

# Student Appeal Procedure

**Policy Code: CG1464**

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## Introduction

As part of the University's student appeals policy framework, this 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.

## Purpose

To provide information about the process for lodging an appeal.

## Scope

Decisions that have an adverse effect on a student are likely to have an appeal process (dependent on the relevant University policy or legislation).

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

## Definitions

Term	Definition
<b>Academic Board:</b>	Means an Academic Board established pursuant to the <i>Federation University Australia Act 2010</i> .
<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 Discipline Committee.
<b>Complaint:</b>	An expression of dissatisfaction with the behaviour or action of another which has an unreasonable negative impact on the Student in relation to their access to or enjoyment of the benefits of the University.
<b>Complainant:</b>	The student lodging the appeal.
<b>External Appeal:</b>	An appeal made to an external agency against a final decision of the University.
<b>School Decision:</b>	A decision made by a School within the University, through its Plagiarism Officer, School or School-based committees, boards or the Dean of School.
<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>Internal Appeal:</b>	An appeal against a 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 course, as a student of the University, studying on shore in Australia.
<b>Legislation:</b>	The <i>Federation University Act 2010</i> (Vic) and the University statutes and regulations.
<b>Local Manager:</b>	The University staff member(s) who can be contacted by a Complainant about a Complaint.
<b>Partner Provider:</b>	A third party provider who has entered into an agreement with the University to deliver all or part of a course or program to students.
<b>Party:</b>	Means the Complainant and/or a staff member of the University who is directly involved in the appeal process or the circumstances giving rise to it.
<b>Portfolio Decision:</b>	A decision made by a Portfolio or Directorate within the University, through any Portfolio or Directorate-based committee or Deputy Vice Chancellor.
<b>Principles of Natural Justice:</b>	General procedural fairness in the handling of an appeal that involves all of the following elements: <ul style="list-style-type: none"> <li>the right to a fair hearing;</li> </ul>

Term	Definition
	<ul style="list-style-type: none"> <li>the right to attend hearings with a friend or support person, if required;</li> <li>the opportunity for all parties involved to be heard;</li> <li>the right to an independent, unbiased decision-maker; and</li> <li>a final decision that is based solely on the relevant evidence.</li> </ul>
<b>Privacy:</b>	Means information protected by Commonwealth and Victorian Privacy legislation in accordance with the University's <a href="#">Information Privacy Policy</a> .
<b>Procedures:</b>	Means University procedures published in the University's policy library.
<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>Student:</b>	Any person enrolled as a student of the University. This includes full-time, part-time, block-mode or distance education students, and those enrolled at partner providers.
<b>Support Person:</b>	A non-legally trained observer who accompanies the Complainant or Respondent during any stage of the appeal process and may be a representative from the University's <a href="#">Student Advocacy</a> .
<b>Teaching period</b>	A teaching period outlined in the academic calendar for the year in which the appeal was lodged.
<b>University:</b>	Federation University Australia.
<b>University Grievance Officer:</b>	Staff member appointed by the Vice Chancellor.
<b>VCAA</b>	Victorian Curriculum and Assessment Authority
<b>VCAL</b>	Victorian Certificate of Applied Learning
<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

If a decision is made that has an adverse effect on a student under legislation, policies or procedures or any other formal process that prescribes an internal appeal process, a student dissatisfied with the decision must use the applicable process if they wish to lodge an appeal. 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 University appeal processes from the [Student Advocacy](#).

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

## Confidentiality and privacy

Appeals must be treated by all parties as strictly confidential. This means that information about the Appeal shall only be discussed with, or made available to, a person who:

- a. is a party to the appeal; or
- b. is or has been legitimately involved in the management of that appeal; or

c. has a formal management role in following up the consequences or implications of the appeal.

Witnesses, support persons or any other observers must refrain from discussing the appeal with each other or with the parties unless those discussions are in accordance with the management of the appeal.

Parties must be aware of the consequences if there is a breach of confidentiality, which may include disciplinary action under the University Student Discipline legislation or the staff member's applicable employment agreement.

Appeals and complaints will be dealt with in accordance with the University's [Information Privacy Policy](#) and obligations.

## 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 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
Appealing a final grade	Statute 5.3, Regulation 5.3
Special consideration	Statute 5.3, The Schedule Part 1
Student discipline: cheating, unfair advantage and plagiarism	Statute 6.1, Regulation 6.1
Student Discipline Committee	Statute 2.4, Regulation 2.4
Examinations	Statute 5.3, The Schedule Part 1
Appeal to Appeals Committee	Statute 2.2, Regulation 2.2
Unsatisfactory Progress	Statute 5.5, Regulation 5.5
Exclusion	Statute 5.4, Regulation 5.4
Admission, enrolment, transfer and/or withdrawal	Statute 5.2, Regulation 5.2
Credit	Statute 5.2, Regulation 5.2
Fees and charges	Statute 9.1, Regulation 9.1
Decisions of the University Intellectual Property Officer	Statute 8.2, Regulation 8.2

## 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, School, or Local Manager. 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.

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 Policy</a>
Complaint about personal or other information held by the University	<a href="#">Freedom of Information</a>
Harassing behaviour including racial or sexual harassment	<a href="#">Discriminatory and Sexual Harassment Complaint Procedure</a>
Privacy or breaches of privacy	<a href="#">Information Privacy Policy</a> and Information Privacy Statement – Collection, Use and Disclosure of Personal Information
Conduct that has an unreasonable negative impact on a student	The Student Grievance Procedure
Pre-enrolment Appeal	The <a href="#">Pre-enrolment Appeal Procedure</a>

## Appealing a Final Grade

In accordance with Regulation 5.3 - Assessment, a student studying in VET or higher education may appeal against a unit/course final grade or result by submitting an appeal to the Dean or equivalent.

