

# Admissions Non-disclosure Appeals Committee Procedure

This procedure has been prepared in accordance with Student Rules 17.5.3 and 17.5.4 which state:

17.5.3 Academic Board shall approve sets of procedures to be followed by the respective Appeals Committees established under Rules 17.2 to 17.4, and such procedures shall be subject to review by the Academic Board from time to time.

17.5.4 An Appeals Committee shall determine how to handle the matters before it, consistent with the procedures that Academic Board has approved for it. In particular, an Appeals Committee is not bound by the rules of evidence and may inform itself on any matter relevant to its deliberations in a way that it considers to be efficacious and reliable, consistent with basic fairness to each appellant, and having regard to the academic standards of the University.

## 1. Introduction

Under Rule 5.6.5, an applicant for admission may appeal to the Admissions Non-disclosure Appeals Committee of Academic Board (constituted under Rule 17.4) against the decisions made in relation to refusal of application, withdrawal of an offer of admission and cancellation of admission and/or enrolment under Rule 5.6.1(2).

This procedure supplements Rules 17.5 to 17.8 relating to general procedures for appeals committees of Academic Board.

The Admissions Non-disclosure Appeals Committee is the final stage in the university's appeal process in respect of decisions made under Rule 5.6.1(2). There is no further appeal within the university against a decision made by the Appeals Committee. Students wishing to appeal a decision made by the Appeals Committee may lodge an external appeal with the NSW Ombudsman.

## 2. Definitions

**Appeals Committee** means the Admissions Non-disclosure Appeals Committee of Academic Board.

**Appellant** means the student who, in accordance with Rule 5.6.5, has lodged an appeal against the university's withdrawal of an offer of admission and cancellation of admission and/or enrolment under Rule 5.6.1(2).

**Decision-maker** means the Director, Student Administration and/or the relevant responsible academic officer (RAO), according to context.

**Initial appeal stage** means the stage at which a student's appeal under Rule 5.6.5 has been forwarded to the relevant RAO for consideration.

**Original decision** means the decision taken by the university to refuse an application, withdraw an offer of admission, and/or cancel admission or enrolment, in accordance with Rule 5.6.

**Principles of natural justice** means the principles of fairness, transparency, equality before the law, freedom from bias, and the right to be heard.

**Relevant RAO** means the appropriate responsible academic officer from the appellant's faculty or the faculty to which the appellant applied.

### **3. Terms of reference**

The terms of reference of the Appeals Committee are set out in [Rule 17.4.2](#). 'An Admissions Non-disclosure Appeals Committee shall make determinations on appeals against withdrawal of offer and cancellation of enrolment, pursuant to Rule 5.6.5.'

## **4. Principles**

### **4.1. Duty of inquiry**

When reviewing a recommendation, the Appeals Committee must ascertain whether sufficient documentation supporting the student's grounds for appeal (refer Rule 5.6) was available to and considered by the decision-maker before the decision was made. The Appeals Committee must ensure that further inquiries are made of the decision-maker if there has been an obvious omission or obscurity in relation to the recommendations made on the basis of the documentation provided by the student.

Where the Appeals Committee is provided with documentation or evidence that was not provided by the student at the time of the initial appeal stage, the matter should normally be referred back to the decision-maker for further consideration in light of that material (refer [section 4.5.2](#)).

### **4.2. Evidence**

When considering an appeal, the Appeals Committee shall rely only on logically probative material rather than mere speculation. Under Rule 17.5.4, the Appeals Committee is not bound by the rules of evidence and may inform itself on any matter it considers relevant to the appeal being heard.

### **4.3. Timeliness**

All appeals heard by the Appeals Committee should be resolved as quickly as is practicable. If the University Secretary is of the opinion that the Appeals Committee is not progressing an appeal expeditiously, the University Secretary may dissolve that Committee following consultation with the Chair, and in accordance with Rule 17.6.

Under Rule 17.7.3, the Chair must normally provide the University Secretary with the Appeals Committee's minutes within 5 working days of a meeting at which a decision is made. Under Rule 17.8.1, the University Secretary must notify the appellant of the Appeals Committee's decision and the reasons for the decision within 5 working days of receiving the Appeals Committee's minutes.

