

DEAKIN UNIVERSITY
ACADEMIC BOARD
ACADEMIC APPEALS COMMITTEE
STUDENT HEARINGS: RULES OF PROCEDURE

These rules of procedure are made pursuant to:

- Regulation 4.1(1) *Student Discipline*
- Regulation 5.3(1) *Assessment and Academic Progress In Higher Education Award Courses*
- *Academic Progress* operational policy.

MEMBERSHIP

1. The Chair of the Academic Board shall establish an Academic Appeals Committee (AAC) as and when required:
 - (a) to hear appeals against decisions of Faculty Academic Progress and Discipline Committees (FAPDCs) regarding academic misconduct
 - (b) to hear appeals against decisions of a Faculty Committee (FC) regarding academic performance and progress
 - (c) to hear appeals against decisions of a FC not to consider a late submission to show cause
 - (d) to hear late appeal applications from decisions of a FC
 - (e) to hear appeals against decisions of a Discipline Committee regarding misconduct in research.
2. The Chair of the Academic Board shall appoint five (5) members to form the AAC, including at least one member from each faculty.
 - 2.1. Three (3) members shall form a quorum.
 - 2.2. The AAC shall be chaired by a professor of the University appointed by the Chair of the Academic Board.
3. Members of the AAC must act in the best interests of the University and do not represent any constituent group.
4. The AAC must be an unbiased and disinterested decision maker. Any actual or perceived conflict of interest that may arise in the conduct of any hearing of the AAC 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 on the appropriate action to be taken should be based on the particular circumstances being considered at that time.
5. An AAC member must stand down for the duration of the hearing of an appeal against a decision of an FAPDC, FC, Subcommittee of the FC (the Subcommittee) or Discipline Committee of which he or she is 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.
 - 5.1. If an AAC member is also a member of the FAPDC, FC, Subcommittee, or Discipline Committee against whose decision an appeal is being heard, that member shall have the right to appear before the AAC and to present information about the decision being appealed.
6. All members of the AAC should be familiar with the University's equity and equal opportunity policies.

PROCEEDINGS

7. All proceedings of the AAC are confidential.
- 7.1. All persons involved in AAC hearings shall comply with, and are bound by the provisions of the *Information Privacy Act 2000* (Vic) and the *Health Records Act 2001* (Vic) (both as amended or replaced from time to time), and their respective Information Privacy Principles and Health Privacy Principles.
- 7.2. All persons involved in AAC hearings shall comply with Deakin University's Information Privacy policy and procedure.
8. Proceedings of the AAC 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 case.
9. The AAC is not bound by the rules of evidence and may inform itself as it thinks fit. The Committee must limit the evidence it hears to matters relevant to the grounds of appeal.
10. The only grounds for appeal are:
 - (a) that there is **new evidence** that was not reasonably ascertainable by the student at, or prior to, the initial decision and that would probably have affected the original decision or penalty
 - (b) having regard to the evidence before the original decision-maker, that the penalty imposed on the student was too severe
 - (c) that there was a misapplication of procedures resulting in some disadvantage to the student.
 - (d) that there were exceptional circumstances beyond the control of the student:
 - (i) where the appeal to the AAC is a late appeal against a decision of a FAPDC, FC or Subcommittee
 - (ii) if the appeal is against a refusal by the FC to accept a late submission to show cause regarding a proposed decision in respect of unsatisfactory academic progress
 - (iii) if the appeal is against the exclusion of a student from a course because the student has failed to comply with a prescription or restriction of the FC or AAC.
11. The student initiates a hearing of the AAC by giving written notice of appeal as soon as practicable:
 - (a) for appeals against decisions relating to academic misconduct – to the Secretary of the Academic Board within seven (7) working days from the date the student received notice of the original decision
 - (b) for appeals against decisions relating to misconduct in research – to the Secretary of the Academic Board within seven (7) working days from the date the student could reasonably have received advice of the original decision
 - (c) 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 electronic version of the University Handbook
 - (d) for appeals against decisions not to accept late show cause submissions within five (5) working days from the date the student could reasonably have received advice of the original decision
- 11.1. The written notice of appeal must state the grounds for appeal and must be accompanied by a written submission detailing the substance of the appeal.
12. A copy of the written notice of appeal and the student's written submission shall be provided to the Chair (or nominee) of the relevant FAPDC, FC, Subcommittee, or in the case of misconduct in research the Chair (or nominee) of the Discipline Committee, who shall be responsible for responding to the appeal at the hearing.
13. The appeal shall be heard as soon as practicable after receipt of notice of appeal.

