

GRIEVANCE AND APPEALS POLICY (ACADEMIC)

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References and Legislation	See section 2.3

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1 Context

This policy outlines the principles on which the Academic Grievance Policy is based and the procedures that are followed to address academic grievances.

2 Scope

2.1 Rationale

UBSS is required to establish protocols and procedures for the handling of academic grievances. This policy specifies UBSS's commitment to ensuring that students have access to processes that allow for grievances, disputes, problems and complaints of an academic nature to be resolved in a fair, efficient and effective manner.

The procedures set out in this document do not replace or modify procedures or any other responsibilities that may arise under other higher education provider policies or under any statute or other law.

This policy applies to all:

- Current student of UBSS;
- All applicants who have formally applied to be enrolled at UBSS;
- Applicants who have studied or completed studies with UBSS within the last six months; and
- All staff members involved in the management of grievances, complaints and appeals.

2.2 General Principles

The appeals policy (academic) will be governed by the principles of natural justice or procedural fairness. This requires a procedurally fair hearing and unbiased decision being made. All parties to the complaint must be afforded this.

The following general principles will apply to all stages grievance resolution processes:

- Confidentiality will be adhered to at all times, with information shared only when this is necessary to investigate a grievance in accordance with these principles, and then only on the basis that the person to whom it is imparted is bound by confidentiality;
- All formal complaints and appeals will be acknowledged in writing;
- Students will be informed in writing of decisions, with a full explanation for reasons for the decision and information on further avenues of resolution including external bodies;
- All staff involved in resolving an academic appeal by a student have a duty to observe the principles of procedural fairness¹, which include (but not limited to) the following elements:
 - (i) the right of the student to a fair hearing and the right of all parties involved to be heard;
 - (ii) the right not to be discriminated against because of the appeal;

¹ See Appendix B for a detailed definition

- (iii) if an appeal or grievance escalates, it cannot be dealt with by any person previously involved with the grievance or appeal;
- (iv) the right of the student to be accompanied by a support person;
- (v) all parties must have full knowledge of the nature and substance of the appeal;
- (vi) the right to an independent decision maker; and
- (vii) the decision is based solely on the relevant evidence with all submissions considered.

2.3 Legislative Context

- The Higher Education Support Act 2003 (HESA)
- Tertiary Education Quality and Standards Agency Act 2011 (TEQSA Act)
- The Educational Services for Overseas Students Act 2000 (the ESOS Act)
- The National Code of Practice for Providers of Education and Training for Overseas Students (the National Code)

Definitions

Item	Definition
Academic Grievance	An Academic Grievance is a grievance relating to student academic progress, student assessment, curriculum or awards in a course of study.
Appeal	An Appeal is the process by which a student requests reconsideration of a decision.

3 Policy Dissemination and Staff Training

This policy is published in a public area – on UBSS’s website at www.ubss.edu.au – and is therefore accessible to all staff, students and other stakeholders.

The **Deputy Vice Chancellor and Vice President (Academic)** is responsible for training academic staff in the application of the policy and for verbally explaining the policy to students.

The **Program Directors** are responsible for training support staff in the application of the policy and for publishing and updating the policy as needed on the UBSS website.

4 Procedure

Current or prospective students in any accredited higher education course at UBSS have access to a procedure through which a complaint may be addressed. Each step in the procedure is free of charge. However any external agency, counsel or consultant engaged by the complainant may choose to charge the complainant a fee for their service.

4.1 Student Academic Progress.

It is a requirement that students studying at UBSS achieve satisfactory Academic Progress.

4.2 Academic Warning Letter

If students do not make satisfactory Academic Progress (defined as failing with a mark of less than 30% of percent or more of any assessment studied in one trimester or with an attendance of less than 70%), they are issued a warning letter.

Right to appeal – Students have the right to appeal this warning within 20 days of its issue. If they do so and the appeal is upheld, no further action is required of the student and UBSS removes the warning from the student’s MyGCA journal.

If the appeal is denied, UBSS notifies students via their student online account. Students who are dissatisfied with the result of their appeal may request that the matter be dealt with by an independent external third party. International Students can take their appeal to the Commonwealth Ombudsman <https://www.ombudsman.gov.au/>.

For domestic students please contact the Independent Higher Education Australia (IHEA) <https://ihea.edu.au/contact/>

If the external appeal is upheld, no further action is required of the student, and UBSS removes the warning letter from the student’s MyGCA journal within 10 working days.

