

Grievance & Appeals Policy

Purpose

This policy establishes the principles and processes by which Macleay College will investigate, hear, and determine non-academic grievances and appeals in a fair, equitable and confidential manner with regard for college rules, the Higher Education Standards Framework 2015, the Education Services for Overseas Students (ESOS) Act 2000 and *National Code 2018*.

Scope

All students of Macleay College or prospective students seeking to enrol in a course of study with Macleay College are entitled to access the grievance procedures set out in this policy, regardless of the location of the campus at which the non-academic grievance has arisen, their place of residence or the mode in which they study. This policy also applies to persons who investigate, hear, and determine grievances and appeals.

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

Related Documents

This policy should be read in conjunction with the following college policies:

- Assessment Policy
- Misconduct Policy
- Grievance Form
- Application to Appeal Form

All documents referenced in this policy can be accessed via the firms & policies section in the bottom of the homepage of the college website and the Handbook section of the myMacleay Student Portal (Moodle) via <http://mymacleay.edu.au>.

Definition of Key Terms

"Academic Grievance"	means a formal complaint where a student or prospective student believes they have received unreasonable treatment in the relation to matters such as academic progression, assessment, and grading matters; course content, structure, or delivery; college decisions in relation to academic misconduct; supervision of internship placements; and copyright or intellectual property etc.
"Appellant"	means a student or prospective student who has made an appeal against a college decision in relation to a non-academic grievance.
"Complainant"	means a student or prospective student who has made a non-academic complaint or grievance.
"Non-Academic Grievance"	means a formal complaint where a student or prospective student believes they have received unreasonable treatment in relation to matters such as admission processes or decisions; enrolment processes or decisions; timetabling processes; college decisions in relation to non-academic misconduct; financial status of a student; and discrimination, harassment, bullying or intimidating behaviour to others etc.

Examples of Non-Academic Grievances

A non-academic grievance is a written complaint where a student or prospective student believes they have received unreasonable treatment in relation to matters such as:

- Admission processes or decisions
- Enrolment processes or decisions
- Timetabling processes
- College decisions in relation to non-academic misconduct

- Financial status of a student (except in relation to Tuition Fee or FEE-HELP Refunds)
- Discrimination, harassment, bullying or intimidating behaviour to others

Principles of Resolution

Complaints, grievances and appeals in relation to non-academic matters will be addressed based on their particular circumstances but will adhere to the following general principles:

- **Availability.** Students and prospective students can access the grievance procedures regardless of the campus at which they study.
- **Timeliness.** All complaints, grievances or appeals must be made in a timely manner, will be dealt with in a timely manner and will progress through informal and formal stages according to this policy.
- **Confidentiality.** All parties to a complaint, grievance or appeal have the right to be represented by a third person (such as a family member, friend, counsellor, or other professional support person) if they so desire.
- **Without Disadvantage.** The parties to a complaint, grievance or appeal will not be victimised or discriminated against during any stage of the grievance process as set out in this policy.
- **Procedural Fairness.** All grievances will be addressed based on their particular circumstances and subject to the principles of natural justice.
- **Support.** All complaints, grievances and appeals will be treated with confidentiality at all times. Access to information in relation to the grievance will be provided only to staff on a 'need-to-know' basis in order to deal with the grievance.
- **Resolution.** The college expects most complaints can be resolved with informal resolution (Stage 1). Informal resolution provides the best opportunity for open and direct dialogue and is the most time effective strategy.
- **Record Keeping.** All matters arising from the complaint, grievance and/or appeal proceedings shall be accurately documented and recorded. Records shall be maintained for a minimum period of five years and treated as confidential in accordance with the college Privacy Policy.
- **Access.** All parties to a complaint, grievance or appeals proceedings will be allowed supervised access to all records to that complaint, grievance, or appeal on written request to the Office of the Registrar.
- **Cost.** The cost of the Stages 1-4 of the grievance process will be free of charge. The cost of external appeal (Stage 4) will be borne by the Appellant but reimbursed by the college if found in the Appellant's favour.

Grievance proceedings may not be run concurrently. Where a grievance is lodged with the intention of delaying another proceeding, it may be dismissed on the grounds that it is frivolous and lacking substance.

