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## COMPLAINTS AND APPEALS POLICY AND PROCEDURE

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<b>POLICY TITLE:</b>	COMPLAINTS AND APPEALS POLICY AND PROCEDURE
<b>POLICY NUMBER:</b>	<b>WIP0910 - 003</b>
<b>POLICY DATE:</b>	01 JANUARY 2018
<b>LAST REVIEW DATE:</b>	01 JANUARY 2018
<b>RESPONSIBILITY:</b>	<b>CAMPUS MANAGER</b>

### 1. BACKGROUND

The National Code 2018, Standard 10 requires that Registered Providers must have and implement a documented internal complaints handling and appeals process and policy, and provide the overseas student with comprehensive, free and easily accessible information about that process and policy.

### 2. What types of complaints are there?

WAIFS classifies complaints as 'academic' and 'non-academic'. The complaints and appeals process for both types of complaint is the same with the only difference being that different WAIFS staff attend the internal formal hearing of the complaint depending on whether it is academic or non-academic.

'Non-academic' complaints include complaints about:

- Student administration
- Marketing and pre-enrolment information
- Education agents/Migration agents who have referred students to WAIFS
- Any related party WAIFS has an agreement with to deliver a course or related service to an overseas student
- Facilities
- Fees and finance related matters
- Welfare

'Academic' complaints include complaints about:

- Assessment and results
- Student progress
- Statements of Attainment and Certificates

### 3. WAIFS Complaints and Appeals Process:

#### (i) Informal resolution of a complaint

On many occasions, complaints can be dealt with successfully through an informal process where the complainant and the other party meet and discuss matters openly with each other to come to a satisfactory resolution for all concerned. WAIFS encourages any student who has a complaint to try to



resolve the matter with the other party in an informal manner before commencing formal complaint procedures. Students are welcome to bring a support person of their choice to a meeting to assist in resolving any issues in an informal manner.

Students should feel reassured about using an informal process to resolve complaints before the commencement of formal procedures.

WAIFS takes complaints very seriously. All WAIFS staff are aware that these matters should remain confidential between the parties concerned and any WAIFS staff member attending a meeting relating to resolution of the matter.

Additionally, WAIFS staff are aware that issues will arise from time to time and that it is in the interest of all concerned that these matters be dealt with:

- (a) as quickly and easily as possible (these matters seem worse when they continue unaddressed for some time), and;
- (b) in an environment that retains a level of maturity throughout. All parties should listen to each other with openness to the other person's point of view and with a desire to come to a resolution which is acceptable for all.

*WAIFS recommends that all students attempt to resolve any complaints through an informal process before accessing the formal WAIFS complaints process.*

## **(ii) Formal Complaints and Appeals Process**

If a student has a complaint which:

- (i) They have tried to resolve informally but this has been unsuccessful, or;
- (ii) They do not feel that they can attempt to resolve informally because of the nature of the complaint e.g. harassment

Then the student can access WAIFS' formal complaints and appeals process.

At any point in the internal complaints process, a complainant may seek advice from:

The Conciliator - Department of Education Services

<http://www.des.wa.gov.au/internationaleducation/ieconciliation/Pages/default.aspx>

The International Education Conciliation Service does not:

- replace the provider's internal appeal process
- provide an external appeal mechanism

"The Department of Education Services provides a free and independent international education conciliation service. This service is designed to assist you in resolving problems you may have with your educational institution. You need to try to resolve the issue with your educational institution before contacting us. If you have tried to resolve your problem with your institution and have not been able to find a solution, you can get assistance from the International Education Conciliation Service."

To make an appointment with a Conciliation Officer, phone or email the Department of Education Services. Phone: 9411 1900 Email: [conciliation@des.wa.gov.au](mailto:conciliation@des.wa.gov.au)



#### 4. The formal complaints and appeals process is as follows:

##### 1) **Internal Complaints and Appeal Process**

- (a) Student lodges a formal complaint **in writing** outlining the reasons for their complaint and outlining their desired outcome;
- (b) Manager, Student Administration Services (or suitable alternative) writes to the complainant within a reasonable time frame **within 10 working days** acknowledging receipt of complaint;
- (c) Student is requested to attend a meeting to resolve the complaint. The student is informed that they may be assisted or accompanied by a support person of their choice at the meeting and that they will be given the opportunity to present their case. The meeting will be held in a professional, fair and transparent manner. (Pro forma letter at Appendix A – this is not a compulsory format and is for guidance only).
- (d) Student (and any support person) attends a meeting with WAIFS where the complaint is heard and any supporting documentation is considered.

