or Complaints in relation to a unit result is not valid and will not be accepted.</p> <p>Applications to the Executive Dean or nominee must be lodged within ten (10) Working Days of publication of the final grade or result for the unit on My Student Centre. If a Student is unable to meet this deadline, the Executive Dean or nominee has the discretion to accept an application outside of the stated timeframes.</p> <p>The written application must state the basis for the application and any evidence pertaining to the application that the Student considers relevant should be attached.</p>
2.	Consideration and Response to Final Grade Appeal	Institute Executive Dean (or nominee)	<p>Following due consideration of the application, the Executive Dean or nominee will provide the Student with a written response to the application for review, including the reasons for the decision. The original result may be confirmed or the application is accepted and a process is implemented to</p>

			<p>reconsider the final grade, for example, re-marking or supplementary assessment. It is the relevant Academic Division's responsibility to notify Student Administration of any amended results following an application for review.</p> <p>This process should be completed within thirty (30) Working Days of the application for review being submitted by the Student.</p> <p>The University reserves the right to decline to pursue an appeal, including but not limited to circumstances where another process is more appropriate, or where the student does not have sufficient grounds to lodge an appeal.</p>
3.	Appealing a decision under University Regulations	Student	<p>If the Student is not satisfied with the decision of the Executive Dean or nominee then the Student can submit an Appeal to the Student Appeals Committee in accordance with Regulation 59.</p>
4.	Recording Final Grade Appeals	Nominee in each Institute	<p>The relevant Academic Division must record all Appeals submitted and their outcomes, successful or not, in a log. The aim of this record keeping is to aid in identifying trends and potential causes of Appeals which may assist with the reduction of future Appeals.</p> <p>The relevant Academic Division will provide reports on Appeals submitted, any identified trends and steps taken to correct recognised issues to Academic Board on at the end of each teaching/assessment period.</p>

## Appeals to the Student Appeals Committee

Most (but not all) internal appeals under University Legislation are heard by Committees or the Academic Board. The role of Academic Board is to provide:

- a. academic oversight of prescribed courses and units of study of higher education in the University; and



b. advice to the Council on the conduct and content of those courses and units.

The Committees most likely to hear an internal appeal are:

- the Student Appeals Committee;
- the Animal Ethics Committee; or
- the Human Research Committee.

An Appeal lodged with the Executive Officer of the Student Appeals Committee will need to satisfy one or more of the following grounds:

- that there was relevant evidence which:
  - was available to the decision-maker at the time the decision was made but was not taken into account by the decision-maker;
  - was not known by the applicant before the decision was made and could not reasonably have been known by the applicant before the decision was made;
- that there was an irregularity of procedure which may have affected the decision;
- that the decision was manifestly wrong;
- that a procedural irregularity occurred which may have affected the decision;
- that the penalty imposed was manifestly excessive; or
- that there was a deemed refusal.

If a Student is advised that they have a right of Internal Appeal under Legislation, it is the responsibility of the Student to consult the relevant Legislation, procedure or policy to determine the requirements for an Appeal, including their obligation to provide any Committee or member of Staff with relevant evidence or information. The University reserves the right to refuse an Internal Appeal if the Student has not met their obligations under the relevant Legislation or policy.

The Chair of the Student Appeals Committee has the discretion to choose one of two types of hearing:

- a. a desktop review of the written case and applicable supporting evidence; or
- b. a formal hearing by a panel constituted from members of the Student Appeals Committee

The Chair of the Student Appeals Committee has the discretion to extend the period for lodgment of an Appeal, if the Student can demonstrate exceptional circumstances.

All Appeals will be guided by the principles of Natural Justice.

## General principles and guidance

### Obligations of all parties

Students wishing to lodge an Appeal must act reasonably, in accordance with their responsibilities under all relevant legislation and policies, and in Good Faith. All parties involved in an Appeal are expected to demonstrate respect for the rights of others at all stages of the Appeal process.

The University reserves the right to take formal action against any Party who lodges an Appeal based on false or malicious grounds.

All parties to the Appeal process are reminded that any untrue material raised about a person during the Appeal process that lowers that person's reputation in the community may be subject to external claims for defamation.

A University decision that results in suspension or exclusion of the Student will generally require the Student to lodge an Appeal (if a right of Appeal exists) within thirty (30) working days of the Student receiving notice of the original decision.

## Lodging an external appeal

If the Student lodging an External Appeal is an International Student, the Student must lodge the Appeal within the timeframe stated in the Final Decision and promptly notify International Student Compliance of the Appeal ] to ensure compliance with the University's reporting obligations to the [Department of Home Affairs \(DHA\)](#). The unique identifying number of the External Appeal will be required for verification purposes.

If the Student lodging an External Appeal is a Domestic Student, the Student must lodge the Appeal within the timeframe stated in the Final Decision and promptly notify the Academic Division, Appeals Committee and Student Administration of the Appeal. The unique identifying number of the External Appeal will be required for verification purposes.

