

# EXCLUSION APPEALS PROCEDURE

This policy is in effect for teaching periods with results release dates on or after 1 January 2020. For the policy in effect for results released up to the end of 2019, and for coursework students at the former Monash South Africa for the duration of teach-out to the end of 2022, refer to:

- [Academic Progress Intervention Strategy Procedures](#)
- [Monash Online Academic Progress Intervention Strategy Procedures](#)
- [Faculty Academic Progress Committee Procedures](#)
- [Exclusion Appeals Panel Procedures](#)

## SCOPE

This procedure applies to:

- all coursework award courses (except pathway diplomas); and
- all teaching locations with the exception of the former Monash South Africa campus.

Coursework students at the former Monash South Africa campus should refer to the [Academic Progress Intervention Strategy Procedures](#), [Academic Progress: Faculty Academic Progress Committee Procedures](#), [Exclusion Appeals Panel Procedures](#) and the [Monash University \(Academic Board\) Regulations](#) for the duration of teach-out, to end-2022.

## PROCEDURE STATEMENT

In this procedure, references to associate dean (education) may include roles with equivalent responsibility within the faculty, such as deputy dean (education) or associate dean (learning and teaching).

### 1. Right of appeal

- 1.1 A student who has been excluded as an outcome of an academic progress committee hearing, and who has submitted a student response in the specified manner, has the right to appeal to the Exclusion Appeals Panel (EAP) (see sections 2 and 3).
- 1.2 A student who has been excluded and did not submit a student response in the specified manner does not have the right to appeal to the EAP, but may apply to the dean of the managing faculty for reconsideration (see section 4).

### 2. Appeals to the Exclusion Appeals Panel (EAP)

- 2.1 An appeal can be made on the grounds of:
  - new evidence that could alter the academic progress committee's decision, where the evidence was not reasonably available at the time of the hearing; and/or
  - a procedural irregularity in the academic progress committee hearing or the case, which has the potential to alter the outcome of the student's case under:
    - [Monash University \(Academic Board\) Regulations](#), Part 4; or
    - the Student Academic Progress Policy and procedures.
- 2.2 An appeal cannot be made on any other grounds, including failure to:
  - notify the University of a new address;
  - make adequate forwarding arrangements for mail or email;
  - read emails;
  - keep copies and records of correspondence;
  - follow up on previous correspondence to the University that was not acknowledged as received; or
  - make all relevant material reasonably available to the committee at the time of the hearing.

- 2.3 Students must submit an appeal within 20 working days from the date the notice of decision (academic progress) was sent. The appeal must be submitted on the required appeals form and include the ground/s for the appeal (see section 2.1).
- 2.4 Within 10 days of the appeal being received, the EAP executive officer will provide the student any material the EAP member may use in their deliberations, such as the hearing record. The student will be notified if there is any delay in the timeframe. The student will be given an opportunity to comment on the material within five working days.
- 2.5 After the student has had the opportunity to comment on the material to be used for the appeal, the EAP executive officer will refer the appeal to a member of the EAP, who must then determine the appeal within 10 working days.

### 3. Exclusion Appeals Panel (EAP)

- 3.1 The EAP consists of decision makers appointed by Academic Board.

#### Role of EAP member

- 3.2 The EAP member will act fairly and impartially in determining if the appeal is upheld on the ground/s submitted by the student.
- 3.3 The EAP member must not be working in the student's managing faculty. An exception can be made when the appeal raises a complex issue of a legal nature and the EAP member must have legal qualifications to determine the appeal. Where the complexity of the appeal is unclear, the Deputy Vice-Chancellor (Education) (or delegate) will determine if the appeal raises a complex issue of a legal nature
- 3.4 If the EAP member feels they are unable to fulfil these obligations, the EAP member must be replaced by another EAP member. The student will be notified of the change and given five working days to respond.

