

PROFESSIONAL EXPERIENCE APPEALS COMMITTEE PROCEDURES

These Procedures have been prepared in accordance with Rules 17.5.3 and 17.5.4, Student Rules 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.

These Procedures should be read in conjunction with Rule 3.4 and section 17, Student Rules.

1. INTRODUCTION

Under Rule 3.4.8, a student may appeal the decision of the Deputy Vice-Chancellor (Education and Students) that the student is unsuited for further professional experience and that his or her enrolment should be withdrawn. The Professional Experience Appeals Committee of Academic Board (constituted under Rule 17.3) hears such appeals. These Procedures provide information to supplement Rules 17.5 to 17.8 relating to general procedures for appeals committees of Academic Board.

The Professional Experience Appeals Committee is the final stage in the University's appeal process in respect of decisions made under Rule 3.4.6. There is no further appeal within the University from a decision made by the Professional Experience Appeals Committee. Students wishing to appeal a decision made by the Appeals Committee may lodge an external complaint with the NSW Ombudsman's Office. Students have the right to have their appeal reconsidered by the University only where the NSW Ombudsman finds evidence that the University did not follow due process during its consideration of the original appeal.

2. DEFINITIONS

Appeals Committee means the Professional Experience Appeals Committee of Academic Board.

Appellant means the student who, in accordance with Rule 3.4.8, has lodged an appeal against the decision of the Deputy Vice-Chancellor (Education and Students) that the student is unsuited for further professional experience and that his or her enrolment should be withdrawn (see Rule 3.4.6).

Decision-maker means the Deputy Vice-Chancellor (Education and Students).

Original decision means the decision made by the Deputy Vice-Chancellor (Education and Students) under Rule 3.4.6 that the student is unsuited for further professional experience and that his or her enrolment should be withdrawn.

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

3. TERMS OF REFERENCE

The terms of reference of the Appeals Committee are set out in Rule 17.3.2, as follows: “The Professional Experience Appeals Committee shall make determinations on appeals against decisions of the Deputy Vice-Chancellor (Education and Students) pursuant to Rule 3.4.6 relating to deferral of a student’s participation in any part of required professional experience that would have the effect of preventing the student from continuing his or her course.”

4. MEMBERSHIP

The Appeals Committee’s composition is set out in [Rule 17.3.1](#). The Chair of Academic Board appoints a Chair/Deputy Chair of the Appeals Committee every two years (see [Rule 17.3.1\(1\)\(a\)](#)).

The Appeals Committee does not have regular scheduled meetings, but convenes only when required to hear an appeal. For this reason, the Chair of Academic Board approves a pool of academic staff and students (upon Deans’ nomination), who would be eligible to act as Committee members if and when required. There is no fixed term of office imposed on academic staff and students in this pool. The term of office continues until the person resigns, or ceases to be eligible under [Rule 17.3.1](#).

When an appeal is lodged and the Appeals Committee is required to convene, the Chair of Academic Board will appoint from the pool of eligible members:

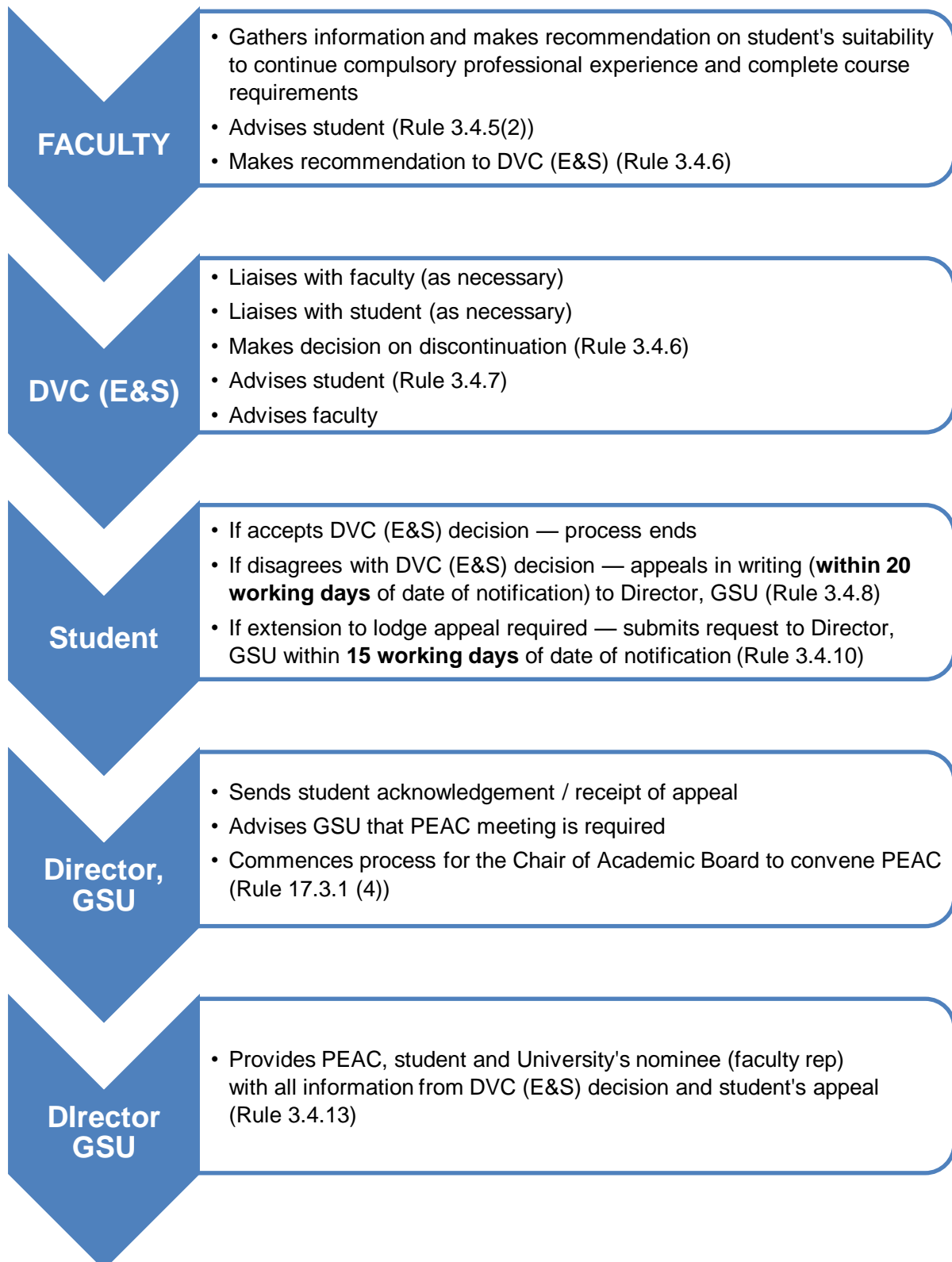
- two academic staff members with experience in the placement and administration of professional experience students, and
- a student of the University who has been enrolled for at least a year and has completed or partially completed professional experience course requirements.

Committee members, including the Chair, will not be from the same faculty as the appellant.

5. PROFESSIONAL EXPERIENCE DECISION-MAKING AND APPEALS PROCESS

In the following process diagram:

- PEAC is Professional Experience Appeals Committee
- DVC (E&S) is Deputy Vice-Chancellor (Education and Students)
- Director, GSU is Director, Governance Support Unit



6. PRINCIPLES

6.1. Confidentiality

All appeals must be treated confidentially. The fact that there is an appeal should not be disclosed to those people who do not have a legitimate reason to have such information. Access to all documentation associated with an appeal must be limited to those staff and other persons 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](#).

6.2. 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 6 of these Procedures, the following principles apply.

- 6.2.1. A student is entitled to raise in his or her written submissions all relevant matters that support their grounds of appeal and to put their point of view.
- 6.2.2. 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 the University to make arrangements for assistance to be given. There may be a need for translating and/or interpreting services to be provided.
- 6.2.3. While a student may receive assistance in preparing his or her appeal documentation, it is a requirement that the student writes and submits 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.
- 6.2.4. In accordance with Rule 3.4.13, the student will be given the opportunity to address the Appeals Committee in person. The student will be provided with appropriate advice on meeting procedures and advised of the support services available to them to assist with preparing for his or her appearance.
- 6.2.5. The student should always have the option of having a friend or adviser present during an appeals hearing as a support person. The student should notify the Committee Officer in advance of the meeting of the name of the support person. Section 7.2.3 provides further detail regarding support persons.

