

## Staff Guidelines on Decision-Making in Student Cases

<b>Approving authority</b>	Registrar
<b>Approval date</b>	1 June 2015
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<b>Next scheduled review</b>	2020
<b>Document URL</b>	<a href="http://policies.griffith.edu.au/pdf/Staff%20Guidelines%20on%20Decision-Making.pdf">http://policies.griffith.edu.au/pdf/Staff Guidelines on Decision-Making.pdf</a>
<b>TRIM document</b>	2020/2001061
<b>Description</b>	These Guidelines have been developed to assist staff, who undertake the role of a decision-maker, in accordance with the University's policies relating to reviews, appeals and academic misconduct.

### Related documents

[Student Review and Appeals Policy](#)

[Student Review and Appeals Procedures](#)

[Review of Decision Form](#)

[Student Complaints Policy](#)

[Application for Removal of Exclusion \(Disciplinary\) Noting Form](#)

[Request for Readmission](#)

[Student Charter](#)

[Student Administration Policy](#)

[Student Misconduct Policy](#)

[Student Misconduct Procedures](#)

[Student Academic Misconduct Policy](#)

[Academic Misconduct Policy – Higher Degree Research Candidates](#)

[Institutional Framework for Promoting Academic Integrity Among Students](#)

[Records Management Policy](#)

[File Note Template](#)

[Queensland Ombudsman Training](#)

[NSW Ombudsman Training](#)

[\[Introduction\]](#) [\[Policy on Student Review and Appeals\]](#) [\[Resolving Problems Informally\]](#) [\[Natural Justice \(Procedural Fairness\)\]](#) [\[Confidentiality and Privacy\]](#) [\[Steps for Handling a Review or Appeal\]](#) [\[Correspondence for Handling an Allegation Against a Student\]](#) [\[Lack of Bias\]](#) [\[Investigation\]](#) [\[Making a Decision\]](#) [\[Record-Keeping\]](#) [\[Interviews\]](#) [\[Notification of Decision\]](#) [\[Sources of Assistance\]](#) [\[Appendix A\]](#)

## 1. INTRODUCTION

These Guidelines have been developed to assist staff, who undertake the role of a decision-maker, in accordance with the following policies:

- *Student Review and Appeals Policy*
- *Institutional Framework for Promoting Academic Integrity Among Students*
- *Student Academic Misconduct Policy*
- *Student Academic Misconduct Policy – Higher Degree Research Students*

This set of policies encompass two different sets of circumstances: one where an application for review or appeal is made **by** a student and one where an allegation is made **against** a student. Notwithstanding the different focus of the two sets of policies, there are some common guiding principles and processes which apply in both circumstances and are the subject of these Guidelines.

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## 2. POLICY ON STUDENT REVIEW AND APPEALS

The University's guiding principle for the handling of student reviews and appeals is as follows:

Students have the right to request a review of, and/or appeal a decision. Such applications to the University are considered with courtesy, with due regard to confidentiality, and without fear of prejudicial treatment.

The *Student Review and Appeals Policy* sets out the University's processes for dealing with student reviews and appeals. Staff who are decision-makers should familiarise themselves with this document.

As a general principle, staff should view requests for review or appeal of decisions as an opportunity to reflect on the University's processes and strengthen and improve decision-making. This type of feedback forms part of a continuous cycle of review and improvement within the University.

University decisions which may be subject to review or appeal are described in the *Student Review and Appeals Policy*. For guidance in determining whether a particular decision is reviewable refer to [Appendix A](#) below.

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## 3. RESOLVING PROBLEMS INFORMALLY

The *Student Review and Appeals Policy* requires students who wish to have a decision reviewed to contact the decision-maker in the first instance to advise whether there are possible grounds for review and see if the matter can be resolved informally. If a student contacts a staff member regarding a decision they have made, the student's concerns are to be addressed in a responsive and non-defensive manner. The staff member is to make reasonable attempts to resolve the matter with the student wherever possible. This may involve providing additional information and an explanation of the decision, checking facts with the student and correcting any misunderstandings.

If the matter cannot be resolved informally and the student is still dissatisfied, the staff member is to advise the student of their right to apply for review of the decision and refer them to the *Student Review and Appeals Policy*.

