# Student Appeals Procedure

# Section 1 - Summary

(1) This Procedure outlines the process by which specific decisions of the University may be appealed. This Procedure is governed by the Student Appeals Regulations 2019 and should be read in conjunction with that document.

# Section 2 - Scope

(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. Exclusion on safety grounds;
c. Student complaints;
d. Academic progress; or
e. A matter relating to students where State or Commonwealth law requires the University to provide the right of an appeal where no other appeal process is offered by the University.

# Section 3 - Policy/Regulation

(3) See Student Appeals Regulations 2019.

# Section 4 - Procedures

## Part A - Roles and Responsibilities

| Roles | Responsibilities |
|---|---|
| Director, 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.<br>To make decision regarding purported bias/conflict of interest.<br>To manage and guide the Appeal Panel process. |
| Appeal Panel | To hear and determine whether an appeal meets the grounds set out in the Student Appeals Regulations 2019 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 Appeals Secretariat and participate as required in the appeal process. |
| 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. |

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# Part B - Deciding to Appeal

## Appealable decisions

(4) A student or other eligible person can only appeal an adverse University decision and related sanctions imposed under the following regulations, policies or procedures:

a. the Student Misconduct Regulations 2019 and associated procedure/s;
b. Exclusion for Safety Reasons Regulations 2019;
c. the Student Complaints Policy and Student Complaints Procedure;
d. Academic Progress Regulations 2016 and procedures; or
e. external legislation for which the University is required to provide an appeal process.

## Grounds for appeal

(5) There are only four grounds upon which a decision may be appealed:

a. The existence of new relevant material of a significant nature, being relevant material that was not reasonably available to the student or eligible person prior to the original decision being made and which is inherently different from material that was available;
b. There was a misapplication of procedure resulting in some real disadvantage to the student or eligible person that was the subject of the decision;
c. The decision was manifestly wrong or the sanction was manifestly excessive; or
d. There was a bias or a conflict of interest on the part of the original decision maker or decision makers.

## Lodgement of notice of appeal

(6) An appeal can only be lodged after a University decision emanating from a review or investigation under the relevant regulations or policies (refer clause 4) has been issued.

(7) If a student or eligible person feels that they have one or more grounds (clause 5) to lodge an appeal against a University decision they should download and complete the Notice of Appeal Form.

(8) Students should consult with Student Advocacy before deciding to appeal a decision. Referring to the Guidance Notices for Appealing a University Decision is also recommended.

(9) The notice of appeal must be lodged within 20 University business days of the date of the University decision. Late appeals will not be accepted.

(10) The notice of appeal must be lodged on the prescribed form with the Director, Governance and Secretariat via post or email:

a. Director, Governance and Secretariat, PO Box 14428, Melbourne 8001; or
b. gov.sec@vu.edu.au.

(11) Students or other eligible persons should ensure that the completed Notice of Appeal Form and all requisite attachments as outlined in the Guidance Notices for Appealing a University Decision are submitted. Incomplete documentation will invalidate the appeal.

(12) The Appeals Secretariat will confirm receipt of the completed Notice of Appeal with the student and will initiate the appeals process within 5 University business days.

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# Part C - Consideration of the Appeal

## The Two Tiered Appeals Process

(13) The University has a two tiered process for consideration of all appeals lodged with the Governance and Secretariat. The first stage will involve a Panel Chair considering the appeal documentation. Only if the Panel Chair finds merit in the appeal, will it be progressed to a Panel Hearing (Tier 2).

## Tier 1 – Panel Chair Consideration

### Appointment of the Chair

(14) The Appeals Secretariat will appoint a Panel Chair from a pool of Chairs as delegated by the Vice-Chancellor.

### Deliberation by the Panel Chair

(15) The Appeal Panel Chair is required to consider the notice of appeal and any relevant documents provided by the Appeals Secretariat. This will include:

a. the student or eligible person's notice of appeal;
b. any accompanying support 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.

(16) If the Chair of the Appeal Panel determines that:

a. the appeal lacks merit, they may dismiss the appeal without a hearing;
b. a clear error or deficiency has occurred, the Chair may remit the matter back to the original decision maker/s for reconsideration, with guidance how to remedy the error or procedural deficiency;
c. the appeal has merit, refer the appeal to a Panel for hearing (Tier 2).

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

(18) If the appeal is dismissed, the Appeals Secretariat will notify the student or eligible person within 5 University business days of the decision being made and provide information about avenues for external reviews. Student visa holders will also be provided information about the need to advise Student Administration and, where applicable, the Dean, Graduate Research should they intend to lodge an external complaint.

### Interim Directions of the Panel Chair

(19) Having regard to the need for fairness to both the University and the student or eligible person, the Chair may make any of the following interim directions before the Appeal Panel meets to consider the Appeal:

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.

(20) The student's enrolment must be maintained pending the completion of the process outlined in the Student Appeals Regulations 2019 and this Procedure, except in instances as outlined in clause 21.

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(21) 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).