6.3. 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.

6.4. Preventing bias and conflicts of interest

- 6.4.1. Students are entitled to have their appeal dealt with in an unbiased manner. Bias and potential/perceived conflicts of interest may arise where, for example, a person appointed to an Appeals Committee under Rule 17.3.1:
- (1) was involved in the original decision
 - (2) has dealt with the appeal at an earlier stage, or
 - (3) has a business, personal, or family relationship with the student.
- 6.4.2. In the interests of preventing bias and/or conflicts of interest detailed in section 6.4.1 (1) and (2), Rule 17.3.1(4) stipulates that members of the Appeals Committee, including the Chair, will not be from the same faculty as the appellant. Rule 17.3.1(5) 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.
- 6.4.3. If a person appointed to an Appeals Committee becomes aware of a potential/perceived conflict of interest under [section 6.4.1](#), 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 must then appoint another person to the Appeals Committee in accordance with Rule 17.3.1(4).
- 6.4.4. A student should raise any concerns that may arise about bias and/or conflicts of interest as soon as reasonably possible during appeal proceedings.

6.5. Timeliness

6.5.1. Notification of Appeals Committee hearing

Students and University representatives will be notified as early as practicable of a request to appear before the Appeals Committee. All parties will be given sufficient time to seek and obtain support and to fully prepare for their appearance before the Appeals Committee.

6.5.2. Resolution of appeal

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 17.7.5, the Chair must normally provide the University Secretary with the Appeals Committee's minutes within five 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 five working days of receiving the Committee's minutes.

6.6. Recordkeeping

It is important that the Appeals Committee 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 (held by Governance Support Unit) must contain the dates on which the Appeals Committee met and the documentation considered at those meetings and the final report.

6.7. Access to information

Normally appellants 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.

7. PROCEDURES

7.1. Student attendance

7.1.1. If the appellant:

- (1) has failed to respond to reasonable attempts by the Appeals Committee to communicate, or
- (2) does not provide the Appeals Committee with acceptable reasons for not attending a hearing, or
- (3) does not appear on the day of the hearing,

the Appeals Committee will make its own determination as to whether it will adjourn or proceed in the absence of the appellant.

7.1.2. If the Appeals Committee considers that an appellant has an acceptable reason for being unable to attend a hearing (eg an international student who has returned home during a vacation period), the Appeals Committee may permit the appellant to nominate a representative to attend. The Appeals Committee may permit the appellant to use telecommunication facilities to participate in all or part of a hearing, if such facilities are readily available at reasonable cost.

7.2. At the hearing

7.2.1. Meetings held in camera

In accordance with confidentiality principles outlined in section 6.1, appeal hearings are normally held in camera.

7.2.2. Presentation of University's case

A member of staff of the University will attend to present the University's case and explain the basis for the original decision. This explanation should be presented by the Deputy Vice-Chancellor (Education and Students) or a nominee (usually an academic staff member from the appellant's faculty who has an understanding of the circumstances of the original decision and subsequent appeal). The staff member providing this explanation must also be given adequate time to prepare.

7.2.3. Role of appellant's support person

While an appellant is permitted the option of having a friend or adviser present during an appeals hearing as a support person (section 6.2.5), the Appeals Committee may determine any limitations which may be placed on that person's role during the hearing. In most circumstances, the support person will not be permitted by the Appeals Committee to act as an advocate or legal representative. Only in exceptional circumstances — as determined by the Chair prior to an Appeals Committee meeting — will legal representation be allowed.

7.2.4. Appeals Committee advisers

7.2.4.1. 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

Appeals Committee include the Director, Student Services Unit (or nominee), or other senior administrative staff nominated by the Chair of the Appeals Committee based on the stated grounds for appeal.

Senior Administrative Advisers must be:

- (1) familiar with the University's rules, policies and procedures applying to professional experience, and
- (2) sufficiently detached from any particular appeal being heard, so as to avoid bias and potential/perceived conflicts of interest.