### **4.4. Confidentiality**

All appeals must be treated confidentially. Access to all documentation associated with an appeal must be limited to staff and people who need to know about the matter in order for the Appeals Committee to deal with the appeal. Recordkeeping requirements and policy concerning the maintenance of confidential student records must be observed.

Members of the Appeals Committee must return all papers to the committee officer for confidential disposal.

Under no circumstances should a member of the Appeals Committee contact the appellant or discuss the appeal or outcome of the appeal with the appellant or any other person. Only the University Secretary, in accordance with Rule 17.8.1, may notify the appellant of the decision and the reasons for the decision. The University Secretary may provide notice of the decision and reasons for it to relevant staff who have legitimate reason to know the decision, in accordance with the [Privacy Policy](#).

#### **4.5. Procedural fairness**

The Appeals Committee has a duty to observe the principles of procedural fairness and natural justice at all times. In addition to the principles outlined in section 4 of this procedure, the following principles apply.

- 4.5.1 Students are entitled to present in their written submissions all relevant matters that support their grounds of appeal and to put their point of view.
- 4.5.2 A student should at all times be permitted to prepare their appeal with the assistance of a counsellor, or some other support person. In some circumstances, it may be appropriate for UTS to make arrangements for assistance to be given. There may be a need for translating and/or interpreting services to be provided.
- 4.5.3 While students may receive assistance in preparation of their appeal documentation, the student must write and submit their own appeal. Instruction to a third party (for example, a solicitor) will not be accepted as the student's appeal. Documentation written by third parties may be submitted as documentation supporting the appeal.
- 4.5.4 An appeal shall be referred back to the decision-maker (under Rule 17.7.2(1)) if:
  1. it is not evident that the relevant RAO's recommendation in response to the student's initial appeal had taken into account all information available in relation to the appeal, or
  2. the appellant raises new information or arguments that were not previously made available due to special circumstances (supported by documentary evidence) that were either beyond the student's control, or that did not make their full impact known until after the admission decision, such as:
    - a. a medical condition that deteriorated to the extent that the student was unable to advise UTS of the condition before its admission decision
    - b. unforeseen personal or family reasons that occurred or worsened at the time of the admission decision, for example, death or severe medical problems within a family
    - c. employment status or arrangements changed unexpectedly due to circumstances beyond the student's control which could not be conveyed to UTS before its admission decision.
- 4.5.5 In circumstances where the timing of the appeal outcome is limited, the decision maker should consider and provide its feedback promptly, normally within 5 working days.

## **4.6. Preventing bias and conflicts of interest**

- 4.6.1 Students are entitled to have their appeal dealt with in an unbiased manner. Bias and potential or perceived conflicts of interest may arise where, for example, a person nominated for appointment to an Appeals Committee (under Rule 17.4.1(4)):
1. was involved in the original admission decision
  2. has dealt with the appeal at an earlier stage, or
  3. has a business, personal, or family relationship with the student.
- 4.6.2 In the interests of preventing bias and/or conflicts of interest detailed in section 4.6.1(1) and (2), Rule 17.4.1(4) stipulates that members of the Appeals Committee, including the Chair, will not be from the same faculty as the appellant. Rule 17.4.1(4) makes provision for the Deputy Chair of Academic Board or the University Secretary to appoint Appeals Committee members in the event that the Chair, Academic Board is from the same faculty as the appellant.
- 4.6.3 If a person appointed to an Appeals Committee becomes aware of a potential or perceived conflict of interest under section 4.6.1, that person must declare their involvement with the appellant and decline the appointment to the Appeals Committee for the case being heard. The Chair of Academic Board, in consultation with the Deputy Vice-Chancellor (Academic), must then appoint another person to the Appeals Committee in accordance with Rule 17.4.1(2).
- 4.6.4 A student should raise any concerns that may arise about bias and/or conflicts of interest as soon as reasonably possible during appeal proceedings.

## **4.7. Recordkeeping**

The Appeals Committee must maintain proper records once an appeal is referred to it. The Appeals Committee should obtain all relevant documents relating to the matter. The official University Records Appeals Committee file (maintained by the Governance Support Unit) must contain the dates on which the Appeals Committee meets, the documentation considered at the meetings and the final report.