- 13.1. The AAC shall provide the student and the Chair (or nominee) of the relevant FAPDC, FC, Subcommittee, or Discipline Committee with at least five (5) working days notice of the date, time and place of the hearing.
14. The Chair or Acting Chair of the AAC shall determine and direct the conduct of the proceedings in accordance with these rules of procedure.
15. **If the student does not attend the hearing** the AAC shall consider the written submission and any other evidence, and make a decision.
16. **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 who may be a practising lawyer. The University may also have legal representation.
- 16.1. A student who wishes to be accompanied by a practising lawyer must immediately notify the secretary of the AAC.
17. The student (and/or their representative) must be given the opportunity to appear in person and be heard first.
18. The Chair (or nominee) of the FAPDC, FC, Subcommittee or Discipline Committee shall be given the opportunity to be heard after the student has concluded.
19. Both parties may call witnesses.
- 19.1. Witnesses must not be present at a hearing except when giving evidence.
20. The student and the Chair (or nominee) of the FAPDC, FC, Subcommittee or Discipline Committee may ask questions of each other and any witness called before the AAC.
21. The members of the AAC may also question the parties and the witnesses.
22. 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.
23. A decision of the AAC hearing shall be reached, in private, by simple majority with the Chair or Acting Chair having the casting vote.
24. The AAC is not bound to make a decision at the time of a hearing and may take any additional time it requires to consider its decision.
25. In relation to academic progress matters, the AAC may decide to:
 - (a) **dismiss** the appeal
 - (b) **confirm** the decision of the FC or Subcommittee
 - (c) **vary** the decision of the FC or Subcommittee
 - (d) **uphold** the appeal.
26. In relation to academic misconduct matters, the AAC may decide to:
 - (a) **dismiss** the appeal
 - (b) **uphold** the decision or penalty of the FAPDC or Discipline Committee
 - (c) **vary** the decision or penalty of the FAPDC or Discipline Committee
 - (d) **set aside** the decision or penalty of the FAPDC or Discipline Committee
27. If the AAC varies an academic progress decision of the FC or Subcommittee, 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.
- 27.1. 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.

28. If the AAC varies an academic misconduct decision or penalty of the FAPDC or Discipline Committee, the AAC may impose such action and/or impose one or more of the penalties within its powers, listed in the Schedule to Regulation 4.1—*Student Discipline*.
29. The student and the Chair (or nominee) of the FAPDC, FC, Subcommittee or Discipline Committee shall be advised of the decision as soon as practicable after it is reached and shall be informed in writing of the decision within five (5) working days of the decision being made by the AAC.
30. The decision of the AAC is final and binding and there is no further internal avenue for appeal.
31. The AAC must inform the student that he or she can appeal to the Ombudsman Victoria and that the Ombudsman's power to investigate is limited to whether the University followed relevant policies and procedures related to the internal academic appeals process.

OUTCOME

32. Where the AAC **upholds** an appeal against the decision of an FC not to accept a late submission the matter shall be referred back to the Faculty Academic Progress and Discipline Committee for hearing.
33. 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 board which shall ensure that reference to that exclusion is removed from the student's academic record.
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 shall provide the Records Unit with a full copy of the proceedings and all relevant material.
36. The Secretary shall provide a report on the outcome of any hearing to the appropriate record keeping areas of the University as soon as practicable after the AAC has reached its decision.
37. The Secretary shall provide a report on the outcome of any hearing to the Academic Board as soon as practicable after the AAC has reached its decision.
38. The Secretary shall provide a report on the outcome of any hearing to the relevant Faculty Academic Progress and Discipline Committee or Faculty Committee against whose decision the appeal was heard.