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## 4. NATURAL JUSTICE (PROCEDURAL FAIRNESS)

In making decisions staff must adhere to the principles of natural justice (also known as procedural fairness). While there is no standard definition of natural justice or procedural fairness, the key elements are generally accepted to be the following:

- The student's right to know the details of any allegation against them.
- The opportunity to present their case.
- The right to be treated without bias.
- A decision made on the "balance of probabilities" based on an objective and unbiased assessment of the evidence.

Failure to afford a student natural justice will be grounds for further internal or external review. Further details about the principles of natural justice/procedural fairness are set out below.

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## 5. CONFIDENTIALITY AND PRIVACY

Both reviews/appeals by students and allegations against them should be handled on a confidential basis and respect shown for the privacy of individuals involved.

This means that all documentation relating to the matter is to be kept confidential and only disclosed to those persons who have a role in the process, or as required by law.

In some circumstances it may be necessary for a staff member to notify or consult other staff or bodies external to the University (such as statutory bodies). However the general rule is that only people with an operational need to know about the case should be informed.

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## 6. STEPS FOR HANDLING A REVIEW OR APPEAL

Before responding to a matter (review or appeal) the staff member is to make sure they have authority to deal with the matter under the relevant policy or procedure. If they don't have such authority, the matter should be referred to the relevant officer. If unsure, the staff member is to seek advice from one of the sources of assistance as listed in [section 14](#).

The staff member is to determine whether the matter can be resolved informally. It is always better, if possible, to resolve student concerns informally.

If the matter cannot be resolved informally and has at this stage only been made orally, the staff member should ask the student to put their application for review in writing using the *Review of Decision Form*.

On receipt of the review or appeal, decision-makers should take the following steps:

### 6.1 Acknowledgment

Acknowledge receipt of the application for review/appeal within 10 working days of lodgement of the student's form. In acknowledging receipt of the application, advise the student of the actions to be taken in respect of the review of the decision and the timeframe. There are correspondence templates for staff to use in acknowledging receipt of an application for review/appeal.

### 6.2 Identify the issues

Identify exactly what constitutes the decision the student is seeking to be reviewed. Seek clarification from the student if necessary.

### 6.3 Identify the timeframes

Advice concerning the outcome of the review or appeal should normally be provided within 20 working days of receipt of the student's application for review/appeal. Unreasonable delay in responding to a matter can lead to the student making a complaint, and can be grounds for investigation by the Queensland Ombudsman. Staff should try to adhere to this timeframe and if the decision is going to take longer than 20 working days, advise the student of the new proposed timeframe and keep them informed of the progress of the matter.

### 6.4 Refer to policies and procedures

Take responsibility for making sure they are familiar with University policies and procedures. Consider any provisions or decision-making criteria that relates to the student's application for review/appeal. Be aware that policy must not be inflexibly applied in decision-making and the individual circumstances of the student and merits of their case are to be considered. Seek advice if unsure.

### 6.5 Consider possible conflicts of interest

Consider if they have, or if others may perceive them to have, any possible conflict of interest. A decision-maker must act impartially, without bias. See further [section 8](#) below.

## 6.6 Consider the evidence and investigate the matter

Consider all relevant evidence, engage in discussion and interviews with the student, University personnel and third parties (where relevant) and examine any applicable University policies and procedures or legal obligations.

Keep records during this process to support the making of a decision.

## 6.7 Make a decision

Analyse all relevant information obtained and make a decision. Determine the matter on the basis of evidence adduced by the student, the respondent and/or the University. The decision-maker is to act fairly, and proceed in the way that is appropriate.

## 6.8 Communicate the decision

Advice concerning the outcome of the matter will normally be provided within 20 working days of receipt of the student's application for review or appeal. A letter of decision is to be sent to the student at their Griffith student email address. If the review concerns exclusion, a copy of the letter of decision is also to be posted to the student at their latest advised postal address.

Consider the seriousness of the matter and potential consequences when formulating a response. The letter of decision should generally explain the decision-making process, the findings of the investigation, outcome of the decision, the modifications to the original decision where appropriate, the reasons for the decision and any subsequent/potential consequences. There are correspondence templates for decision-makers to use in communicating their decisions. See [section 13](#) below.

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## 7. CORRESPONDENCE FOR HANDLING AN ALLEGATION AGAINST A STUDENT

There are correspondence templates available for decision-makers who need to take action under the *Student Academic Misconduct Policy*, *Student Misconduct* or the *Institutional Framework for Promoting Academic Integrity among Students*. University staff are to use these templates.

