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Policy Approver: Academic Board

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Supporting Process:

Student Management and Support Processes

Student Appeals Policy (MPF1323)

1. Objective

1.1. 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

2.1. This policy applies to all student and eligible persons' appeals.

3. Authority

3.1. This policy is made under the *University of Melbourne Act 2009 (Vic)*, the Academic Board Regulation, The Vice-Chancellor 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) student academic misconduct;
- b) student general misconduct;
- c) student grievances, provided the grievance does not involve an alleged breach by staff of the Appropriate Workplace Behaviour Policy;
- 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;
- h) selection;
- i) student fitness to practice;
- j) exclusion for a notifiable disease; and
- k) student fitness to study.

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. Failure to read and act upon a notice or correspondence sent to the student University email account are not grounds for an appeal.
- 4.8. A grievance or complaint about the content of a University policy made in accordance with the University Regulatory Framework cannot be appealed;
- 4.9. Decisions of Council to revoke an award cannot be appealed.
- 4.10. Students seeking to appeal a decision related to the following policies, must first seek a review in accordance with the process set out in that policy:
- a) Selection and Admission Policy ([MPF1295](#))
 - b) Credit, Advanced Standing and Accelerated Entry Policy ([MPF1293](#))
 - c) Assessment and Results Policy ([MPF1326](#))
 - d) Establishment and Award of Student Awards Policy ([MPF1062](#))

Lodgement of notice of appeal

- 4.11. A person who wishes to appeal a decision under section 4.2 must lodge a notice of appeal via the Case Management System within 20 University business days of the original decision.
- 4.12. In accordance with University Regulations, the notice of appeal must:
- a) describe the decision being appealed;
 - b) clearly state the ground or grounds for appeal;
 - c) summarise the basis for each ground or grounds;
 - d) attach the notice of the original decision; and
 - e) include any relevant material on which the student or eligible person wishes to rely.
- 4.13. Receipt of the notice of appeal will be acknowledged within five University business days of receipt.
- 4.14. A student may only submit an appeal on their own behalf.
- 4.15. A student may not submit an appeal on behalf of a group or any other student.

Consideration of notice of appeal

4.16. Appeals relating to student general misconduct, student fitness to study, or exclusion for a notifiable disease will be considered by the University Secretary in accordance with the provisions of the Vice-Chancellor Regulation.

4.17. Appeals relating to all other matters set out in section 4.2 will be considered by the Academic Secretary in accordance with the provisions of the Academic Board Regulation.

4.18. Assessment of a notice of appeal lodged under 4.11 will commence within 10 University Business days of lodgement and be finalised as soon as reasonably practicable.

4.19. If the notice of appeal lacks merit, the appellant will be provided notice of the intention to disallow the appeal and the reason for the proposed disallowance. The appellant will be provided five (5) University business days to submit any further information relevant to the appeal. If no further relevant information is provided within five (5) University business days, the appeal will be disallowed and closed.

4.20. Any further information provided by the appellant after receiving a notice under 4.19 must be considered before the final decision to allow or disallow the appeal is made. Notice of the decision will normally be provided within 15 University business days of further information being provided under 4.19, and in the case of disallowing the appeal, reasons for the decision will be provided in writing. Where relevant circumstances apply that prevent a decision to allow or disallow an appeal to be made within 15 University business days, the appellant will be notified in writing.

4.21. If the appeal is allowed, it will be referred to a student appeal panel within 15 University business days. The student appeal panel must hear the appeal as soon as reasonably practicable following referral.

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

- a) suspend implementation of the decision that is the subject of the appeal;
- b) recommend to the Vice-Chancellor that the Vice-Chancellor 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.

Student appeal panel composition

4.23. The student appeal panel membership will be as set out in the Academic Board Regulation or the Vice-Chancellor Regulation, whichever applies.

4.24. Members and the chairperson of a student appeal panel established under the Academic Board Regulation are appointed by the Academic Secretary. Members and the chairperson of a student appeal panel established under the Vice-Chancellor Regulation are appointed by the University Secretary.

4.25. Reasonable steps are taken to ensure the student appeal panel approaches gender balance.

4.26. 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.

4.27. 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 or University Secretary, whichever regulation applies, must appoint a person as secretary to the student appeal panel.

5.2. The student appeal panel secretary may 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 appellant, 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 on which the appeal will be heard;
- 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 list of all documents included in the notice, as listed at 5.3 (b) to (h).

