



## Complaints and Appeals Policy and Procedure

These policies and procedures for managing appeals are designed to ensure compliance with all legislative and regulatory requirements established under the:

- Standards for RTOs 2015 – Standard 6.1-6.5
- ESOS ACT;
- ESOS Regulations;
- National Code – Standard 10
- Migration Act; and
- Migration Regulations.

### Definitions

**Complaints and Appeals Tribunal** – External arrangement of third party Tribunal agreed by both parties.

**Overseas Students Ombudsman** - The Overseas Students Ombudsman investigates complaints about problems that intending, current or former overseas students have with private schools, colleges and universities (education providers) in Australia, further information can be found [www.oso.gov.au](http://www.oso.gov.au)

**Department of Education** - The Department of Education and Training is responsible for national policies and programmes that help Australians access quality and affordable early child care and childhood education, school education, higher education, vocational education and training, international education and research. For further information [www.education.gov.au](http://www.education.gov.au)

**Department of Home Affairs (formerly Department of Immigration and Border Protection - DIBP)** - When you are planning to visit Australia, there are important things you should know such as what visas to apply for and requirements for the visa application, your obligations while in Australia and information about complying with the conditions of your visa. For further information [www.border.gov.au](http://www.border.gov.au)

### Responsibility

- The **Director of Education** is responsible for this policy.
- The **Education Program Manager** is responsible for the implementation of this policy and is responsible for the day to day management of this policy.
- The **Education Compliance Manager** is responsible for the maintenance of this policy.

### Purpose and Scope

The purpose of this Policy and Procedures is to ensure that ACS manages and responds to any allegations involving the conduct of:

- ACS, its trainers, assessors, or other staff
- a third party providing services on the RTO's behalf, its trainers, assessors or other staff or
- a learner of the RTO.

These Policies and Procedures will apply to all students enrolled in an Australian Computer Society (ACS) National Qualification, delivered by the ACS or its Partners.

At any point of time during their study a student may feel they have a justified grievance relating to the policies and procedures of the ACS or its Delivery Partner, or they feel they have been wrongly represented and that the ACS or its Delivery Partner has not acted in their best interests without full and fair



consideration of all circumstances. In such cases they may have found it impossible to resolve their grievance informally.

The ACS policies and procedures are based on the belief that in such circumstances students have a right to access accessible, affordable, equitable, fair, open and timely internal complaints and appeals process. Should the matter not be resolved through such process, the student should escalate to a similarly accessible, affordable, equitable, fair, open and timely external appeals process.

The policies and procedures are divided into two parts: Complaints and Appeals.

### **Complaints and Appeals Policy Principles**

Respecting the mutual rights and responsibilities of all staff and students, the ACS has adopted the following principles as guides for addressing and resolving all complaints and appeals.

The ACS is committed to:

1. Observing the principles of natural justice in the resolution of complaints and appeals – parties involved should respect each other’s rights and responsibilities, act with openness, fairness and flexibility, and with no fear of retribution, victimisation or breach of confidentiality.
2. Openly informing students as to their rights and responsibilities as students and the ACS’ policies and procedures.
3. Dealing with grievances, complaints and appeals impartially and, in the first instance, informally, and seeking resolution in a timely manner – all concerned parties will be fully informed of all outcomes/decisions and of the reasons for those decisions.
4. Respecting the right of all parties to nominate a third person to support their representation, including the use of an interpreter.
5. Maintaining full records of complaints and appeals, their processing and resolution, and making them available to all parties.
6. Respecting the rights of students to remain enrolled throughout all stages of any internal and external appeals processes they enter, except in cases of suspension or cancellation of enrolment for serious misbehavior (suspected criminal activity, a student being a danger to themselves and/or others, etc.).

All complaints and appeals will be dealt with in accordance with ACS’ Complaints and Appeals Policy and Procedure.