7.2.4.2. 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 the University's behalf at any stage of an appeals process and make this available, as appropriate, to the Appeals Committee and the appellant.

7.2.5. **Order of proceedings**

A suggested order of proceedings is detailed in [Appendix 1](#). The Chair may vary the order of proceedings according to the nature and circumstances of the appeal.

7.2.6. **Order of presentations**

The Appeals Committee determines the order of presentations, i.e. whether the appellant should open (by presenting their case for the overturning of the decision of the Deputy Vice-Chancellor (Education and Students)) or whether the University should commence the appeal proceedings (by explaining the basis for the decision of the Deputy Vice-Chancellor (Education and Students)). The nature of the appeal and its circumstances are the determining factors.

7.2.7. **Ability to call/question witnesses**

7.2.7.1. Depending on the specific grounds for appeal, the appellant may be given the opportunity of calling other persons to provide evidence in support of particular grounds of the appeal for which new evidence is needed or appropriate and the appellant should be allowed to lead any such parties through their evidence.

7.2.7.2. During the course of a hearing, the appellant should be given an opportunity of questioning any person who appears before the Appeals Committee. The Deputy Vice-Chancellor (Education and Students) (or nominee) may also ask questions of the appellant or any witnesses the appellant calls to give evidence.

7.2.7.3. A right to question does not imply a right to harass or intimidate.

7.2.7.4. The Appeals Committee may determine that a person who gave information an earlier stage of the process may be given the opportunity to respond to any questions raised at the appeal hearing in relation to that information.

7.2.7.5. Members of the Appeals Committee are entitled to ask questions through the Chair of anyone appearing before the Appeals Committee.

7.3. **Deliberation**

7.3.1. **General**

The Appeals Committee should take into account all of the relevant information it has before it, except any information which the appellant has not had an opportunity of addressing. The

Appeals Committee should consider whether the appellant's written appeal and verbal presentation at the hearing have sufficiently supported the grounds on which the appeal was based (see Rule 3.4.12).

7.3.2. Dealing with new information

7.3.2.1. In the event that an appellant presents in his or her written appeal or verbal presentation at an appeal hearing new information that might have affected the original decision were it known at the time the decision was made, the Appeals Committee may refer the matter back to the decision-maker for further consideration in light of the new material. This is in accordance with the authority provided to the Appeals Committee under Rule 17.7.2(1).

7.3.2.2. Where a matter has been referred back to the decision-maker, any comments provided by the decision-maker should be forwarded to the appellant. The appellant must be provided the opportunity to consider the comments and provide a response in writing within 10 working days. The decision-maker's comments and the appellant's comments will then be referred to the Appeals Committee for consideration.

7.3.3. Duty of inquiry

When reviewing a recommendation, the Appeals Committee must ascertain whether sufficient documentation supporting the student's grounds for appeal (Rule 3.4.12) 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.

7.3.4. Evidence

When considering an appeal, the Appeals Committee will 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 matters it considers relevant to the appeal being heard.

7.4. Decision

7.4.1. As detailed in Rule 17.7.2, the Appeals Committee take any of the following action when making a decision:

- (1) refer a matter back to the Deputy Vice-Chancellor (Education and Students) for further consideration, or
- (2) uphold the appeal and reverse the decision of the Deputy Vice-Chancellor (Education and Students), or
- (3) uphold the appeal in part by varying the decision of the Deputy Vice-Chancellor (Education and Students), or
- (4) dismiss the appeal.

7.5. Notification of decision

7.5.1. The Appeals Committee is responsible for determining who, in addition to the appellant, should receive formal notification of the result of the appeal and the reasons for it. In making this determination, the Appeals Committee will take into account potentially conflicting needs of the appellant for privacy and of others who

participated in the process and who may have ongoing responsibility for University courses or facilities. The Appeals Committee may impose conditions of confidentiality on any person who is so notified.

