



Student Appeals under Higher Degree Rules

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PART A: POLICY

1. Purpose and Scope

This policy will establish:

- (a) the grounds on and procedures by which a research higher degree candidate may appeal against a decision of the Research and Research Studies Committee:
 - not to award a research degree, or
 - not to allow resubmission of a thesis for re-examination, or
 - to terminate candidature; and,
- (b) the procedures for receiving, handling and seeking to resolve a complaint about the conduct or to appeal a decision of the ethics review body of the ACTh in reviewing research proposals from a higher degree candidate; and,
- (c) the principles to be applied in the determination of an appeal and the resolution of complaint.

Appeals under (a) are within the functions of the Academic Appeals Committee of the Academic Board. Should the Academic Appeals Committee become involved in an appeal under this policy the rules specified in this policy will guide their involvement.

Complaints and Appeals under (b) are within the responsibilities of the Dean since the ethics review body of the ACTh is a Statutory Committee of Advice to the Dean.

Grievance matters arising from other academic and non-academic issues related to higher degree candidature, including matters relating to unsatisfactory supervision, inadequate facilities, disputes relating to candidate progress, are to be handled according to the dispute resolution procedures of the ACTh. Students wishing to make an appeal on such matters are referred to the existing policies Dispute Resolution Policy for Domestic Students and Dispute Resolution Policy for International Students [See 7(A) below].

In respect of (a) this policy will apply to candidates enrolled in the degrees of DMin, MTh and ThD.

In respect of (b) this policy will apply to candidates enrolled in the degrees of MA(Th), MA(Min), MA(ChrStuds), DMin, MTh and ThD.

2. Policy Level

Governance/Academic/Management/Operational: Governance/Academic/Management

3. Background

This policy recognises the distinctive nature of the candidature of higher degree students and the gravity of the decisions that are the basis for appeals or complaints under this policy. Consequently, it is appropriate for this policy to be independent of the other Dispute Resolution Policies of the ACTh that relate to Domestic and International students since these policies address matters of concern to coursework students unrelated to ethics approval of projects and research students on matters not peculiar to research candidature.

This policy is designed to ensure that:

- principles of procedural fairness and natural justice are applied in the appeals process; and
- persons comprising the various appeals panels are as independent as possible of the original person(s)/body making the original decision or making the recommendations leading to the original decision.

This policy takes account of the expectations of the *National Statement on Ethical Conduct in Human Research* in relation to the handling of complaints, particularly about the conduct and decisions of the

Human Research Ethics Committee (HREC). The Guidelines in Chapter 5.6 Handling Complaints include the following sections:

- 5.6.4 Institutions should also establish procedures for receiving, handling and seeking to resolve complaints about the conduct of review bodies in reviewing research proposals.
- 5.6.5 Where these complaints cannot be readily resolved by communication between the complainant and the review body that is the subject of the complaint, complainants should have access to a person external to that review body to handle the complaint.
- 5.6.6 Institutions should identify a person or agency external to the institution to whom a person can take a complaint that has not been resolved by the processes referred to in paragraphs 5.6.1 to 5.6.5.
- 5.6.7 Institutions should publicise their complaints-handling procedures.

4. Definitions

ACTh – Australian College of Theology

Appeals Committee – the Appeals Committee of the ACTh Academic Board

Appellant – the higher degree research candidate against whom the original decision was made.

Associate Dean – the Associate Dean of the ACTh who has oversight of research studies matters

Complainant – the higher degree candidate aggrieved by the conduct of the HREC

HREC – Human Research Ethics Committee of the ACTh – the statutory committee of the Dean with the responsibility for ethics review of research thesis and major project proposals

Higher Degree Research candidates – candidates enrolled in the MTh, DMin and ThD degrees

Higher Degree candidates – candidates enrolled in the MA(Th), MA(Min), MTh, DMin and ThD degrees

Research Co-ordinator – the academic staff member in an affiliated college who has responsibility for oversight of research student training in the college.