Grievance & Appeals Procedures for Non-Academic Matters

The college framework for dealing with non-academic grievance matters is broken down into four stages of resolution designed to process and determine complaints, grievances and appeals in a timely manner, with fairness and protection for all parties concerned:

- Stage 1: Informal approach to the person directly involved
- Stage 2: Lodging a formal grievance with the Office of the Registrar
- Stage 3: Lodging an internal appeal to the Appeals Committee
- Stage 4: Making an external appeal to an External Reviewer

Complainants are encouraged to seek to the resolution of any academic matters informally with the person(s) directly involved (Stage 1) before initiating a formal grievance resolution under Stage 2.

During the grievance process, a student's enrolment status will be maintained, and the student must continue their studies for the duration of the process, except where their health or safety is potentially at risk, or the matter poses a health or safety risk to others.

Where the Complainant or Appellant is an international student and their grievance or appeal relates to not meeting course progression requirements or not finishing their course of study in the reported duration, the student will be notified in writing of the intention of Macleay College to report this to the Department of Education via PRISMS which may result in the Department of Immigration and Border Protection cancelling their student visa.

In this event, the student will be advised they have twenty working days to access the grievance and appeals process.

Stage 1: Informal approach to the person directly involved

In the first instance, complaints should be discussed with the person(s) involved in an attempt to settle the matter directly. When trying to settle a complaint directly with the person(s) involved, the Complainant should:

- Clearly identify the issue (complaint)
- Outline a process to resolve the issue
- Propose an outcome which they believe will settle the matter

However, if the circumstance is such that direct discussion is impracticable, or the Complainant has concerns about approaching the person(s) directly, then the complaint should be submitted within five working days of the event or the publication of results (grades) for the trimester to the Office of the Registrar via email to registrar@macleay.edu.au which:

- Clearly identifies the issue
- Outlines a process to resolve the issue
- Proposes an outcome which they believe will settle the matter

The Registrar will acknowledge receipt of the complaint within forty-eight hours of receipt of the email and refer the matter to appropriate member of staff.

This arrangement is free of charge, and where an email is sent to the Office of the Registrar, every effort will be made to advise a decision within ten working days of the email being received.

If this informal approach does not lead to an acceptable resolution, then a formal grievance process can be initiated under Stage 2 by lodging a 'Formal Grievance Form' which can be downloaded from the college website.

Stage 2: Lodging a formal grievance with the Office of the Registrar

a. Submit a 'Formal Grievance Form' to the Office of the Registrar

Responsible: Complainant

Complainants wishing to lodge a formal non-academic grievance must do so in writing by completing a 'Formal Grievance Form' within five working days of college email advising the outcome of the complaint submitted to the Office of the Registrar in Stage 1. A 'Formal Grievance Form' can be downloaded from the college website and myHandbook section of the myMacleay Student Portal (Moodle) via <http://mymacleay.edu.au>.

The form must be completed in full and provide the following information to assist with investigation and the determination of a reasonable resolution:

- A clear description of the grievance, including date, location and persons involved
- A summary of the processes and steps taken to date to try and resolve the grievance informally
- A proposed resolution which they believe will settle the grievance
- Attach any documentation in support of the grievance or proposed resolution

The completed form, with any supporting documentation attached, should be submitted to the Office of the Registrar at the Student Services Desk. The Office of the Registrar will only consider an application complete and eligible for consideration when all sections have been filled-in and signed by the Complainant ('completed application'). Incomplete applications will not be accepted.

A Complainant may withdraw a non-academic grievance at any stage by giving written notice to the Office of the Registrar.

b. Review and consideration of the formal grievance

i. Check formal grievance for completeness and acknowledge receipt

Responsible: Office of the Registrar

The grievance form is checked for completeness by the Office of the Registrar at the time of submission. All forms are required to be completed, signed and it is the responsibility of the Complainant to provide a clear description of the grievance and take a copy of the form being submitted. The Registrar will acknowledge receipt of each completed application at the time of submission and will refer the matter to a Grievance Officer within forty-eight hours of acceptance.

ii. Referral of the matter to a Grievance Officer

Responsible: Office of the Registrar

The Office of the Registrar will forward the Formal Grievance Form and attachments to a Grievance Officer within forty-eight hours of acceptance. In the majority of matters, the Grievance Officer will be a college Head of Faculty however where a grievance is being lodged against a Head of Faculty, the Registrar will refer the matter to the Dean.