### **Complaints Procedure**

The Australian Computer Society’s (ACS) **Complaints Policy and Procedures** relate to situations in which a student has a grievance relating to:

- ACS or Partner’s facilities, including building, classrooms, information technology and/or learning resources;
- administrative, educational and/or student services procedures and/or delivery;
- unfair behaviour on the part of a trainer;
- a ‘breach’ of the ACS Student Code of Conduct by another party;
- a student being assessed as Not Yet Competent when the student believes the assessment tool and procedures were in some way invalid – either inappropriate or not implemented correctly; and/or
- a student having a PRISMS entry made which they believe is unjustified on grounds such as the availability, compliance and/or implementation of ACS’ policies and procedures.



Students are encouraged to resolve their grievances and/or complaints through informal avenues, by talking directly or with the help of a mediator, to the person(s) of concern or to their trainer. Where these informal approaches resolve the grievance the agreed adjustments and changes will be implemented at that level.

Where this is not possible or the grievance is of significant and ongoing concern, the student has the right to escalate the complaint to the next level of management in the ACS or Delivery Partner's institution, where a formal complaint procedure will commence upon receipt of a complaint form. All stages in this procedure must be documented and recorded in the student's file.

On receipt of a complaint the ACS or relevant Partner's Course Coordinators or equivalent will check the details and any attached documentation, and complete the complaints register and refer it and the associated materials to an appropriate investigating officer (varies depending on the nature/subject of the complaint). In all cases, and especially in complaints relating to the conduct of staff, trainers, providers / partners and/or students, the investigation of complaints will be undertaken by an officer in a higher position and removed from the person identified in the complaint, either directly or indirectly.

Assessment of all student complaints will commence within 10 working days of the complaint being lodged, and finalised as soon as practicable. The outcome of the complaint will be conveyed to the student in a timely manner.

The Investigating Officer will:

- examine the complaint and associated documentation;
- if necessary interview the complainant and any other relevant people the subject of or involved with the complaint (with all parties able to nominate an appropriate support person);
- where appropriate, facilitate negotiation and conciliation between the parties;
- make a recommendation for resolving the complaint;
- clearly document the complaint;
- pass all information on to the Course Coordinator or equivalent to make a decision and respond to the complaint; and
- visit the site if required to investigate and gather further information

On receipt of the complaint and the investigating officer's recommendations the person to whom the complaint has been referred will review the case and recommendations and make a decision to:

- endorse a conciliated/negotiated resolution;
- reject the complaint if there are insufficient grounds to sustain the complaint; or
- resolve the complaint in favour of the complainant.
- Dismiss the complaint on the basis that it is unsupported by the evidence provided and as such unfounded

The appropriate person (as above) will notify both the complainant and respondent of the decision in writing, providing

- the reasons for the decision;
- information relating to any actions to be taken by all parties as a result of the decision; and
- informing them of the right of either the complainant or respondent to make a formal Internal appeal against the decision.



It is expected that this process will be completed in a timely fashion, normally within 10 working days.

## Appeals Procedure

ACS' **Appeals Policy and Procedures** are designed to resolve situations in which an ACS decision made in relation to a student is seen by that student as being against their interests and unreasonable. Appeals procedures can be triggered by a student as invalid or unjustified. Such decisions potentially include:

- a student being sent an Intention to Report Letter for unsatisfactory academic progress;
- a student being notified of an intention to suspend or terminate their enrolment as a result of their breaching the ACS Student Code of Conduct;
- a student not being able to resolve a complaint (from the student's perspective) through the informal and formal complaints procedures;
- a student having their application for a release letter to transfer to another registered provider rejected;
- a student having an application for a refund of tuition fees rejected;
- a student having their application for a change of course rejected;
- a student having their application for leave of absence rejected; or
- a student having their application for course credit rejected.

Assessment of all student internal appeals will be commenced within 10 working days of the appeal being lodged, and finalised as soon as practicable. The outcome of the appeal will be conveyed to the student in a timely manner.