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 or University Secretary, whichever regulation applies;

d) the respondent's report;

e) a report from the Course Academic Progress Committee (for an appeal arising from the Academic Progress Review Policy (Coursework) ([MPF1291](#)) or Academic Progress Review Policy (Graduate Research) ([MPF1363](#)));

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) references to any relevant regulation, policy or procedure; and

h) any further evidence or documentation requested by the student appeal panel or the Academic Secretary or University Secretary, whichever regulation applies.

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 panel;

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 the matters before the student appeal panel and declare any conflict of interest;
- o) must treat each other, and University staff and students with professionalism, courtesy and respect;
- p) must not improperly influence other panel members; and
- q) in the case of unsatisfactory progress where a student's enrolment has been terminated by the course academic progress committee, 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 of 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 secretary to the student appeal panel 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 panel 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) uphold 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 upheld 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, or apply enrolment conditions, 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, give notice in writing of the student appeal panel's decision to the:

- a) appellant;
- b) original decision makers

5.18. The student appeal panel must, as soon as practicable after a decision is made, give notice to the appellant of the appellant's right to apply for external review of the decision.

5.19. 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 or University Secretary, whichever regulation applies.

External appeal

5.20. The decision of the student appeal panel is final and not subject to further review in the University.

5.21. 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

5.22. 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.

5.23. The Academic Secretary must ensure that complete records of all appeal hearings are maintained in the Case Management System and meet the requirements of the University's records policy.

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

5.25. Following each appeal arising from academic progress review decisions, the Academic Secretary notifies Student Administration of any student appeal outcome which changes the academic progress review outcome, or the outcome remains termination of enrolment.

6. Roles and responsibilities

| <i>Role/Decision/Action</i> | <i>Responsibility</i> | <i>Conditions and limitations</i> |
|--------------------------------------|--|---|
| Acknowledge receipt of appeal | University Secretary or Academic Secretary or a person authorised to act | |
| Consideration of notice of appeal | University Secretary or Academic Secretary | Must be in accordance with sections 4.16-4.22 |
| Dismiss the appeal without a hearing | University Secretary or Academic Secretary | Must be in accordance with section 4.16 and 4.22 of this policy |

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| 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 Panel | 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 10 University Business days of the request or in the timeframe stipulated in the request |
| Ensure the appropriate conduct of the Student Appeal Panel | Chairperson of the Student Appeal Panel | Must be in accordance with sections 5.4-5.11 of this policy |
| Deliberate and decide | Student appeal panel | Must be in accordance with the provisions of the Academic Board Regulation and sections 5.4 and 5.13-5.18 of this policy |
| Provision of outcome notice to appellant following hearing | University Secretary or Academic Secretary or a person authorised to act | Must be in accordance with the provisions of the Academic Board Regulation and section 5.16-5.18 of this policy |
| Ensure that records are kept of all actions taken under this policy | University Secretary or Academic Secretary or a person authorised to act | Must be in accordance with sections 5.22-5.25 of this policy and 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 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.

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

exclusion for a notifiable disease means a decision made under the Vice-Chancellor Regulation, Part 6 – Student Conduct, section 31.

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.

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 student academic and student general misconduct appeals, has the meaning given to it in the Academic Board Regulation Part 10 - Student Appeals to Academic Board, and the Vice-Chancellor Regulation Part 6 – Student Conduct and Part 7 - Student Appeals Under the Vice-Chancellor Regulation, whichever applies.

student academic misconduct decision means a decision made under Academic Board Regulation, Part 9 – Student Academic Integrity and any University policy regarding student academic integrity.

student appeal panel also means appeal panel (as set out in the Vice-Chancellor’s Regulation).

student fitness to practice means a decision made under the Academic Board Regulation, Part 8 – Student Fitness to Practice, and any University policy regarding student fitness to practice.

student fitness to study means a decision made under the Vice-Chancellor Regulation, Part 6 – Student Conduct, section 32 and any University policy regarding student fitness to study.

student general misconduct decision means a decision made under the Vice-Chancellor Regulation, Part 6 – Student Conduct and any University policy regarding student general misconduct.

suspension means the suspension of a student’s enrolment at the University for a specified period at the end of which the student’s enrolment is reinstated unless otherwise requested by the student. “Suspend” and “suspended” have a corresponding meaning.

termination of enrolment means the termination of a student’s enrolment at the University and cancellation of the student’s enrolment. "Terminate" or "terminated" have a corresponding meaning.