R&RSC – the Research and Research Studies Committee of the ACTh Academic Board

5. Principles

(A) Principles underpinning this policy

- A1. Actions within the process will be undertaken in a timely manner and timelines for responses will be specified at each stage of the process
- A2. The process will be as simple as possible and easily accessible to appellants and complainants
- A3. The process will not victimise or discriminate against the appellant or complainant or any other involved party
- A4. As part of the process, reasons and full explanations will be given for decisions and actions taken
- A5. Appropriate records of the handling of an appeal or complaint under this policy will be kept for a minimum of 5 years and treated as confidential, with appropriate access available to involved parties
- A6. Components of the process within the ACTh or an affiliated college shall be at no cost to the appellant or complainant, apart from travelling expenses.
- A7. The appellant or complainant may withdraw the appeal or complaint at any stage in the process. If the appeal or complaint is withdrawn, the matter will be deemed to be closed
- A8. The appellant or complainant shall be informed in detail of the outcome of the appeal or the resolution of the complaint.

(B) Principles of Natural Justice

B1. All staff involved in considering an appeal under this policy have a duty to observe the principles of natural justice, which involve the following elements:

- the right of the appellant to a fair hearing
- the right of the appellant to attend hearings with a friend or support person, if desired, provided the person is not a practising solicitor or barrister
- the opportunity for all parties involved to be heard
- the appellant having full knowledge of the reasons for the original decision
- the appellant or complainant not determining the outcome, but may be a party to it
- the right to an independent, unbiased decision-maker
- a final decision that is based solely on the relevant evidence with all submissions considered.

(C) Standard of Proof

C1. Consistent with the requirements of administrative law, the standard of proof for determining an appeal is *on the balance of probabilities*. This means that the decision-maker must be satisfied that the original decision being incorrect is more probable than not. This differs from the criminal law standard of proof which is *beyond reasonable doubt*.

(D) Disclaimer

D1. This Policy does not limit the student's right to pursue alternative legal remedies.

(E) Variation of insubstantial matters in Part B: Procedures

E1. To take account of special circumstances concerning an Appellant or Complainant or other unusual issues that may arise during the appeal or resolution process, the Dean has the discretion to vary the time limits and other insubstantial matters of procedure in Part B: Procedures.

6. Policy Content

(A) Eligibility to appeal

- A1. Higher degree research candidates against whom one of the decisions in Section 1(a) has been made by the Research and Research Studies Committee may appeal against this decision.
- A2. Higher degree candidates who have a complaint about the conduct or a decision of the HREC in relation to their review of a research or major project proposal may seek resolution of their complaint or appeal against the decision.

(B) Grounds for appeal against a decision of the R&RSC

- B1. Appeals based solely on the rejection of the academic assessment of work submitted for the award of the degree will not be permitted.
- B2. The grounds for appeal against a decision not to award a research degree or not to allow resubmission of a thesis for re-examination include:
- procedural irregularities in the conduct of an examination;
 - significant evidence of circumstances substantially affecting the student's performance of which the Research and Research Studies Committee was not aware.
- B3. The grounds for appeal against a decision to terminate candidature include:
- demonstrably incorrect record keeping in the affiliate college and/or the ACTh
 - a justified difference of opinion arguing that progression to completion of candidature is satisfactory
 - documented experience of special circumstances impacting progress unreported during the period of candidature

(C) Grounds for appeal against a decision of the HREC

- C1. Appeals based solely on the rejection of the academic assessment of the ethical content of a research or project proposal will not be permitted.
- C2. The grounds for appeal against a decision to not endorse the ethical content of a research or project proposal shall be procedural irregularities in the review of the ethical content.

(D) Grounds for complaint about the conduct of the HREC

- D1. Given that there can be justifiable differences opinion as to whether a research or project proposal meets the requirements of the National Statement, students may complain about the process of the review of their research or project proposal.

