



Procedures for Resolving Complaints under Standard 8

of the National Code of Practice (2007)
for Registration Authorities and Providers of
Education and Training to Overseas
Students

November 2009

The procedures for *Resolving Complaints under Standard 8 of the National Code of Practice (2007)* are designed only

- as between an international student (or their authorised representative) and the relevant education facility; and
- in relation to complaints and appeals by an international student or on his/her behalf under Standard 8 relating to issues concerning unsatisfactory course progress or attendance, and/or any changes to enrolment status which could adversely affect the visa conditions of the international student.

All other complaints not related to these issues should be resolved in accordance with each education facility's internal policies and procedures and / or in accordance with the relevant CESA or SACCS policy or procedure.

The informal, formal and external appeals process is available at minimum or no cost to the complainant as determined by each education facility.

These guidelines are for use in Catholic schools in South Australia with international student enrolments. A Catholic school may use its own documented processes in relation to complaints and appeals as outlined above, provided that these meet the requirements of Standard 8 of the National Code of Practice (2007) as outlined in this document. Schools undertaking this course of action will be required to advise the Director of Catholic Education SA.

PRINCIPLES

1. *Students are entitled to raise complaints and all efforts are made to resolve complaints at the education facility level.*
2. *Natural justice requires both/all parties to have the opportunity to put their case and be heard.*
3. *Appropriate confidentiality is to be respected by all parties.*
4. *Processes are guided by compassion in seeking reconciliation.*
5. *All complaints and appeals are resolved in a non-threatening, respectful manner and in a safe environment.*

PART ONE - INFORMAL COMPLAINTS PROCEDURE

1. Where a complaint is made by a student /complainant, it should in the first instance be brought to the attention of one of the following people
 - 1.1. The designated International Student Co-ordinator;
 - 1.2. The Principal of the complainant's education facility.
2. When a complainant brings their complaint to the attention of a person in authority, 1.1 or 1.2 above, that person must attempt to resolve the complaint through informal means such as mediation or conciliation in accordance with that education facility's internal policies and procedures.
3. Where a complainant is dissatisfied with the result of the internal informal process they may lodge a formal complaint in accordance with Part Two.

PART TWO - FORMAL COMPLAINTS / APPEAL PROCEDURE

Commencing a complaint or appeal

4. A formal complaint will only be accepted where an informal complaint process has been pursued in the first instance.
5. A formal complaint must be lodged within twenty (20) working days of the complainant being informed in writing of the result of the informal complaint process.
6. An appeal will only be accepted once a formal complaint process has been finalised.
7. All formal Complaints / Appeals
 - 7.1 must be in writing;¹ and
 - 7.2 must be directed to the Principal of the complainant's education facility; and
 - 7.3 The complainant must set out in the formal complaint / appeal the nature of, and the details of, the complaint and/or appeal.
8. The receipt of the formal complaint / appeal should be acknowledged in writing within 7 days of receipt.

Support Person

9. The complainant must be informed of his/her right to be accompanied by a support person at all relevant meetings.

The complainant must be provided with the services of an independent support person to help with the written formal complaint in cases where the complainant has limited written English.

¹ Where a student has limited English language skills, a translator/interpreter will be made available as necessary

Parent or guardian notification

10. Where the complainant is under 18 years of age the education facility should inform, in writing, the complainant's parent(s) / legal guardian(s) of any disciplinary action taken and subsequent action.² This includes providing information of the complaint / appeal process being instigated.

10.1 The education facility may also inform the complainant's Migration Agent.

Confidentiality

11. Strict confidentiality shall be maintained at all times regarding all aspects of formal complaints.
12. The processes of this procedure are confidential and any complaints or appeals are a matter between the parties concerned and those directly involved in the complaints handling procedures.

Complainant's continued enrolment

13. The complainant's enrolment must be maintained throughout the initial complaint process.
14. Where an appeal is lodged
- 14.1 against an education facility's decision to report the complainant for unsatisfactory course progress or unsatisfactory attendance, the education facility must maintain the complainant's enrolment throughout the appeal process.³
- 14.2 against an education facility's decision to defer or suspend a complainant's enrolment, or to cancel a complainant's enrolment due to misbehaviour, then once any internal appeals process has been completed the education facility may elect, in its own discretion, whether or not to maintain the complainant's enrolment during the appeal process.⁴

Class Attendance during complaint / appeal process

15. Where an enrolment is maintained, the education facility may determine in accordance with its internal policies whether, in each set of circumstances, the complainant is required to attend all classes as normal throughout the complaint / appeal process. Where it is not practicable for the complainant to continue attending classes, an education facility may provide class work and supervision to enable the complainant to continue his/her studies external to the classroom

² This is the student's actual legal guardian in their home country. It is not envisaged that this would be any guardian in Australia appointed solely for the purpose of the student studying in Australia.

