

DEAKIN UNIVERSITY

ACADEMIC BOARD

FACULTY COMMITTEES AND ACADEMIC APPEALS COMMITTEE

ACADEMIC PROGRESS HEARINGS: RULES OF PROCEDURE

These rules of procedure take effect from the commencement of Trimester 1, 2011 and apply to academic progress matters arising at the conclusion of Trimester 1, 2011 onward.

These rules of procedure are made pursuant to and are to be read together with:

- Regulation 5.3(1) *Assessment and Academic Progress In Higher Education Award Courses*
- *Academic Progress in Higher Education Award Courses procedure*

Proceedings: General

- 1 Members of the Faculty Committee (FC) or Academic Appeals Committee (AAC) must act in the best interests of the University and must not represent any constituent group.
- 2 The FC or AAC must be unbiased and disinterested decision-makers. Any actual or perceived conflict of interest that may arise in the conduct of a hearing involving one or more of the members must be considered by the Chair or, if it relates to the Chair, it must be considered by the full committee. The decision or the appropriate action to be taken should be based on the particular circumstances being considered at that time.
 - 2.1 A member must stand down from the FC or AAC for the duration of the hearing if he or she has any intimate knowledge of the matter being heard or close association with the student or relative of the student concerned.
 - 2.2 An AAC member must stand down for the duration of the hearing of an appeal against a decision of an FC of which he or she was also a member or a representative. If the member is the Chair, he or she must delegate his or her authority to another AAC member to act as Chair for the duration of the hearing.
 - 2.3 If an AAC member stands down pursuant to rule 2.2, that member shall have the right to appear before the AAC and to present information about the decision being appealed.
- 3 All members of an FC or AAC should be familiar with the University's equity and equal opportunity policies.
- 4 All proceedings of an FC or AAC are confidential and must be conducted in accordance with the principles of natural justice. The student and the University must be given a reasonable opportunity to present their cases.
- 5 All University staff involved in a FC or AAC hearing shall comply with and are bound by the provisions of the *Information Privacy Act 2000 (Vic)* and the *Health Records Act 2001 (Vic)* and must also comply with the University's Information Privacy operational policy.

Proceedings: Faculty Committee (FC)

- 6 An FC or AAC is not bound by the rules of evidence and may inform itself as it thinks fit.
 - 6.1 The FC, established pursuant to Regulation 5.3(1), shall be chaired by the Dean or the Dean's nominee.
- 7 The Chair shall determine and direct the conduct of the proceedings in accordance with these rules of procedure.
- 8 The student must be given the opportunity to appear in person before the FC.
- 9 The student may be accompanied by a person of their choice provided that the person is not a practising lawyer. No legal representation is permitted for either party. The FC may permit the accompanying person to speak on behalf of the student if the need arises.
- 10 The student and the FC may call witnesses. Witnesses must not be present at a hearing except when giving evidence.

- 11 The FC may adjourn a hearing at any time, but the same FC must continue to hear and consider the case at a later time, if at all possible.
- 12 The FC is not bound to make a decision at the time of a hearing and may take any additional reasonable time it requires to consider its decision.
- 13 A decision of the FC shall be reached in private, by simple majority with the Chair having the casting vote.
- 14 Once a decision has been reached, the student shall be informed as soon as practicable. In all circumstances the final decision shall be notified to the student in writing within five (5) working days of the decision having been made.
- 14.1 The student must be informed that the decision can be appealed to the AAC.

Initial Determinations on Show Cause Matters

- 15 The FC will notify the student of the date, time and place of the hearing when a student has:
 - made a submission to the FC to show cause as to why a proposed decision should not be made; and
 - returned the reply slip indicating that they wish to attend a show cause hearing in person.
- 16 If the student does not attend the hearing, the Committee shall consider the student's written submission and any other evidence, and make a decision in accordance with Regulation 5.3(1).
- 17 If the student does attend the hearing, the Committee shall firstly consider the student's written submission.
- 18 The student and any accompanying person shall then be invited into the hearing.
- 19 The student shall have the opportunity to show cause as to why the Committee's proposed decision should not be made.
- 20 The members of the FC may question the student.
- 21 The FC may decide to:
 - confirm its proposed decision
 - vary its proposed decision
 - withdraw its proposed decision.

Late Submissions

- 22 No late submissions shall be accepted unless there were exceptional circumstances beyond the control of the student that prevented the student from lodging their submission on time.
- 23 If the FC considers a request for a late submission and rejects it, the student shall be informed:
 - in writing within five (5) working days of the decision, and
 - of the right of appeal to the AAC within five (5) working days of the date on which the notice of the decision could reasonably have been received.
- 24 If the FC accepts a request for a late submission, the FC must then determine the substantive academic progress matter, in accordance with rules 6 to 21.
- 25 If an appeal to the AAC regarding a FC decision not to accept a late submission is successful, the matter shall be referred back to the FC for hearing of the substantive academic progress matter, in accordance with rules 6 to 21.

Reconsideration of a Decision to Exclude Pursuant to clause 6.4 of the procedure

- 26 A student may request a hearing of the Committee to reconsider its decision that the student be excluded from a course because restrictions or prescriptions previously determined by an FC or AAC have not been met. In accordance with clause 19.2 of the procedure, such requests can only be made on the grounds of exceptional circumstances beyond that student's control that affected that student's ability to meet the previously determined restrictions or prescriptions.