## Tier 2 Student Appeal Panel Hearing

### Panel Composition

(22) The Appeals Secretariat will appoint members of the Appeal Panel in accordance with regulation 10 of the Student Appeals Regulations 2019.

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

a. The composition requirements set out in regulation 10 of the Student Appeals Regulations 2019;
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.

(24) 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.

(25) 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 in clause 23.

### Appeal Hearing

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

(27) 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.

(28) 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 Deputy Vice-Chancellor, Research & Impact.

(29) The Appeals Secretariat will also advise the student of their right to –

a. be heard orally and/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.

(30) 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.

(31) 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.

**Functions of the Appeal Panel**

(32) In determining an appeal, the Appeal Panel:

a. will make a majority rule decision;
b. where the panel are divided on a decision, the Chair will have the deciding vote;
c. act fairly in all the circumstances and impartially;
d. may follow any process it considers appropriate;
e. 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;
f. will give the student the opportunity to present material and submissions (either in person and/or in writing) in support of the appeal and to respond to any other material relating to the appeal;
g. will consider any material presented or made available to it.

(33) The Appeal Panel may adjourn a hearing at any time and in instances where there are compelling and compassionate reasons but must continue to hear the matter in person or by circulation as soon as possible afterwards.

# Part D - Decision

(34) Following the hearing of an appeal, an Appeal Panel will either allow the appeal in whole or in part or dismiss the appeal.

(35) If the appeal is dismissed, the Appeal Panel must confirm the original decision and related penalties and sanctions.

(36) If the appeal is allowed in whole or in part, the Appeal Panel may:

a. set aside any decision or sanction, or
b. substitute or vary any decision or sanction.

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

(38) The Appeal Panel may also make recommendation to the College or University on preventative or corrective actions.

## Notice of decision

(39) The Appeals Secretariat must within 5 University business days, give notice in writing via email of the Appeal Panel's decision including its reasons to the:

a. student or eligible person;
b. original decision makers;
c. Chief Student Officer and Registrar or equivalent; and
d. the manager responsible for University Governance.

(40) 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.

(41) Where the appeal is dismissed and the student is a student visa holder, the Chief Student Officer and Registrar, or equivalent, must ensure all staff responsible for reporting to external bodies are advised of the decision and that ESOS National Code standard 9.5.2 compliance requirements are adhered to.

(42) Where the student is a research postgraduate student, the Chief Student Officer and Registrar or equivalent must ensure that the Dean, Graduate Research or equivalent is notified to ensure that any required action can be taken.

(43) The written notice of the Appeal Panel's decision will also include advice about the finality of the University's appeal processes and refer students to external review mechanisms available via independent bodies, such as the Victorian Ombudsman (National Code of Practice for Providers of Education and Training to Overseas Students 2018 (Cth), standard 10.3) and standard 2.4(4) of Higher Education Standards Framework (Threshold Standards) 2021 (Cth).

### Student records and general reporting

(44) The decision will be recorded on the student's file and stored in accordance with the University's Records Management Policy and Procedures.

(45) Aggregated and de-identified data, in accordance with Higher Education Standards Framework (Threshold Standards) 2021 (Cth), standard 2.4(3), 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 Appeals Secretariat providing a biannual report to the Academic Board about student appeals.

## Part E - External Appeal

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

(47) 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.

(48) Student visa holders who wish to make a complaint to an external body must provide evidence of the lodgement of their complaint to the Chief Student Officer and Registrar, or equivalent, within 20 University business days from the date of the Appeal Panel decision.

(49) The Chief Student Officer and Registrar, or equivalent, will ensure that all relevant parties within the University are advised of the complaint being lodged with the external body.

(50) 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 - HESF/ASQA/ESOS Alignment

(51) HESF: Standard 2.4 Student Grievances and Complaints; 7.2 Information for Prospective and Current Students.

(52) National Code of Practice for Providers of Education and Training to Overseas Students 2018: Standard 9: Deferring, Suspending or Cancelling a Students enrolment; Standard 10 Complaints and Appeals.

(53) Outcome Standards for NVR Registered Training Organisations 2025: Standard 2.7 Feedback, Complaints and Appeals; 3 Formalisation of enrolment and written agreements.

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# Section 6 - Definitions

(54) Unless specified, terms used in this Procedure have the same meaning given to them in regulation 4 of the Student Appeals Regulations 2019.

(55) Appeal (as defined in the Glossary).

(56) Review – A review is the process of requesting a senior officer to re-examine a decision made under one of the University's regulations and policies. The details about reviews are found in the relevant regulations, policies and procedures.

(57) Investigation – Investigation is a formal examination authorised by a delegate of the Vice-Chancellor to examine an allegation or complaint. Refer to Student Misconduct Regulations 2019 and Student Complaints Policy.

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## Status and Details

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## Glossary Terms and Definitions

**"Appeal"** - Refers to an application under the Student Appeals Regulations 2019 to have an outcome from an earlier University review or investigation overturned or varied.  The appeal will result in the final decision made by the University.