The Student Integrity Manager/Officer is available to provide advice on possible variations to the template correspondence or on any other aspects of procedures relating to these policies.

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## 8. LACK OF BIAS

As indicated above, a student is entitled to have their case considered (whether a review or appeal request by them or an allegation against them) in a manner which is free from bias. This means that the staff member handling the case must act, and be seen to act, impartially and without bias. For example, the decision-maker should not:

- be a person with preconceived ideas about the outcome;
- have a close personal or family relationship with any parties who have an interest in the outcome;
- have a direct or indirect financial or other interest in the outcome of the decision;
- have a relationship with the student which a reasonable person might think would prejudice the staff member against the student.

In the case of applications for review or appeal, the person hearing the appeal or conducting the review should not have been involved in the original decision subject to review or appeal. The University's policies are designed to obviate this occurring but if a staff member does happen to have been involved in the initial consideration of the case, they should immediately seek advice from one of the sources of assistance listed in [section 14](#) below. It may be necessary for the staff member to stand aside from handling the appeal or review.

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## 9. INVESTIGATION

In dealing with a review or appeal by a student or an allegation against a student, the decision-maker should ensure that all the facts have been checked as far as is reasonably possible and that there are no questions about the matter for which a response has not been received.

The decision-maker should speak to the parties involved, gather evidence, analyse and weigh that evidence before deciding the matter.

The decision-maker should remember that their handling of the case may be reviewed internally if the student appeals the decision and possibly also externally if the student lodges a complaint with the Queensland Ombudsman. The decision-maker should, therefore, reflect on how a reviewer might regard their handling of the case.

The decision-maker should ensure they follow the particular procedures specified in the relevant policy and adhere to any timelines specified in the policy.

The University is not a court of law and court rules of evidence do not apply. Decisions should nevertheless be made on reliable and relevant evidence; not guesswork, preconceptions or assumptions.

In reaching a decision, the standard which applies is the “balance of probabilities” or the “conclusion which might be reached by a reasonable person on the available information”.

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## 10. MAKING A DECISION

All relevant information obtained during the course of the investigation should be analysed and considered to determine the outcome of the matter. Decision-makers who regularly make decisions of a particular type should take into consideration the decisions made in the past and whether any of the circumstances of those cases were similar. This will ensure the decision-maker and the University make consistent decisions.

A reasonable decision is one that balances the judgement of the decision-maker, any mitigating circumstances which may have a bearing on the decision, obligations and the interests of all parties affected.

Not all matters will be capable of resolution. The outcome may be that the student’s case cannot be substantiated and their application for review should be dismissed. If the student’s case is accepted, consider the outcome sought by the student as a starting point and determine whether it is reasonable to grant this outcome. If this is not possible, consider alternative options for the student.

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## 11. RECORD-KEEPING

Good record-keeping is important for a number of reasons. Records are maintained to protect the rights and interests of all parties; explain and justify the actions of the University and its employees; and document and explain the decision-making of the University. It will help the University strengthen and protect its decisions in the event of internal or external review and assist decision-makers to prepare a comprehensive statement of reasons.

When undertaking an investigation, the decision-maker is to keep accurate and factual records of their findings and notes in writing to support the decision. Record relevant evidence and facts, not opinions or irrelevant personal attributes of a person, unless there are explanatory reasons for including this information.

Records should be maintained and stored in accordance with the University’s *Records Management Policy* and protected from unauthorised access, disclosure, modification, loss or damage.

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## 12. INTERVIEWS

None of the policies require you to interview the student. It is acceptable for the decision-maker to deal with the case through email or other correspondence provided the student is given adequate opportunity to explain their concerns or respond to the allegation.

The decision-maker may choose to interview the student if, in their judgement, an interview would facilitate clarification of a matter or allow an opportunity for question and answer face to face.

If the decision-maker chooses to interview a student, they should be mindful of the power imbalance between them and the student by being sensitive to the student's concerns and allowing them sufficient opportunities to express themselves.

A student invited to an interview may wish to bring along a support person such as a friend, family member, University staff member or an officer from the Student Guild or SRC. The student's support person must not be a legal representative or a currently practicing solicitor or barrister.

Where a case is particularly complex or the student may be aggressive, the decision-maker may decide to ask a colleague to sit in on the interview as a witness to the discussion.