#### Determining if there is a case for an appeal

- 3.5 The EAP member will review the student's notice of appeal and may:
- dismiss the appeal if satisfied that it is frivolous, vexatious, misconceived or lacking in substance; or
  - find that grounds for an appeal exist.
- 3.6 Before making a decision, the EAP member will consider any comments the student has made on the content of the hearing record. The EAP member can discuss the appeal grounds with the academic progress committee chair. If the response of the chair raises a substantial new matter of which the student is not aware, the EAP member must provide the student with an opportunity to comment on the substance of the chair's response before the EAP member can consider dismissing the appeal.

#### Where grounds for appeal exist

- 3.7 Where the EAP member determined that grounds for an appeal exist, they may:
- determine the appeal on the material available; or
  - convene an Exclusion Appeal Committee (EAC) hearing.
- 3.8 In determining whether to convene an EAC hearing, the EAP member must consider:
- the ground/s for an appeal and the material available or that could be available to the EAP member;
  - whether full and sufficient evidence is available to determine the appeal;
  - whether the faculty and student have had or could have had an adequate opportunity to respond to the issues raised in the appeal without an EAC hearing;
  - whether an EAC hearing would be helpful to resolve any conflicts in the evidence for the appeal; and
  - whether an EAC hearing is likely to decide the appeal.
- 3.9 If the appeal is to be determined without an EAC hearing, the EAP member will make their decision based on the materials and the student response.
- 3.10 If an EAC hearing is convened by the EAP member, a notice of EAC hearing must be sent to the student with a deemed delivery date at least 10 working days before the EAC hearing. The student can agree in writing to a shorter notice period.

#### The Exclusion Appeals Committee (EAC) hearing

- 3.11 All EAC hearings will be conducted in English.
- 3.12 A faculty representative (who was a member of the original academic progress committee, where possible) will be present at the EAC hearing. Their role is to assist the EAP member in their enquiries and inform them of the procedures followed by the academic progress committee.
- 3.13 The academic progress committee representative and the student can present evidence and make submissions to the EAP member.
- 3.14 The EAP member is responsible for ensuring the conduct of the EAC hearing and determination of the appeal are fair and efficient.

- 3.15 The EAC hearing must be confined to the grounds of the appeal. The EAC hearing will not consider whether the EAP agrees with the decision of the academic progress committee.
- 3.16 The conduct of the EAC hearing must be sufficiently flexible to respond to the circumstances of the particular case. The EAC hearing should give the student a reasonable (but not unlimited) opportunity to present evidence and arguments in support of the appeal grounds.

### Student attendance

- 3.17 The student can appear in person at the EAC hearing, submit written evidence and make oral submissions.
- 3.18 If the student is unable to appear in person, the student can make alternative arrangements with the EAP executive officer at least three working days before the EAC hearing.
- 3.19 Students who do not intend to attend the EAC hearing must inform the EAP executive officer at least three working days before the EAC hearing date. Students who cannot attend the EAC hearing due to unforeseen circumstances beyond their control must notify the EAP executive officer immediately. The student can submit further written material in support of their appeal to be considered by the EAP in their absence.
- 3.20 If the student does not attend the EAC hearing, the appeal will be heard based on the written submissions by the student and any faculty response.

### Student support person

- 3.21 Students can be accompanied and assisted at the EAC hearing by one support person.
- 3.22 The details of the support person must be provided to the EAP executive officer at least two working days before the EAC hearing. The support person can be:
- a student of the University;
  - a member of staff of the University;
  - a member of staff of a recognised Monash student association, or
  - another person approved by the EAP member.
- 3.23 A student who wishes to have a support person with legal qualifications must give five working days' notice to the EAP executive officer and seek approval from the EAP member. If approval is given, the academic progress committee representative can also be accompanied and assisted by a legal practitioner.

### Witnesses

- 3.24 It is the student's responsibility to make arrangements for any witnesses to attend the EAC hearing and give evidence. The details of any witnesses attending must be provided to the EAP executive officer at the time the appeal is submitted.
- 3.25 A witness is only permitted to be present in the EAC hearing room when they are giving evidence.

