University Student Appeals Procedure

Section 1 - Purpose

(1) This procedure supports the University Student Appeals Policy by stating detailed requirements for appeals and review processes.

Section 2 - Policy

(2) This procedure supports the University Student Appeals Policy and should be read alongside that policy.

Section 3 - Procedures

Seeking a review informally

(3) If unsatisfied with the original decision-maker's decision, students are encouraged to first ask the original decision-maker to informally review their decision.

(4) If the original decision-maker declines a student's request for an informal review of the decision, then the student may submit an application for appeal.

Submitting an appeal

(5) An appeal application should always be addressed to the University Student Appeals Officer.

(6) For an appeal to be considered, the appellant student must submit the appeal application to the University Student Appeals Officer no later than:

a. 10 business days after the day on which the original decision-maker sent them the outcome of the decision, or
b. 20 business days after the day on which the original decision-maker sent them the outcome of the decision if the student holds a student visa and the penalty imposed is a suspension, exclusion or expulsion.

(7) An appeal application must be in writing and must:

a. state the finding and/or penalty under appeal,
b. identify the ground or grounds of appeal, numbering them consecutively if there is more than one,
c. provide:
    i. details and copies of any evidence where this is required for a ground of appeal, and
    ii. an argument or rationale that states the relevant facts in support of each nominated ground of appeal.

(8) It is the responsibility of the appellant student to include any documents that are needed to meet the grounds of appeal and substantiate the appeal.

(9) Late appeal applications will be rejected unless:

a. the student has asked for an extension before the due date of the appeal application and the appeal decision-maker or nominee approves the extended date, or
b. the student can show that circumstances outside their control have prevented them from submitting an appeal application on time. In such circumstances, the appeal decision-maker or nominee will then approve or deny the appeal application from being heard.

Grounds for appeal

(10) For each decision that may be appealed (see clause 15), the grounds for appeal are:

a. there is evidence that there has been a failure to provide procedural fairness in hearing and/or making a decision, and/or
b. there is new evidence of factors outside the student's control, which:
    i. the student could not reasonably have been expected to provide at the time the original decision was made, and
    ii. would have been a significant factor in the original decision.

Limitations

(11) Failure to read and act upon a notice or correspondence sent to the student's University email or nominated primary email account are not grounds for an appeal.

(12) A student may only submit an appeal on their own behalf, not on behalf of a group or any other student. Group appeals will not be accepted.

(13) Graduates may not apply for review of, or appeal against, an academic decision that was made before their graduation.

(14) Graduation from an award course will extinguish any existing or future right or avenue of review or appeal against an academic decision.

Decisions that may be appealed

(15) Where the grounds for appeal at clause 10 are met, the following decisions may be appealed under this procedure:

Type of decision	Description	Original decision/related policy
a. Review of grade decision	A student must have an outcome of a review of grade decision before they are able to appeal. A substantive grade of pass or above cannot be appealed. If the student has had the review of grade request declined they may apply for an appeal.	Assessment - Grades and Review of Grades Procedure
b. Exclusion for unsatisfactory academic progress (coursework courses)	Students may appeal against a decision to exclude them for unsatisfactory academic progress and/or period of exclusion. If a coursework student's appeal under this clause has not been determined by the time the student has completed 75% of the current session, they must not be excluded until after the end of the session, if the student wishes to complete the subject.	Assessment - Academic Progress Procedure
c. Refusal of permission to undertake workplace learning	A student who has been refused permission to undertake workplace learning by the Executive Dean may apply for appeal.	Assessment Policy