7. Associated Documents

(A) Related External Documents

- National Statement on Ethical Conduct in Human Research – March 2007
<http://www.nhmrc.gov.au/publications/synopses/e72syn.htm>

(B) Related Internal Documents

- Committees of the Academic Board Policy – (E) Academic Appeals Committee
- Dispute Resolution Policy – Domestic Students
- Dispute Resolution Policy – International Students
- Duties of Candidates as found in the Rules for each research award

8. Responsibility and Authority

Body/Position with authority to initially approve the policy and procedures and amend the policy:

_____ Board of Directors _____

Body/Position with delegated authority to amend the procedures consistent with the policy:

_____ Dean _____

Body/Position(s) accountable for:

Responsibility	Position
Development of the policy	Quality Manager
Provision of advice in development of the policy	Research & Research Studies Committee
Distribution of the policy	Quality Manager
Implementation of/Advice concerning the policy	Associate Dean/ College Research Co-ordinators
Monitoring of and compliance with the policy	Associate Dean
Evaluation and recommending amendment of the policy	Quality Manager/Associate Dean/ Research & Research Studies Committee

9. Approvals

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Authority	Action	Resolution No.	Date
RAB	Recommendation to BofD for approval	RAB 0705-002	4 May 2007
DEL	Approval of Policy and Procedures	DEL 0705-024	21 May 2007
Quality Manager	Insertion of Table of Contents and other formatting as per current policy template		5 July 2007
Directors	Rename to “Policy on Student Appeals under Higher Degree Rules” and revision of scope to include HREC actions and outcomes	DIR1106-18.1B	24 June 2011

10. Communications

Date	Recipient	Purpose	Mode
4 May 07	Members of RAB	Notice of new format of policy after approval in original format by RAB and requesting advice of improvements – 1 response	Email
25 May 07	Principals and Registrars	Distribution of version of policy approved by BofDs on 21 May 07	Email

PART B: PROCEDURES

1. Introduction

(A) Appeals or complaints made where the supporting material is Highly Confidential.

A1. Where an appellant or complainant lodges an appeal or complaint and the supporting material is of a highly sensitive or personal nature, the appellant/complainant may submit that material in a sealed envelope clearly marked "confidential". The Board of Directors, the Dean, the Appeal Review Panel, the Academic Appeals Committee and involved staff of the ACTh will treat the material with the utmost confidentiality.

(B) Quality Manager as observer

B1. The Quality Manager (or nominee) shall attend meetings of any Panel and Committee addressing matters under this policy as an observer.

2. Procedures

(A) Appeal against a decision of the R&RSC

A1. The student must make the appeal in writing to the Chair of Academic Board through the Associate Dean within twenty (20) working days of the date on the written document from the ACTh advising the decision that is the subject of the appeal. The student must set out fully the grounds for appeal and provide documentary evidence in support of the appeal. Within five (5) working days, the Associate Dean shall acknowledge receipt of the appeal.

A2. Within ten (10) working days, the Chair of the Academic Board shall appoint an independent nominee and a Research Co-ordinator from an affiliated college other than the appellant's to constitute an Appeal Review Panel to determine whether the appeal is against a decision covered by this policy and does accord with the grounds for appeal above, in which case the appeal will be heard.

A3. Should the Panel determine the appeal should not be heard, the Panel shall so advise the Chair of Academic Board, including a full explanation for their determination, and the Associate Dean will advise the appellant within five (5) working days of the determination with a full explanation of the determination.

