



PREMIUM-ENGLISH FOR ACADEMIC REQUIREMENT (PEAR) AUSTRALASIA LLP

STUDENT APPEALS PROCEDURE

1. PURPOSE & OBJECTIVE

- 1.1. The purpose of this procedure is to provide an equitable and consistent process for addressing student appeals in relation to the application of the Academy's policy, procedure and practice.

2. SCOPE

- 2.1. This procedure applies to all enrolled students in programs of study delivered by the Academy and graduates whose enrolment ended no more than three months before the appeal is lodged.

3. PROCEDURE

- 3.1. When seeking an appeal students are encouraged to:
 - 3.1.1. seek assistance and take responsibility for their own actions;
 - 3.1.2. lodge appeals in a timely manner;
 - 3.1.3. act in good faith and seek to achieve an amicable solution;
 - 3.1.4. desist from engaging in intimidating, harassing, threatening or offensive behaviours;
 - 3.1.5. participate transparently in mediation where required to achieve a cordial resolution.
- 3.2. As part of its commitment to quality improvement and student well-being, the Academy:
 - 3.2.1. maintains a safe environment in which students can openly raise issues of concern;
 - 3.2.2. acts on appeals as expeditiously as possible;
 - 3.2.3. acts in good faith and seeks to achieve an amicable solution;
 - 3.2.4. desists from engaging in intimidating, harassing, threatening or offensive behaviours;
 - 3.2.5. takes appropriate measures to ensure students do not suffer any victimisation or discrimination as a result of lodging an appeal;
 - 3.2.6. keeps open channels of communication with all parties involved in the appeals process in order to maintain a connected learning community;
 - 3.2.7. participates transparently in mediation where required to achieve a cordial resolution.

- 3.2.8. All parties to an appeal must respect privacy and confidentiality, except where the release of particular information is required by law.

4. GROUNDS FOR APPEAL

- 4.1. Students have the right to appeal in defined circumstances:
- 4.2. where Academic rules have not been adhered to;
- 4.3. where the student's performance, behaviour or action was affected by mitigating circumstances that he or she could not report at the time for valid reasons, and that mitigating circumstances have not been taken into account in making the relevant decision;
- 4.4. there has been a material lack of clarity on the part of the Academy in relation to documentation or expectations which has affected the performance, behaviour or action of the student; and/or
- 4.5. staff have not acted fairly towards a student by showing bias in the way they have made the relevant decision.
- 4.6. The following are not permissible grounds for appeal:
 - 4.6.1. disagreeing with a decision or action;
 - 4.6.2. ignorance of or failure to reference relevant Academy frameworks policy, procedure or guidelines.
- 4.7. In considering appeals the standard of proof required by the Academy is that it is more likely than not that something is or is not the case (the 'balance of probability') rather than 'beyond all reasonable doubt'.
- 4.8. The Academy must maintain the student's enrollment while the appeals process is ongoing.

5. DATA

- 5.1. Data is collected in respect of all appeals.
- 5.2. Data is stored in the Complaints, Grievances and Appeals Register.
- 5.3. Accurate collection and reporting of data is the responsibility of the nominee of the Principal Administrator.

6. PROCEDURE: PRE-APPEAL

Informal Mediation: Seeking an explanation of the decision

- 6.1. Students concerned about a decision made by the Academy are required to contact the decision-maker within five working days of the original decision, in person or in writing, to obtain an explanation of the decision, provide any additional or new information about the decision, check any details and correct any misunderstandings and seek informal mediation.
- 6.2. The decision-maker must meet with or respond to the student within five working days of the request for informal mediation to obtain any additional

information pertaining to the decision, check any details and correct any misunderstandings.

- 6.3. In considering the request for informal mediation the decision maker must take into account:
 - 6.3.1. is any new information that has a bearing on the case; and if so,
 - 6.3.2. whether there is an acceptable reason why it was not available previously.
- 6.4. As an outcome of informal mediation, the:
 - 6.4.1. a decision-maker may set aside the original decision and/or seek a review of the decision.
 - 6.4.2. decision-maker may affirm the original decision;
 - 6.4.3. student, with a better understanding of the grounds upon which the decision was made, may decide not to appeal the decision;
 - 6.4.4. students may decide to submit a formal application to appeal the decision.
- 6.5. Regardless of whether the request for informal mediation was in person or in writing the decision maker must confirm their decision to the student, via email, within 24 hours of the decision being set aside.