## **4.8. Access to information**

Normally students will have a right of access to all documents concerning their appeal. This right does not extend to documents that are subject to a claim for legal professional privilege or to which other legitimate bases for confidentiality or privacy apply.

## **4.9. Objectivity**

The Appeals Committee must review all cases objectively without fear or favour. The student should not be victimised nor should any other advantage or disadvantage follow because the student has lodged an appeal.

# **5. Roles of committee members and advisers**

## **5.1 Chair**

- 5.1.1 The Chair is responsible for the following:
1. development and approval of the agenda for each meeting in accordance with the Appeals Committee's terms of reference
  2. determining upon the basis of the stated grounds of appeal whether senior administrative officers should be invited to attend and assist the Appeals Committee as appropriate (Rule 17.5.5). The Chair will determine which senior administrative officers are to be invited to attend

3. presiding over meetings impartially, preserving order and ensuring that proceedings are carried out in accordance with the Student Rules, this procedure and relevant Standing Orders for Academic Board (Rule 17.5.1)
4. exercising a casting vote, in the event that a majority decision is not reached (Rule 17.7.1)
5. conducting the meeting so that the Appeals Committee's business is dealt with efficiently and effectively
6. checking draft minutes before circulation to members for confirmation
7. undertaking subsequent action on behalf of the Appeals Committee as appropriate
8. signing the minutes of the meeting when confirmed by other members of the Appeals Committee and providing the minutes of the meeting at which the decision is made to the University Secretary within 5 working days of that meeting (Rule 17.7.3)
9. providing an annual report to Academic Board in March of each year on the number of refusal of application, withdrawal of an offer of admission and cancellation of admission and/or enrolment; the number of appeals heard by the Appeals Committee and the outcomes of those appeals.

## **5.2 Committee members**

### **5.2.1 Committee members should:**

1. read all papers before the meeting and clarify any matters necessary with either the Chair or the committee officer
2. attend meetings and participate in an orderly manner
3. vote on matters as necessary
4. be aware of the reason they are a member of the Appeals Committee, and the terms of reference, functions and responsibilities of the Appeals Committee.

## **5.3 Senior administrative advisers**

5.3.1 Under Rule 17.5.5, senior administrative staff may assist the Appeals Committee, act as advisers and attend meetings. Senior administrative staff in the context of the Admissions Non-disclosure Appeals Committee include Director, Student Administration (or nominee), the Director, Student Services Unit (or nominee), the Director, Graduate Research School (or nominee) or any other senior administrative staff nominated by the Chair of the Appeals Committee based on the stated grounds for appeal.

### **5.3.2 Senior administrative advisers must be:**

1. familiar with UTS's rules, policies and procedures applying to graduate research students, and

2. sufficiently detached from any particular appeal being heard to avoid bias and potential or perceived conflicts of interest.
- 5.3.3 Senior administrative adviser is responsible for assisting the Appeals Committee with understanding the relevant issues and circumstances connected with an appeal. The senior administrative adviser does not act as advocate for the appellant, or for the faculty or Student Administration Unit. Advisers to the Appeals Committee may not vote on a decision of the Appeals Committee. Only members of the Appeals Committee may vote on a decision (Rule 17.7.1).
- 5.3.4 When appointing advisers, the Appeals Committee will not commit itself to expenditure without the University Secretary's agreement. The University Secretary may also seek advice on UTS's behalf at any stage of an appeals process and make this available, as appropriate, to the Appeals Committee and the appellant.

## **5.4 Committee officer**

5.4.1 The committee officer should:

1. make practical arrangements for the meeting, such as booking the venue
2. give notice of meetings in accordance with the relevant standing orders of Academic Board
3. prepare the agenda in consultation with the Chair, and circulate it to members
4. ensure the panel membership lists (refer Rule 17.4.1) are kept up to date
5. ensure that action is taken to fill vacancies on the panel membership lists
6. inform members of the Appeals Committee of all necessary information about the Appeals Committee, such as its terms of reference, procedure and standing orders
7. brief and advise the Chair as necessary before and during the meeting
8. record the proceedings of the meeting without entering the discussion, unless so requested by the Chair
9. draft the minutes so that they are an accurate record of what happened at the meeting
10. when requested to do so by the University Secretary, disseminate decisions made by the Appeals Committee (Rule 17.8)
11. maintain a university records confidential committee file for documents submitted to the Appeals Committee, reports from that committee, and other appropriate files.