### Conducting the EAC hearing

- 3.26 The persons who attend the EAC hearing are:
- the EAP member;
  - the EAP executive officer;
  - the student;
  - any witnesses;
  - the student support person;
  - the faculty academic progress committee representative; and
  - other staff whose services are required.
- 3.27 For double degree students who are appealing their exclusion from one or both faculties, where a representative from the non-managing faculty was co-opted to the original academic progress committee, a committee member from the non-managing faculty (the original co-opted member where possible) must be present.
- 3.28 The student will be notified of the persons attending the EAC hearing in the notice of EAC hearing. Any objections must be submitted to the EAP executive officer at least two working days before the EAC hearing.
- 3.29 When an objection is upheld, the EAC hearing must be conducted according to that decision. This can require adjournment of the EAC hearing or replacement of the EAP member. If the objection is denied, the EAC hearing will proceed.
- 3.30 The academic progress committee representative/s must outline the procedures followed by the committee and any evidence or other matters they consider relevant.

- 3.31 The EAP member must provide the student with an opportunity to comment on the statements made by the academic progress committee representative/s.
- 3.32 The EAP member will invite the student to outline their case. The student support person can add any comments on the appeal.
- 3.33 The academic progress committee representative will be invited to comment on the statements made by or on behalf of the student.
- 3.34 The EAP member can ask both the student and committee representative/s any questions. The student and the academic progress committee representative must direct any questions to the EAP member. Except with the EAP member's permission, the student and academic progress committee representative must not question each other directly.

## The appeal decision

- 3.35 Following consideration of the appeal material by the EAP member or convening of the EAC hearing, the EAP member must either:
  - dismiss the appeal; or
  - uphold the appeal and refer the case back to the dean of the managing faculty for consideration.
- 3.36 If the EAP member dismisses the appeal, there is no further right of appeal and the decision of the academic progress committee to exclude the student stands.
- 3.37 Where the appeal is upheld and is referred back to the dean for consideration, the dean (or delegate) may:
  - allow the student to remain enrolled without conditions;
  - allow the student to remain enrolled with conditions; or
  - refer the student to a re-hearing before a new APC.
- 3.38 Where possible, the student will be informed of the outcome of their appeal at the end of the EAC hearing.
- 3.39 Within five working days of the decision, whether or not a hearing has been convened, the student, managing faculty and ESOS Reporting Team (if an international student) must be sent a notice of decision (EAP) that outlines the reasons for the decision.
- 3.40 Where the decision is that the student remains excluded, the notice of decision (EAP) must notify the student:
  - that the decision may impact their visa (for international students) or government benefits (for eligible domestic students); and
  - of their right to apply to the Victorian Ombudsman for a review of the decision.

## 4. Application to the dean for reconsideration

- 4.1 Where a student applies to the dean of the managing faculty for a reconsideration, this application must be submitted in writing to the executive officer within 20 working days of the deemed delivery date of the notice of decision (academic progress).
- 4.2 An application for reconsideration may only be made on the basis that there were exceptional circumstances beyond the student's control (see sections 4.3 and 4.4) which resulted in them being unable to submit a student response.
- 4.3 Exceptional circumstances beyond the student's control include:
  - serious illness requiring hospitalisation;
  - death of a close family member or person with whom the student has had a significant relationship;
  - major political upheaval or natural disaster in the student's home country;
  - emergency travel to their home country; and
  - another incident of equivalent seriousness.
- 4.4 The following will not be accepted as exceptional circumstances. Failure to:
  - notify the University of a new address;
  - make adequate forwarding arrangements for mail or email;
  - read emails;
  - keep copies and records of correspondence; or
  - follow up on previous correspondence to the University that was not acknowledged as received.
- 4.5 The dean (or delegate) will consider the application and may:
  - if satisfied that exceptional circumstances exist, set aside the exclusion and decide to:
    - allow the student to remain enrolled without conditions;
    - allow the student to remain enrolled with conditions; or
    - refer the matter to an academic progress committee for re-hearing (see section 5); or
  - if satisfied that exceptional circumstances do not exist, dismiss the application for reconsideration and the decision to exclude the student will stand.

- 4.6 The student must be sent a notice of decision (application to dean) that outlines the reasons for the decision within 10 working days. The decision of the dean (or delegate) is final and is not subject to any further appeal within the University. The notice of decision (application to dean) will inform students of their right to apply to the Victorian Ombudsman for a review of the decision.