Type of decision	Description	Original decision/related policy
d. Academic decisions in relation to HDR candidature	Higher degree by research candidates may appeal against a significant academic decision made by the University on their candidature, including a decision by: 1. a panel on their research proposal, 2. an examination committee on their thesis, 3. the Dean, Graduate Studies to terminate their candidature for unsatisfactory progress or breach of a policy or procedure, or 4. the Dean, Graduate Studies to terminate their scholarship for unsatisfactory progress or breach of a policy or procedure.	Higher Degree by Research Policy Higher Degree by Research Procedure
e. Academic decisions in relation to honours candidature	Honours candidates may appeal against a significant academic decision made by the University on their candidature, including a decision by a: 1. principal or associate supervisor, 2. Course Director, 3. Course Coordinator, 4. Honours (or Dissertation) Advisor, 5. Sub-Dean, or 6. Faculty Board.	Assessment - Research Components of Coursework Courses Procedure
f. Unsuccessful credit applications	A student who is dissatisfied with a credit decision may appeal the credit decision. Where a student, after an unsuccessful credit application, obtains further documentation in support of their credit application, they are to re-submit a new and fresh credit application.	Credit Policy Credit Procedure
g. Learning abroad programs	A student who is unsuccessful in their application for, or has been suspended, excluded, or withdrawn from a Learning Abroad program may appeal the decision. A student who is unsuccessful in their OS-Help or grant application, or is dissatisfied with a refund decision, may appeal the decision. Where a student obtains further documentation in support of their Learning Abroad application, they are to resubmit a new and fresh OS-HELP, grant, or Learning Abroad application.	Learning Abroad Policy Learning Abroad Procedure
h. Enrolment and student fees	A student who is dissatisfied with a decision made under the provisions of the Enrolment and Fees Policy, Enrolment and Fees Procedure or International Student Fee Refund Procedure, may appeal the decision. Decisions related to the loss of a Commonwealth supported place due to unsatisfactory academic progress made under the Enrolment and Fees Policy, Enrolment and Fees Procedure (Higher Education Support Act 2003) cannot be appealed.	Enrolment and Fees Policy Enrolment and Fees Procedure International Student Fee Refund Procedure
i. Provider transfer refusal	An international student who is unsuccessful in seeking permission to transfer to another education provider before or during the first six months of their principal course may appeal the decision.	International Students Provider Transfer Procedure
j. Student misconduct	A student who is found to have engaged in misconduct may appeal the decision. There is no avenue of appeal within the University against: 1. a finding that a student has breached the University's code of responsible research conduct but has not committed research misconduct, 2. a finding that a student has committed poor behaviour, poor academic practice, or misconduct where no penalties other than a warning, reprimand, or direction to complete the Academic Integrity Module applied, or 3. a decision by, or recommended to, the University Council to apply the level 3 penalty.	Student Misconduct Rule 2020

Type of decision	Description	Original decision/related policy
k. Unsuccessful admission application	Applicants who are unsuccessful with an application for admission decision may appeal the decision. Where an applicant, after an unsuccessful admission application, obtains further documentation in support of their admission application, they are to re-submit a new and fresh admission application.	Admissions Policy Admissions Procedure
l. Unsuccessful elite athlete applications	Students who are unsuccessful in their elite athlete, elite sports personnel or pre-elite athlete application, may appeal the decision.	Admissions Procedure
m. Fitness for study	Where a student wishes to appeal an original decision made under the Fitness for Study Procedure.	Fitness for Study Procedure
n. University medals and Executive Deans Awards	Where a student wishes to appeal an original decision made under the Medals and Executive Dean's Awards Policy.	Medals and Executive Dean's Awards Policy

Appeal process

(16) Assessment of the appeal application will commence within 10 business days of the appeal application being made.

(17) The appeals decision-maker or University Student Appeals Committee will meet to decide the appeal without the appellant student present unless:

a. the appellant student has asked in writing to be heard in person, or
b. the appeals decision-maker or University Student Appeals Committee invites the appellant student to attend.

(18) An appeal will proceed to be heard or decided even if the appellant student does not:

a. attend the hearing without reasonable excuse, or
b. respond to a notice by any deadline for response stated in the notice.

(19) An appellant student may withdraw their appeal application before the appeals decision-maker or University Student Appeals Committee hears or decides it. In this case:

a. the appeal will be considered to have been dismissed, and
b. the original decision will stand.