## **6. Procedure**

6.1.1 The student must lodge an appeal within 20 working days of the date of notification of the admission decision (Rule 5.6.5(2)). An extension of time may be granted by the Director, Student Administration under Rule 5.6.5(3), provided the request is received within 15 working days of the date of official notification.

The student must specify in writing the particular grounds upon which the appeal is based (Rule 5.6.5(2)). In addition, the student should outline the specific facts, evidence, material or other considerations supporting each ground upon which the appeal is based. This may involve providing further explanation, disclosing additional mitigating factors or addressing the matters in other ways which the Appeals Committee finds relevant.

6.1.2 The Director, Student Administration sends the appeal to the relevant RAO for a recommendation (Rule 5.6.5(5)). The relevant RAO's recommendation is then sent back to the Director, Student Administration. If the RAO's recommendation is that the appeal be upheld, the Director, Student Administration will inform the student (Rule 5.6.5(6)). If the RAO's recommendation is to dismiss the appeal, the Director, Student Administration shall refer the appeal to the Appeals Committee (Rule 5.6.5(6)).

- 6.1.3 If the student advances new evidence or bases the appeal on grounds not raised at the initial appeal stage, the Appeals Committee must immediately refer the matter back to the decision-maker for consideration (refer section 4.5.2).
- 6.1.4 If the appellant:
1. fails to provide documentation to support the grounds of appeal, following reasonable attempts by the committee officer on behalf of the Appeals Committee to communicate this to the appellant, or
  2. does not provide the committee officer with acceptable reasons for not providing documentation

the Appeals Committee will make its own determination as to whether it will consider the appeal.

- 6.1.5 A summary of the student's academic record and circumstances may be presented by the Director, Student Services Unit (or nominee), the Director, Student Administration (or nominee) or other advisers as required by the Chair of the Appeals Committee (Rule 17.5.5).
- 6.1.6 During the course of an appeal, neither the fact that there is an appeal, nor any information relating either to the appeal or to the appellant, should be disclosed to people who do not have a legitimate reason to have such information. Accordingly, Appeals Committee meetings are held in camera.
- 6.1.7 Meetings of the Appeals Committee should take place without any unnecessary delays, taking into account the reasonable needs of members involved to be properly prepared, and without compromising the appeal's thoroughness.
- 6.1.8 The Appeals Committee considers the appeal based on the written documentation submitted by the appellant. It does not hear verbal evidence delivered in person by the appellant or by any other person.
- 6.1.9 In determining an appeal, the Appeals Committee may take the following action (Rule 17.7.2):
1. refer a matter back to the decision-maker for further consideration
  2. uphold an appeal and reverse the original decision
  3. uphold an appeal in part and vary the original decision
  4. dismiss an appeal.
- 6.1.10 The Appeals Committee must provide the reasons for its decision (Rule 17.7.3). These reasons should address each of the grounds of appeal nominated by the appellant.
- 6.1.11 The Chair of the Appeals Committee must provide to the University Secretary within 5 working days the minutes of an Appeals Committee meeting at which a decision was made. The minutes must include reasons for the Appeals Committee's decision (Rule 17.7.3).
- 6.1.12 Within 5 working days of receiving the minutes under Rule 17.7.3, the University Secretary will notify the appellant in writing of the outcome of the appeal, furnishing reasons for the decision (Rule 17.8.1). The University Secretary may also provide notice of the Appeals Committee's decision and reasons to other relevant people (Rule 17.8.2). In normal circumstances, relevant people include the decision-maker.
- 6.1.13 In accordance with UTS's legal requirements under the Education Services for Overseas Students Act 2000 (Cth), and when requested to do so by the University Secretary, the committee officer will notify international students about their right to lodge an external appeal with the NSW Ombudsman.