

# Student Appeals Procedure

## Purpose / Objectives

(1) This procedure outlines the process by which particular decisions of the University may be appealed. This procedure is governed by the Appeals Regulations 2014 and should be read in conjunction with that document.

## Section 1 - Scope / Application

(2) This procedure applies to all students or other eligible persons who are subject to an adverse decision in relation to:

- a. Student misconduct;
- b. Student complaints;
- c. An admission decision;
- d. Academic progress; and
- e. Any other decision relating to students which the University is required by law to provide an appeals process for and which is not already covered by another appeals process.

## Section 2 - Definitions

(3) Terms used in this procedure have the same meaning given to them in regulation 4 of the Appeals Regulations 2014.

## Section 3 - Policy Statement

(4) Nil

## Section 4 - Procedures

### Part A - Roles and Responsibilities

Roles	Responsibilities
Manager, Governance and Secretariat or delegate	To convene and provide secretarial support to the Appeal Panel.
Appeal Panel Chair	To make an initial determination regarding whether the appeal has any merit. To make decision regarding purported bias/conflict of interest To manage and guide the Appeal Panel process.
Appeal Panel	To hear and determine whether an appeal meets the grounds set out in the Appeals Regulation 2014 and, if so, to make a decision in accordance with the Regulation and this procedure.
Student or other eligible appellant	To provide all relevant information that they seek to rely upon to the Secretariat for the Appeal Panel and participate as required in the appeal process.

Roles	Responsibilities
Support person	Provides assistance and support to the student, but does not actively participate in the process.
Student Advocate	Provides advocacy, advice and assistance to the student throughout the process.

## Part B - Appeal

### Appealable decisions

(5) A student or other eligible person may appeal a decision arising from any of the processes covered by the Appeals Regulations 2014 . These are:

- a. Misconduct decisions made under the Student Misconduct Regulations 2014 and associated procedure/s;
- b. Student complaint decisions made under the Student Complaints Resolution Policy and procedure;
- c. Admission decisions made under the relevant Admission policy and procedure;
- d. Academic Progress decisions made under the relevant Academic Progress instrument; or
- e. Any other decision for which the University is required to provide an appeal process.

### Grounds for appeal

(6) The grounds upon which a decision may be appealed are set out in the regulation 6 in the Appeals Regulations 2014 .

### Lodgement of notice of appeal

#### The application process

(7) If a student or other eligible person wishes to lodge an appeal against an appealable decision and believe the case meets one or more of the prescribed grounds for appeal they may do so by lodging a completed notice of appeal .

(8) The notice of appeal must be lodged within 20 University business days of the day that the student or eligible person was sent the decision.

(9) The notice of appeal should be lodged with the Manager, Governance and Secretariat, whose business unit will act as the Secretariat for the Appeal Panel.

(10) Students or other eligible persons should ensure that the notice of appeal clearly includes:

- a. Each ground or grounds upon which the appeal is made;
- b. A written submission summarising the substance/basis of the appeal (i.e. the background to the appeal and why the person pursuing the appeal believes the grounds for appeal are met); and
- c. Any documentation or other material supporting the ground or grounds for appeal. This may be provided as an attachment to the notice of appeal.

(11) Notices of appeal must be lodged using the prescribed form, and will be accepted via email, facsimile or post.

(12) The lodgement should be post or by email to:

- a. Manager, Governance and Secretariat, PO Box 14428, Melbourne 8001;
- b. [gov.sec@vu.edu.au](mailto:gov.sec@vu.edu.au);

(13) The Secretariat of the Appeal Panel will acknowledge receipt of the notice of appeal within 5 University business days.

(14) The Secretariat for the Appeal Panel, upon receipt of a notice of appeal that meets the prescribed form, will initiate the appeals process within 5 University business days.

### **Appeal Panel composition**

(15) The Appeal Panel will be comprised of three people as set out in regulation 8 of the Appeals Regulations 2014.

(16) The Vice-Chancellor or his or her delegate will select the Appeal Panel and the Chair of the Appeal Panel.

(17) The determination about which staff members will be on the Appeal Panel will include consideration about:

- a. The composition requirements set out in regulation 8 of the Appeals Regulations 2014 ;
- b. Availability; and
- c. Avoidance of any member who has, or may be perceived to have, a bias or conflict of interest in the matter.