Lodging an Appeal

- 6.6. To apply to appeal a decision by the Academy the student (appellant) must:
 - 6.6.1. seek informal mediation
 - 6.6.2. submit an appeal in writing using the Appeal of Decision form including documentation supporting the grounds for appeal and evidence of the outcome of the informal mediation process; and
 - 6.6.3. submit an appeal within twenty working days of notification of the original decision.
- 6.7. Appeals from an appellant who repeatedly submits unreasonably persistent or vexatious appeals may be deemed invalid.
- 6.8. Appeals are submitted to the Chair of the Academic Council.
- 6.9. The Chair of the Academic Council assesses the appeal and where *prima facie* evidence to support the appeal has been established, the Chair of the Academic Council will notify the appellant that the appeal has been received and that an investigation will commence within ten working days and will forward the appeal for further action to forward the appeal for further action to either the:
 - 6.9.1. Student Appeal Board (SAB). (Category 1: Major Appeals); or the
 - 6.9.2. Relevant Head of Department (Category 1: Minor Appeals)
- 6.10. If the appeal is not submitted in accordance with clause 6.6 the Chair of the Academic Council will deem the application invalid.
- 6.11. In such cases the Chair of the Academic Council will, within 10 working days of lodgement of the application, advise the applicant that:

- 6.11.1. the appeal is invalid; and
- 6.11.2. which of the above three requirements the appeal failed to meet; or
- 6.11.3. that the appeal has been deemed unreasonably persistent or vexatious.
- 6.12. The appeal will not be further considered unless the Academic Director waives the original decision at their absolute discretion.
- 6.13. The appellant may withdraw an appeal at any time during the resolution process, and the matter will be deemed to be resolved.
- 6.14. An appellant who provides false or misleading information shall have their appeal deemed to be invalid.

7. PROCEDURE: APPEAL DETERMINATION (CATEGORY 1 - MAJOR APPEALS)

- 7.1. Category 1 - Major Appeals are defined as appeals against decisions which have the potential to impact on the ongoing enrolment of the appellant or decisions which have been sustainably reviewed. Category 1 appeals include appeals against decisions made in relation to:
 - 7.1.1. student behavioural misconduct;
 - 7.1.2. student academic misconduct;
 - 7.1.3. exclusion; and
 - 7.1.4. formal grievances.
- 7.2. Major appeals are heard by the Student Appeal Board (SAB).
- 7.3. The SAB is convened and a Chair nominated by the Chair of the Academic Council.
- 7.4. Members of the SAB will not be from those who have had any previous involvement in the case.
- 7.5. The SAB will normally comprise the following:
 - 7.5.1. one academic staff member;
 - 7.5.2. one professional staff member of the Academy, employed at a managerial level or above;
 - 7.5.3. an external member of the Academic Council.
- 7.6. A member of the Academy staff will be appointed to support the appeal process as Secretary to the SAB.
- 7.7. The SAB will meet to consider the documentation submitted by the appellant within ten working days of receipt of the appeal from the Academic Director.
- 7.8. The SAB has the right to seek additional information or evidence from the appellant or parties internal to the Academy relevant to the case.
- 7.9. Where additional information or evidence is obtained from parties internal to the Academy relevant to the case, this information must be disclosed to the appellant.

- 7.10. Unless requested by the SAB, the appellant cannot submit further information or argument once the appeal is submitted.
- 7.11. Having considered the appeal and any additional evidence or information the SAB will agree one of the following courses of action:
 - 7.11.1. determine that the appeal be upheld or partially upheld;
 - 7.11.2. determine there is no requirement for further investigation and that the appeal be denied; or
 - 7.11.3. in exceptional cases where there is insufficient evidence or the SAB is divided in relation to reaching an outcome, determine that the appellant should be invited to attend a hearing, advising why a hearing is required.

