

## REGULATION 2.2 - APPEALS COMMITTEE

### Definitions

1. In this Regulation-

**Appeals Committee** means the Committee constituted under this Regulation.

**New Evidence** means evidence not known to the student at the time of the original hearing, which evidence is material to the allegation of misconduct (see footnote <sup>1</sup>).

### Membership of Appeals Committee

2. The Appeals Committee shall consist of four members of whom:

- (1) one (1) shall be the Chair who will be nominated by the Chair of the Academic Board, and endorsed by Council, and shall hold the position for two years, with possible extension for an additional term;
- (2) two (2) shall be academic staff of the University nominated by the Chair of the Committee, and endorsed by the Chair of Academic Board; and
- (3) one (1) shall be a student of the University.

### Appeal to Appeals Committee

3. (1) An Executive Officer will be appointed to the Appeals Committee.
- (2) An appeal must be lodged with the Executive Officer to the Appeals Committee within ten (10) working days of the date of the decision appealed against and must be based on one, or both, of the following grounds:
- (a) New Evidence; and/or
  - (b) irregularity of procedure in the recommending and/or the making of the decision appealed against.

The Chair of the Appeals Committee may in exceptional circumstances extend the period for lodgment of an appeal.

- (3) The notice of appeal ("appeal form") must provide the appellant's nominated email address or postal address and state the ground(s) of the appeal and must provide relevant information to support the appeal. If there is no relevant information to support the appeal, the Chair of the Appeals Committee may summarily dismiss the appeal.
- (4) Upon receipt of the appeal form and the relevant information, the Executive Officer to the Appeals Committee shall call a meeting of the Appeals Committee, usually within ten (10) working days or as soon as practical for all parties under Statute 5.2, 5.3, 5.5 or 6.1 or any other Statute or

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<sup>1</sup> **Important Note:** evidence which, at the time of the original hearing -

- (a) was known by the student; or
- (b) should have been known by the student; or
- (c) would have been known by the student, had they made proper enquiry - is not New Evidence.

Regulation that provides for appeal against a decision to Academic Board.

- (5) The Executive Officer to the Appeals Committee shall give at least five (5) working days' notice of any meeting of the Appeals Committee, in writing, delivered to all members of the Appeals Committee and to the appellant, via the appellant's nominated email address or, by regular pre-paid post, to the appellant's nominated postal address as shown in the appeal form, stating the time and place of the meeting and the matters to be dealt with at the meeting.
- (6) Notice of a meeting is deemed to have been delivered, if sent to the appellant's nominated email address or, by regular pre-paid post, to the appellant's postal address as shown on the appeal notice. In the event of an appellant being unable to attend at the meeting of the Appeals Committee for any reason acceptable to the Chair of the Appeals Committee, the Chair shall direct the Executive Officer to the Appeals Committee to call a further meeting as provided for under sub-section 3 (4).
- (7) All students involved in the student appeal process must receive, in writing, either before or during their appeal hearing, information on how the outcome of the appeal will be sent to them. The outcome of the appeal may be sent to the student's email address or postal address as shown on the appeal; notice. The student's nominated email or postal address should be confirmed as current at or before the appeal hearing.
- (8) If the appeal timeline is over a period when the University is closed (e.g., Christmas shutdown) the student must be advised in writing that either the timeline for lodging paperwork is still enforced or the timeline extended due to the University closure.
- (9) In accordance with Statute 9.1, sub-section 11, the Vice-Chancellor may determine, from time to time, a fee payable for the lodging of an appeal to the Appeals Committee.
- (10) The Chair may, from time to time, make contact with the relevant Faculty to resolve an appeal, provided it does not disadvantage the student and may result in an expedited outcome.

#### **Appeal hearing**

4.
  - (1) A question arising at a meeting of the Appeals Committee shall be determined by a majority of votes of members present and voting on that question.
  - (2) If voting on a question at a meeting of the Appeals Committee is equal, the person presiding has a casting vote.
  - (3) A question shall not be decided at a meeting of the Appeals Committee unless there are present at the meeting at least three (3) members.
5. Any member of the Appeals Committee who has a prior involvement in a particular question to be considered by the Appeals Committee shall not participate in the determination of that question if in the opinion of the Appeals Committee it is not appropriate for that member to participate.
6. An appellant will normally not be entitled to any representation, including

representation by a person with legal qualifications, when appearing before the Appeals Committee. However, in exceptional circumstances, the Appeals Committee may determine to allow representation on such terms as it thinks fit.

