

PRINCIPLES OF PROCEDURAL FAIRNESS

Document Name	ACAP_1_A_POL_Procedural_Fairness_181012	
Date of Next Review	3 September 2020	
Approved by	Academic Board	3 September 2010
Responsible Person	Dean	
Related Documents	Broad impact across all College student and staff policies, documents and procedures including (but not limited to) Grievances, Complaints and Appeals Policy and Procedure and Tuition Fees and Refund Policy.	
References and Legislation	Tertiary Education Quality and Standards (TEQSA) Act 2011 (Cth); Higher Education Standards Framework (Threshold Standards) 2015; Education Services for Overseas Students Act 2000 (Cth); Education Services for Overseas Students Regulations 2001; National Vocational Education and Training Regulator Act 2011; Migration Act 1958 (Cth); National Code of Practice for Providers of Education and Training to Overseas Students 2018; the Higher Education Support Act 2003 (Cth); Privacy Act 1988 (Cth)	

1. Purpose:

This document describes the Principles of Procedural Fairness, which are referenced in College policy and procedural documents. These documents include (but are not limited to):

- Grievances, Complaints and Appeals Policy and Procedure;
- Non-Academic Misconduct Policy;
- Tuition Fees and Refund Policy;
- Re-crediting of HELP Balance Policy and Procedure.

The Principles of Procedural Fairness describe the procedure to be used by the College and staff when making a decision. A decision-maker who follows a fair procedure is more likely to reach a fair and correct decision. Not all decisions made by the College and staff are subject to the Principles of Procedural Fairness. The Principles apply to decisions that may negatively affect an existing interest of a person or the College or to matters where a person has a legitimate expectation. They are less likely to apply to routine administration and policy-making, or to decisions that initially give a benefit.

2. Scope:

This policy applies to all ACAP students.

3. Definitions:

Term	Definition
<i>Academic staff / teaching staff</i>	Permanent and casual employees engaged in teaching and assessment of courses at the institution.
<i>College (the)</i>	The Australian College of Applied Psychology (ACAP).
<i>Unit</i>	A unit of study in a higher education course or a unit of study, module and/or unit of competency in a vocational education and training course.

4. Policy

In practice, the College Principles of Procedural Fairness involve:

1. ensuring the complainant has the right to a full explanation in writing for decisions and actions taken at all stages of the grievances, complaints and appeals process;
2. ensuring that the complainant has access to an independent, unbiased decision maker of the College to reach a final decision, if desired;
3. ensuring that there is proper investigation of the facts;
4. ensuring that there is appropriate evidence to support a decision;
5. ensuring that parties are not victimised or discriminated against during the grievance, complaint and appeal procedure;
6. ensuring impartiality on the part of the investigator and/or decision maker, which means the investigator/decision maker must exclude themselves if there is any bias or conflict of interest. Being the supervisor or work associate of the respondent does not in itself give rise to a conflict of interest. The test is whether a fair-minded observer might reasonably apprehend that the decision-maker might not bring an impartial mind to the resolution of the question;
7. ensuring on any occasion when the grievance or complaint is to be discussed, the complainant and respondent have the right to be accompanied by a third party (family member, friend, colleague, interpreter or other non-legal support person);
8. ensuring the complainant has the right to access legal remedies outside of the College grievances, complaints and appeals processes;
9. informing relevant parties of any allegations made against them, as appropriate;
10. ensuring that all persons involved are informed under the procedures under which the grievance or complaint is being handled and have access to the relevant policy and procedure;
11. ensuring that all parties have a fair hearing and those who have had complaints made against them understand the case to be met and given the opportunity to reply in a way that is appropriate for the circumstances before a decision is made
12. ensuring that all relevant submissions and any mitigating factors are given due and proper consideration before any conclusions are reached or any action is taken; and
13. advising all parties that if the grievance or complaint is of such a serious nature that disciplinary action may result, then the facts revealed during an investigation into the grievance or complaint may be used in any subsequent disciplinary proceedings

These procedures usually require that the person raising a grievance or complaint must be willing to be identified, unless the facts of the matter are not in dispute, or the matter involves allegations of corruption, mal-administration, or serious waste which results in significant loss or wastage of College money or resources, or child abuse.

5. Document Management Control

Date	Summary of Changes	Author
3/09/2010	Policy established	Dean
1/03/2014	Minor amendment	Dean
1/04/2015	Full review, only minor amendment required	Dean
11/07/2016	Transitioned to new policy template	Dean
30/06/2017	Administrative update to business and academic titles and roles	Dean
12/10/2018	Change of template	VET Compliance Manager