Where an interview is conducted a file note of the main points of discussion is to be prepared. A file note template is available on the University Policy Library.

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## 13. NOTIFICATION OF DECISION

It is important to provide the student with a letter which provides clear reasons for the decision. Taking the time to explain a decision will assist the student to understand the issues and reduce the likelihood of further appeal.

Staff are encouraged to use University template letters where appropriate. Templates are intended to be comprehensive and information can be removed and be tailored according to the facts of the individual student's case. There are templates available for decision-makers under the *Student Academic Misconduct Policy*, *Student Misconduct Policy* or the *Institutional Framework for Promoting Academic Integrity among Students*. The Student Academic Integrity Coordinator is available to provide advice on possible variations to the template correspondence. Template letters are also available for responding to student reviews or appeals in accordance with the *Student Review and Appeals Policy* and *Student Review and Appeals Procedures*.

The seriousness of the decision and potential consequences for the student should inform the level of detail required in your letter of decision. As a general rule the letter of decision should include the following information:

### 13.1 Details of the student's application for review/appeal

Explain that you have considered the student's application for review/appeal and confirm the outcome sought by the student.

### 13.2 Identify the decision-maker

State the name and position of the decision-maker and refer to the policy under which they have the power to make the decision.

### 13.3 University policy or procedure upon which the decision is based

Refer the student to any applicable policy or procedures and set out the relevant sections where necessary.

### 13.4 The findings

State the findings and explain how they contributed to the decision. Where appropriate, set out the steps taken to investigate the matter and explain what evidence was accepted or rejected and how this influenced the decision. Set out *all* considerations that have been taken into account, as failure to take into account a relevant consideration may be grounds for appeal.

### **13.5 The outcome**

State the outcome of the decision. The outcome may simply be that the student's case has not been established and no further action will be taken. If the student is given a remedy, describe this remedy and explain that this action will be implemented as soon as practicable.

### **13.6 Rights of appeal**

Include advice to the student about their rights of review or appeal as specified in University policy. You are also required to advise the student of their right to make a complaint to the Queensland Ombudsman. Refer to University template letters for examples of this advice.

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## **14. SOURCES OF ASSISTANCE**

Decision-makers unsure about how to interpret the relevant policy or uncertain about the correct procedure to follow, are to seek assistance:

- in their immediate work area from the Head of School, Deputy Head of School, Chair, School Assessment Board or School Administrative Officer;
- in the academic Group, the Dean (Learning and Teaching) or their administrative support;
- in relation to academic integrity and student misconduct cases, the Student Integrity Manager/Officer based in Student Business Services;
- in relation to student appeals, the Secretary University Appeals Committee based in Student Business Services;

The Queensland Ombudsman provides a range of resources to guide decision-makers: <http://www.ombudsman.qld.gov.au>. Both the Queensland Ombudsman and New South Wales Ombudsman also provide training in good decision-making.

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## APPENDIX A - REVIEWABLE DECISIONS

There are a range of decisions made by University staff in which they are required to exercise their academic judgement. University decisions which may be reviewed are described in *Student Review and Appeals Policy*. However there may be other decisions which students seek to challenge outside the parameters of that policy. Not all decisions made at the University can be subject to review or appeal by students. Whether a particular decision constitutes a reviewable decision depends on the circumstances of the individual case.

This Appendix provides guidance as to whether particular decisions made by University staff can be considered reviewable decisions.

### When should a decision be reviewable?

A decision of the University that has a real and practical effect on the student's rights or otherwise disadvantages the student in some way will generally constitute a reviewable decision so as to activate a right of review and/or appeal.

In determining whether a particular University decision should be reviewable, consider:

1. *Was there a decision?*

This will include a decision, as well as failure to make a decision (where a decision-making power was not exercised by the decision-maker, e.g. a review officer fails to respond to a student's application for review).

Conduct, including conduct engaged in for the purpose of making a decision or in response to a complaint, may constitute a reviewable decision based on process.

A preliminary or procedural decision will not usually constitute a reviewable decision.

2. *Does the decision have an effect on the student's interests or disadvantage the student in some way?*

A reviewable decision is one that has an effect on the student's rights or interests or otherwise disadvantages the student in some way.

If an administrative or academic decision is likely to have an effect on the interests of a student, in the absence of a good reason, that decision should ordinarily be open to review. A student's interests may be pecuniary, academic or other and may be directly or indirectly affected.

