

Complaints and Appeals Handling Policy

Scope

This policy was developed for APEX Australia Vocational Education (hereby referred to as 'APEX') and it applies to:

- All current students who have accepted APEX's Conditions of Enrolment.
- All applicants who formally applied to be enrolled at APEX.
- Any third party providing services on APEX's behalf to current or prospective students at APEX (such as education agents, workplace supervisors, etc.)
- All staff members involved in management of grievances, complaints and appeals process.

This policy is to be used in the management of all grievances, complaints and appeals relating to all aspects of a student's educational experience and learning environment at APEX.

Purpose

The purpose of this policy is to provide:

- a framework for managing grievances, complaints and appeals;
- a process for investigation of grievances, complaints and appeals;
- a fair, equitable and confidential means of resolving grievances, complaints and appeals.

This policy follows the guidelines of the Standards for RTO's 2015, mainly Standard 6 and the National Code of Practice for Providers of Education and Training to Overseas Students 2018, specifically Standard 10, as well as other relevant legislation.

Definitions

A **complaint** is an expression of dissatisfaction by a student* or person, as outlined in the scope of this policy (hereafter referenced as the complainant) about an issue related to a course/qualification delivered by APEX, or an individual associated with APEX which requires review, investigation or action. All students are entitled to access the complaints process. Activities which may give rise to academic and/or non-academic complaints covered by this policy are listed below:

- academic programs (content or structure);
- enrolment in units of competency, delivery, assessment, learning environment, outcomes, access to learning resources;
- student services and processes (such as enrolment, refund, assessment)

- individuals who believe that they have been treated unfairly on the grounds of access and equity;
- health and safety concerns related to subject delivery and/or assessment;
- administrative action/inaction, procedure, or decision.

An **appeal** is a process whereby a student or a person disputes a decision made by APEX because of a formal written complaint.

** Note: Students may include prospective students who have had some interaction with APEX (e.g. via an education agent or applied directly to APEX for a course), current students (irrespective of mode of participation) and past students (within 6 months from the date they cease to be enrolled with APEX).*

Policy Principles

Complaints will be addressed based on their circumstances. However, the following general principles will also be adhered to:

- All complaints will be made and dealt with in a timely manner according to the complaints process.
- Resolution of a complaint may be reached at any stage. Upon resolution, all further investigation ceases, unless, in the interests of improving the services, products or processes the manager involved in the investigation or resolution considers further investigation is warranted.
- Details of the complaint, its investigation and outcome will be documented and filed appropriately and can be requested at any stage of the process by the complainant or respondent.
- In the event of a complaint not being resolved internally, APEX and the complainant may appoint an independent arbiter to review the complaint and recommend a solution.
- Complainants have a right to appeal if they believe their complaint has not been adequately resolved.
- All internal grievances, complaints and appeals made by students or prospective students are dealt with at minimal or no cost.
- The complainant and respondent will not be victimized or discriminated against in any manner and all details of the complaint and subsequent investigation will remain strictly confidential.
- A student may seek confidential, independent professional advice at any stage of the complaint.
- The complainant is entitled to ask for assistance in the form of a translator/interpreter at any time during the process.
- The complainant and respondent may bring one person (such as a friend, family member, counsellor or other support person) to represent/support them to any meetings during the complaint process. The support person should not be a legal practitioner and the student is obliged to notify APEX that the person will be attending before the meeting.
- The meetings are not to be recorded on any device by either the complainant or the respondent though both parties are permitted to take notes that are handwritten or typed.

- Students will continue their studies as usual during the complaint process, except in circumstances where their health or safety is potentially at risk or if they pose a health or safety risk to others.
- For overseas students studying in Australia where the complaint relates to them not being permitted to extend their course duration due to not completing their course in the required time frame, not enrolling within the required time, or not making satisfactory course progress, the student will be notified in writing that they will be reported to the Department of Home Affairs, and this may result in their visa being cancelled. The student will be informed that they have twenty (20) working days to access the appeals process.
- The outcome of each complaint and appeal will be analysed and recommendations for improvement of services will be recorded in the “Complaints and Appeals Register” and implemented throughout APEX’s operations.
- Complaints and appeals that are frivolous, unreasonable or lacking substance will be dismissed once the complaint and the supporting evidence have been considered by the manager assigned to investigate and process the complaint.

Grievance and Complaint Process

1. Grievance Received

In the first instance, students are encouraged to resolve their issues informally by discussing them with the relevant staff member(s). If this is impractical or the grievance cannot be resolved, the student or person (as outlined in the scope of this Policy) may request to speak with the Academic Manager for both academic or non-academic related matters. After discussions, if the complainant is still not satisfied with the resolution of the grievance, a formal complaint may be lodged. All possible options will be considered for every grievance to be resolved without leading to a formal complaint.

2. Lodging a Formal Written Complaint

All formal written complaints (academic or non-academic related) must be submitted within ten (10) working days of the incident.

In exceptional circumstances e.g , where a student is unable to provide a written submission due to a special circumstance requiring reasonable adjustments, APEX may allow a formal complaint to proceed.