Appeal decision

(20) The appeals decision-maker or University Student Appeals Committee:

a. must assess the appeal having regard to the ground of appeal applied on, and
b. at its discretion, may decide to assess an appeal on any ground listed in this procedure in addition to the ground identified in the appeal application.

(21) The appeals decision-maker or University Student Appeals Committee must:

a. limit the scope of its inquiry to:
    i. the material and evidence that was before the original decision-maker,
    ii. where a ground of appeal is that there is new evidence, any new evidence submitted by the appellant student, and

b. take account of:
    i. any submission by the appellant student concerning the appeal, and
    ii. any relevant rules, policies or procedures of the University.

(22) For an appeal on the ground of new evidence, the appeals decision-maker or University Student Appeals Committee will decide whether that ground is made out, and:

a. if so, consider and decide the original decision afresh, taking the new evidence into account, and make a finding on the balance of probabilities, or
b. if so, the original finding should be reassessed by the original decision-maker taking into account the new evidence, or
c. if the ground is not made out, dismiss the appeal, if this is the only ground applied on.

(23) For an appeal on any other ground, the appeals decision-maker or University Student Appeals Committee will decide whether that ground is made out and:

a. if so, uphold the appeal (in whole or in part), and decide whether:
    i. the original finding should be varied, set aside or replaced with a different finding, or
    ii. the original finding should be reassessed by the original decision-maker, or
b. if the ground is not made out, dismiss the appeal.

(24) The appeals decision-maker or University Student Appeals Committee may also decide that, although the ground of appeal is made out, the original finding should not be set aside, varied or replaced. In this case, it may allow the appeal but confirm the original finding.

Notification of appeal decision

(25) The appeals decision-maker or University Student Appeals Officer will, as soon as practicable after the hearing of an appeal application, send the appellant student a notification stating:

a. the finding and decision on the appeal,
b. a short statement of reasons for the finding and decision,
c. a summary of the evidence or submissions on which the finding and decision were based, and
d. information on avenues of external review or appeal available.

(26) The appeals decision-maker or University Student Appeals Officer is responsible for advising relevant staff or units of the University, or officers of a club or society, of any action they need to carry out.

(27) Staff members must carry out the actions they need to as advised by the appeals decision-maker or University Student Appeals Officer.

(28) Where school staff are to take action in relation to penalties, the appeals decision-maker or University Student Appeals Officer will advise the head of the school and/or faculty staff responsible for managing the original decision, who will forward the advice to the relevant staff.

Appeals decision maker

(29) The Deputy Vice-Chancellor (Academic) or nominee will be the appeals decision-maker unless:

a. the Deputy Vice-Chancellor (Academic) or nominee discloses promptly any actual or potential conflict of interest in accordance with the Code of Conduct and Conflict of Interest Procedure, or

b. the Deputy Vice-Chancellor (Academic) or nominee has been an original decision-maker in accordance with this procedure and University Student Appeals Policy.

(30) In such an event, the Deputy Vice-Chancellor (Academic) or nominee will appoint an appropriate member of the Vice-Chancellor's Leadership Team to act as the appeals decision-maker, mainly:

a. the Deputy Vice-Chancellor (Research), where the appeal is of an academic or research original decision, or
b. the Chief Operating Officer or University Secretary, where the appeal is of an administrative original decision.

(31) The appeals decision-maker will hear and decide all appeal applications unless, at the discretion of the appeals decision-maker, a University Student Appeals Committee is to be convened.

(32) Where a University Student Appeals Committee is to be convened, the University Student Appeals Officer will be responsible for convening the Committee.

University Student Appeals Committee

(33) See University Student Appeals Committee – Membership and Terms of Reference.

Section 4 - Miscellaneous

Meaning of no further avenue of review or appeal within the University

(34) If a clause in the University Student Appeals Policy or University Student Appeals Procedure states that there is no further avenue of review of or appeal against a decision within the University, then that decision cannot be the subject of any further review or appeal under any other internal rule, policy, procedure or process of the University.

