

# Student Appeals to the Academic Board Policy (MPF1323)

## 1. Objective

The objective of this policy is to provide a framework for the appeal of University decisions relating to students which ensures that appeal processes are transparent, consistent and fair.

## 2. Scope

This policy applies to all student and eligible persons' appeals to the Academic Board.

## 3. Authority

This policy is made under the *University of Melbourne Act 2009* (Vic) and the Academic Board Regulation and supports compliance with the:

- (a) *Higher Education Support Act 2003*;
- (b) *Education Services for Overseas Students Act 2000*, and
- (c) National Code of Practice for Providers of Education and Training to Overseas Students 2018.

## 4. Policy

4.1. Students have the right, in specified circumstances, to appeal University decisions made in respect of them.

### Appealable decisions

4.2. A student or other eligible person (the appellant) may appeal decisions regarding:

- (a) academic misconduct;
- (b) general misconduct;
- (c) grievance;
- (d) academic progress;
- (e) statutory decisions;
- (f) incorrect information or advice given by any academic or administrative staff of the University or which appeared in any publication of the University which has caused hardship to the student;
- (g) examination outcome in a graduate research course; and,
- (h) selection.

### Grounds for appeal

4.3. An appeal made under section 4.2 must be on one or more of the following grounds:

- (a) a procedural irregularity has occurred (which may include that the student has not received a fair hearing in all the circumstances);
- (b) there is new information that could not reasonably have been provided at the time of the original decision, and that would probably have affected the decision or any penalty imposed;
- (c) the decision was manifestly wrong; and/or
- (d) the penalty imposed was manifestly excessive, inappropriate or not available in the circumstances.

4.4. An appeal made under 4.2(h) can only be made on the grounds that a procedural irregularity has occurred in the selection process.

4.5. An appeal made under 4.2(g) can only be made on the following grounds:

- (a) procedural irregularities in the conduct of the examination, which may have had an effect on the outcome of the examination; and/or
- (b) documented evidence of prejudice or bias on the part of one or more of the examiners.

### **Limitations**

4.6. Decisions by an examiner or board of examiners in relation to the academic performance of a student in any component of assessment which is based solely on academic judgement cannot be appealed.

4.7. Decisions of Council to revoke an award cannot be appealed.

### **Lodgement of notice of appeal**

4.8. A person who wishes to appeal a decision under section 4.2 must lodge a notice of appeal with the Academic Secretary within 20 University business days of the original decision.

4.9. The notice of appeal must:

- (a) clearly state the ground or grounds for appeal;
- (b) summarise the basis for each ground or grounds;
- (c) attach the notice of the original decision;and
- (d) include any relevant material on which the student or eligible person wishes to rely.

4.10. The Academic Secretary will acknowledge the notice of appeal within five University business days of receipt.

### **Consideration of notice for appeal**

4.11. Upon receipt of a notice of appeal that meets the form prescribed at section 4.6, the Academic Secretary considers the notice of appeal and any relevant supporting documents.

4.12. If, after considering the notice of appeal, the Academic Secretary finds that the notice of appeal lacks merit, he or she may dismiss the appeal without hearing and give notice of the decision.

4.13. If the appeal is not dismissed, the student appeal panel will hear the appeal in accordance with this policy.

4.14. Having regard for the need for fairness to both the University and the appellant, and pending the final determination of the matter, the Academic Secretary may make one or more of the following interim directions in general misconduct matters:

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

4.15. If the Academic Secretary allows the appeal to proceed to hearing, he or she must refer the application to a student appeal panel.

4.16. The student appeal panel must be convened within 21 working days of receipt of the appeal, except for appeals arising from academic progress decisions in coursework courses which are held on set dates and scheduled for the period following the assessment period of each progress review period and published on the Board's website.

### **Student appeal panel composition**

4.17. The Academic Secretary appoints the members of the student appeal panel and nominates one member as chairperson. The chairperson is usually an officer of the Board.

4.18. Reasonable steps are taken to have both genders represented on the student appeal panel.

4.19. Wherever practicable, membership of the student appeal panel convened to hear an appeal remains the same throughout the hearing of the matter notwithstanding any adjournment.