When lodging a formal written complaint, complainants must complete the “Complaints and/or Appeals Form” available from Reception or can be requested via email at info@apexaustralia.edu.au .

To assist in the resolution of a complaint it is helpful if complainants include the following information when communicating their complaint:

- if lodging the form via email, use the word ‘Complaint’ in the email subject line.
- if applicable, identify the course enrolled in.
- summarise the issues relating to the complaint.

- provide any evidence of attempts to resolve the complaint – emails, examples, dates, times of discussions held.
- specify the outcome that is being sought.

Formal written complaints (academic or non-academic related) must be sent to the Academic Manager via email at: academicmanager@apexaustralia.edu.au.

Formal written complaints can also be delivered in person at our campuses' reception desk.

The complainant will receive written confirmation within five (5) working days that their written complaint has been received. Should the complainant not receive confirmation within the five (5) working days, they may then contact APEX.

3. Investigation of Complaint

Upon receipt of a formal complaint, details will be recorded on APEX's Complaints and Appeals Register. All complaints will be investigated within ten (10) working days of the date they are received by APEX or as soon as practicable (depending on the nature of the complaint) and resolved by the Academic Manager in accordance with this Policy. Investigation of complaints may involve:

- reviewing marked assessments;
- reviewing course materials or resources;
- consulting other course participants;
- reviewing course evaluations;
- reviewing processes (such as enrolment, refund, assessment);
- reviewing information provided if the complaint relates to bullying and/or harassment;
- reviewing potential unfair treatment of individuals on grounds of access and equity;
- speaking to relevant APEX staff members to obtain further information.

4. Interview conducted

Where there are grounds for further investigation of the complaint, particularly where it relates to learning, assessment or access and equity, a formal interview or meeting with the student(s) involved in the complaint may be conducted to agree on an appropriate resolution.

5. Resolution of Complaint

Once the investigation has been conducted and a determination made, the complainant will receive a written response from the Academic Manager or another member of the APEX leadership team detailing the actions taken in response to the complaint and reasons of the outcome. This will usually occur within ten (10) working days of acknowledgement of the complaint, or as soon as practicable (depending on the nature of the complaint).

If APEX receives no communication from the student within ten (10) working days of the date the written response is sent, the complaint will be considered closed, except in exceptional circumstances.

If for some reason the investigation or determination takes longer, the student will be advised in writing.

Where more than sixty (60) calendar days may be required to process and finalise the complaint, APEX will inform the complainant in writing, including reasons why more than sixty (60) calendar days are required and regularly updates the complainant on the progress of the investigation.

Any determination made in relation to a formal complaint will be documented in the 'Complaints and Appeals Register' by the Academic Manager.

Appeals Process

1. Submitting and Appeal

Where a student or a person, having lodged a complaint, subsequently receives a determination in circumstances that they believe provides ground for appeal, the student is entitled to appeal that determination under this policy.

Academic and non-academic appeals are referred to the RTO Manager for determination according to the processes stated within this policy.

Appeals to be emailed to rtomanager@apexaustralia.edu.au with the subject line "Notice of Appeal".

If a complainant decides to appeal a determination, they must lodge a written "Complaints and/or Appeals Form" within ten (10) working days of the determination being made.

Appellants on an Overseas Student Visa, subject to an academic progress or non-attendance 'Intention to Report' letter will be informed that they have twenty (20) working days to access the appeals process.

The appeal must set out the grounds of appeal and provide evidence supporting the grounds of appeal or any new information not previously provided in support of the complaint. It should also specify the outcome sought.

There is no cost incurred for the appellant during the appeals process and parties will not be discriminated or victimized during the appeals process.

Failure to provide a completed "Complaints and/or Appeals Form", with supporting new evidence as required, will result in the appeal not being heard or investigated further.

2. Grounds of Appeal

An appeal of a determination may be made on one or more of the following grounds:

- that new evidence of a relevant nature is available;
- that the decision was made without due consideration of relevant facts, evidence or circumstances;
- that there was bias, prejudice or a conflict of interest by the investigative or hearing body; or

- that some significant policy/procedural irregularity occurred in the investigative or hearing process.

Students may not appeal against assessment results based on:

- the unit delivery structure and assessment methods;
- student workload or the amount of work the student has done;
- financial implications of not passing the course;

Written “Notice of Appeals” can also be delivered in person at our campuses’ reception desk.

The appellant will receive written confirmation within five (5) working days that their written complaint has been received. Should the appellant not receive confirmation within the five (5) working days, they may then contact APEX.

3. Review of Appeal

Upon receipt of a Notice of Appeal, details will be recorded on APEX’s Complaints and Appeals Register. All appeals will be reviewed within ten (10) working days of the date they are received by APEX or as soon as practicable (depending on the nature of the appeal) and resolved by the RTO Manager in consultation with the CEO and in accordance with this Policy. Investigation of appeals may involve:

- reviewing marked assessments;
- reviewing course materials or resources;
- consulting other course participants;
- reviewing course evaluations;
- reviewing processes;
- reviewing information provided if the complaint relates to bullying and/or harassment;
- reviewing potential unfair treatment of individuals on grounds of access and equity;
- speaking to relevant APEX staff members to obtain further information.