- 26.1 The student seeking a hearing must lodge a written submission outlining the grounds of exceptional circumstances to the Secretary of the FC within ten (10) working days of the date the notice of decision could reasonably have been received.
- 27 If the student does not attend the hearing, the FC shall consider the student's written submission and any other relevant evidence, and make a decision in accordance with Regulation 5.3(1).
- 28 If the student does attend the hearing, the FC shall firstly consider the student's written submission.
- 29 The student and any accompanying person shall then be invited into the hearing.
- 30 The student or accompanying person shall have the opportunity to explain to the FC the exceptional circumstances which have prevented the student from complying with the restrictions or prescriptions previously determined by the FC or AAC and why the exclusion should not proceed.
- 31 The members of the FC may question the student.
- 32 The FC may decide to:
- confirm its previous decision
 - vary its previous decision
 - withdraw its previous decision.
- 33 The FC may impose restrictions or conditions on the student as part of its decision and in accordance with Regulation 5.3(1).

Records and Reporting

- 34 All documentation associated with proceedings shall be collected by the Secretary at the end of a hearing and disposed of securely.
- 35 The Secretary must provide the Records Unit with a full copy of the proceedings and all material considered by the FC.
- 36 The Secretary must provide a report on the outcome of a hearing to the relevant Faculty Board as soon as practicable after the FC has reached its decision.
- 37 The Secretary must provide a report on the outcome of a hearing to the appropriate record keeping area of the University as soon as practicable after the FC has reached its decision.

Proceedings: AAC

Hearings

- 38 The student initiates a hearing of the AAC by giving written notice of appeal for appeals against decisions relating to academic performance or progress: to the Secretary of the Academic Board by the 'last day for students to appeal to the Academic Appeals Committee' for the relevant trimester as published in the University Handbook
- 38.1 The written notice of appeal must state the grounds for appeal in accordance with clause 19.1 of the Academic Progress in Higher Education Award Courses procedure and must be accompanied by a written submission detailing the substance of the appeal and any supporting documentation.
- 39 The Secretary of the AAC must provide a copy of the written notice of appeal and the student's written submission to the relevant FC.
- 40 The appeal shall be heard as soon as practicable after receipt of notice of appeal.
- 41 The AAC shall provide the student and the Chair (or nominee) of the relevant FC with at least five (5) working days notice of the date, time and place of the hearing.
- 41.1 The AAC must limit the evidence it hears to matters relevant to the grounds of appeal, as set out in clause 19.1 of the procedure.
- 42 The Chair shall determine and direct the conduct of the proceedings in accordance with these rules of procedure.

- 43 If the student attends the hearing, the AAC shall consider the written submission and any other evidence. The student may be accompanied by a person of their choice or be represented by a practising lawyer. The University may also have legal representation.
- 43.1 A student who wishes to be represented by a practising lawyer must immediately notify the Secretary of the AAC.
- 44 The student must be given the opportunity to appear in person, including being represented by a practising lawyer, and be heard first. The AAC may permit an accompanying person, not being a practicing lawyer, to speak on behalf of the student if the need arises.
- 45 The Chair (or nominee) of the relevant FC shall be given the opportunity to be heard after the student has concluded.
- 46 Both parties may call witnesses.
- 46.1 Witnesses must not be present at a hearing except when giving evidence.
- 47 The student and the Chair (or nominee) of the relevant FC may ask questions of each other and any witness called before the AAC.
- 48 The members of the AAC may also question the parties and the witnesses.
- 49 The AAC may adjourn a hearing at any time, but the same AAC must continue to hear and consider the case at a later time if at all possible.
- 50 The AAC is not bound to make a decision at the time of a hearing and may take any additional reasonable time it requires to consider its decision.
- 51 A decision, as set out in clause 28 of the procedure, of the AAC shall be reached, in private, by simple majority with the Chair having the casting vote.
- 52 If the AAC varies a decision of the FC, the AAC may impose a restricted enrolment on the student or prescribe that the student enrol in, and successfully complete, a specific unit or units.
- 52.1 In imposing a prescription or restriction, the AAC may also provide that failure to comply with the prescription or restriction will result in the student being excluded. Such exclusion shall be automatic unless there are exceptional circumstances beyond the control of the student which have prevented the student from satisfactorily complying with the prescription or restriction.

Outcomes

- 53 Where the AAC sets aside a decision of an FC not to accept a late submission the substantive academic progress matter shall be referred back to the Faculty Committee for hearing in accordance with rules 6 to 21.
- 54 If a student has been excluded from a course and an appeal against that exclusion is upheld by the AAC, the Secretary shall notify the relevant Faculty Committee which shall ensure that reference to that exclusion is removed from the student's academic record.

Records and Reporting

- 55 All documentation associated with proceedings shall be collected by the Secretary at the end of a hearing and disposed of securely.
- 56 The Secretary shall provide the Records Unit with a full copy of the proceedings and all material considered by the AAC.
- 57 The Secretary shall provide a report on the outcome of a hearing to the appropriate record keeping areas of the University as soon as practicable after the AAC has reached its decision.
- 58 The Secretary shall provide a report on the outcome of a hearing to the Academic Board as soon as practicable after the AAC has reached its decision.
- 59 The Secretary shall provide a report on the outcome of a hearing to the relevant Faculty Committee against whose decision the appeal was heard.