For academic complaints WAIFS attendees will comprise any 2 of:

- CEO/Managing Director
- Operations Manager
- Campus Manager
- Head of Department
- Office Manager
- Any other WAIFS employee considered appropriate.

For non-academic complaints WAIFS attendees will comprise any 2 of:

- CEO/Managing Director
- Operations Manager
- Campus Manager
- Manager, Student Administration Services
- Accountant
- Any other WAIFS employee considered appropriate.

**Note:** Students are not charged any fee for any matter related to the complaints and appeals process i.e. for any correspondence/meetings in relation to any complaint.

- (e) Within a reasonable time after the meeting where the complaint was considered (and no longer than 10 working days), the Manager, Student Administration Services (or suitable alternative) will write to the student to inform them of the outcome of the meeting and the reasons for any decision taken. A copy of the outcome (including the reasons for the outcome) will be placed on the student's e-file and retained by WAIFS.

*Pro-forma is available in Appendix A. This is not a compulsory format and is for guidance. An email is sufficient as long as it covers:*

- (i) *the outcome of the appeal*



- (ii) *the reasons why the decision was made, and*
- (iii) *the next stage of the process for the complainant.*

## 5. Decision Made in Student's Favour (Internal Appeals Process)

- (a) Where a decision is made in favour of the student, WAIFS will advise the student and implement any decision and or take the corrective or preventive action required by the decision, and advise the student of that action. The student will be notified in writing of the outcome by the Manager, Student Administration Services (or appropriate alternative) and of any action that will be taken by WAIFS.
- (b) The student will be notified ***within 10 working days*** of the decision being made, and earlier where possible.

## 6. Decision NOT made in Student's Favour (Internal Appeals Process)

- (a) Where a decision is NOT made in favour of the student, WAIFS will advise the student in writing:
  - (i) Their internal appeal has NOT been successful
  - (ii) The reasons why their internal appeal was NOT successful
  - (iii) That the student can now access the EXTERNAL appeals process. (The external appeals process means that the student can contact the Overseas Students Ombudsman – see “External Appeals Process” In Section 7.)
  - (iv) The contact details for the Overseas Students Ombudsman
  - (v) That the purpose of the external appeals process is to consider whether the registered provider has followed its policies and procedures, rather than make a decision in place of the institution (WAIFS).

The student will be notified in writing of the outcome by the Manager, Student Administration Services (or appropriate alternative).

- (b) The student will be notified ***within 10 working days*** of the decision being made, and earlier where possible.

### ***External Appeals Process***

(f) Where a student is not satisfied with the result or conduct of the internal complaints and appeals process, the student has the right to access an external appeals process through the Overseas Students Ombudsman.

#### **“The Overseas Students Ombudsman (OSO)**

The Overseas Students Ombudsman investigates complaints about problems that overseas students or intending overseas students may have with private education and training in Australia.

If you are not satisfied with a decision or action taken by your private registered education provider, you should ask about their internal complaints and appeals process. If you complain to your provider, but you are not satisfied with the result, you can complain to the Ombudsman.



### **The Ombudsman:**

- provides a free service
- is independent and impartial, and does not represent either overseas students or private education providers
- can make recommendations arising out of investigations
- is a function of the Commonwealth Ombudsman.”

Contact details for the Overseas Students’ Ombudsman are:

**Web:** <http://www.ombudsman.gov.au/about/overseas-students>

**Email:** [ombudsman@ombudsman.gov.au](mailto:ombudsman@ombudsman.gov.au)

**Call:** 1300 362 072\* within Australia. Outside Australia call +61 2 6276 0111. Enquiries 9am to 5pm Monday to Friday (AEST)

**Fax:** 02 6276 0123 within Australia. Outside Australia +61 2 6276 0123.

**Postal:** GPO Box 442 Canberra ACT 2601.

**Further information is available at:** <http://www.ombudsman.gov.au/about/overseas-students/for-overseas-students>

(g) If the external appeal process is in your favour, WAIFS will take immediate action to inform you of the decision and to implement any decision and/or corrective and preventive action required.

(h) *Students should note that during the internal complaints and appeal process their enrolment at WAIFS will always be maintained – subject to extenuating circumstances (see explanation later in policy and procedure).*

Note: Standard 10 of the National Code 2018 does not require WAIFS to continue to offer learning opportunities throughout the complaints or appeals process.