(18) A bias or a conflict of interest in a matter may include, but is not limited to —

- a. Involvement or association with the circumstances relating to the matter that is the subject of the appeal;
- b. Past or present close association with:
  - i. The student who is the subject of the appeal;
  - ii. A person who made an allegation; or
  - iii. A close relative of either.

### **Functions of the Appeal Panel**

(19) As set out in sub-regulation 9(1) of the Appeal Regulation 2014, the Appeal Panel Chair is required to consider the notice of appeal and any relevant supporting documents.

(20) The Secretariat for the Appeal Panel will be responsible for providing the Appeal Panel Chair with the notice of appeal and any relevant supporting documents for the purposes of making an initial determination about whether the appeal has any merit as set out in sub-regulation 9(2). This will include -

- a. the student or eligible person's notice of appeal;
- b. any accompanying material; and
- c. any relevant and available information from the original decision maker that details the process that was followed and how the original decision was reached.

(21) If the Chair of the Appeal Panel determines that the appeal lacks merit, he or she may dismiss the appeal without a hearing. Circumstances where a matter could be dismissed for having no merit include -

- a. where, in the opinion of the Chair, the allegation is frivolous, vexatious, misconceived, lacks substance or is otherwise an abuse of University processes.
- b. where the appeal, if proved, clearly could not constitute a ground for appeal; or
- c. where the person seeking the appeal is neither a student or an eligible person as defined in the Appeals Regulations 2014;

(22) If the Chair of the Appeal Panel does not dismiss the appeal, the Secretariat for the Appeal Panel will convene an Appeal Panel.

## **Interim Directions of the Panel Chair**

(23) As set out in sub-regulation 9(4) of the Appeals Regulations 2014 , before the Appeal Panel meets to consider the Appeal, the Chair may make interim directions. In particular, the Appeal Panel Chair may, pending the final determination of the matter and having regard to the need for fairness to both the University and the student or eligible person, do one or more of the following:

- a. suspend the implementation of the decision that is the subject of the appeal;
- b. temporarily withdraw permission for the student to participate in a University activity or use or enter all or particular University premises or facilities where they consider it necessary for the maintenance of good order;  
or
- c. make any other direction that may be reasonable in all the circumstances.

(24) Where the student's visa could be affected by the outcome, the student's enrolment must be maintained pending the completion of the process outlined in the Appeals Regulation 2014, and this procedure.

(25) The temporary removal of a student pending the outcome of an Appeal should only be applied in circumstances where it is necessary for the maintenance of good order (for example where the student's behaviour is perceived as a threat to the safety of people or property).

(26) Any allegation that a conflict of interest relating to any member of the Panel exists, will be considered by the Chair of the Appeal Panel. If the allegation relates to the Chair, it will be considered by the other two members of the Appeal Panel. If a conflict of interest is established, the relevant Panel member will stand down from the Panel and be replaced using the mechanism established above.

## **Appeal Hearing**

(27) The Secretariat for the Appeal Panel will schedule a hearing of the Appeal Panel, and will be responsible for distributing all available relevant documentation to the Appeal Panel and student.

(28) Unless agreed otherwise, at least 10 University business days' notice of the hearing will be provided to the student, along with all available relevant documentation. Other relevant parties will also be notified of the hearing and may be asked to attend.

(29) Relevant parties may include the original decision makers and, where the matter involves a breach of the University's Research Integrity Policy, must include the PVC Research.

(30) The Secretariat for the Appeal Panel will also advise the student of their right to -

- a. be heard orally or by submitting a written response; and
- b. to bring a support person and/or a student advocate to the hearing, provided that:
  - i. That person is not an Australian legal practitioner, except by the leave of the Chair;
  - ii. That person has not been involved, or alleged to be involved, in the matter being determined.

(31) The Appeal Panel hearing will be conducted expeditiously and with as little formality as possible.

(32) As set out in regulation 10 of the Appeals Regulation 2014 , in determining an appeal, the Appeal Panel:

- a. will make a majority rule decision;
- b. act fairly in all the circumstances and impartially;
- c. may follow any process it considers appropriate;
- d. will not be bound by legal rules of evidence, technicalities or legal forms, and may inform itself in relation to

any matter in any manner it thinks fits.

- e. will give the student the opportunity to present material and submissions (either in person or in writing) in support of the appeal and to respond to any other material relating to the appeal;
- f. will consider any material presented or made available to it; and;
- g. will allow a student to have a support person, and/or to be assisted with the preparation and presentation of their case by a student advocate, provided that the support person or student advocate is not -
  - i. an Australian legal practitioner, unless with leave of the Chair; or
  - ii. involved or alleged to be involved in the matter being determined.