See 'Decisions which are generally not reviewable' for examples of decisions that do not adversely affect a student.

3. *Is this a decision which is capable of review?*

In some circumstances the decision may be a matter of academic or professional judgement, where only the opinion of an academic or professional expert will suffice. Such decisions may not be capable of review. In these circumstances it is necessary to consider whether someone else is capable of standing in the shoes of the decision-maker and substituting the decision, or if the decision requires the exercise of specialist judgement or academic expertise.

4. *Is there evidence of procedural unfairness?*

Decision-making must be fair and equitable and adhere to the principles of procedural fairness/natural justice. The greater the potential impact of a decision, the greater the obligation of the University to exercise due process.

### Examples of decisions which are generally reviewable

*Academic matters* – teaching and learning experiences regarding grades, final results, progression, thesis classification, eligibility to graduate, quality of teaching and supervision. Refer to the University's *Student Review and Appeals Policy*.

*Student administration matters* – fees, admission, enrolment and attendance etc. Refer to the University's *Student Review and Appeals Policy*.

*Conduct/disciplinary matters* – dismissal, probation. Refer to the University's *Student Misconduct Policy*.

*Matters relating to harassment, bullying and discrimination* – refer to the University's *Harassment, Bullying and Discrimination Policy*.

*Procedural unfairness* – denial of procedural fairness/natural justice, unfairness in decision-making, failure to follow internal publications or policies, improper exercise of decision-making power.

### **Examples of decisions which are generally not reviewable**

The circumstances in which a decision would not be considered reviewable are narrow. Ordinarily the types of decisions that will not be reviewable are:

*Preliminary or interim decisions* – A preliminary or interim decision is a minor step in a process of decision making. For example, making a judgement about whether an alleged breach of academic integrity is classified as Tier 1 or Tier 2 is an interim step to the final decision and therefore not reviewable. An exception may be a preliminary or interim decision that could have immediate implications or otherwise interfere with a student's rights or interests.

*Decisions to institute investigations* - As above, the decision to institute an investigation into a suspected case of academic misconduct or student misconduct is part of the process of making a decision and therefore is not itself reviewable.

*Decisions that are not capable of review* – Decisions that are not capable of review are those where only the opinion of an academic or professional expert will suffice, or where it is otherwise impossible to stand in the shoes of the decision-maker and substitute the decision. An example is the decision to award a scholarship, which in some instances may involve complex discretionary decision-making criteria which takes into account considerations such as an assessment of family income.

*Self-executing decisions* – Self-executing decisions are those that automatically follow from the happening of a particular set of circumstances, i.e. where a policy specifies that if criteria X is met, consequence Y must happen. If the student does X, the fact that consequence Y was imposed is not subject to review. This is because in this situation, no one actively 'makes a decision'.

However there is always scope for disagreement about whether or not particular facts occurred and the automatic character of the decision flowing from those facts does not mean the decision is always inappropriate for review. In these circumstances the review is confined to establishing whether or not the relevant facts existed or occurred and the specified criteria were met.

For example, the *Assessment Policy* provides that where a student did not present any work for assessment, they are awarded a Fail No Assessment Submitted (FNS) grade. The decision to award the FNS grade where no work is presented is a self-executing decision and not reviewable. However the student may contest the facts upon which the decision to award the FNS grade was based if they can show work for that assessment item was presented. In these circumstances, the decision would be reviewable.

*Decisions that do not adversely affect the student* - Decisions such as the refusal to grant supplementary assessment, or not to nominate a particular student for a University medal or prize are not reviewable because these decisions constitute an advantage that would not necessarily be received by the majority of students.

*Service and facility matters* – Decisions relating to service and facility matters such as the availability of resources, timing and location of clinical placements or access to specialised facilities outside of the University's standard operating hours are University matters and not subject to review.

*Matters of policy* – Students are entitled to make a complaint or give the University feedback on matters of policy; however University policy is not subject to review or appeal.

*Frivolous or trivial matters* – Matters which are frivolous or trivial will not be subject to review. A frivolous or trivial application for review is one that has no basis or where there is no disadvantage to the student, for example a request to review a formative assessment task which has no effect on the student's grade.

*Matter otherwise has no merit* – This would include a situation where the student has had an opportunity to correct their deficiencies and has failed to do so, an adequate review and appeals procedure has been followed to support the University's decision and there is no other good reason why the University should consider a review or appeal.