## 5. Academic progress committee re-hearings

- 5.1 An appeal upheld by the EAP member or application for reconsideration upheld by the dean (or delegate) can result in an academic progress committee re-hearing.
- 5.2 A notice setting out the details of the re-hearing must be sent at least 10 working days before the re-hearing date. The student may agree in writing to a shorter time frame.
- 5.3 The membership of an academic progress committee re-hearing must be different to the original hearing. Where the committee re-hearing is based on a successful EAP appeal, the chair of the academic progress committee re-hearing must be an EAP member other than the member who decided the appeal.
- 5.4 An academic progress committee re-hearing requires the new committee to hear and determine the student's case, including considering any new evidence that was relevant to the appeal.
- 5.5 The academic progress committee re-hearing will be conducted according to the [Academic Progress Committee Procedure](#).
- 5.6 A student may only appeal a decision of an academic progress committee re-hearing to the EAP on the grounds of procedural irregularity (see section 2).

## DEFINITIONS

Academic progress	Means by which students meet the academic requirements of their course and progress to course completion
Academic progress committee	The committee responsible for reviewing students' academic progress and determining whether they can continue their enrolment at the University.
Deemed delivery date	The date a notice is deemed to have been delivered to the student after applying the delivery times set out in regulation 37 of the <a href="#">Monash University (Academic Board) Regulations</a> .
Enrolment conditions	Enrolment conditions are mandatory conditions that can be applied in subsequent academic progress review periods to a student's unit or course enrolment. Compliance with enrolment conditions can be taken into consideration by the academic progress committee when considering exclusion. Enrolment conditions can: <ul style="list-style-type: none"> <li>• limit the number of credit points a student can enrol in in a specific teaching period/s; and/or</li> <li>• specify or limit the type of units that can be enrolled in.</li> </ul>
Managing faculty	The faculty assigned responsibility for coordinating administrative matters for a course (including but not restricted to admission, enrolment, course advice, academic progress and academic referral). For double degree courses the managing faculty is as specified in the University Handbook.
Notice of decision (academic progress)	A notice that formally advises the student of the outcome of the academic progress committee hearing, the reasons for the decision and any right to appeal.
Notice of decision (application to dean)	A notice that formally advises the student of the outcome of their appeal to the dean for an academic progress committee re-hearing, the reasons for the decision and any right to appeal.
Notice of decision (EAP)	A notice that formally advises the student of the outcome of their appeal to the Exclusion Appeals Panel, the reasons for the decision and any right to appeal.
Notice of EAC hearing	A notice that formally advises the student that their appeal to the Exclusion Appeals Panel will be determined at an Exclusion Appeals Committee (EAC) hearing, and provide details of the EAC hearing.

## GOVERNANCE

Parent policy	<a href="#">Student Academic Progress Policy</a>
Supporting schedules	
Associated procedures	<a href="#">Student Academic Progress Procedure</a>

	<a href="#">Academic Progress Committee Procedure</a>
Legislation mandating compliance	<a href="#">Monash University Act 2009 (Vic)</a> <a href="#">Monash University Statute</a> <a href="#">Monash University (Academic Board) Regulations</a> <a href="#">Higher Education Support Act 2003 (Cth)</a> <a href="#">Education Services for Overseas Students Act 2000 (Cth)</a> <a href="#">National Code of Practice for Providers of Education and Training to Overseas Students 2018</a> <a href="#">Higher Education Standards Framework (Threshold Standards) 2015</a>
Category	Academic
Approval	University Education Committee 4 February 2020 1/2020
Endorsement	Deputy Vice-Chancellor (Education)
Procedure owner	Deputy Vice-Chancellor (Education)
Date effective	Teaching periods with results release dates on or after 1 January 2020
Review date	1 January 2023
Version	2.1 <i>(Minor amendments effective on 3 September 2020)</i>
Content enquiries	<a href="mailto:policy-education@monash.edu">policy-education@monash.edu</a>