4.20. The student appeal panel must not include anyone who has, or who may reasonably be perceived to have, a bias or conflict of interest in the matter. For avoidance of doubt, a person who was involved in the matter being appealed may not be a member of the student appeal panel and a panel member must not be from the faculty in which the appellant is, was or would have been enrolled.

## **5. Procedural principles**

### **Functions and conduct of the student appeal panel**

5.1. The Academic Secretary must appoint a person as secretary to the student appeal panel.

5.2. The student appeal panel secretary must contact the respondent allowing them to submit a report in response to the notice of appeal including any information and documentation relevant to the appeal. The response must be submitted in the timeframe requested by the secretary. If no response is received within the timeframe the hearing will proceed.

5.3. The student appeal panel secretary collates all documents relevant to the appeal hearing and disseminates them to all panel members, the student or eligible person, and the respondent. The documentation must include:

- (a) A meeting notice (agenda) containing the following information:
  - i. a summary of the matter being appealed;
  - ii. the grounds of appeal;
  - iii. the name of the chair and, where practicable other appeal panel members. Where not practicable the names of other members must be provided to the appellant, as soon as known, by email;
  - iv. the time date and venue of the hearing;
  - v. a numbered list of all documents included in the notice, as listed at 5.3 (b) to (h); these documents will be numbered correspondingly.
- (b) the notification of the original decision which is the subject of appeal;
- (c) the appellant's notice of appeal and any supporting documentation submitted where deemed relevant by the Academic Secretary;
- (d) the respondent's report;
- (e) a report from the Course Unsatisfactory Progress Committee (for an appeal arising from the Academic Progress Review Policy);
- (f) the appellant's student record card (where the appellant is a student or is an applicant who was a student and the record card is relevant to the appeal);
- (g) the relevant statute, regulation, policy or procedure; and
- (h) any further evidence or documentation requested by the student appeal panel or the Academic Secretary.

5.4. In determining the appeal the student appeal panel:

- (a) must make a majority rule decision;
- (b) must make a decision based on a balance of probabilities – that based on the available evidence, a proposition is more likely to be true than not;
- (c) must consider new evidence only where it relates to the original decision. For the avoidance of doubt, in the case of unsatisfactory progress material related to performance subsequent to the performance on which the original decision was made is not new evidence as it does not relate to the original decision;
- (d) may follow any procedure it considers appropriate;
- (e) is not bound by the rules of evidence or other technicalities or legal forms, and may inform itself in relation to any matter in any manner it thinks fit;

- (f) must act impartially and fairly in all the circumstances, having regard to the requirements of natural justice;
- (g) must consider and make a decision on any relevant material presented or made available to it;
- (h) must give the appellant the opportunity to present material and submissions in support of the appeal and to respond to any other material relating to the appeal;
- (i) must allow the appellant to be accompanied by a support person who must not be:
  - i. a person who was involved in, associated with, or alleged to have been involved in or associated with the matter which is the subject of the appeal; or
  - ii. a qualified legal practitioner unless permitted by the chairperson of the committee;
- (j) must give the respondent the opportunity to present their case;
- (k) must not advocate for the student or the University;
- (l) must balance the rights of the appellant with the need for fair and impartial decision-making for all students;
- (m) must preserve the academic integrity of programs and standards on behalf of the University;
- (n) must avoid any action which could affect their judgement when dealing with committee matters and declare any conflict of interest;
- (o) must treat each other, and University staff and students with professionalism, courtesy and respect; and,
- (p) must not improperly influence other committee members; and
- (q) in the case of unsatisfactory progress where a student has been terminated by the faculty, must only allow a student to continue in their course where it forms the view that the student has a credible and workable plan for academic improvement, and has demonstrated evidence in support the grounds on which they appealed.

5.5. The appellant may not send a representative in their place.

5.6. If the appellant fails to appear before the student appeal panel, the matter may be heard and decided in their absence.