- A4. If the Appeal Review Panel determines the appeal should be heard, the appeal will be referred to the Academic Appeals Committee within ten (10) working days of the determination. The committee shall be composed by the Chair of the Academic Board in accord with the Committees of the Academic Board Policy and may include:
- Two Research Co-ordinators from affiliated colleges other than the one from which the appeal originated and different to the Research Co-ordinator in A2.
- A5. The Academic Appeals Committee will consider documents relevant to the appeal including all material submitted by the appellant, and call before it any person deemed relevant. The Committee may consult the Chair of the R&RSC. The committee will not consider academic judgements made as part of any examination process. The appellant will be invited to present a case. The person assisting the student may provide the appellant with advice, but may not act as an advocate nor make direct comment to the meeting without permission of the Chair.
- A6. At the completion of the hearing everyone present, with the exception of the members of the Committee, will be excused from the hearing to allow the Appeals Committee to reach a decision on the appeal.
- A7. Within five (5) working days of the meeting of the Appeals Committee, the Chair will communicate in writing the decision, with reasons, through the Associate Dean to the Chair of the Academic Board and the Chair of the R&RSC.
- A8. Within five (5) working days of receiving the Committee's decision, the Chair of the Academic Board will notify the appellant, through the Associate Dean, of the outcome of the appeal and provide the reasons for the decision.
- A9. The decision of the Appeals Committee is final and a confidential report will be provided to the next meeting of the Academic Board.
- (B) Appeal against a decision of the HREC**
- B1. The student must make the appeal in writing to the Dean through the Associate Dean within twenty (20) working days of the date on the written document from the ACTh advising the decision that is the subject of the appeal. The student must set out fully the grounds for appeal and provide documentary evidence in support of the appeal. Within five (5) working days, the Associate Dean shall acknowledge receipt of the appeal.
- B2. Within ten (10) working days, the Dean shall invite the Deputy Chair of the R&RSC to advise whether
- (a) the appeal is against a decision covered by this policy, and
 - (b) the appeal accords with the grounds above,
- in which case the appeal will be heard.
- B3. Should the Deputy Chair of the R&RSC determine the appeal should not be heard, the Deputy Chair of the R&RSC shall so advise the Dean, including a full explanation for the determination, and the Associate Dean will advise the appellant within five (5) working days of the determination with a full explanation of the determination.
- B4. If the Deputy Chair of the R&RSC determines the appeal should be heard, the Dean shall appoint an independent expert on ethics in human research and invite the Chair of the R&RSC to constitute an Appeals Advisory Panel within ten (10) working days of the determination – the Chair of the R&RSC shall Chair the Panel.
- B5. The Appeals Advisory Panel will consider documents relevant to the appeal including all material submitted by the appellant, and call before it any person deemed relevant. The Panel will consult the Chair of the HREC. The appellant will be invited to present a case. The person assisting the student may provide the appellant with advice, but may not act as an advocate nor make direct comment to the meeting without permission of the Chair.
- B6. At the completion of the hearing everyone present, with the exception of the members of the Panel, will be excused from the hearing to allow the Appeals Advisory Panel to reach a recommendation on the appeal.

- B7. Within five (5) working days of the meeting of the Appeals Advisory Panel, the Chair will communicate in writing their recommendation, with reasons, through the Associate Dean to the Dean.
- B8. Within five (5) working days of receiving the Committee's decision, the Dean will notify the appellant of the outcome of the appeal and provide the reasons for the decision.
- B9. The Dean shall provide a confidential report of his decision to the next meeting of the HREC and the R&RSC.
- B10. Should the appellant not be satisfied with the decision of the Dean, the appellant may request in writing to the Dean a review of the Dean's decision by the Chair of the Sydney College of Divinity HREC, whose decision will be final.

(C) Complaints against the conduct of the HREC

- C1. Students may lodge a complaint about the conduct of the HREC with the Dean through the Associate Dean. The student must set out fully the grounds for the complaint and provide any documentary evidence supporting the complaint. Within five (5) working days, the Associate Dean shall acknowledge receipt of the complaint.
- C2. Within five (5) working days of receipt of the complaint, the Associate Dean shall invite the Chair of the HREC to respond to the complaint in writing. The Chair of the HREC shall respond within ten (10) working days.
- C3. The Associate Dean shall review the complaint and the response of the Chair of the HREC and consult the complainant with a view to resolving the matter informally.
- C4. Should the consultation of the Associate Dean with the complainant resolve the matter, the Associate Dean shall write to the complainant outlining the accepted resolution and closing the matter.
- C5. If the matter is not closed informally the Associate Dean shall so advise the Dean and recommend to the Dean the appointment of an external expert on ethics in human research or other relevant expert to advise on possible ways to resolve the complaint.
- C6. When the Dean appoints an external expert, the expert shall consider the material, consult such persons as considered appropriate, including the complainant, and prepare advice to the Dean within ten (10) working days of appointment.
- C7. Within five (5) working days of receipt of the advice from the external expert the Dean shall consult the complainant and advise on the resolution of the complaint.
- C8. The Associate Dean shall report to the HREC on the resolution of the complaint.
- C9. Should the complainant not be satisfied with the resolution of the complaint by the Dean, the complainant may request in writing to the Dean a review of the Dean's resolution by the Chair of the Sydney College of Divinity HREC, whose decision will be final.