The Registrar will record the grievance received in the Grievance & Appeals Register. Grievance proceedings may not be run concurrently. Where a grievance is lodged for the purpose of delaying another proceeding, it may be dismissed on the grounds that it is frivolous and lacking substance.

iii. Investigation of the grievance

Responsible: Grievance Officer

The Grievance Officer will commence their investigation into the matter within five working days of the acceptance of the Formal Grievance Form in accordance with the college **Grievance & Appeals Policy for a Non-Academic Grievance Policy**. The Grievance Officer will attempt to resolve the situation through investigation and conciliation, and they may also refer the Complainant to the appropriate support services during this process.

In conducting their investigation, the Grievance Officer will engage in a number of activities to gather and test information in relation to the matter, such as but not limited to:

1. a review of college policy and/or procedure
2. a review of course materials, assessments and/or evaluations
3. interview and discussions with other members of staff and/or students
4. a formal meeting with all or some of the parties to the grievance
5. seek external expert advice

The Grievance Officer will maintain a file of all correspondence and communication in relation to their investigation of the grievance.

If the Grievance Officer is unable to investigate the grievance due to insufficient information or clarity of information, the Complainant will be advised in writing within five days of the acknowledged receipt of their Formal Grievance Form outlining what is required for investigation to continue.

iv. Determination of the decision and outcome(s)

Responsible: Grievance Officer

The Grievance Officer will conclude their investigation within fifteen working days of the acceptance of the completed Formal Grievance Form and will advise their decision and the outcomes within five working days of the completion of the investigation:

- If, in the opinion of the Grievance Officer, the grievance is frivolous or unjustified, the decision will be communicated to the Complainant within ten working days of the acceptance of the completed

Formal Grievance Form including reasons for the decision and the Complainants right to appeal. The matter will be considered closed.

- If, in the opinion of the Grievance Officer, the grievance is justified, they may call a conciliation meeting with all parties concerned for the purpose of open dialogue and agreeing resolution(s). The conciliation meeting must take place within fifteen working days of the acceptance of the completed Formal Grievance Form.

Where the conciliation meeting(s) reaches mutually agreeable resolution, these outcomes will be communicated in writing to all parties involved within five working days of the final meeting. The matter will be considered closed.

Where conciliation meetings are held but no resolution is reached, the Complainant will be advised in writing of the Grievance Officer's decision as to the best solution available and their right to appeal. The matter will be considered closed.

c. Notification of the decision and offer of resolution

Responsible: Grievance Officer and the Office of the Registrar

In all cases, Macleay College will provide a written communication to the Complainant advising the outcomes of any grievance investigation, offer of resolution, the reasons for the decision and their right to appeal.

The Grievance Officer will draft the appropriate communication using Grievance Outcome Template Letter and forward the signed copy to the Office of the Registrar to record the outcome in the Grievance & Appeals Register. The Office of the Registrar will forward the letter to the Complainant.

d. Respond to the Grievance Outcome Letter

Responsible: Complainant

The Complainant must accept or decline any offer of resolution within ten working days of the date of their *Grievance Outcome Letter*.

i. The Complainant accepts the college decision and offer of resolution

If the Complainant accepts offer of resolution as outlined in their *Grievance Outcome Letter*, they must formally accept the college decision and acknowledge their understanding of any implications, by signing and returning a copy of the letter to the Office of the Registrar.

On receipt of the signed acknowledgement, the resolutions will be implemented immediately. The implementation of the accepted resolutions will be managed by the Grievance Officer and the Office of the Registrar.

ii. The Complainant rejects the college decision and offer of resolution

Complainants have the right of appeal if they believe their grievance has not been adequately resolved.

If the Complainant rejects the offer of resolution as outlined in their *Grievance Outcome Letter*, they may appeal the college decision to the Grievance & Appeals Committee. The appeal must be submitted in writing using the '*Application to Appeal*' form within twenty working days from the date of *Grievance Outcome Letter*.

Where the Complainant is an international student and the outcome of their appeal or grievance may affect their course progression or ability to complete their course in their recorded duration, Macleay will not report any changes in PRISMS during this time. However, if the appeal is unsuccessful, enrolment will be cancelled and access to all college services withdrawn at the end of the appeal process. Macleay will also report the change to enrolment to the Department of Education via PRISMS within five working days of end of the appeal process in accordance with Standard 10 of the National Code 2018.

