

CRICOS Complaints and Appeals Policy

Scope and Purpose

At any point of time during their study under a student visa an international student may find themselves in a situation in which they feel they have a justified grievance relating to the policies and procedures of their education provider, or in circumstances in which they have been wrongly represented and that their education provider has acted in a manner contrary to their best interests without full and fair consideration of all circumstances, and in which they have found it impossible to resolve their grievance informally.

ECA College policies and procedures are based on the belief that students have a right to access accessible, affordable, equitable, fair, open and timely internal complaints and appeals policies and procedures, and should they fail to provide what the student sees as a just outcome, to a similarly accessible, affordable, equitable, fair, open and timely external appeals procedure.

In meeting this commitment ECA College differentiates between its Complaints and Appeals policies and procedures.

ECA College Complaints Policy and Procedures relate to situations in which a student has a grievance relating to:

College facility, including building, classrooms, information technology and/or learning resources;

- administrative, educational and/or student services procedures and/or delivery;
- a 'breach' of the **Trainers' Code of Ethics**;
- a 'breach of the **Staff Code of Conduct**;
- a 'breach' of the ECA College **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 ECA College policies and procedures,

- and wishes to raise the issue as a complaint, notwithstanding the possibility of that matter being considered and treated as a “serious incident”.

Students can resolve their grievances and/or complaints through informal avenues, but where this is not possible or the grievance is of significant and ongoing concern, the complainant can engage the Formal Complaints procedures by completing and submitting a **ECA College Student Complaint Form**.

ECA College’s Appeals Policy and Procedures are designed to secure resolution of situations in which a ECA College decision made in relation to a student is seen by that student as being against their interests and in some way contestable. Such decisions potentially include:

- student being sent an Intention to Report Letter for unsatisfactory Academic progress (see ECA College’s **Monitoring Course Progress Policy and Procedures**);
- a student being notified of an intention to suspend or terminate their enrolment as a result of their breaching the ECA College Code of Conduct;
- a student not being able to secure an acceptable resolution (from the student’s perspective) of a complaint 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.

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 by the Principal Executive Officer.

Where appropriate, students are encouraged to resolve their concerns through informal avenues, but where this is not possible or the concern is for significant matter, students can engage the Internal Appeals procedures by completing and submitting a **Student Appeal Form**.

Given the fact that the policies and procedures for appeals come into play across a number of National Code Standards, this statement provides the foundation for appeals relating to other standards, and should be read in association with ECA College’s policy and procedures statements for:

- Standard 7, Transfer between registered providers;
- Standard 8: Overseas Student Visa requirements;
- Standard 9, Deferment, suspension or cancellation of study during enrolment;

Complaints and Appeals Policy Principles

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

The ECA College is committed to:

1. Observing the principles of natural justice in the resolution of complaints and appeals – the 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 international/domestic students and the ECA College’s 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 misbehaviour (suspected criminal activity, a student being a danger to themselves and/or others, etc.).

Complaints Procedures:

The ECA College’s Complaints Policy and Procedures relate to situations in which a student has a grievance relating to:

- ECA College 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 ECA College 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
- in the case where an international student is concerned and where the student has a PRISMS entry which they believe is unjustified on grounds such as the availability, compliance and/or implementation of ECA College policies and procedures

Students with a grievance or complaint are encouraged to first seek an informal resolution by directly raising the matter with the person responsible. If desired the persons involved may also seek the informal advice of appropriate third parties such as the welfare officer, a trainer or other staff member. Where these informal approaches resolve the grievance the agreed adjustments and changes will be implemented at that level.

Where informal resolution is either unsuccessful or inappropriate, students can initiate the Formal Complaints procedures by reporting the matter in writing to the Lead Trainer, Director of Studies or equivalent. The formal complaints process requires that the student includes clear documentation, for example by the use of the complaints forms to record their complaint or appeal.

On receipt of a complaint the ECA College's Lead Trainer, Director of Studies or equivalent will check the details and any attached documentation, and complete the complaints document and refer it and the associated materials to an appropriate investigating officer (varies depending on the nature/subject of the complaint). This must commence within 10 working days of the formal lodgement of the complaint or appeal and supporting information, all reasonable measures are taken to resolve the process as soon as practicable.

