

Name of Policy	Staff Appeals Policy
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Description of Revision	

Human Resources Directorate

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1. Background Information

This policy has been developed in support of the provisions for Staff Appeals at ACU.

2. Policy Statement

The University recognises that from time to time staff may wish to have the outcome of certain administrative processes reviewed. Where a Policy or the University provides for a staff member to appeal the outcome of the process within that policy, the provisions of this Appeals Policy and Procedure will apply. If a staff member is aggrieved by the outcome of a process that does not provide for an appeal under this Policy, the University Grievance process must be utilised.

3. Policy Purpose

This policy informs staff at ACU of those matters which they may seek to have reviewed, and the procedure associated with having that matter reviewed.

4. Application of Policy

This policy applies to all continuing and fixed-term academic staff and general staff employed by the University for a period greater than 6 months. The Policy does not apply to a staff member who is employed on a casual basis.

4.1 Matters covered by the Policy

4.1.1 An academic staff member may seek to have the following matters reviewed:

- a decision not to confirm a staff member's appointment following a period of probation; or,
- an unsuccessful application for a promotional opportunity.

4.1.2 A general staff member may appeal to have the following matters reviewed:

- a decision not to confirm a staff member's appointment following a period of probation;
- an unsuccessful application for reclassification of a general staff position; or,
- an unsuccessful application for a promotional opportunity that has been advertised internally.

4.2 Grounds for an Appeal

4.2.1 The grounds for an appeal are:

- whether the relevant committee was comprised of members in accordance with the requirements under the relevant policy;
- whether there is evidence that a committee discriminated against an applicant in terms of the University's equal opportunity requirements;
- whether correct voting procedures were followed (in the case of academic promotions);
- whether there was a quorum for the meeting when the matter was considered; or,
- any other significant breach of procedures as set out in the relevant policy.

4.2.2 Procedural error or omission shall not include failure by a Committee to:

- keep a record of its deliberations (provided that the committee recorded its membership, votes taken, the committee's recommendations and reasons therefore, and the written advice to be given to unsuccessful applicant/s); or,
- interview an applicant

- 4.2.3** Subject to section 4.1, a staff member may appeal a decision following an unsuccessful application for promotion or appointment to a vacant position that has been advertised internally subject to the following conditions being met:
- the person appointed to the position concerned is already employed by the University;
 - the position applied for carries a higher salary than that currently occupied by the appellant and the successful applicant;
 - the appellant satisfies the advertised minimum requirements for the position; or,
 - the appellant is able to take up the duties of the position concerned.

4.2.4 A general staff member may appeal an unsuccessful application for reclassification of the staff member's position on the grounds that the breach of procedure materially affected the committee's decision.

4.3 Appeals Committee

- 4.3.1** The University shall appoint a Secretary to the Appeals Committee who will:
- receive all matters for the Committee's consideration;
 - make all necessary arrangements for the Committee's consideration; and,
 - in the case of an appeal resulting from an unsuccessful application for promotion, inform the successful applicant that an appeal has been lodged.

- 4.3.2** For an appeal submitted by an Academic staff member, the Appeals Committee shall consist of:
- a Chairperson nominated by the Vice-Chancellor;
 - a member of academic staff nominated by the Vice-Chancellor; and,
 - a full-time academic staff member elected by the University's academic staff drawn from the relevant Misconduct Committee and Appeals Committee Panel established by the University.

- 4.3.3** For appeals submitted by a General staff member, the Appeals Committee shall consist of:
- a Chairperson nominated by the Vice-Chancellor;
 - a member of general staff nominated by the Vice-Chancellor; and,
 - a full-time general staff member elected by the University's general staff drawn from the relevant Misconduct Committee and Appeals Committee panel established by the University.

4.3.4 The Director, Human Resources, or nominee, will be notified of all Appeals Committee meetings and will have access to meetings of the Appeals Committee as an observer.

- 4.3.5** The following persons shall not be eligible to be appointed as members of an Appeals Committee:
- the Vice-Chancellor
 - the appellant
 - the appellant's nominated supervisor or Manager
 - the Executive staff member responsible for the organisational unit in which the appellant works
 - a member of the Committee whose decision is the subject of the appeal.

5 Procedures

5.1 All appeals must be in writing and lodged with the Secretary of the Staff Appeals Committee, Office of the Deputy Vice-Chancellor (Administration and Resources), Vice-Chancellery, 40 Edward Street, North Sydney, NSW 2060. The appeal notification must set out precise grounds of appeal, and must be lodged no later than 10 working days after the date on which the appellant received written notification of the outcome being appealed.