WAIFS will decide whether it will continue to offer learning opportunities throughout any appeals process on a case by case basis (responsibility – Head of Training or suitable alternative).

In some cases, WAIFS may decide to exclude a student from attending classes, but continue to provide work to complete outside of the classroom environment.

In all cases WAIFS will consider that to deny students learning opportunities throughout the appeals process may disadvantage the students in their subsequent studies should the appeals process find in their favour.



## Reporting to DEPARTMENT OF EDUCATION

(i) The National Code 2018 requires that when a student's external appeal is against WAIFS' decision to report the student for unsatisfactory course progress WAIFS must maintain the student's enrolment (ie. not report the student for unsatisfactory progress) until the external complaints process is complete and has supported the provider's decision to report before notifying the Department of Education through PRISMS of the change to the student's enrolment.

WAIFS must wait for the outcome of the external process in this case as reporting a student for unsatisfactory progress has serious consequences for the student's visa – although automatic visa cancellation no longer exists, DoHA may still cancel a student's visa at their discretion.

(j) If the student's external appeal is against WAIFS' decision to:

- defer or suspend a student's enrolment due to misbehaviour, or
- to cancel the student's enrolment

WAIFS only needs to await the outcome of the internal appeals process (supporting the provider) before notifying the Department of Education through PRISMS of the change to the student's enrolment.

Once the Department of Education has been notified of a deferment, suspension or cancellation of a student's enrolment, the student has 28 days in which to:

- leave Australia
- show the Department of Home Affairs (DoHA) a new Confirmation of Enrolment (CoE)
- provide DoHA with evidence that he or she has accessed an external appeals process.

**(iii) Suspension or cancellation of a student's enrolment before the internal appeals process is complete if extenuating circumstances relating to the welfare of the student or others**

In cases where WAIFS has reason for concern for the welfare of the student or those with whom the student may come into contact, the provider can cancel the student's enrolment prior to completion of the appeals process. Where extenuating circumstances are considered to exist, the CEO or Managing Director will make the final decision and inform the Manager, Student Administration Services (or suitable alternative) who will then issue any correspondence (pro-forma in Appendix A) and report to DEPARTMENT OF EDUCATION.

The 'extenuating circumstances' option covers situations where a student's behaviour has led WAIFS to fear for the safety and wellbeing of the student and/or people the student may encounter.

In this case, WAIFS may cancel the student's enrolment without having to wait for the outcome of the internal appeals process. However, the student can still appeal from his or her Australian residence or home country.



Once WAIFS notifies DEPARTMENT OF EDUCATION of the cancellation of a student's enrolment through PRISMS, the student has 28 days in which to find alternative enrolment or to return to his or her home country. If the student secures enrolment with another provider within the 28 days, the student may commence studies with the new provider. If the student does not secure alternative enrolment or return home within 28 days, the student's visa may be cancelled. (Please note that cancelling a student's enrolment does not *always* lead to automatic cancellation of the student's visa. DoHA may contact a student to explain the circumstances relating to the cancellation of the enrolment and may cancel a student's visa subsequent to this happening.)

<https://internationaleducation.gov.au/Regulatory-Information/Documents/National%20Code%202018%20Factsheets/Standard%2010.pdf>

Under the National Code 2018, the student has the right to appeal with the cancelling provider (WAIFS) if he or she wishes to do so, whether still in Australia or in the home country. WAIFS must notify the student of its intention to cancel the student's enrolment prior to notifying DEPARTMENT OF EDUCATION through PRISMS of the cancellation.

If WAIFS (responsibility Manager, Student Administration or suitable alternative) notifies DEPARTMENT OF EDUCATION through PRISMS that it is cancelling a student's enrolment for disciplinary reasons, the student has chosen to access the appeals process but the appeals process has not been completed, PRISMS will ask WAIFS if extenuating circumstances apply. If WAIFS chooses 'Yes', a dialogue box will pop up containing the following text:

- *'You are reminded that even though you may report now because extenuating circumstances exist this student must still be given the opportunity to appeal your decision to suspend or cancel the enrolment.'*

If WAIFS then clicks 'OK', a free text box will appear so providers can enter the details of the extenuating circumstances.



**(iv) Paperwork** – All correspondence and decisions must be sent to the student (and a copy to the parent/guardian if the student is under 18). Copies must also be placed on the student’s individual file.

**(v) Victimisation** - All complaints will be handled with fairness in accordance with the principles of natural justice. WAIFS is committed to ensuring that students do not experience any victimisation as a result of making either an informal or formal complaint.

