

Academic Appeals Policy and Procedure

1 Purpose

The purpose of this policy and procedure is to:

- establish the Institute Academic Appeals Committee to hear appeals against academic decisions;
- make provision for appeals relating to academic progress, academic misconduct and certain other academic matters.

2 Scope

This policy and procedure applies to all Higher Education, Higher Degree by Research and ELICOS courses offered by the Institute. This policy and procedure does not apply to appeals that relate to complaints of unlawful discrimination, sexual harassment and bullying by staff or students, which are addressed by the *Equal Opportunity Policy* and the *Sexual Assault and Sexual Harassment Response Policy and Procedure*.

3 Definitions

Term	Definition
Academic Appeals Committee (the Committee)	the Institute Academic Appeals Committee is established under clause 4 of this policy.
Academic Registrar	the person holding the position Group General Manager with the Institute or nominee.
Advocate	an independent person who can provide a student with advice about the appeal process and assist the student with the submission and presentation of his/her appeal.
Appeal	a request for reconsideration of a decision.
ELICOS	means English Language Intensive Courses for Overseas Students.
School	the relevant School of Business or School of Information Technology and Engineering.
Unsatisfactory academic performance	The criteria of unsatisfactory academic performance, as defined by Academic Board, is where an enrolled student: • fails 50 percent or more of the credit points in which the student is enrolled in a trimester; or will not be able to complete his/her course within the maximum

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period of study defined by the Academic Board or within the expected course duration specified on an international student's confirmation of enrolment.

4 Academic Appeals Committee

4.1.1 There is an Academic Appeals Committee comprised of:

- A Chair, being the Chair of Academic Board or nominee;
- A pool of staff to include: three members of academic staff from each Campus, at least one from each School, with at least one academic staff member with research experience and who is currently research active, appointed in January each year by the Chair Academic Board upon recommendation of the Executive Dean or nominee;
- The ELICOS Academic Manager or nominee ELICOS teacher;
- A pool of students to include: two coursework students from each campus, one from each school, and one research student from each campus, to be appointed in January each year by the Chair of Academic Board upon recommendation of the Executive Dean or nominee.

4.1.2 Newly appointed panel members of the Committee will be provided with an induction process (to include instruction on procedural fairness and confidentiality). Professional development will be available to all panel members of the Committee and the Secretariat.

4.1.3 The Secretary will be the Academic Registrar (or nominee) and is non-voting.

4.2 Wherever possible membership of the Academic Appeals Committee will reflect the diversity of the Institute community.

4.3 A person will not sit as a member of a specific hearing of the Academic Appeals Committee :

- who has had any involvement in the matter forming the subject of the appeal, or

4.4 Where for any other reason it would be inappropriate for the person to be a member to hear the appeal. The normal composition of the Academic Appeals Committee engaged for a particular hearing is the Chair, two academic staff members, and a student, with members to be selected by the Chair for their suitability and relevance for each appeal heard, and with an aim of achieving disciplinary balance. Normally members on the same campus as the student who is appealing will be selected. A quorum (ie minimum composition) is the Chair, one academic staff member and one student. If an Academic Appeals Committee is unable to be formed due to the application of clause 4.3, the Chair of Academic Board may appoint a temporary Academic Appeals Committee member for a specific hearing.

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4.5 The Committee will meet at the end of each calendar year, and review cases heard during that year, with a view to identifying any issues of significance that might require changes to the Academic Appeals Policy and Procedure, or to operational aspects of the AAC.

4.6 The Committee will provide an annual report on its operations to Academic Board and include statistics on appeals and their outcomes and any underlying issues. The Committee may make recommendations regarding trends and issues arising from appeal hearings.