(33) If the student chooses not to attend or participate in the hearing process, the Appeal Panel may proceed with the hearing and make a determination in their absence.

(34) The Chair of the Appeal Panel may allow more than one support person to be present and may exclude any person who disrupts or unreasonably impairs the conduct of the hearing, including the student who is the subject of the appeal.

## **Decision**

(35) As set out in regulation 11 of the Appeals Regulation 2014 , following the hearing of an appeal, an Appeal Panel will either:

- a. allow the appeal in whole or in part, or
- b. dismiss the appeal.

(36) If the appeal is dismissed, the Appeal Panel must confirm the original decision.

(37) As set out in sub-regulation 11(3), if the appeal is allowed in whole or in part, the Appeal Panel must, wherever possible, remit the decision to the original decision maker(s) for the matter to be reconsidered in the light of the Appeal Panel's findings.

(38) Where the Appeal Panel considers that it is not appropriate to remit the decision, the Appeal Panel may:

- a. set aside any decision or sanction; or
- b. substitute or vary any decision or sanction.

(39) Circumstances where it will not be possible and/or appropriate to remit the matter to the original decision makers will include situations where:

- a. a bias or conflict of interest has been established;
- b. the original decision maker(s) are no longer with the University; or
- c. where the situation requires a decision to be made as a matter of urgency.

(40) Where the Appeal Panel proposes to set aside, substitute or vary the original decision or sanction, it should ensure that:

- a. the substituted decision or sanction is one that would have been reasonably available to the original decision makers; and
- b. wherever practicable, they have heard from the original decision makers regarding the proposed course of action.

(41) The Appeal Panel should make its decision as soon as practicable after the hearing.

### **Notice of decision**

(42) As set out in sub-regulation 11(6) , the Appeal Panel must, as soon as practicable after a decision is made and within 5 University business days, give notice in writing of the Appeal Panel's decision including its reasons to the Secretariat for the Appeal Panel.

(43) The Secretariat will then communicate the decision in writing, with reasons, to:

- a. The student or eligible person;
- b. The original decision maker(s); and
- c. The Academic Registrar.

(44) As set out in sub-regulation 11(7) , where the matter is remitted back to the original decision makers, they must review the Appeal Panels findings and reconsider their decision in the light of those findings within 10 University business days. Once the decision has been reconsidered, the original decision makers must as soon as practicable give notice of their decision in writing to:

- a. The student or eligible person; and
- b. The Academic Registrar.

(45) If the decision involves altering or reversing a course of action already underway, or imposing a different course of action, this must be implemented by the original decision maker as a matter of urgency without undue delay.

(46) Where the student is a student visa holder, the Academic Registrar must ensure that Victoria University International is notified immediately to ensure that ESOS compliance requirements are adhered to.

(47) Where the student is a postgraduate student, the Academic Registrar must ensure that the Dean of Graduate Research is notified to ensure that any required action can be taken.

### **Student records and general reporting**

(48) The decision will be recorded on the student's file and stored in accordance with the University's Records Management Policy and Procedures . Aggregated and de-identified data may also be used to support the University's monitoring, reporting and continuous improvement processes with respect to student services.

(49) Aggregated and de-identified data may also be used to support the University's monitoring, reporting and continuous improvement processes with respect to student services. In particular, this reporting will include the Secretariat for the Appeal Panel providing a biannual report to the Academic Board about student appeals.

## **Part C - External Appeal**

(50) There is no further appeal within Victoria University from the decision of an Appeal Panel.

(51) Students or other eligible persons may seek an external review of a University decision, including an appeal decision, from an appropriate, independent external body such as the Victorian Ombudsman.

(52) Student visa holders who wish to make a complaint to an external body must provide evidence of the lodgement of their complaint to the Academic Registrar within 20 University business days from the date of the Appeal Panel decision.

(53) The Academic Registrar must forward evidence of the lodgement of their complaint to Victoria University

International.

(54) If no evidence is received, the University may notify the relevant government authorities of a decision regarding an unsatisfactory course progress or attendance decision.

## **Section 5 - Guidelines**

(55) Nil

## Status and Details

<b>Status</b>	Historic
<b>Effective Date</b>	1st October 2014
<b>Review Date</b>	31st December 2018
<b>Approval Authority</b>	Vice-Chancellor
<b>Approval Date</b>	1st October 2014
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