4. Interview conducted

Where there are grounds for further investigation of the appeal, particularly where it relates to learning, assessment or access and equity, a formal interview or meeting with the student(s) involved in the complaint may be conducted to agree on an appropriate resolution.

Students can make an appointment with the RTO Manager to formally present their case, if they choose to do so.

5. Resolution of Appeal

Once the review of the appeal has been conducted and a determination made, the appellant will receive a written response from the RTO Manager or another member of the APEX leadership team detailing the actions taken in response to the appeal and reasons of the outcome. This will usually occur within ten (10) working days of acknowledgement of the appeal, or as soon as practicable (depending on the nature of the appeal).

If APEX receives no communication from the student within ten (10) working days of the date the written response is sent, the appeal will be considered closed, except in exceptional circumstances.

All discussions and outcomes of the appeal must be recorded in the Complaints and Appeals Register. All documentation provided for the appeal will be filed in the Complaints and Appeals folder for future reference.

External Independent Review

If the appellant wishes to appeal the decision of APEX, the appellant will have twenty (20) working days to request an external review from the date of their letter notifying the outcome of APEX's decision on their appeal.

An external appeal should be made after all internal appeal processes under this Policy have been addressed.

For an external review, students may consider contacting the Australian Skills Quality Authority (ASQA). More information to be found at: <https://www.asqa.gov.au/about/complaints>.

Students on an Overseas Student Visa may also contact the Overseas Student Ombudsman (<https://www.ombudsman.gov.au/How-we-can-help/overseas-students>). If the external appeal agency contact APEX, then during the duration of the external appeal process the student will not be reported to the Department of Home Affairs nor have their enrolment cancelled until the process has been completed or the student withdraws their external appeal. Students should note that their visa may be affected if their Confirmation of Enrolment (CoE) lapses during the period of external appeal.

The parties will agree to be bound by the external independent mediators' recommendations and APEX will ensure that any recommendations arising from the decision will be implemented as soon as practicable from the time of the receipt of the decision made by ASQA, the Overseas Student Ombudsman or any other external independent review body engaged in the appeals process.

APEX will advise the complainant/appellant of all preventive or corrective actions taken as required in the decision made by the external reviewer.

If an overseas student is not satisfied with the outcome of either APEX's internal appeals process or the following external appeals process, students can access multiple external appeals. However, APEX will not assist the overseas student finding further appropriate appeals processes.

Please note:

- If students prefer to make a complaint in a language other than English, they can call the Translating and Interpreting Services (TIS) on 131 450 or visit the following link for more information: <https://www.tisnational.gov.au/>
- APEX will maintain the student's enrolment while the internal and/or external appeal process is ongoing. Students are strongly advised that they do come to class during this process and thereby maintain their attendance and course progress requirements.

- The availability of this complaints and appeals process does not remove the right of the student to take action under Australian Consumer Protection Laws if Australian Consumer Law applies.

Reporting

APEX will report overseas students to the Department of Home Affairs for unsatisfactory course progress or attendance via PRISMS only after:

- the internal and external complaints processes have been completed and the breach has been upheld;
- the overseas student has chosen not to access the internal complaints and appeals process within the twenty (20) working days period;
- the overseas student withdraws from the internal or external appeals process by notifying APEX in writing.

APEX will maintain the student's enrolment until the internal or external appeals process is completed.

Recordkeeping for Complaints and Appeals

Where a complainant/appellant lodges a formal complaint or appeal they must be advised of:

- the receipt of the complaint or appeal by APEX and any proposed action to be taken;
- the outcome and the reasons for the outcome of the complaint or appeal and any further avenues for appeal available.

All records relating to the complaint and/or appeal will be recorded in the complainant's record and maintained as outlined in the *Student Record Management Policy* to allow both parties access to these records upon written request.

All records are considered private and confidential and will be treated in accordance with APEX's *Privacy Policy*.

Review of Complaints and Appeals

Outcomes of complaints and appeals are recorded in the 'Complaints and Appeals Register' and are reviewed at Management Review Meetings.

Relevant Legislation

As a registered education provider, APEX operates under strict laws and regulations. Policies and procedures are in place to ensure compliance with such laws. Below is listed the most relevant legislation which apply to this policy:

- National VET Regulator Act 2011
- Standards for RTO's 2015
- Education Services for Overseas Students Act 2000 (ESOS Act 2000)
- Education Services for Overseas Students Regulations 2019
- Education Services for Overseas Students (Calculation of Refund) Specification 2014

- National Code of Practice for Providers of Education and Training to Overseas Students 2018

Related Policies and Forms

This policy should be read in conjunction with the following:

- Assessment Policy
- Refund Policy
- Privacy Policy
- Access and Equity Policy
- Prevention of Bullying and Harassment Policy
- Student Record Management Policy
- Complaints and Appeals Form

Document Control

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