5 Principles, Eligibility and Appealable Decisions

In interpreting and applying this policy and procedures, decision makers and staff of the Institute will be guided by the following principles *:

- Students may be aggrieved by decisions made by the Institute which adversely affect them, and should have an opportunity to seek review and / or appeal of decisions within the Institute to a more senior officer and / or decision-making body of the Institute.
- Review and appeal processes should, where possible, be delivered in a timely manner.
- Review and appeal processes should be made available without charge to students and applied consistently, fairly and without reprisal.
- Outcomes from review and appeal processes should be communicated in writing with reasons, communicate further avenues of appeal (if any), and be implemented in a timely manner.
- The review and appeals process is intended to promote decision making that is compatible with human rights as contained in *The Charter of Human Rights and Responsibilities 2006 (Vic)* and *The Human Rights Act 2019 (NSW)* and which contributes to promoting and fostering a safe environment for all members of the University community, in compliance with the *Higher Education Standards Framework*.

* the Academic Appeals Committee will also be guided by these principles.

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- 5.1 Prior to seeking an appeal, a student may seek advice from an independent person knowledgeable about the process and aware of potential outcomes such as:
- a student adviser
 - an Advocate
 - an appropriate academic staff member
 - a staff member from the student support service.
- 5.2 Subject to satisfying any eligibility criteria described in the relevant policies or procedures, a student may appeal to the Academic Registrar (or nominee) to request a hearing of the Academic Appeals Committee regarding:
- 5.2.1 an outcome of a classification as “Stage - student at risk” made under the Student Academic Progress policy and procedure, where:
- there is evidence of personal bias or ill will; and/or
 - it can be established that a breach of legislation, policy or procedure by the Institute has occurred in the classification of the student; and/or
 - there is significant new, relevant evidence that was not available at the time of the “Stage 1 - student at risk” classification.
- 5.2.2 a decision to exclude the student for unsatisfactory academic progress made under the Student Academic Progress Policy and Procedure where:
- there is evidence of personal bias or ill will; and/or
 - it can be established that a breach of legislation, policy or procedure by the Institute has occurred in the exclusion process (this includes evidence of procedural error in the handling of an appeal against assessment or evidence that the School failed to implement the academic progress intervention strategy described in this policy and its associated procedures); and/or
 - there is evidence that the penalty of exclusion is unreasonable, excessive or inappropriate (this includes evidence of compassionate or compelling circumstances); and/or
 - there is significant new, relevant evidence that was not available at the time the student was required to show cause why they should not be excluded.
- 5.2.3 the outcome of an application for special consideration where a student has had his/her studies significantly impacted by short-term circumstances reasonably beyond the student’s control such as acute illness.
- 5.2.4 the student’s final result in any unit delivered by the Institute from a decision by the Head of School, where there is:
- new evidence not known to the student at the date of the decision being appealed which becomes apparent since the date of that decision; or
 - irregularity of procedure in the recommending the final result appealed against.

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- 5.2.5 determinations relating to admission, enrolment or credit applications where there is:
- procedural irregularity in the recommending and/or making of the decision appealed against;
 - new evidence not known to the student at the date of the decision being appealed which becomes apparent since the date of that decision.
- 5.2.6 the outcome of a Stage 2 determination of plagiarism or academic misconduct by the Head of School or the outcome of a Stage 3 determination of plagiarism or academic misconduct by the Disciplinary Committee under the *Academic Integrity Policy and Procedure* where there is:
- procedural irregularity in the recommending and/or making of the decision appealed against;
 - new evidence not known to the student at the date of the decision being appealed which becomes apparent since the date of that decision.
- 5.2.7 such other appeals against determinations made under a MIT Policy and Procedure that grants a right of review by the Academic Appeals Committee.
- 5.2.8 the penalty imposed by the original decision, where a student has evidence that the penalty is unreasonable, excessive, or inappropriate, for example by comparison with typical penalties for similar situations.
- 5.3 The Academic Registrar (or nominee) will decide, normally within 5 working days whether:
- The student appealing a determination has had an opportunity to present their case and any supporting evidence; and
 - the application satisfies the grounds for appeal defined in this and other relevant policies or procedures to determine whether the appeal can proceed to hearing.
- 5.4 In response to Clause 5.3
- Where it is decided that the student appealing a determination has not had an opportunity to present their case and any supporting evidence to the decision maker, the Academic Registrar (or nominee) will ensure the decision appealed against is reconsidered by the original decision-maker under the relevant procedure in the light of the student's case and evidence. The student remains free to appeal against the reconsidered decision on the allowable grounds for appeal.
 - Where eligibility criteria are deemed:
 - > to have been met, the Academic Registrar (or nominee) will approve the request, advise the student accordingly and arrange for a hearing of the Academic Appeals Committee. The hearing will normally commence within 10 working days of the receipt of the appeal and will be finalised as soon as practicable.
 - > not to have been met, the Academic Registrar (or nominee) will deny the request and advise the student accordingly, including the reasons for the determination. This communication must be sent within twenty (20) working days from the date the