5.7. The appellant must notify the Academic Secretary if they wish to have a specified support person present at the appeal hearing. The notification must be made at least 24 hours before the scheduled hearing.

5.8. A support person may act as an advocate on the appellant's behalf with the permission of the chairperson, which must not be unreasonably withheld, and the appellant.

5.9. The chairperson of the student appeal panel may exclude the support person from the hearing if they disrupt or unreasonably impair the conduct of the hearing.

5.10. The chairperson may suspend the hearing and reconvene the committee at a later date. Where the chairperson suspends the hearing the same panel must reconvene to decide the matter; the appellant and respondent must be invited to attend.

5.11. The recording or filming of the student appeal panel proceedings is not permitted.

5.12. The respondent may, at any time before the student appeal panel informs the appellant of its decision, withdraw the original decision on the basis of information provided by the appellant before, or presented at, the hearing.

## Decision

5.13. Following the hearing of an appeal, a student appeal panel must:

- (a) allow the appeal in whole or in part; or
- (b) dismiss the appeal.

5.14. If the appeal is dismissed, the student appeal panel must confirm the original decision.

5.15. If the appeal is allowed in whole or in part the student appeal panel may:

- (a) remit the decision to the original decision maker or decision makers for the matter to be reconsidered in light of the student appeal panel's findings; or
- (b) set aside any decision or sanction, or substitute or vary any decision or sanction, but must not:
  - i. increase the period of any suspension; or
  - ii. impose any penalty which, in the opinion of the student appeal panel, is more onerous than the original penalty.

5.16 The student appeal panel must, when deciding and giving notice of its decision, include its reasons for the decision.

5.17. The student appeal panel must, as soon as practicable after a decision is made and within five University business days, give notice in writing of the student appeal panel's decision to the:

- (a) appellant;
- (b) original decision makers;
- (c) Academic Secretary; and
- (d) Academic Registrar.

5.18. Where the matter is remitted back to the original decision makers, they must review the student appeal panel's findings and reconsider their decision within 10 University business days. Once the decision has been reconsidered, the original decision makers must give notice of their decision in writing to the:

- (a) appellant; and

(b) Academic Secretary.

## External appeal

5.19. The decision of the student appeal panel is final and is a decision of the Board.

5.20. This does not preclude a student seeking an external review of a University decision or process by an appropriate, independent external body such as the Victorian Ombudsman.

## Records

5.21. Where the appellant is a student of the University, the Academic Registrar must ensure that

- (a) a copy of the outcome letter is placed on the student's file and
- (b) the student's record card reflects the decision of the student appeal panel; and
- (c) where relevant, the relevant commonwealth department is notified of any change to a student's Visa status.

5.22. The Academic Secretary must ensure that complete records of all appeal hearings are maintained in a form approved by the Board and meets the requirements of the University's records policy.

5.23. The Academic Secretary must submit an annual combined report of outcomes of appeals to the Board.

5.24. Following each round of appeals arising from academic progress review decisions, the student appeal panel secretary will submit a list of:

- (a) domestic students whose enrolment has been terminated to Academic Services; and
- (b) international students whose enrolment has been terminated to Academic Services 15 days after the period of time allowed for appeal to the Board has elapsed.

## 6. Roles and responsibilities

<i>Role/Decision/Action</i>	<i>Responsibility</i>	<i>Conditions and limits</i>
Acknowledge receipt of appeal	Academic Secretary or a person authorised by the Academic Secretary to act	
Consideration of notice of appeal	Academic Secretary	Must be in accordance with the University's records policy
Dismiss the appeal without a hearing	Academic Secretary	Must be in accordance with the University's records policy
Convene a student appeal panel, and appoint a chair person	Academic Secretary or a person authorised by the Academic Secretary to act	
Appoint a secretary to the Student Appeal Committee	Academic Secretary or a person authorised by the Academic Secretary to act	
Request a response to the notice of appeal	Academic Secretary or a person authorised by the Academic Secretary to act	
Provision of response to the notice of appeal	Respondent	Must be submitted within the timeframe stipulated in the notice of appeal
Ensure the appropriate conduct of the Student Appeal Committee	Chairperson of the Student Appeal Committee	Must be in accordance with the University's records policy