In all cases, and especially in complaints relating to the conduct of staff, trainers and/or students, the investigation of complaints will be undertaken by the Director of Studies or higher position and removed from the person identified in the complaint, either directly or indirectly.

The Investigating Officer will:

- examine the complaint and associated documentation;
- 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; and
- clearly document the complaint
- pass all information on to the Lead Trainer and/or Director of Studies to make a decision and respond to the student's complaint

On receipt of the complaint and the investigating officer's recommendations, the Lead Trainer and/or Director of Studies will review the case and recommendations and make a decision to:

- endorse a conciliated/negotiated resolution;
- 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 the complainant of their 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
- information informing them of the right of either the complainant or respondent to make a formal Internal appeal against the decision.

The Lead Trainer and/or Director of Studies will also identify potential causes of the complaint and will take appropriate corrective action to eliminate or mitigate the likelihood of reoccurrence.

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

Where the appropriate person (as above) considers that more than 60 calendar days are required to process and finalise the complaint, they will:

- inform the complainant in writing, including the reasons why more than 60 calendar days are required, and will
- regularly update the complainant on the progress of the matter.

All formal complaints and decisions made by ECA College staff or their partnering organisations will be documented and recorded in the student's file and stored in a secure location within ECA College's environment.

Unsatisfactory Complaint Resolution

If the student feels that their complaint was not resolved satisfactorily by ECA College, the respondent 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;
- of their right to submit an external appeal to the Complaints and Appeals Tribunal or the Overseas Students Ombudsman; and
- of the possible grounds for an external appeal.

If a student appeals against the decision/outcome, the ECA College 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 appeal is subsequently determined in favour of the student, the ECA College will reverse its implementation.

International Students Appeals Process

The ECA College's Appeals Policy and Procedures are designed to resolve situations where an ECA College decision made in relation to a student is seen by that student as being against their interests and in some way contestable. Such decisions potentially include:

- A student being sent an Intention to Report Letter for unsatisfactory academic progress (see ECA College's Monitoring Course Progress Policy and Procedures);
- A student being notified of an intention to suspend or terminate their enrolment as a result of their breaching the ECA College Student Code of Conduct;(Student Handbook);
- 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.

Submitting Internal Appeals

The ECA College appeals procedures can be triggered by a student seeking to prevent or reverse an action by the ECA College which is viewed by the student as invalid or unjustified, including:

- A student being sent an Intention to Report Letter for unsatisfactory. academic progress (see ECA College's Monitoring Course Progress Policy and Procedures);
- A student being notified of an intention to suspend or terminate their enrolment as a result of their breaching the ECA College Student Code of Conduct;
- A student not being able to secure an acceptable resolution (from the student's perspective) of a complaint 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.

Unsatisfactory Academic Progress

When a student is sent an Intention to Report Letter for unsatisfactory attendance and/or academic progress, it 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:

1. The ECA College has not made the performance requirements and Appeals Policies and Procedures available to the students; and/or
2. The ECA College has not measured/recorded the relevant requirements correctly, and had thereby made a demonstrably wrong decision; and/or
3. The ECA College has not implemented its procedures in accordance with its published policies and procedures; and/or
4. Demonstrable compassionate and/or compelling reasons were responsible for or contributed to the student's unsatisfactory attendance.

If a student fails to submit an internal appeal within 20 working days of receiving an Intention to Report Letter, or appeals but then withdraws from the internal appeals process before its resolution, the ECA College will then notify the Department of Education and the Department of Immigration and Border Protection (DIBP) through PRISMS that the student has failed to maintain satisfactory performance (attendance and/or academic progress).

If a student appeals against being reported, the student's enrolment will be maintained throughout the internal and, if that process ends in a decision against the student, any possible subsequent external appeals process. ECA College will not cause the student to be reported to the Department of Education and the Department of Immigration and Border Protection (DIBP) via PRISMS for unsatisfactory attendance and/or academic progress unless and until the internal and (if utilised) external appeals processes are complete and have supported the ECA College's initial intention to report.

Students will be expected to continue to meet all course attendance and 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.