## Unsatisfactory Academic Progress /Breach of Code of Conduct

When a student is sent an **Intention to Report Letter** for **Unsatisfactory Academic Progress** or an **Intention to Suspend/Cancel Enrolment letter** informing them that the ACS or its Delivery Partner intends to either report, suspend or cancel their enrolment due to the student not maintaining satisfactory academic progress or breaching the ACS Student Code of Conduct that letter will inform them of:

- the intention to report them;
- the reasons for this;
- their right to appeal within twenty (20) working days from the receipt of the letter;
- how to enter the appeal process; and of
- the possible grounds for an appeal, namely that:
  - the ACS or its Delivery Partner had not made the relevant policies and procedures and requirements available to the students; and/or
  - the ACS or its Delivery Partner had not measured/recorded the relevant requirements correctly, and had thereby made a demonstrably wrong decision; and/or
  - the ACS or its Delivery Partner had not implemented its procedures in accordance with its published policies and procedures; and/or
  - demonstrable and previously unconsidered compassionate and/or compelling reasons significantly contributed to the student's situation.



Depending on the severity of the breach of the Code of Conduct, the ACS or its Partner organisation will either:

- hold any implementation of its original decision/outcome for the period of any Internal and, if that process ends in a decision against the student, any subsequent external appeals process; or
- immediately implement the intended suspension/cancellation of enrolment.

A student who enters the appeals process and whose enrolment is not immediately suspended/cancelled will be expected to continue to meet all course progress requirements throughout the appeals processes.

If a student fails to submit an appeal within 20 working days of receiving the Intention to Report/Suspend/Cancel Enrolment letter, or appeals and then withdraws from the Internal Appeals process before its resolution, the Delivery Partner will notify the ACS, who will then notify the Department of Education and the Department of Home Affairs (DHA) through PRISMS (in the case of international students) that the student has failed to maintain satisfactory performance (academic progress).

If an international student appeals against being reported, the student's enrolment will be maintained throughout the internal appeal, if that process ends in a decision against the student, any possible subsequent external appeals process. An ACS Delivery Partner will not cause the student to be reported to the Department of Education and the Department of Home Affairs (DHA) via PRISMS for unsatisfactory academic progress unless and until the internal and (if utilised) external appeals processes are complete and have supported the ACS or its Delivery Partner's initial intention to report.

Students will be expected to continue to meet all course progress requirements throughout the appeals processes. Apart from situations in which circumstances prevent it, all student internal appeals will be processed within twenty days and the outcome of the appeal will be conveyed to the student in a timely manner.

### **Unsatisfactory Complaint Resolution**

If the student's complaint is rejected by the ACS, the Partner will inform the student:

- that if they are dissatisfied with the decision/outcome, they have a right to appeal and enter the external appeals process within twenty (20) working days from the receipt of the letter;
- in the case of international students, of their right to submit an external appeal to the Overseas Students Ombudsman; and of
- the possible grounds for an external appeal.

If a student appeals against the decision/outcome, the ACS or its Partner organisation will determine whether or not to implement its original decision/outcome prior to or after the internal appeal outcome is determined. Should the original decision be implemented and the Internal Appeal is subsequently determined in favour of the student, the ACS or its Partner organisation will reverse its implementation.



## Rejection of Application

When a student's application for:

- Leave of Absence
- Course Withdrawal and Release Letter
- Refund of Tuition Fees
- Change of Course Preference, or
- Application for Course Credit

is rejected, the student is sent notification informing them of the decision and:

- the reasons for the decision;
- their right to appeal against the decision;
- the possible grounds for an Internal Appeal; and
- the procedure for lodging an Internal Appeal by submitting a completed Student Appeal Form along with relevant supporting documentation.

If a student fails to submit an Internal Appeal within 20 working days of receiving Complaint Outcome letter, or appeals and then withdrawals from the appeals process before its resolution, or if the appeal is rejected, the ACS or its Delivery Partner will maintain the original decision/outcome.

If a student appeals against the decision/outcome, and the appeal is successful, the ACS or its Delivery Partner will reverse its original decision and act in accordance with the determination.

Students will be expected to continue to meet all course progress requirements throughout the appeals processes.

## Processing Internal Appeals

All Internal Appeals will be processed within 20 working days of the Appeal Form being submitted, with the Appellant being informed by the close of business on the twentieth day. If for unavoidable reasons the investigation of an Internal Appeal is held up, and the appeal cannot be resolved within twenty working days, the Appellant will be notified of this and advised when the outcome will be communicated to him/her.