4.3 Discontinuation of Studies – non-Achievement of Academic progress

If the student has been issued a warning letter and does not make satisfactory academic progress pursuant to Policy 3.1 Academic and Progression & Intervention Policy, section 4.3 – Discontinuation of studies the student will be issued with a show cause letter.

Right to appeal – Students have the right to appeal the show cause letter within 20 days of its issue. If they do so and the appeal is upheld, no further action is required of the student.

If the appeal is denied, UBSS notifies students via their student online account. Students who are dissatisfied with the result of their appeal may request that the matter be dealt with by an independent, external third party.

International Students can take their appeal to the Commonwealth Ombudsman <https://www.ombudsman.gov.au/>.

For domestic students please contact the Independent Higher Education Australia (IHEA) <https://ihea.edu.au/contact/>

If the external appeal is upheld, no further action is required of the student. If the student choose not to submit an appeal, or does submit an appeal that is denied, UBSS initiates relevant disciplinary action, which includes reporting the student for failing to make satisfactory academic progress and cancellation of the students CoE

5 Student Assessment

5.1 Curriculum and Awards Grievance.

Before any process is begun the complainant should liaise with the staff member concerned within 10 working days of the occurrence of the grievance event and discuss/negotiate their concerns with a view to arriving at a mutually agreeable resolution. The staff member must send their decision to the student by email within 10 working days of initially liaising with the student about the grievance. If the complainant is not satisfied with the outcome or with the time taken to resolve the matter, then the complainant can proceed as follows:

5.2 Official Complaint.

If not satisfied with the results of the informal outcome the complainant can lodge an official complaint in writing within 10 working days of the student's receipt of the staff member's decision about the outcome of the informal procedure. Details including their student ID number and documentation to support their claim should be included.

If students prefer to make a complaint in a language other than English, then they can call the Translating and Interpreting Service (TIS) on 131 450 or visit this link for more information see www.tisnational.gov.au.

5.3 Evaluation.

Within 10 working days, the **Deputy Vice Chancellor and Vice President (Academic)** or delegate must evaluate the official complaint, hold meetings with the complainant if necessary, and notify the complainant of the outcome of the evaluation in writing via their student online account.

5.4 Appeal.

If the complainant is not satisfied with this outcome, they may submit their complaint in writing with full supporting documentation to the **Chair** of the UBSS Academic Senate. The **Chair** of UBSS Academic Senate must establish a committee of members from the Academic Senate within 10 working days to consider the complaint. The complainant must be notified in writing of the outcome within a reasonable period of time.

5.5 Second Appeal.

Students dissatisfied with the decision by the UBSS Academic Senate may request that the matter be dealt with by an independent external third party group.

International Students can take their appeal to the Commonwealth Ombudsman <https://www.ombudsman.gov.au/>.

For domestic students please contact the Independent Higher Education Australia (IHEA) <https://iheau.edu.au/contact/>

UBSS implements all recommendations arising out of the External Appeal process within the timeframe specified. When a timeframe is not specified, recommendations are implemented within 20 working days.

5.6 No Victimisation or Discrimination

The complainant and respondent must not be victimised or discriminated against at any stage of the procedure set out in this policy.

5.7 Representation by Third Party

The complainant and/or respondent have the right to be represented by a third person (such as a family member, friend, counsellor or other professional support person). In such case, the complainant should give notice of this representation to all parties involved in the meeting stage of the procedure.

5.8 Record of Grievance and Confidentiality

Records of all grievances and applications for review of decisions must be kept by UBSS and be accessible to all interested parties for a responsible amount of time. Such records must be kept confidential and are treated in accordance with the GCA Privacy Policy.

6 Document Change Control

Version	Change Description	Date	Author
v12	Refreshed format	November 2017	Professor Ian Bofinger
v12	Added definition (Section 3)	November 2017	Professor Greg Whateley
V12.1	Revised 6.2 Academic Warning and 6.3 discontinuation of studies	June 2018	Associate Professor Wayne Smithson
V13	Refreshed and new review date	August 2019	Associate Professor Wayne Smithson
V13.1	Student complaint timeline extended to 20 days designated complaint receiver clearly nominated	January 2020	Emeritus Professor Greg Whateley
V14	Removal of Executive Dean and Ombudsman references updated.	March 2021	Anurag Kanwar
V15	New section added 2.2 and interpreters Appendix A, Appendix B	July 2022	Anurag Kanwar

Appendix A

The following policies were consulted in the creation of this document.