**(vi) Natural justice** - The duty to act fairly includes two rules: the fair dealing rule and the no bias rule. This means that all parties must be given the opportunity to present their case, be fully informed about allegations and decisions made and have the right to be represented by another person. In addition, a decision maker must have no personal interest, beyond the scope of their role in this process and must be unbiased. If the decision maker cannot meet these requirements they must immediately withdraw from the process. The procedure shall have regard to the duration of an overseas student’s stay in Australia.

**(vii) Defamation** - Defamation may be defined as the publication or making of false statements about another, which damage that person’s reputation. The defamatory statement must be untrue and also intended to be taken seriously. Its effect must be damaging to the reputation of the complainant. A defamatory statement may be in one of two forms – libel or slander. Libel is a defamatory statement in written words, pictures or other visual form, or broadcast over radio or television with an element of permanence about it. Slander is a defamatory statement in spoken or written words or other transitory form. All parties to a complaint and appeal process should ensure that they limit their discussions to details of the complaint.

**(viii) If a student is dissatisfied with WAIFS’ complaints and appeals processes, what can the student do?**

The student can contact DEPARTMENT OF EDUCATION through the mailbox [esosmailbox@DepartmentofEducation.gov.au](mailto:esosmailbox@DepartmentofEducation.gov.au) or through the ESOS helpline (02) 6240 5069. The student may send through a complaint at any point, including after he or she has exhausted the provider’s internal appeals process and the external appeals process. DEPARTMENT OF EDUCATION will only intervene where the provider’s appeals process was not conducted correctly or if the provider did not make the appeals process available to the student

**(ix) Provision of information to students**

Information on this policy will be provided to students at enrolment, at orientation on the student portal and on the WAIFS website at [www.waifs.wa.edu.au/policies-procedures](http://www.waifs.wa.edu.au/policies-procedures)

**(x) Provision of information to staff**

Information on this policy will be provided to staff at induction, on the WAIFS shared drive and the WAIFS’ intranet. Amendments to the policy will be notified to staff by email.





**Pro-forma acknowledgement of receipt of complaint from student**

Insert date

Insert Student Name and Student No.

Insert Address

Dear (Insert Student Name)

**Re: Complaint Received**

I am writing to acknowledge receipt of your complaint made in accordance with WAIFS' formal complaints and appeals policy and procedure, which was received on [insert date].

You are requested to attend a meeting in which you will be given an opportunity to formally present your case on [insert date and time] at 35/64, 160, St George's Terrace PERTH WA 6000 (Street Address: Level 1, 160 Central Arcade, 811 Hay Street. PERTH WA 6000

You are reminded that, in accordance with the WAIFS' complaints and appeals policy and procedure, the WAIFS' attendees will comprise any two (2) of:

**Delete as appropriate, leaving just the titles of the attendees, not the sentences in italic.**

*For academic complaints WAIFS attendees will comprise any 2 of:*

- Chief Executive Officer/Managing Director
- Campus Manager/Operations Manager
- Trainer
- Manager, Student Administration Services
- Any other WAIFS employee considered appropriate.

*For non-academic complaints WAIFS attendees will comprise any 2 of:*

- Chief Executive Officer/Managing Director
- Campus Manager/Operations Manager
- Manager, Student Administration Services
- Any other WAIFS employee considered appropriate.

You may bring a person along to the meeting to assist and/or support you.

WAIFS would like to take this opportunity to remind you that, at any point in this process, you may seek advice from:

The Conciliator - Department of Education Services

22 Hasler Road, OSBORNE PARK WA 6017

Telephone: 08 9441 1953

Email: [conciliaton@des.wa.gov.au](mailto:conciliaton@des.wa.gov.au)

[http://www.des.wa.gov.au/pages/international\\_disputes.php](http://www.des.wa.gov.au/pages/international_disputes.php)

Yours sincerely

Insert name

Manager, Student Administration Services

RTO Provider No. 52128

CRICOS Provider No. 03188C



**Pro-forma outcome of internal appeals process**

Insert date

Insert Student Name and Student No.

Insert Address

Dear (Insert Student Name)

**Re: Outcome of Internal Complaints Process**

I am writing with the outcome of the meeting held on (insert date) where your complaint was considered in accordance with the WAIFS' Complaints and Appeals Policy and Procedure.

The outcome is: in your favour/ not in your favour (delete as applicable) for the following reason(s):

- a. List reasons
- b.