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appeal submission was deemed by the Academic Registrar (or nominee) to be complete and will also advise the student of their right to seek an external review of the decision.

- 5.5 Any appeal will be made by lodging a notice of appeal in the prescribed form with the Academic Registrar (or nominee) not later than 20 working days of the date the student was notified of the decision appealed against or within the timeframe set specifically within the relevant policies or procedures.
- 5.6 A student is entitled to remain enrolled and attend classes during the 20 working day appeal window and until such time as the appeal outcome is known. Alternatively, a student who wishes to appeal may apply to take leave of absence. If their appeal is dismissed or deemed invalid, however, the Institute's final decision to exclude a student will override any period of approved leave of absence.
- 5.7 All records relating to the appeal, including correspondence with the student will be maintained by the Institute for the period stated in the Records Management Policy and Procedure.

6 Procedure When an application to the Academic Appeals Committee is deemed by the Academic Registrar or nominee not to satisfy the grounds for appeal

- 6.1. Where an appeal application is deemed not to meet the grounds for appeal, the student will be notified that their application for appeal has been unsuccessful and that they have 10 working days from the date this notification is sent in which to seek an external review.
- 6.2. Where a student does seek an external review, they must provide evidence to the Academic Registrar (or nominee) of the student's lodgement of an application for review within this time- frame if they wish to continue to be enrolled (or on approved leave of absence) while that review is being conducted.
- 6.3. In the case of an appeal against exclusion for unsatisfactory academic progress where no valid notice of application for external review is lodged with the Academic Registrar (or nominee), at the expiry of the 10-working day window of time the Academic Registrar (or nominee) will arrange the cancellation of the student's enrolment as of the 'effective date'.

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7 Hearing of the Academic Appeals Committee

- 7.1 Where a hearing of the Academic Appeals Committee has been granted, the Academic Appeals Committee will, other than in exceptional circumstances, hear the appeal within twenty (20) working days from the date the appeal submission was deemed by the Academic Registrar (or nominee) to be complete.
- 7.2 The student will be given notice in writing not less than five (5) working days before the date of the hearing, stating:
- the date, time and place of the hearing
 - that the student has the right to:
 - be heard
 - make a written submission
 - be accompanied by any other person
 - be represented by another person or an Advocate, but that person cannot be a legal practitioner.
 - be present throughout the hearing
 - call any persons as witnesses
 - engage an interpreter,provided that if the student intends to be represented by another person or to call other persons as witnesses, the student will notify the Academic Registrar (or nominee) in writing of the names of such persons no less than one (1) working day before the date of the hearing, and
 - that the student will not be present when the Appeals Committee is considering its decision.
- 7.3 The original determination authority will be given notice in writing not less than five (5) working days before the date of the hearing, stating:
- the date, time and place of the hearing;
 - the substance of the student's appeal and the grounds for the appeal;
 - that they have the right to:
 - be heard by the Committee;
 - make a written submission;
 - with the consent of the Chair of the Academic Appeals Committee call any persons as witnesses, and

- d. that they will not be present when the Academic Appeals Committee is engaging with the student or considering its decision.
- 7.4 Notwithstanding clause 7.2 and 7.3., where the student does not appear at the hearing and has not submitted any reasonable cause for their absence, or the relevant original determination authority is not represented at the hearing, the hearing may proceed, and the decision of the Academic Appeals Committee will not thereby be invalidated.
- 7.5 The Academic Appeals Committee will hear the appeal and, after giving the student and such other persons as it considers appropriate an opportunity to be heard, will:
- uphold the appeal, or
 - dismiss the appeal, or
 - make such other decision as it considers appropriate.