The ACS or their Partner organisation's RTO Manager is ultimately responsible for the coordination and management of all Internal Appeals in consultation with the ACS where appropriate.

All Internal appeals will be submitted to the Student Services Officer for initial registration and referral for investigation. This entails:

- attaching a Complaint and Appeal Registration Form, and completing Section 1 of the Form, entering the student's name, student number, the date on which the complaint was lodged, the deadline date for the Response to the Appeal, and the type of appeal;
- informing (in person or by telephone call or email) the student that they have a right to make a personal representation of their case to the responsible officer, and that they have a right to be accompanied by a support person at such a meeting;



- referring the appeal along with the Complaint and Appeal Registration Form to the responsible investigation officer to complete Section 2 of the Complaint and Appeal Registration Form.

The designated responsible investigating officer will be the appropriate staff member for the area in which the complaint has been made.

The responsible investigating officer will:

- gather relevant information and documents;
- make a preliminary evaluation of the materials (for example, checking the validity of medical certificates);
- enter the relevant information in Section 2 of the Complaint and Appeal Registration Form;
- refer the appeal to the RTO Manager or other appropriate staff member;
- where necessary, the investigating officer will source information from other staff; and
- send all documentation to the ACS for review.

If a student decides to take up the opportunity to make an in-person presentation of their case (with or without a support person being present) the RTO Manager (or the appropriate staff member) will:

- facilitate that meeting at a time and place mutually agreeable to both parties;
- conduct the meeting, ensuring that minutes are taken;
- document all relevant information and insert it in the student's file and/or on the student management system;
- send a copy of all relevant documentation to the ACS for review (where applicable).
- When required the above actions may also be undertaken by ACS.

The responsible staff member will then:

- in conjunction with the ACS, formulate a recommended outcome and related action;
- document the action appropriately; and
- refer the appeal to the appropriate senior manager for final resolution.

For Code of Conduct related appeals the appropriate staff member's (as above) recommended decisions and supporting reasons will be referred to the ACS Education Program Manager who carries responsibility for determining the outcome of internal appeals relating to breaches of the Code of Behaviour.

The Manager will:

- confirm that all necessary steps have been taken;
- evaluate the available material pertaining to the appeal;
- decide on the final determination;
- document the decision and the reasons for the decision appropriately; and
- refer the appeal documents to the ACS Partner's Student Services (if necessary).

The ACS or their Partner Organisation Student Services Officer will:

- inform the student appropriately and make an entry in the student's file and/or student management system;
- make soft copies of all the appeal documents and save them in electronic format in the appropriate location



*If the Internal Appeal is successful* documentation must be provided to indicate that the appeal has been successful and advise the student to maintain satisfactory academic performance and requiring them to make an appointment with the ACS or the Partner organisation's RTO Manager to sign an agreement/plan designed to ensure that the student maintains satisfactory academic progress and completes their course in the normal time (where appropriate).

If a student's Internal Appeal is approved the reason for the approval will be conveyed by the Student Services officer to both the Partner's RTO Manager and the responsible investigating Officer so that any required corrective action/s can be identified and implemented.

*If the Internal Appeal is rejected* documentation must be provided to advise the student of the grounds for the rejection, and advise them of their right to external appeal to the State Ombudsman, or Overseas Students Ombudsman for International Students, and indicating that if nothing is heard from the student within 10 working days of student being informed, the original/intended decision/action will be implemented. The student will be requested to inform the Student Services Officer if they decide to make an external complaint/appeal, with attached documentary evidence of their lodging the complaint/appeal.

If a student lodges an external appeal against a decision by the ACS or Delivery Partner implementation of the original/intended decision/action will be deferred for as long as the external appeal process takes, and the student will be informed of his/her obligations to maintain satisfactory academic performance for that period.

In all matters not related to unsatisfactory academic progress where the ACS decides against a student's internal appeal, the student will have the same right to external appeal, but the ACS DIT Partner will implement the ACS's decision as soon as the student is notified.

At all times through any appeals procedures the student's file and electronic record will be promptly updated to include the outcome of any appeals process, and any subsequent actions. International students who are reported via PRISMS will be sent a letter to their last known address notifying them that they have been reported, and advising them to contact DIBP in relation to possible implications for their student visa.