³ Standard 10: Unsatisfactory Course Progress; Standard 11: Unsatisfactory Attendance.

⁴ Standard 13: Deferring, Suspending or Cancelling the Student's Enrolment.

Appeal to be lodged within specified time

16. Where the nature of the complaint or appeal concerns a complainant having received notice by the education facility that the education facility intends to report him/her to DEEWR,⁵ for
- 16.1 unsatisfactory course attendance, or
 - 16.2 unsatisfactory course progress, or
 - 16.3 deference, suspension, or
 - 16.4 cancellation of enrolment
- the complainant has a maximum of twenty (20) working days from the date of notification in which to lodge a written appeal.

Complaint and / or Appeal process

17. As soon as is practicable, and in any event within 10 working days of the Principal receiving a formal complaint / appeal pursuant to clause 7.2 the Principal must
- 17.1 In the matter of a complaint, select an Inquiry Panel comprising a minimum of the Principal and a Principal Consultant.
 - 17.2 In the matter of an appeal, refer the matter to the external appeals body as determined under clause 22.
18. The Principal must further
- 18.1 Ensure as far as is practicable that the Inquiry Panel
 - 18.1.1 commences its investigation within 5 working days of the Panel's formation, and
 - 18.1.2 concludes its investigation as soon as is practicable and in any event, except in exceptional circumstances, within 10 working days.⁶
 - 18.2 Ensure that where the complainant requires or requests an interpreter, that an interpreter is available to the complainant at all times the Inquiry Panel or any member of the Panel (but only in their role as a member of the Panel) meets with the complainant during the complaints process in relation to the complaints process.
 - 18.3 Comply with the complainant's request for a support person to be present at all relevant meetings.

⁵ Department for Education, Employment and Workplace Relations (Cth).

⁶ Failure to comply with the requirement of 10 working days may be a breach of the ESOS Act.

- 18.4 Ensure that the complainant has the opportunity to present his/her case to the Inquiry Panel.
19. The decision of the Inquiry Panel must be provided to the complainant in writing as soon as is practicable after the decision is reached. The written outcome must include the decision, the reasons for the decision, and the consequences, if any, flowing from the decision. The outcome letter should also inform the complainant of the external complaints and appeals process available should the complainant be dissatisfied with the result of the complaints procedure.
20. If the Inquiry Panel finds in favour of the complainant, the educational facility shall immediately implement the decision and any corrective and preventative action required.
21. If the Inquiry Panel does not find in favour of the complainant or the complainant is dissatisfied with the result of the complaints procedure the complainant may instigate an appeal in accordance with clause 7.
22. The independent external body used for external appeals processes will be determined by the Director, or his/her nominee.
23. The external appeals body must determine the appeal as soon as is practicable. The role of the external appeals body is to determine whether or not the practices and procedures were compliant with the internal complaint process. The role of the external appeals body is not to re-examine the complaint itself.
24. The complainant must be notified immediately of the outcome of the independent external body's decision.
25. If the independent external body makes a decision in favour of the complainant the education facility must immediately update the complainant's file to record the outcome, and any subsequent actions.
26. If the independent external body makes a decision in favour of the education facility then
- 26.1 If the complaint / appeal process was activated in relation to course progress
(see Standard 10)
- 26.2 If the complaint / appeal process was activated in relation to attendance
(see Standard 11)
- 26.3 If the complaint / appeal process was activated in relation to deferring, suspending or cancelling a complainant's enrolment
(see Standard 13)
- the Principal of the education facility will notify DEEWR of the unfavourable decision.
27. The complainant must be informed that if he/she is dissatisfied with the education facility's complaints and appeals process, he/she can contact DEEWR either by

email: esosmailbox@deewr.gov.au or by telephone through the ESOS helpline on (02) 6240 5069.

28. The complainant must be informed that DEEWR will only consider whether the appeals process met the requirements of the National Code of Practice (2007). It will not look at the outcome of a properly conducted appeal process.

Definitions required:

Case = version of factual situation, evidence (oral and written), submissions as to the relevance and weight of facts / evidence.

Complaint = includes, but not limited to, the issues in clause 7. (See also Formal Complaint)

Complainant = international student initiating the complaint / appeal

Education Facility = the provider of education and training to the relevant complainant or, includes a school, college, or technical college which shall be CRICOS registered to enrol international students

Formal Complaint = an appeal from the outcome of the informal complaint process.

Student = international student studying in Australia, with a Visa sub-class 571 (Student Visa – Schools Sector)

Support person = a person not otherwise involved in the complaints / appeal process. The student should consider whether it is preferable that this person be over 18 years. Lawyers and education agents are, however, precluded from attending meetings with the student as a support person.

Translator/Interpreter = an adult person competent in the student's language, who is not a member of the student's family

Working day = during term time normal school day.