Breach of Code of Conduct

When a student is sent an Intention to Suspend/Cancel Enrolment letter informing them that the ECA College intends to either suspend or cancel their enrolment due to the student breaching the ECA College 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:
 - o the ECA College has not made the relevant policies and procedures and requirements available to the students; and/
 - o the ECA College has not measured/recorded the relevant requirements correctly, and had thereby made a demonstrably wrong decision; and/or
 - o the ECA College has not implemented its procedures in accordance with its published policies and procedures; and/or

- o 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 ECA College 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 attendance and progress requirements throughout the appeals processes.

If a student fails to submit an appeal within 20 working days of receiving the Intention to Suspend/Cancel Enrolment letter, or appeals and then withdrawals from the Internal Appeals process before its resolution, ECA College will implement its original intension.

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 withdraws from the appeals process before its resolution, or if the appeal is rejected, the ECA College will maintain it the original decision/outcome.

If a student appeals against the decision/outcome, and the appeal is successful, the ECA College will reverse it original decision and act in accordance with the determination.

Students will be expected to continue to meet all course attendance and 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 ECA College's Principal Executive Officer (PEO) is ultimately responsible for the coordination and management of all Internal Appeals.

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

- attaching a Complaint and Appeal Registration Form, and completing first section 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 the Complaint and Appeal Registration second section of the 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 the Complaint and Appeal Registration Form;
- refer the appeal to the Director of Studies or other appropriate staff member;
- where necessary, the investigating officer will source information from other staff; and
- send all documentation to the Lead Trainer or DOS 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 Director of Studies (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 ECA College for review.

The responsible staff member will then:

- in conjunction with the ECA College, 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 ECA College's Director of Studies 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 ECA College Student Services.

The ECA College's 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; and
- file hard copies of all the appeal documents in the student's file.

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 attendance and academic performance and requiring them to make an appointment with the ECA College's Director of Studies to sign an agreement/plan designed to ensure that the student maintains satisfactory attendance, maintains satisfactory academic progress and completes their course in the normal time.

If a student's Internal Appeal is approved the reason for the approval will be conveyed by the Student Services officer to both the ECA College's Director of Studies 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 Overseas Students Ombudsman, 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 Overseas Students Ombudsman offers a free and independent service for International students who want to lodge an external appeal or have a complaint or about a decision made by their training provider. Please visit the Overseas Students Ombudsman website <http://www.ombudsman.gov.au/making-a-complaint/overseas-students> or phone 1300 362 072 for further information.

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 made by ECA College to reject their appeal and to report them for either unsatisfactory attendance or unsatisfactory academic progress, 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 attendance and academic performance for that period.

In all matters not related to unsatisfactory attendance or academic progress where the ECA College decides against a student's internal appeal, the student will have the same right to external appeal, but the ECA College will implement its 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. 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 a 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 and professional 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 ECA College, 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 ECA College for recording in PRISMS.

In determining whether or not compassionate and/or compelling circumstances exist the ECA College will follow the requirements set down in ESOS National Standard 9 Deferment, Suspension or Cancellation of a Student During Enrolment and the ECA College's Policies and Procedures relating to those requirements (see ECA College Deferment, Suspension or Cancellation of a Student During Enrolment Policies and Procedures).

Review and Improvement

The ECA College 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, ECA College 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 ECA College Director of Education and/or the Management Review Committee for approval.
2. Staff at the 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 college who is responsible for ensuring that appropriate responses are reported to the ECA College for development.
3. The Management Team, will review and debrief after the complaint and / or appeal concludes. All information will be documented to provide ways of continuous improvement within ECA College to prevent similar complaints and appeals from reoccurring. ECA College will look at additional training to staff and implement support mechanisms if required.
4. The Management Team, managing a yearly review of all ECA College's policies and procedures relating to the ESOS National Code, and an annual review of the written Policy and procedures documents, both of which may lead to modifications and improvements.
5. The Education Compliance Manager at the ECA College monitoring legislative and regulatory changes to ensure that policies and procedures are updated and fully compliant with the National Code.

Related Documents

ECA College Complaints and Appeals Registration Form

ECA College Complaints and Appeals Log

ECA College POLICY AND PROCEDURES V.3 February 2018