8 Where the Academic Appeals Committee Dismisses an Appeal against Exclusion

- 8.1 If the Academic Appeals Committee dismisses an appeal against exclusion, the Academic Registrar will inform the student that they have 10 working days in which to seek an external review of its decision.
- 8.2 Where a student does seek an external review, they must provide evidence to the Academic Registrar of their lodgement of application for review within this timeframe if they wish to continue to be enrolled or on approved leave of absence while that review is being conducted.
- 8.3 If no valid notice of application for external review is lodged with the Academic Registrar at the expiry of 10 working days after the date the Appeals Committee decision has been sent, the Academic Registrar (or nominee) will arrange cancellation of the student's enrolment as of the effective date.
- 8.4 Where a student's external review application is dismissed by the external reviewer, the Academic Registrar (or nominee) will arrange cancellation of the student's enrolment as of the effective date.

9 After the Hearing

- 9.1 Within five (5) working days of hearing the appeal the Academic Registrar (or nominee) will:
- in writing, notify the student, the original determination authority and other areas as considered appropriate, of the decision of the Academic Appeals Committee, including the reason for the decision, and
 - where the decision has been other than to uphold the appeal, inform the student of their right to seek a further internal or external review of the decision, as appropriate, and provide the following information:

Should the student believe that the decision has been reached by a misapplication

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of Institute policies or procedures:

International Students may lodge a complaint with the Commonwealth Ombudsman,

Website: <https://www.ombudsman.gov.au/How-we-can-help/overseas-students>,

using the on-line form which is specified on the website.

Additional telephone contact numbers are listed in the following link:

<https://www.ombudsman.gov.au/contact>.

Domestic Students may apply for external review, for example using Resolution Institute to source an external mediator.

Website: <https://www.resolution.institute>

Email: infoaus@resolution.institute

9.2 Notifications required under ESOS Act

Where an international student studying in Australia is excluded for unsatisfactory academic progress, the Academic Registrar will report the student to the Department of Home Affairs via the Provider Registration and International Student Management System (PRISMS) in accordance with the Education Services for Overseas Students (ESOS) Act and National Code.

10 Implementation of Appeal Decisions

If the internal or any external appeal process results in a decision or recommendation in favour of any student, the Academic Registrar must immediately implement the decision or recommendation and/or take the preventive or corrective action required by the decision and advise the student of that action.

11 Responsibilities

The Institute must:

- maintain confidentiality in relation to academic appeals. Personally identifiable information concerning the student should be available where needed, but only for the purposes of addressing the appeal process within the Institute and should be actively protected from disclosure, unless the student expressly consents to its disclosure, or its release is required by law.
- The appeal process should be easily accessible and allow for special arrangements and/or support for appellants with specific needs.

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12 Implementation and Communication

This policy and procedure will be implemented and communicated through the Institute via:

- Announcement on the Institute's webpage;
- Internal circulation to staff;
- Staff professional development.

13 Supporting documents and References

MIT Policies and Procedures

Admission Policy and Procedure

Academic Integrity Policy and Procedure

Credit Transfer and Recognition Policy and Procedure Enrolment Policy and Procedure

Plagiarism and Academic Misconduct Policy and Procedure

Research Ethics Policy and Procedure

Responsible Conduct of Research Policy and Procedure

Student Academic Progress Policy and Procedure

Records Management Policy and Procedure

AQF (Australian Qualification Framework 2013)

HOME AFFAIRS (Department of Home Affairs) Equal Opportunity Policy

National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2018 (National Code)

TEQSA (Tertiary Education Quality and Standards Agency)