Stage 3: Lodging an internal appeal to the Appeals Committee

Grounds for Lodging an Internal Appeal

An appeal against an academic determination as a result of a formal non-academic grievance process (Stage 2) may be made on the following grounds:

1. The Grievance Officer for the matter has not communicated a decision within twenty-five days of the acceptance of the *Formal Grievance Form* in relation to the grievance.
2. There is new evidence of a relevant nature that was not available during the process at Stages 1 and 2.
3. The determination was made without due consideration of the facts, evidence, or circumstances.
4. There was bias, prejudice or a conflict of interest by the Grievance Officer.
5. A significant irregularity of policy or procedure occurred during the investigation.

Macleay College will not accept an appeal against a determination when the '*Application for Appeal*' has been made outside the time allowed for the lodgement of an appeal or where the appeal is based on the following claims:

- The unit structure and assessment method
- Student workload or the amount of work the student has done
- The financial implication of failing a unit
- Grades received by the student in other units
- Penalties imposed for poor attendance or academic integrity such as plagiarism
- The need for more marks to achieve a pass or better grade in the unit

The Appeals Committee

The Appeals Committee is a sub-committee of the Academic Board and shall comprise of four persons, each of whom has had no prior involvement in the matter being heard – the Dean (Chair), a Head of Faculty, a Senior Academic Staff Member, and a member of Senior Management. Where the matter being heard is in relation to the Dean, the Appeals Committee shall be chaired by the Chair of the Academic Board.

All members of the Appeals Committee are required to declare any conflict of interest in relation to any matter brought before the Appeals Committee where a conflict exists. Where a conflict of interest exists, the member may be required to withdraw from hearing that particular matter and the Chair of the Appeals Committee will nominate an alternate.

The Appeals Committee shall hear the appeal within ten working days of receipt in accordance with the procedures detailed below.

The decision of the Appeals Committee shall be final. If necessary, the Appeals Committee Chair shall have a casting vote. The Appeals Committee Chair shall seek to ensure that any actions arising from the decision of the Appeals Committee are taken within the timescale identified in the report and shall report any failure to complete actions to the Academic Board.

a. Lodging an appeal application to the Office of the Registrar

Responsible: Appellant and Office of the Registrar

i. Timeframe for the lodgement of an appeal

Where the Appellant is appealing the decision of the Grievance Officer, they must lodge an '*Application to Appeal*' form within twenty days of the receipt of their *Grievance Outcome Letter*.

Where the Appellant is appealing the lack of decision by the Grievance Officer within the required timeframe, they must lodge an '*Application to Appeal*' form within thirty working days of the acceptance of their *Formal Grievance Form*.

ii. Submitting an appeal application form

Appellants wishing to lodge an appeal to the Appeals Committee must do so by completing an 'Application to Appeal' form which can be downloaded from the college website and myHandbook section of the myMacleay Student Portal (Moodle) via <http://mymacleay.edu.au>. The appeal form must provide the following information to assist with investigation and determination of a resolution:

- A clear description of the grievance, including date, location and persons involved
- A statement of their grounds for appeal
- A proposed outcome which they believe will settle the issue
- Attach any documentation in support of the grievance or proposed outcome

The 'Application to Appeal' form, with any supporting documentation attached, should be submitted to the Office of the Registrar at the Student Services Desk. The Office of the Registrar will only consider an application complete and eligible for consideration when all sections have been filled-in and signed by the Appellant ('completed application'). Incomplete applications will not be accepted.

iii. Check application for completeness and acknowledge receipt

Responsible: Office of the Registrar

The appeal application is checked for completeness by the Office of the Registrar at the time of submission. All forms are required to be completed, signed and it is the responsibility of the Appellant to provide a clear description of the grievance and the reasons for their appeal and take a copy of the form being submitted. The Registrar will acknowledge receipt of each completed application at the time of submission and record the appeal in the Grievance & Appeals Register.

The Office of the Registrar will forward the completed application to the Appeals Committee Chair within forty-eight hours of acceptance.

b. Assessment of the Appeal

Responsible: Appeals Committee Chair

The Appeals Committee Chair will review the appeal within ten working days of acceptance of the completed appeal application in accordance with the college policy and will make one of the following determinations:

- Accept the appeal for hearing and determination.**
See Item d) Acceptance of an Appeal Application below
- Refer the appeal to the Grievance Officer reconsideration where new evidence has been presented at the internal appeal stage**
Where the appeal is referred to the Grievance Officer for reconsideration, the Grievance Officer will review the appeal and either reconfirm the initial decision or overturn the initial decision. The Appellant will be advised of the decision in writing within ten working days.
- Deny the appeal**
Where the appeal is denied for hearing and determination, the Appeals Committee Chair will advise the Appellant in writing within five working days of the reasons for denying their application, thereby enforcing the decision reached at Stage 2, with copies to the relevant parties.

c. Acceptance of an Appeal Application

Responsible: Appeals Committee Chair, Appellant

Where the appeal is accepted for hearing and determination, the Appeals Committee Chair will advise the Appellant and all relevant parties in writing within five working days of the following:

- The accepted grounds for appeal.
- The date, time and location of the appeal hearing which will be not less than ten working days from the date of the letter.