A student appealing against a final grade for a unit/course must submit an appeal in written form; verbal appeals or complaints in relation to a unit/course result are not valid and will not be accepted.

Appeals to the Dean or equivalent must be lodged within ten (10) working days of publication of the final grade or result for the unit/course on My Student Centre. If a student is unable to meet this deadline, the Dean or equivalent has the discretion to accept an application outside of the stated timeframes.

The written appeal must state the basis for the appeal and any evidence pertaining to the application that the student considers relevant should be attached.

Following due consideration of the application the Dean or nominee will provide the student with a written response to the appeal; this will include the reasons for the decision. The original result may be confirmed or the result may be amended. It is the School's responsibility to notify Student Administration of any amended results following an appeal.

This process should be completed within thirty (30) working days of the appeal being submitted by the student, or such further time as may be reasonably necessary for the Dean or nominee to complete his or her determination.

If the student is not satisfied with the decision of the Dean or nominee then the student can submit an appeal to the Appeals Committee in accordance with Regulation 2.2.

Schools must record all appeals submitted and their outcomes, successful or not, in a log (example template attached). 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.

Schools will provide reports on appeals submitted, any identified trends and steps taken to correct recognised issues to Academic Board on an annual basis.

## Internal appeals to Committees or Academic Board

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

- a. academic oversight of prescribed programs and courses of study of higher education in the University; and
- b. advice to the Council on the conduct and content of those programs and courses.

The Committees most likely to hear an internal appeal are:

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

If a student is advised that he or she has a right of internal appeal under legislation, it is the responsibility of the student to consult the relevant legislation or policy to determine the requirements for an appeal, including his or her 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.

For example, an appeal lodged with a University Appeals Committee will usually need to satisfy one or both of the following grounds:

- new evidence, not known to the student at the date of the decision that is the subject of the appeal, which has become apparent since the date of that decision;
- irregularity of procedure in the recommendation or making of that decision.

The Chair of the Appeals Committee has the discretion to extend the period for lodgement 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 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. The University expects all parties 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 10 to 20 working days of the student receiving notice of the original decision. The student should consult the relevant statutes and regulations for specific deadlines.

If the student lodging an external appeal is an international student, the student must lodge the appeal within the timeframe stated in the original decision and immediately notify the Centre for University Partnerships (CUP) of the appeal. The student must notify CUP no later than 10 working days after receipt of the final decision, 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 decision and immediately notify the School and Student Administration of the appeal, no

later than 10 working days after receipt of the original decision. 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 the [Student Advocacy](#).

Guidance on the appeal process within legislation can be provided by the Executive Officers to [Academic Board](#) or the University's [Legal Office](#).

Guidance on a student's right to external appeal can be found on the University's [Legal Office website](#).

## 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, or to the student's current postal address via Australia Post's regular, express or registered mail services, consistent with the appeal notice.

If an appeal relating to the Student Discipline Committee is received by the University within 30 days of the conclusion of a teaching period or outside a teaching period, the timelines dictated by this procedure will be suspended until the commencement of the next 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. 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.

If the internal 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 and been unsuccessful.

## External legal remedies

The University acknowledges that in some cases a student may choose to exercise his or her rights under external legal processes. If a student commences external action, any action contemplated or in progress under University policies or procedures will cease, and will 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 2001](#).
- [Equal Opportunity Act 2010](#)(Vic).

- [Freedom of Information Act 1982](#) (Cth).
- [Information Privacy Act 2000](#) (Vic).
- [Ombudsman Act 1973](#) (Vic).
- [Education and Training Reform Act 2006](#)
- [VRQA Guidelines to Minimum Standards 2016](#)
- [The National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2018](#)

## Supporting documents

- [Student Appeal Policy](#)
- [Student Complaints Policy](#)
- [Student Complaints Procedure](#)
- [Bullying Prevention and Management Policy](#)
- [Bullying Prevention and Management Procedure](#)
- [Discriminatory and Sexual Harassment Complaint Procedure](#)
- [Equal Opportunity and Valuing Diversity Policy](#)
- [Protected Disclosures Procedure](#)
- [Information Privacy Policy](#)
- [Records Management Policy](#)
- [Fair and Transparent Decision Making Guidelines](#)

## Responsibility

- The COO/CFO (*as the Approval Authority*) responsible for monitoring the implementation, outcomes and scheduled review of this procedure.
- The Director, Corporate Governance (*as the Policy Sponsor*) 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 Director, Corporate Governance is required to keep a register of any internal or external appeals under Student Discipline legislation, the Student Grievance Procedure, the [Staff Grievance Procedure](#), the [Bullying Prevention and Management Procedure](#) and investigations on appeal to the Ombudsman.

The University's Manager, Equity and Equal Opportunity is required to keep a register of any internal or external appeals under the Harassment Procedure or the [Equal Opportunity and Valuing Diversity Policy](#).

At the conclusion of an internal appeal process (other than an appeal under legislation or an appeal under the [Discriminatory and Sexual Harassment Complaint Procedure](#)), the local manager's confidential file or the respondent's confidential file must be forwarded to the Director, Corporate Governance.

Appeal records will be held by the Legal Office, the Executive Officers to Academic Board, the Manager, Equity and Equal Opportunity and the University Grievance 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, including Equity and Student Services and the Legal Office.