

## REGULATION 2.2-APPEALS COMMITTEE

### Definitions

1. In this Regulation-

"the Appeals Committee" means the Higher Education Appeals Committee or the TAFE Appeals Committee, as appropriate to the appellant student;

"the Higher Education Appeals Committee" means the Appeals Committee constituted to hear an appeal that has arisen from the Higher Education Division.

"the TAFE Appeals Committee" means the Appeals Committee constituted to hear an appeal that has arisen from the TAFE Division.

### Membership of Appeals Committee

2. (1) The Higher Education Appeals Committee shall be drawn from:

- (a) two members of academic staff to be nominated by Academic Board who shall be Chair and Deputy Chair of the Higher Education Appeals Committee;
- (b) eight members of academic staff selected by the drawing of lots by the Chair, Academic Board; and
- (c) one student nominated by the student association(s) responsible to the Higher Education students.

(2) The TAFE Appeals Committee shall be drawn from:

- (a) two members of teaching staff to be nominated by the Academic Board who shall be Chair and Deputy Chair of the TAFE Appeals Committee;
- (b) eight members of teaching staff selected by the drawing of lots by the Chair, Academic Board; and
- (c) one student nominated by the student association(s) responsible to the TAFE students.

(3) No member of an Appeals Committee shall be a Head of School, Deputy Vice-Chancellor, Pro Vice-Chancellor or Vice-President.

3. (1) Members of the Appeals Committee who hold office under section 2(1)(a) and 2(2)(a) shall hold office for two years and may be renominated.

(2) At the time of selection of staff by the Chair of Academic Board under section 2(1)(b) and 2(2)(b), the Chair shall divide the names of selected staff into two equal groups, as determined by the drawing of lots; the office of the members of the first group shall become vacant on 31 December 2006, and the office of the members of the second group shall become vacant on 31 December 2007; and afterwards the selected staff members will hold office for a term of two years.

(3) An Appeals Committee shall comprise:  
a Chair or Deputy Chair;

two members selected under section 2(1)(b) or 2(2)(b), as appropriate;  
and  
one member selected under section 2(1)(c) or 2(2)(c), as appropriate.

#### **Appeal to Appeals Committee**

4. (1) The Vice-Chancellor will appoint a person who shall act as Secretary to the Appeals Committee.
- (2) An appeal must be lodged with the Secretary to the Appeals Committee within 7 days of the date of the decision appealed against and must be based on one, or both, of the following grounds:
  - (a) new evidence, not known to the student at the date of the decision being appealed, which becomes apparent since the date of that decision;
  - (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 lodgement of an appeal.

- (3) The notice of appeal must provide the appellant's nominated 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 notice of appeal and the relevant information, the Secretary to the Appeals Committee shall call a meeting of the Appeals Committee within 10 working days under Statute 5.2, 5.3, 5.5 or 6.1 or any other Statute or Regulation that provides for appeal against a decision to Academic Board.
- (5) The Secretary of the Appeals Committee shall give at least five days notice of any meeting of the Appeals Committee, in writing, delivered to all members of the Appeals Committee and to the appellant 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 by pre-paid post, to the appellant's address shown on the appeal notice.
- (7) In the event of an appellant being unable to attend at the meeting of the Appeals Committee for any reason acceptable to the Appeals Committee, the Appeals Committee shall direct the Secretary of the Appeals Committee to call a further meeting as provided for under sub-section 4(4).

#### **Appeal hearing**

5. (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 members.
6. 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.
7. An appellant will normally not be entitled to any representation, including representation by a lawyer, 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.
8. An appellant may be accompanied by an observer, who is not a lawyer, when appearing before the Appeals Committee however the observer may not speak unless invited to do so by the Chair of the Appeals Committee.
9. Proceedings before the Appeals Committee may not be electronically recorded.
10. 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.
11. 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;
  - (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.
12. After considering the material relied on in support of the appeal and any answering material, the Appeals Committee may either:
- (a) dismiss the appeal;
  - (b) uphold the appeal and

- (i) in an appeal against a final grade in a unit, refer the matter back to the Head of School 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 course.

### **External Review**

13. 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**

14. The Appeals Committee must report its decision in writing to the next meeting of Academic Board.
15. The Secretary to the Appeals Committee shall report to Academic Board at least once a year as to the origins, numbers and outcomes of appeals.

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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  
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