## Seeking guidance

Staff and Students may seek guidance on the Appeal process under a policy or procedure from the Staff member(s) identified in that policy or procedure as having responsibility for guidance, or from [Student Advocacy](#).

Guidance on the Appeal process within Legislation can be provided by the Executive Officers to Appeals Committee, or from [Student Advocacy](#).

Guidance on a Student's right to External Appeal can be found on the University's [Legal Office website](#), or from [Student Advocacy](#).

## Obligations of the University

Students at all levels of the Internal Appeal process will receive written information detailing how the outcome of the process will be communicated. This information will be provided either before or during the Appeal hearing. The Student's current address and email address will also be confirmed at the hearing.

The outcome of the Appeal will be sent to the Student's University email account via preferred email address provided on the Student's appeal form, or to the Student's current postal address via Australia Post's regular, express or registered mail services, consistent with the appeal notice.

Unless otherwise agreed between the student and the University, if an Appeal relating to the Student Misconduct Committee is received by the University within 30 days of the conclusion of a Teaching Period Students may request to suspend timelines dictated by this procedure where they fall outside the teaching period.

If a decision is made that adversely affects the Student and a right of Internal Appeal exists, the Student will be informed of the right to Appeal and the requirements of the relevant Appeal procedure.

## External Appeal and additional legal remedies

If the decision is a Final Decision or there is no right of Internal Appeal, the University will provide written notice of the Student's right to External Appeal, for example to the Victorian Ombudsman.

If the Internal Appeal or External Appeal process results in a decision in favour of the Student, the Student will be notified and any corrective and/or preventative action required will be implemented immediately, as directed by the Chair of the Committee or person making the decision.

If a Student has lodged an External Appeal, the Student's enrolment will be maintained for the duration of the Appeal process unless maintaining enrolment would constitute a risk to health and safety, or the Student has previously lodged an External Appeal in relation to the same matter and been unsuccessful.

The University acknowledges that in some cases a Student may choose to exercise their rights under external legal processes. If a Student commences external legal action, any action contemplated or in progress under University policies or Procedures may cease, and may not resume unless and until the matter is referred back to the University by an external authority.

## Legislative context

- [Education Services for Overseas Students Act 2000](#) (Cth).
- [ESOS Regulations 2019](#).
- [Equal Opportunity Act 2010](#) (Vic).
- [Freedom of Information Act 1982](#)(Cth).
- [Privacy and Data Protection Act 2014](#)(Vic).
- [Ombudsman Act 1973](#)(Vic).
- [Education and Training Reform Act 2006](#) (Vic)
- [VRQA Guidelines to Minimum Standards](#)
- [The National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2018](#)

## Supporting documents

- [Corporate Governance Policy](#)
- [Complaints Management Procedure](#)
- [Bullying Prevention and Management Procedure](#)
- [Discriminatory and Sexual Harassment Complaint Procedure](#)
- [Equal Opportunity and Valuing Diversity Guidelines](#)
- [Protected Disclosures Procedure](#)
- [Information Privacy Procedure](#)
- [Records Management Procedure](#)

## Responsibility

- The Chief Operating Officer(*as the Approval Authority*) responsible for monitoring the implementation, outcomes and scheduled review of this procedure.
- The Head of Legal (*as the Document Owner*) responsible for maintaining the content of this procedure as delegated by the Approval Authority.
- The University's Executive Officers to Academic Board and the Legal Office have delegated responsibility for providing staff with guidance on this Procedure.
- The University's Executive Officer to the University Appeals Committee and Legal Office have delegated responsibility for providing students with guidance on this Procedure.

## Forms and record keeping

The University's Executive Officers to Academic Board are required to keep a register of any internal academic appeals under Legislation.

The University is required to keep a register of any Internal Appeals or External Appeals under Academic Misconduct legislation, the [Complaints Management Procedure](#), the [Staff Grievance Procedure](#), the [Bullying Prevention and Management Procedure](#) and investigations on appeal to the Ombudsman, that the University has been made aware of.

The University's Student Equity and Inclusion Office is required to keep a register of any Internal Appeals or External Appeals under the Harassment Procedure, Student Sexual Harm Procedure or the [Equal Opportunity and Valuing Diversity Guidelines](#).

At the conclusion of an Internal Appeal process (other than an Appeal under Legislation or an Appeal under the Discrimination Complaint Procedure or Student Sexual Harm Procedure), the Student Integrity Officer's confidential file or the respondent's confidential file must be forwarded to the Student Integrity Officer.

Appeal records will be held by the Legal Office, the Executive Officers to Academic Board, the Manager, Equity and Diversity and the Student Integrity Officer in accordance with the Public Records Office Victoria's Retention and Disposal Schedule for Higher and Further Education Institutions.

## Implementation

This Procedure will be implemented throughout the University via:

- An announcement under 'FedNews' on the University website and through the Policy 'Recently Approved Documents' webpage;
- Inclusion in the University's online Policy Library;
- Reference to the [Student Appeal Procedure](#) in the University Online Handbook;
- Training sessions to relevant Staff;
- Reference to the procedure in applicable University webpages.