(35) This does not, however, preclude an appellant student from exercising any available right of review of the decision by a court, tribunal or other external body with the authority to review it.

Administrative errors or omissions

(36) A decision under the University Student Appeals Policy or University Student Appeals Procedure may be corrected where:

a. there is a clerical or typographical error or omission in the text,
b. a document or a reference to it was omitted,
c. there is an error arising from an accidental slip or omission, or
d. there is a defect of form.

(37) The appellant student must be notified of any correction made to a decision promptly following the discovery of that error, defect or omission.

Notification of external appeal avenue to international students

(38) If a student holds a student visa and the appeals decision-maker or University Student Appeals Committee does not overturn an original decision of suspension, exclusion or expulsion, in addition to clause (34), the University Student Appeals Officer will inform the student that:

a. the University now intends to exclude them and report their exclusion to the Department of Home Affairs, which may lead to the cancellation of their student visa,
b. they have the further right of appeal an external reviewer, such as the NSW Ombudsman,

c. the University will not report their exclusion to the Department of Home Affairs for 10 business days, and
d. if before the end of the 10 business days, the student provides evidence that they have submitted an external appeal (such as the reply by the New South Wales Ombudsman with the case number), the University will wait until the outcome of that appeal is known before excluding the student and notifying the Department of Home Affairs of the exclusion.

Interpretation

(39) In the University Student Appeals Policy or University Student Appeals Procedure, unless the context requires otherwise:

a. The singular includes the plural and vice versa: for example, 'a student' includes any student and 'students' includes any individual student.
b. Other grammatical forms of defined words and expressions have corresponding meanings.
c. A reference to a clause or division means a clause or division in the University Student Appeals Policy and/or University Student Appeals Procedure.
d. A reference to a position within the University means the person or persons appointed to that role and includes anyone acting in that role temporarily.
e. The phrase 'in writing' includes electronic and hard copy communications.
f. The words 'reasonable', 'reasonably', 'unreasonable', 'unreasonably' mean on grounds that another reasonable person would consider (as relevant) reasonable or unreasonable.
g. The words 'includes', 'including', 'for example' or other similar expressions do not limit what is included.
h. The verbs 'will' or 'must' state mandatory requirements for action or behaviour.

Savings and transitional provisions

(40) The University Student Appeals Policy and University Student Appeals Procedure will take effect on 1 June 2021.

(41) If before the University Student Appeals Policy or University Student Appeals Procedure takes effect, a person or committee has begun hearing an appeal in relation to any of the aforementioned appealable decisions, the matter will continue to be dealt with under that rule, policy or procedure, until all processes in that rule, policy or procedure are finished or exhausted.

Note: For academic original decisions, all original decisions made prior to and including in session 1, 2021, will continue to be dealt with under that rule, policy or procedure, until all processes in that rule, policy or procedure are finished or exhausted.

(42) The University reserves the right to amend or rescind a part of or all of any clause within the University Student Appeals Policy or University Student Appeals Procedure at any time, in accordance with the Policy Framework Policy. If this occurs, the version that was in effect at the time of an appeal being submitted will remain current for that appeal application.

Section 5 - Guidelines

(43) See University Student Appeals Guidelines, University Appeals Guideline – Students and University Appeals Guideline - Staff.

Section 6 - Glossary

(44) As defined in the University Student Appeals Policy.

Status and Details

Status	Historic
Effective Date	13th June 2023
Review Date	2nd June 2024
Approval Authority	Deputy Vice-Chancellor (Academic)
Approval Date	13th June 2023
Expiry Date	25th July 2023
Unit Head	Frank Tamsitt Executive Director, Safety, Security and Wellbeing
Author	Marion Kater University Student Appeals Officer +61 2 6933 4950
Enquiries Contact	Division of Safety, Security and Wellbeing