Institution	Name of Policy	Link	References to Procedural Fairness	TEQSA Registration Status
Moore College	Academic Appeals Policy	https://moore.edu.au/documents/2019/01/academic-appeals-policy.pdf/	Y	Registered 7 years no conditions, Self Accrediting status
Exceslia College	Student Appeals against academic decisions policy	https://excelsia.edu.au/wp-content/uploads/student-appeals-against-academic-decisions-policy.pdf	Y (not defined)	Registered 7 years no conditions, partial self accrediting status
Sydney University	Student Academic Appeals Rule	https://www.sydney.edu.au/policies/showdoc.aspx?recnum=PDOC2012/253&RendNum=0	Y	Self accrediting status
Kaplan Business School	Grievances Complaints and appeals handling Policy	https://www.kbs.edu.au/documents/grievances-complaints-and-appeals-handling-policy	Y (not defined)	7 years no conditions
Top Education	Student Complaints and Appeals Policy	file:///H:/Downloads/Student%20Complaints%20and%20Appeals%20Policy%20(1).pdf	Y (not defined)	7 years no conditions, partial self accrediting status
PIA	Student Grievance Handling Policy and Procedure	https://docs.pia.edu.au/Documents/Policies%20and%20Procedures/Student%20Grievance%20Handling%20Policy%20and%20Procedure%20v3.5.pdf	N	7 years with conditions

Appendix B

Procedural Fairness (natural justice)

Procedural fairness is also known as 'Natural Justice'. Both terms are used interchangeably. It requires a procedurally fair hearing and an unbiased decision being made. All parties to a complaint (complainant and respondent) must be afforded natural justice.

<https://www.alrc.gov.au/publication/traditional-rights-and-freedoms-encroachments-by-commonwealth-laws-alrc-report-129/14-procedural-fairness-2/procedural-fairness-the-duty-and-its-content/> see also <https://www.bartier.com.au/insights/articles/whats-involved-in-making-a-fair-decision-natural-justice-or-procedural-fairness/>

So what does this mean in practice?

There are three main components

- The opportunity to be heard
- There is no bias and
- The decision must have some basis in fact or reasoning.

The right to be heard

A person must be given a reasonable opportunity to present information before a decision is reached that might adversely affect them. This might include the following elements:

- the right to know the purpose of the particular decision making process and the consequences that flow from it
- the right to know the way in which the issues will be determined
- the right to be fully informed of the allegations and of any other information which will be taken into account in making a decision
- the right to have a reasonable opportunity to respond to the allegations and any other information that will be taken into account in making a decision
- the right to an appeal.

The right to be treated without bias

When UBSS is assessing your academic performance or application, investigating an allegation which has been made against you, or evaluating and weighing up evidence, the decision-maker must act, and be seen to act, impartially and without bias.

The decision-maker, should not:

- have a close personal or family relationship with any parties who have an interest in the outcome;

- have a direct or indirect financial or other interest in the outcome of the decision
- be a person with a closed mind or pre-conceived ideas about the outcome.

There are a number of safeguards to ensure impartiality. For example, potential conflicts of interest and bias should be declared prior to any deliberation on a decision

If a decision-maker becomes aware of some fact or previous judgement that may cause a party to perceive a bias, this should be declared to all interested parties. A decision must then be made by an appropriate person to determine whether any apparent bias exists, and whether it is sufficiently able to be managed, or whether a new decision-maker needs to be appointed.

An applicant must not be treated unfavourably compared to others—the criteria a decision is based on should be published or made available to interested parties beforehand, and the same criteria must be applied across the board.

It is insufficient to declare a decision-maker may have a bias because you ‘think’ the decision-maker might make an adverse decision against you. If you believe that a decision-maker may have a pre-conceived view which will affect his/her impartiality, it is your responsibility to raise this in your appeal and explain (with evidence) why you hold this view.

A decision must be based on relevant information.

This means that the findings of an investigation, or the assessment of an application, needs to be based on evidence which is persuasive, sufficient to answer the critical questions, and reliable. Mere suspicion about something is not an acceptable foundation for a decision.

A decision-maker, should only take into consideration information that is relevant to the decision to be made, and all irrelevant information should be disregarded. Reasons should also be provided as to why a particular decision has been made.