Deliberate and decide	Student appeal panel	Must be in accordance with Academic Board Regulation and section 100
Provision of outcome notice to appellant following hearing	Academic Secretary or a person authorised by the Academic Secretary to act	Must be in accordance with Academic Board Regulation and section 100
Ensure that records are kept of all actions taken under this policy	Academic Secretary or a person authorised by the Academic Secretary to act	Must be in accordance with the University's Records Management Policy
Ensure that the student's academic record is updated in the student management system	Academic Registrar	

## 7. Definitions

**academic misconduct decision** means a decision made under Academic Board Regulation, Part 8 – Student Conduct and any University policy regarding student academic integrity.

**academic progress decision** means a decision made under the Academic Board Regulation, Part 7 – Academic Progress and any University policy regarding student academic progress.

**appellant** means the person making the appeal.

**Australian legal practitioner** has the same meaning as in the *Legal Profession Uniform Law Application Act 2014* (Vic).

**Board** means the [Academic Board](#) of the University of Melbourne.

**Board officer** means the President, Vice-President or Deputy Vice-President of Academic Board.

**business day** means any day (on which the University is open for business and excludes all Saturdays, Sundays, public holidays that are observed by the University and University holidays declared on an annual basis (such as Easter Tuesday and Christmas shutdown periods).

**eligible person** means someone who is not a current student, but who is eligible under the Selection and Admission Policy to lodge an appeal.

**general misconduct decision** means a decision made under Academic Board Regulation, Part 8 – Student Conduct and any University policy regarding student general misconduct.

**grievance decision** means a decision made under the Student Complaints and Grievances Policy.

**natural justice** is a legal concept embodying the idea that ‘procedural fairness’ be observed by decision making bodies in the consideration of a case. Natural justice requires that:

- the person affected by a disputed matter be given the right to present their case including the opportunity to be heard, be provided with adequate notice of the allegations and the procedures to be used, and
- members of the decision making body be free of bias and perceived bias or other personal interest in the outcome; and that these principles are incorporated within a clearly defined procedural framework.

**notice** means, unless otherwise specified, a notice that is sent to a student's University email address, or provided in person, or sent either by post or by email, to a student's last known postal or email address.



**respondent** means the head of the department, associate dean, dean of the faculty, chair/member of the Course Unsatisfactory Progress Committee, or the administrative director or manager who takes responsibility for the area related to the matter in the notice of appeal.

**suspension** means forced cessation of study in a particular degree course for a defined period.

**selection decision** means a final decision made under any University policy or procedure relating to admission decisions.

**statutory decision** means a decision in respect of which Commonwealth or State legislation requires the University to provide a right of appeal to a student or eligible person which is not covered by another appeal process.

**student** in this policy, for the purposes of academic and general misconduct appeals, has the meaning given to it in Part 8, Division 1 – Student Misconduct – of the Academic Board Regulation. For the purposes of other appeals made by students, “student” has the meaning given to it in the University of Melbourne Statute.

**termination** means the cancellation of a student’s enrolment at the University, without any right to enrol or re-enrol in any particular course or subject at the University, except with the consent of the Vice-Chancellor. "Terminate" or "terminated" have a corresponding meaning.

**University** means the University of Melbourne.

## POLICY APPROVER

Academic Board

## POLICY STEWARD

Academic Secretary

## REVIEW

This policy is to be reviewed by 12 May 2021.

## VERSION HISTORY

Version	Approved By	Approval Date	Effective Date	Sections Modified
1	President, Academic Board	12 May 2016	21 July 2016	New Policy arising from the Policy Consolidation of Academic Board Procedure (MPF1023).
2	President, Academic Board	6 September 2016	7 September 2016	Clarify section 4.3 (c) and (d).
3	Academic Secretary	6 Jun 2018	6 Jun 2018	Editorial change to update National Code in
4	NA			<i>Created in error</i>
5	Policy Officer	6 Jun 2018	21 Jun 2018	minor errors to document information Fixi