7. An appellant may be accompanied by an observer, who is not a person with legal qualifications, when appearing before the Appeals Committee however the observer may not speak unless invited to do so by the Chair of the Appeals Committee.
8. Members of the Appeals Committee and participants in Appeals Committee proceedings may (at the discretion of the Chair of the Appeals Committee) use an electronic device to access notes and documents during the Appeals Committee meeting, however proceedings before the Appeals Committee may not be electronically recorded.
9. If at any meeting convened at the time and place set for the hearing of an appeal the appellant does not appear, the Chair of the Appeals Committee may-
  - (a) adjourn the meeting; or
  - (b) if he or she is satisfied that the appellant had notice of the time and place of the meeting, proceed to hear, and determine the appeal.
10. The Appeals Committee shall in any hearing of an appeal-
  - (a) act fairly in accordance to the substantial merits of the case without regard to technicalities and legal form;
  - (b) may inform itself in relation to any matter in such manner it thinks fit and is not bound by rules or practice as to evidence, which means that it may consider information, even if the information would not usually be admissible in a court of law;
  - (c) have the absolute discretion to determine the procedure to be followed and shall have complete authority to keep order;
  - (d) afford the appellant the opportunity adequately to state his or her case and to correct or contradict any relevant statement which he or she believes to be prejudicial to his or her case; and
  - (e) ensure that all documents that are to be relied on by a party at the meeting have been made available to the other party.
11. (1) After considering the material relied on in support of the appeal and any answering material, the Appeals Committee may either:
  - (a) dismiss the appeal; or
  - (b) uphold the appeal; and in upholding the appeal may
    - (i) in an appeal against a final grade in a course, refer the matter back to the Executive Dean with advice to follow certain procedures consistent with Regulation 5.3 and Regulation 6.1.1; or
    - (ii) in all other appeals impose conditions on the student's

candidature or enrolment in the program.

- (2) The decision of the Appeals Committee together with reasons for the decision must be communicated to the appellant in writing.
- (3) Where an appeal is upheld, the Appeals Committee must immediately commence the implementation of any decision and/or corrective and preventative action required by the University and advise the student of the outcome.

### **External Review**

12. If the appellant is not satisfied with the result or conduct of the process conducted by the Appeals Committee, the appellant has the right to access the external appeals process at minimal or no cost through the Victorian Ombudsman.

### **Reporting**

13. The Chair of the Appeals Committee reports to meetings of Academic Board and de-identified minutes from Appeals Committee hearings are received by the Academic Board.

Made 13/12/95 Promulgated 18/1/96  
Amendment 1 Made 11/12/96 Promulgated 15/1/97  
Amendment 2 Made 3/12/97 Promulgated 19/12/97  
Amendment 3 Made 26/3/99 Promulgated 14/4/99  
Amendment 4 Made 10/5/00 Promulgated 25/5/00  
Amendment 5 Made 15/6/05 Promulgated 07/10/05  
Amendment 6 Made 23/02/07 Promulgated 20/03/07  
Amendment 7 Made 25/10/07 Promulgated 23/11/07  
Amendment 8 Made 22/07/08 Promulgated 22/08/08  
Amendment 9 Made 20/10/09 Promulgated 22/10/10  
Amendment 10 Made 06/09/10 Promulgated 22/10/10  
Amendment 11 Made 31/05/11 Promulgated 01/07/11  
Amendment 12 Made 19/07/11 Promulgated 24/08/11  
Amendment 13 Made 29/05/12 Promulgated 26/06/12  
Amendment 14 Made 04/06/13 Promulgated 23/06/13  
Amendment 15 Made 15/10/13 Promulgated 06/11/13  
Amendment 16 Made 15/11/16 Promulgated 30/12/16  
Amendment 17 Made 11/07/22 Promulgated 28/07/22