University means the University of Melbourne.

University business day means a day that is not a Saturday, Sunday or a University holiday as indicated on the University calendar (as amended from time to time).

POLICY APPROVER

Academic Board

POLICY STEWARD

Academic Secretary

REVIEW

This policy is to be reviewed by 26 March 2024.

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 Project incorporating the former Appeals to the 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 June 2018 | 6 June 2018 | Editorial change to update National Code in section 3. Authority |
| 4 | NA | | | <i>Created in error</i> |
| 5 | Policy Officer | 6 June 2018 | 21 June 2018 | Fixed minor errors to document information |
| 6 | Academic Secretary | 3 May 2019 | 3 May 2019 | Editorial amendment to 4.11 |
| 7 | Academic Secretary | 11 September 2019 | 13 September 2019 | Editorial changes removing gendered pronouns 4.12, 4.14, 4.15 |
| 8 | Academic Secretary | 3 December 2019 | 4 December 2019 | Editorial amendment to 4.16 |

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|----|------------------------------|---------------------|---------------------|---|
| 9 | President, Academic Board | 16 November 2020 | 17 December 2020 | Updates to address diversity and inclusion requirements at 4.18. Clarifying that an appeal panel may impose conditions on an appellant's continued enrolment. |
| 10 | President, Academic Board | 26 March 2021 | 26 March 2021 | Addition of 4.7A. Updates to include the provision to hear appeals under the Vice-Chancellor Regulation, Part 7- Student Appeals. Change of the policy title from Student Appeals to the Academic Board Policy to the Student Appeals Policy. |
| 11 | Academic Secretary | 14 May 2021 | 14 May 2021 | Amendments made to 4.9 and 4.12. |
| 12 | President, Academic Board | 6 October 2021 | 6 October 2021 | Amendments consequent upon amendments to the Academic Board Regulation, 4.12 and 4.13. Renumbering of 4.16 – 4.21 after deleting 4.16 (repeated 4.4) |
| 13 | <i>N/A</i> | <i>N/A</i> | <i>N/A</i> | <i>Created in error.</i> |
| 14 | Policy Officer | 6 October 2021 | 6 October 2021 | Editorial change at 4.13. |

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|----|------------------------------|------------------|---------------|--|
| 15 | President, Academic Board | 17 February 2022 | 24 March 2022 | Amendments to 4.13, 4.15, 7 (definition of 'academic misconduct decision') Insertion of 4.14 & 5.18 |
| 16 | President, Academic Board | 4 May 2022 | 31 May 2022 | Amendment to 4.13 (last sentence amended to clarify appeal will be closed) |

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|----|----------------|------------------|------------------|--|
| 17 | Academic Board | 15 December 2022 | 22 December 2022 | <p>Amend references to grievances, academic misconduct and general misconduct to add 'student' and align with the Academic Board Regulation and Vice Chancellor Regulation.</p> <p>Add a limitation at 4.8 to align with the Academic Board Regulation and Vice Chancellor Regulation.</p> <p>Amendments to the <i>Lodgement of Notice of Appeal</i> and <i>Consideration of Notice of Appeal</i> sections to separate appeals considered by the University Secretary and Academic Secretary, pursuant to the revised Academic Board Regulation and Vice Chancellor Regulation.</p> <p>Consequential amendment to appealable decisions (4.2) to remove reference to suspension orders in alignment with the Academic Board Regulation and Vice Chancellor Regulation.</p> <p>Add new clause at 4.10 to align with the review pathway obligations set out in related Academic Board Policies (MPF1295, MPF 1293, MPF 1326 and MPF1062) where an appellant is required to first seek an internal review of the decision prior to submitting a notice of appeal.</p> <p>Amend clauses related to timeframes for assessment of a notice of appeal (refer cl 4.17) for consistency with the Academic Board Regulation and Vice Chancellor Regulation, and to align with Standard 10: Complaints and appeals of the National Code of Practice for Providers of Education and Training to Overseas Students 2018.</p> <p>Remove the reference at cl 4.17 to Academic Progress Appeals being held on set dates.</p> <p>Minor editorial corrections to other clauses.</p> |
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