Decision to Uphold, Partially Uphold or Deny an Appeal

- 7.12. Where the SAB recommends a course of action, the Secretary will prepare a Notice of Appeal Outcome which must be approved by the Chair.
- 7.13. The approved Notice of Appeal Outcome is forwarded to the Academic Director
- 7.14. The Chair of the Academic Council will undertake a quality check of the Notice of Appeal Outcome to ensure that:
 - 7.14.1. all issues raised in the appeal have been addressed;
 - 7.14.2. the report is fair, balanced and respectful to all parties;
 - 7.14.3. the findings and recommendations are evidence-based and defensible.
- 7.15. Upon completion of the quality check, the Chair of the Academic Council will provide a copy of the report to the:
 - 7.15.1. appellant, including advice on external appeals processes;
 - 7.15.2. the Principal Administrator
- 7.16. The Principal Administrator will review any recommendations for corrective and preventive action and either accept, modify or reject the recommendations.
- 7.17. The finalised status of the recommendations will be recorded in the Complaints, Grievances and Appeals Register by the Principal Administrator.
- 7.18. Where accepted or modified, monitoring of implementation of the action will be undertaken by a nominee of the Principal Administrator

Decision to Hold an Appeal Hearing

- 7.19. Where the SAB recommends a course of action specified at clause 7.k.iii the appellant shall be given notice of at least ten working days of the SAB hearing. Such notice shall provide:
 - 7.19.1. information on the time, date and place for a meeting of the SAB;
 - 7.19.2. any information on any material relied upon in the decision to proceed with a hearing of the SAB;

- 7.19.3. advice that the appellant has the right to submit additional written statements or evidence for consideration by the SAB;
- 7.19.4. advice that they have the opportunity to present information in answer to the allegation;
- 7.19.5. advice that written evidence submitted to the hearing may be disclosed to all relevant parties and that when comments are sought from third parties they will be advised that their comments may be disclosed to the appellant;
- 7.19.6. advice that a support person and/or interpreter may be present during the hearing; and
- 7.19.7. a warning that if the appellant fails to attend the hearing, the hearing will proceed in their absence.

- 7.20. Where an appellant wishes to submit medical reports to support their case, they are responsible for obtaining such reports and paying any fee that may be charged.

- 7.21. Students may have a person in attendance from one of the following groups to provide support and to assist the student to state their case:
 - 7.21.1. enrolled student of the Academy,
 - 7.21.2. Academy staff member;
 - 7.21.3. official interpreter; or
 - 7.21.4. any other person who is satisfactory to Chair.

- 7.22. In conducting the hearing, the SAB is not bound by rules of evidence or procedure and is not bound to follow any specific legal process and may use any information available to it.

- 7.23. The conduct of the hearing should give the appellant the opportunity to present information in respect of their appeal in an environment that is non-confrontational and conducive to reaching an outcome that benefits all parties.

- 7.24. The hearing may be conducted by any means of communication, including teleconference and videoconference.

- 7.25. As a result of the hearing the SAB may:
 - 7.25.1. determine that the academic appeal be upheld or partially upheld; or
 - 7.25.2. determine that the appeal should be denied.

- 7.26. The determination of the SAB is final.

- 7.27. The Secretary will prepare a Notice of Appeal Outcome which must be approved by the Chair.

- 7.28. The approved Notice of Appeal Outcome is forwarded to the Chair of the Academic Council

- 7.29. The Chair of the Academic Council will undertake a quality check of the Notice of Appeal Outcome to ensure that:

- 7.29.1. all issues raised in the appeal have been addressed;
 - 7.29.2. the report is fair, balanced and respectful to all parties;
 - 7.29.3. the findings and recommendations are evidence-based and defensible.
- 7.30. Upon completion of the quality check, a nominee of the Chair of the Academic Council will provide a copy of the report to the:
- 7.30.1. appellant, including advice on external appeals processes;
 - 7.30.2. the Principal Administrator.
- 7.31. The Principal Administrator will review any recommendations for corrective and preventive action and either accept, modify or reject the recommendations.
- 7.32. The finalised status (accepted, modified or rejected) of the recommendations will be recorded in the Complaints, Grievances and Appeals Register by a nominee of the Principal Administrator
- 7.33. Where accepted or modified, monitoring of implementation of the action will be undertaken by the nominee of the Principal Administrator.