- The deadline for the submission of any additional evidence by any relevant party which must be no later than seven working days prior to the hearing date.
- The right of all relevant parties to bring a support person of their choosing, but not legal representation unless with the consent of the Appeals Committee Chair.

The Appeals Committee Chair will forward the appeal and all related documents to the members of the Appeals Committee and the Appellant five working days before the hearing date.

d. The Hearing

Responsible: Appeals Committee, Appellant

The Appeals Committee Chair will be responsible for conducting the appeal proceedings to meet the circumstances of the case and the requirements of natural justice.

The Appellant will be provided the opportunity to address the Appeals Committee, and their support person may assist them to state their case.

Any party to the appeal may request an adjournment. The Appeals Committee will consider any such request and determine as the Committee sees fit to meet the circumstances of the case and the requirements of natural justice.

e. Decision by the Appeals Committee

The Appeals Committee may determine the appeal on the same day as the hearing or may reserve its decision to a later date.

In determining their decision, the Appeals Committee shall establish the exact nature of the grievance, establish the facts as far as it is possible to do so and consider the evidence presented at the hearing. The decision of the Appeals Committee on any matter shall be by a majority vote, with each member of the Committee entitled to one vote. If necessary, the Appeals Committee Chair will have the casting vote and the decision of the Appeals Committee shall be final.

The Appeals Committee Chair will report its decision in writing to the Office of the Registrar within five working days, with copies to all relevant parties.

f. Enforcement of the decision

The Appeals Committee Chair will seek to ensure that any actions arising from the decision of the Appeals Committee are taken within the timescale identified in their written determination and shall report any failure to complete actions to the Academic Board.

Stage 4: Lodging an appeal for External Mediation & Dispute Resolution

Domestic Students

If the Appellant is dissatisfied with the outcome of the internal appeal process by the Appeals Committee, they may elect for the matter to be resolved through external mediation.

The external mediation and dispute process will be facilitated by Resolution Institute, the national association of dispute resolvers. Macleay College is a member of both their domestic and international Student Mediation Schemes.

Appellants who wish to lodge an external appeal for mediation should contact the Resolution Institute directly and they refer them to a suitable mediator to begin the process of dispute resolution:

Contact Details

Resolution Institute Head Office
Level 1, 13-15 Bridge Street
Sydney NSW 2000

Toll-free call 1800 651 650
International call +612 9251 3366
infoaus@resolution.institute
www.resolution.institute

The Appellant may ask another person to accompany them to meetings with the mediator. The support person however is not the primary party and is only able to speak at the External Mediator's discretion.

Macleay College agrees to participate in the mediation process and be bound by the recommendations of the External Mediator. The Dean will ensure that recommendations are followed within fourteen working days of receipt of the External Mediation Report.

The referral service offered by the Resolution Institute is free of charge. The External Mediator will charge a fee for their service which is to be borne by the Appellant however Macleay College will reimburse these costs if the recommendations are found in the complainant's favour.

If a non-academic grievance remains unresolved after the external mediation and dispute resolution process, the Appellant may decide to refer the matter to an external agency, such as the Administrative Appeals Tribunal, NSW Ombudsman, Victorian Ombudsman, NSW Anti-Discrimination Board; NSW Office of Fair Trading; Victorian Ombudsman; Victorian Equality Opportunity & Rights Commission and Victorian Consumer Affairs.

International Students

International students who wish to lodge an external appeal against the internal appeal process by the Appeals Committee may contact the Overseas Students Ombudsman. The Overseas Students Ombudsman offers a free and independent service for international students who wish to lodge an external appeal against a decision made by their higher education provider.

Contact Details

Overseas Student Ombudsman
GPO Box 442
Canberra ACT 2601

Toll-free call 1300 362 072 or (+612 6276 0111)
ombudsman@ombudsman.gov.au
www.oso.gov.au

Flowchart of Grievance & Appeals Process at Macleay College