*Delete/amend as applicable*

As the outcome has been in your favour, WAIFS will now do the following to ensure that the decision is implemented immediately and take the following corrective and/or preventive action required

- (i) List what will be implemented
- (ii) List corrective/preventive action
- (iii)

As the outcome has not been in your favour, you must now consider whether you would like to access the external appeals process which is available to WAIFS' students. You may seek advice from The Overseas Students Ombudsman who offers a free and independent service for overseas students who have a complaint or want to lodge an external appeal about a decision made by their private education or training provider. See the Overseas Students Ombudsman website: [www.oso.gov.au](http://www.oso.gov.au) or phone 1300 362 072 for more information.

*Delete 2 of (a), (b) or (c) as Appropriate:*

If you appeal the decision:

- (a) *(for appeals against WAIFS intention to report for unsatisfactory progress)* WAIFS will maintain your enrolment until the external appeal process has been completed. If the external appeal process is in your favour, WAIFS will take immediate action to inform you of the decision and to implement any decision and/or corrective and preventive action required. If the external appeal is not in your favour, WAIFS will report a change in your enrolment status to DEPARTMENT OF EDUCATION through PRISMS.



Once DEPARTMENT OF EDUCATION has been notified of a deferment, suspension or cancellation of a student's enrolment, the student has 28 days in which to:

- leave Australia
- show the Department of Home Affairs (DoHA) a new Confirmation of Enrolment (CoE)
- provide DoHA with evidence that he or she has accessed an external appeals process

*(b) (for appeals against WAIFS intention to report defer or suspend a student's enrolment due to misbehaviour, or to cancel the student's enrolment)*

WAIFS will not maintain your enrolment until the external appeal process has been completed and will now report a change in your enrolment status to DEPARTMENT OF EDUCATION through PRISMS.

Upon cancellation of your enrolment, you will have 28 days to enrol in an alternative course (in order to satisfy student visa condition 8202) or to return to your home country. A breach of student visa condition 8202 may result in cancellation of your student visa.

The notification of the cancellation of your enrolment **does not** generate a letter from WAIFS or DoHA. You should be aware of the requirement under student visa condition 8202 to maintain enrolment in a registered course. You have the option to enrol with another provider in order to continue to satisfy condition 8202.

You should ensure you contact the Department of Home Affairs as a matter of urgency in relation to this matter so that you receive full information in relation to the potential impact on your student visa. Contact details are available at: <https://www.homeaffairs.gov.au/>

*(c) (For non-academic appeals)*

WAIFS will await the decision of The Overseas Students Ombudsman and the receipt of any recommendations that they make. Any recommendations made will be acted upon by WAIFS upon receipt.

Yours sincerely

Insert name

Manager, Student Administration Services



Insert date

Insert Student Name and Student No.

Insert Address

Dear (Insert Student Name)

**Re: Cancellation of a student's enrolment due to extenuating circumstances**

I am writing to inform you that the decision has been taken to cancel your enrolment before the completion of the internal appeals process. This decision has been taken as it is considered that extenuating circumstances exist which warrant this course of action.

The extenuating circumstances are:

(i)

WAIFS will now report the cancellation of your enrolment to DEPARTMENT OF EDUCATION through PRISMS.

Once WAIFS notifies the Department of Education of the cancellation of your enrolment through PRISMS, you have 28 days in which to find alternative enrolment or to return to your home country. If you secure enrolment with another provider within the 28 days, you may commence studies with the new provider. If you do not secure alternative enrolment or return home within 28 days, your visa may be cancelled.

You should ensure you contact the Department of Home Affairs as a matter of urgency in relation to this matter and your student visa. Contact details are available at: [www.homeaffairs.gov.au](http://www.homeaffairs.gov.au)

Regardless of your location (in Australia or overseas) you are able to access/continue with *(delete as appropriate)* the appeals process through the WAIFS Complaints and Appeals Policy and Procedures within 20 working days. A copy of the policy and procedure is available at [www.waifs.wa.edu.au/policies-procedures](http://www.waifs.wa.edu.au/policies-procedures) or from the Manager, Student Administration Services.

WAIFS would also like to take this opportunity to remind you that you may seek advice from The Overseas Students Ombudsman who offers a free and independent service for overseas students who have a complaint or want to lodge an external appeal about a decision made by their private education or training provider. See the Overseas Students Ombudsman website: [www.oso.gov.au](http://www.oso.gov.au) or phone 1300 362 072 for more information.

Yours sincerely

Insert name

Manager, Student Administration Services