If an International student remains dissatisfied with these appeals policies and procedures and/or the outcome of these procedures, they can contact Australian Education International (AEI) through the [ESOS online enquiry form](#) or through the ESOS enquiries phone number 1300 615 262, but only if the student believes that the provider's appeals process was not conducted correctly or that the provider did not make the appeals process available to the student.

### **Compassionate and Compelling Circumstances**

On application, and with sufficient professional documentary evidence, students may be professionally judged as having compassionate and/or compelling reasons for their failure to enrol on time and/or attend scheduled classes.

When determining whether or not compassionate and/or compelling circumstances exist, the ACS Partner, in conjunction with the ACS, will consider documentary evidence provided to support the claim, and copies of such documents will be kept, together with a record of the decision and the basis for the decision, in the student's file, and recorded in the student management system and reported to the ACS for recording in PRISMS where applicable.



In determining whether or not compassionate and/or compelling circumstances exist the ACS Partner will follow the requirements set down in ***ESOS National Standard 9 Deferring, suspending or cancelling the overseas student's enrolment*** and the ACS's Policies and Procedures relating to those requirements.

## **Review and Improvement**

The Australian Computer Society is committed to ongoing monitoring and improvement of its policies and procedures, and to this end has an integrated strategy including:

1. The Management Team, ACS Education conducting reviews of specific elements of the appeals policy and procedures when an appeal is upheld and thereby indicating a possible problem to be addressed. This will then be referred to the ACS Director of Education.
2. Staff at the Partner institution with responsibilities relating to the managing of appeals being encouraged to submit any concerns about, and suggestions for making improvements to the appeals policies and procedures to the appropriate Manager in the Partner institution who is responsible for ensuring that appropriate responses are reported to the ACS for development.
3. The Management Team, ACS Education and the Partner organisation will review and debrief after the complaint and / or appeal concludes. All information will be documented to provide ways of continuous improvement within ACS and / or the partner organization to prevent similar complaints and appeals from reoccurring. ACS and / or the Partner organisation will look at additional training to staff and implement support mechanisms if required.
4. The Management Team, ACS Education managing a review of all Australian Computer Society's policies and procedures relating to the ESOS National Code, every 2 years or as needed review of the written Policy and procedures documents, both of which may lead to modifications and improvements.
5. The Education Compliance Manager at the ACS monitoring legislative and regulatory changes to ensure that policies and procedures are updated and fully compliant with the National Code.

## **Related Documents**

ACS Complaints and Appeals Registration Form

ACS Complaints and Appeals Register



## End of Document

### Complaints and Appeals Policy & Procedure

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#### Version History

Date	Version	Revision History	Author /Reviser
September 2014	1	Original draft	DS
September 2014	2	Minor changes resulting from editing by AJ	DS
November 2014	3	Clarification of roles of ACS and Delivery Partner incorporated	DS
March 2015	4	Addition of CRICOS Code to header	DS
September 2015	5	Addition of RTO Code to header, new DIT Code, Education Program Manager replaced by Education Program Manager, and addition of new Version Control Panel	DS
October 2015	6	Policy changed to apply to any course and harmonised with ACS Assessment Policy	ST
April 2018	7	Updated policy to reflect Nat Code 2018 updates, was originally Standard 8 now Standard 10. Update to reflect current Complaints and appeals policy and procedure. Link to ESOS Enquiry Form updated.	Glanyce Attard and Derinda Smith
May 2018	8	Combining S10 (ESOS) policy with RTO policy. Removing references to attendance requirements.	Louise Smith, Derinda Smith, Glanyce Attard

#### Approvals

This document requires the following approvals.

Date of issue and version details must be entered upon approval.

Name	Title	Date of Issue	Version
Asheley Jones	Director, Education	September 2014	1
Asheley Jones	Director, Education	March 2015	2-4
Simon Taylor	Director, Education	September 2015	5
Simon Taylor	Director, Education	October 2015	6
Louise Smith	Director of Education		7
Louise Smith	Director of Education	May 2018	8



## Distribution

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