- 5.2** Following lodgement of the appeal, the Secretary of the Appeals Committee will provide the Appeals Committee with copies of the relevant documentation including:
- the staff member's written appeal together with any supporting material relevant to the matter under review;
 - the procedures followed by the relevant committee in considering the matter under review including the relevant policy;
 - documentation originally submitted by the staff member to the relevant committee in relation to the matter under review;
 - the record of proceedings of the committee related to the matter under review;
 - the written advice informing the applicant of the outcome of the proceedings of the committee related to the matter under review;
 - a copy of this Policy and Procedure; and,
 - the University Equal Opportunity Policy.
- 5.3** In the case of an appeal in relation to an unsuccessful application for reclassification of a general staff position the documentation will also include:
- the original application for reclassification including the Position Information Questionnaire, and the "Reason for Submission" section of the Position Classification Application; and,
 - the General Staff Position Classification Policy and Procedure.
- 5.4** In the case of an appeal in relation to a decision not to confirm an academic staff member's appointment following a period of probation, the documentation will also include:
- the original application for probation;
 - the final Review Report submitted by the appellant's nominated supervisor;
 - the Probation Policy; and,
 - the procedures followed by the Probation Review Committee.
- 5.5** The Appeals Committee will normally meet within 15 working days of receipt of the written appeal. However, in certain circumstances, the Appeals Committee may extend the above time frame in order that the matter be resolved.
- 5.6** The Appeals Committee may, although it is not required to, interview any or all of the following concerning the procedures used:
- the appellant;
 - the Chairperson of the committee whose decision is under review; or,
 - any other person or persons whom the Appeals Committee may consider relevant to the matter under review.
- 5.7** If the appellant requests an interview or, if the Appeals Committee elects to interview the appellant, the appellant may be assisted at the interview by a person of the appellant's choosing, provided that person is not a practising barrister or solicitor. This person's role is to provide support and give advice to the appellant, and shall not address or debate before the Committee, nor make any recordings of proceedings.
- 5.8 Confidentiality**
- 5.8.1** All proceedings of the Appeals Committee shall be held in confidence. Only members of the Committee, any person/s providing executive support to the Committee or any authorised EEO Observer shall be present during its deliberations. Members of the Appeal Committee will be required to sign a confidentiality agreement in relation to participation in the proceedings (see: Attachment 1).
- 5.8.2** All documents pertaining to the appeal shall be returned to the Executive Officer following the appeal and no copies of the documentation will be made by a member

of the Appeals Committee to ensure privacy legislation requirements are met. The University will seek written authority of a referee or assessor prior to submitting a copy of a referee or assessor report to the Appeals Committee where this is requested.

5.9 Terms of Reference

5.9.1 The Appeals Committee shall as its first task, determine whether or not a prima facie case has been established by the appellant.

5.9.2 The Appeals Committee will only determine whether the original Committee that made the decision under review committed or made a procedural error or omission which materially and adversely affected a decision concerning the staff member's application.

5.9.3 The Appeals Committee is not empowered to decide the merits of any application. The decision made by the original Committee on the merits of applications for confirmation of probation, for reclassification of a general staff position, or for academic promotion will be final, and will not be subject to review or change by the Appeals Committee.

5.9.4 The Appeals Committee has authority to seek additional information relevant to its terms of reference, but may not take into account any additional new material supplementing the original application.

5.9.5 The obligation to establish procedural error lies with the appellant.

5.10 Findings of the Appeals Committee

5.10.1 The determination of an appeal will normally be concluded within 20 working days following lodgement of the appeal.

5.10.2 The Appeals Committee may:

- reject the appeal;
- determine that there has been a significant breach of fair and proper procedures which materially and adversely affected the decision on the appellant's application; or,
- in the case of general staff, determine that the decision failed to take account of a material aspect or aspects of the application for reclassification.

5.10.3 If the appeal is upheld, the Appeals Committee will recommend that the application be referred for reconsideration by the relevant committee. In the event of such a recommendation, the Appeals Committee will provide specific information for the relevant Committee concerning improved procedures, and may include recommendations for change necessary for the processes to be in accordance with the improved procedures.

5.10.4 The Appeals Committee shall submit a written report of its findings to the Deputy Vice-Chancellor (Administration and Resources).

5.10.5 When an appeal has been considered by the Appeals Committee no further rights of appeal will exist within the University for a staff member in respect of the matter under consideration.

6 Policy Review

The University may make changes to this policy and procedures from time to time to improve the effectiveness of its operation. In this regard, any staff member who wishes to make any comments about this Policy and Procedure may forward their suggestions to the Director, Human Resources.

7 Further Assistance

Staff wishing to obtain further information on this Policy and Procedures should first seek clarification from their supervisor who is responsible for the implementation and operation of the arrangements in their work area. Should further information be required, questions should then be directed to the Human Resources Consultant who is responsible for the campus at which the staff member works.

CONFIDENTIALITY AGREEMENT

An important aspect of Appeal process at ACU is the issue of confidentiality. Section 5.8 of this Policy sets out the general requirements in relation to confidentiality and asks you to commit to this principle by signing the following Confidentiality Agreement.

Please read this document carefully. You are invited to ask any questions you may have prior to signing it. You will be provided with a copy of this document.

1. The ACU Staff Appeal policy notes that all proceedings will be held in confidence. This meeting of the Appeals Committee is being conducted in accordance with the Policy and its associated procedures.
2. **Confidentiality must be observed by all parties involved.** Unless required to do so as part of legal proceedings, matters under review by the Appeals Committee must not be discussed by you with persons not involved in the process.
3. Breach of confidentiality would be viewed as serious misconduct by Australian Catholic University and may prompt disciplinary action.
4. If you have any concerns about the process, either in fact or detail, you may discuss your concerns confidentially with the Director, Human Resources.

<p><u>Confidentiality Agreement</u></p> <p><i>I have read and understood the above. I agree to observe the protocols outlined and maintain confidentiality.</i></p>
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Name (please print)

Contact Tel.

Position

Date

Signed

Witnessed by

Date