8. PROCEDURE: APPEAL DETERMINATION (CATEGORY 2 - MINOR APPEALS)

- 8.1. Category 2 - Minor Appeals are defined as appeals against decisions which have the potential to impact on the appellant's enrolment, progression, completion time or minor administrative matters. Category 2 appeals include appeals against decisions made in relation to:
- 8.1.1. advanced standing;
 - 8.1.2. admission;
 - 8.1.3. academic show cause;
 - 8.1.4. extension of completion date of an electronic Confirmation of Enrolment;
 - 8.1.5. extension of candidature;
 - 8.1.6. refunds; or
 - 8.1.7. records management or privacy.
- 8.2. Minor appeals are considered by the relevant Head of Department.
- 8.3. A member of the Academy staff will be appointed to support the Head of Department as the Secretary to the Appeal.
- 8.4. The Head of Department must consider the documentation submitted by the appellant within ten working days of receipt of the application from the Academic Director.
- 8.5. The Head of Department has the right to seek additional information or evidence from the appellant or parties internal to the Academy relevant to the case.

- 8.6. Where additional information or evidence is obtained from parties internal to the Academy relevant to the case, this information must be disclosed to the appellant.
- 8.7. Unless requested by the Head of Department, the appellant cannot submit further information or argument once the appeal is submitted.
- 8.8. Having considered the appeal and any additional evidence or information the Head of Department will reach one of two courses of action:
 - 8.8.1. determine that the appeal be upheld or partially upheld; or
 - 8.8.2. determine there is no requirement for further investigation and that the appeal be denied.
- 8.9. The determination of the Head of Department is final.
- 8.10. The Secretary will prepare a Notice of Appeal Outcome which must be approved by the Head of Department
- 8.11. The approved Notice of Appeal Outcome is forwarded to the Academic Director
- 8.12. The Chair of the Academic Council will undertake a quality check of the Notice of Appeal Outcome to ensure that:
 - 8.12.1. all issues raised in the appeal have been addressed;
 - 8.12.2. the report is fair, balanced and respectful to all parties;
 - 8.12.3. the findings and recommendations are evidence-based and defensible.
- 8.13. Upon completion of the quality check, the Academic Director will provide a copy of the report to the:
 - 8.13.1. appellant, including advice on external appeals processes;
 - 8.13.2. the Principal Administrator.
- 8.14. The Principal Administrator will review any recommendations for corrective and preventive action and either accept, modify or reject the recommendations.
- 8.15. The finalised status (accepted, modified or rejected) of the recommendations will be recorded in the Complaints, Grievances and Appeals Register by a nominee of the Principal Administrator.
- 8.16. Where accepted or modified, monitoring of implementation of the action will be undertaken by the nominee of the Principal Administrator.

9. PROCEDURE: FURTHER RIGHT OF APPEAL AND GOVERNANCE REPORTING

- 9.1. If an external appeal process results in a decision that supports the appellant, the Academy must immediately implement any decision and/or corrective and preventive action required and advise the student of the outcome.
- 9.2. The recommendations will be recorded in the Complaints, Grievances and Appeals Register by the Compliance Manager.
- 9.3. Where accepted or modified, monitoring of implementation of the action will be undertaken by the Compliance Manager.
- 9.4. The Compliance Manager will ensure that a confidential report on student appeals and outcomes is provided to the Academic Board and the Board of Governance on an annual basis.

10. ROLES AND RESPONSIBILITIES

- 10.1. The Board of Directors is responsible for the overarching governance of this procedure.
- 10.2. The Principal Administrator is responsible for the review of any recommendations for corrective and preventive actions from Category 2 minor appeals.
- 10.3. A Compliance Manager is responsible for:
 - 10.3.1. ensuring compliance with this procedure;
 - 10.3.2. benchmarking the Academy procedure with those adopted elsewhere in the higher education sector;
 - 10.3.3. convening the Student Appeal Board;
 - 10.3.4. review of any recommendations for corrective and preventive actions from Category 1 major appeals; and
 - 10.3.5. appeal determinations under Section 8 of this procedure.
- 10.4. The Compliance Manager is responsible for:
 - 10.4.1. accurate collection and reporting of appeals data;
 - 10.4.2. management of appeals procedures in accordance with Section 6 of this procedure;
 - 10.4.3. completion of all quality checks outlined in Sections 7 and 8.
- 10.5. All staff are responsible for becoming familiar and complying with this procedure.

11. Definitions

APPELLANT	means the student lodging a formal appeal
MAJOR APPEALS	means appeals against decisions which have the potential to impact on the ongoing enrolment of the appellant or decisions which have been sustainably reviewed as part of the procedure determined by the authority document
MINOR APPEALS	mean appeals against decisions have the potential to impact on the appellant's enrolment, progression, completion time or minor administrative matters
STUDENT	means an admitted or enrolled student of the Academy

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