- 7.5.2. The Appeals Committee will notify the University Secretary of its decision and must provide reasons for the decision.
- 7.5.3. The University Secretary will notify the appellant in writing of the outcome of the appeal, and the reasons for the decision. The University Secretary will also notify any other parties as directed by the Appeals Committee (see section 7.5.1), subject to any confidentiality conditions stipulated by the Appeals Committee.
- 7.5.4. In accordance with the University's legal requirements pursuant to the Education Services for Overseas Students Act 2000 (Cwlth), 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's Office.

8. ROLES AND RESPONSIBILITIES OF COMMITTEE MEMBERS, ADVISERS AND COMMITTEE OFFICER

8.1. Chair

8.1.1. The Chair is responsible for:

- (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, these Procedures and the 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
- (9) providing to the University Secretary within five working days of a meeting at which a decision was made, the minutes of that meeting (Rule 17.7.3)
- (10) providing an annual report to Academic Board in March of each year on the number of decisions made under Rule 3.4.6 by the Deputy Vice-Chancellor (Education and Students) in the previous year. The report should detail the

number of appeals heard by the Appeals Committee in relation to such decisions and the outcome of those appeals (Rule 17.7.6).

8.2. Committee members

8.2.1. Appeals Committee members are responsible for:

- (1) reading all papers before the meeting and clarify any matters necessary with either the Chair or the Committee Officer
- (2) attending meetings and participate in an orderly manner
- (3) voting on matters as necessary,; and
- (4) being aware of the reason they are a member of the Appeals Committee, and the terms of reference, functions and responsibilities of the Appeals Committee.

8.3. Senior Administrative Advisers

The role of Senior Administrative Advisers is to assist the Appeals Committee with its understanding of the relevant issues and circumstances connected with an appeal. Senior Administrative Advisers do not act as advocates for the appellant, the faculty or the Deputy Vice-Chancellor (Education and Students). 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.

8.4. Committee Officer

8.4.1. The Committee Officer is responsible for:

- (1) making practical arrangements for the meeting, such as booking the venue
- (2) giving notice of meetings in accordance with the relevant Standing Orders for Academic Board
- (3) preparing the agenda in consultation with the Chair, and circulating it to members
- (4) ensuring the panel membership lists (see Rule 17.3.1) are kept up to date
- (5) ensuring that action is taken to fill vacancies on the panel membership lists
- (6) informing members of the Appeals Committee of all necessary information about the Appeals Committee, such as its terms of reference, procedures, standing orders, etc.
- (7) briefing and advising the Chair as necessary before and during the meeting
- (8) recording the proceedings of the meeting without entering the discussion unless so requested by the Chair
- (9) drafting 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, disseminating decisions made by the Appeals Committee (Rule 17.8)
- (11) maintaining a University Records confidential committee file for documents submitted to the Appeals Committee, and other appropriate files.

9. VERSION CONTROL AND CHANGE HISTORY

Effective date	Version	Approved by, resolution no. (date)	Amendment
05/12/2001	1	Academic Board, AB/01/81 (05/12/2001)	New guidelines
25/02/2005	1.1	Changes made pursuant to Council resolution COU/05/011 (14/02/2005)	Rule references updated to implement Council approval of the Student and Related Rules
01/07/2015	1.2	Director, Governance Support Unit, under Standing Delegation 3.17 (01/07/2015)	Administrative changes to reflect changes to the Student Rules and changes to position titles arising from disestablishment of Registrar role.
02/08/2016	2	Academic Board, AB/16-3/54 (29/07/2016)	Reorganisation of material, appeal process steps updated to reflect changes to Student Rules.
01/09/2018	2.1	Academic Board, AB/18-3/51.12 (08/08/2018)	Authority provided to the Chair of Academic Board to approve appointments to the Panel and other administrative amendments for consistency with the Procedures of other Appeals committees.

APPENDIX 1. SUGGESTED ORDER OF PROCEEDINGS — PROFESSIONAL EXPERIENCE APPEALS COMMITTEE

1. Prior to the meeting

- On receipt of the Committee meeting papers, Committee members should review the documentation to ensure that there are no conflicts of interest or bias.

2. At the meeting

- The Chair has the responsibility of chairing the meeting.
- The student, their support person (if in attendance) and the University's representative (this is normally an academic staff member from the student's faculty) attend the meeting ('the Parties').
- The Chair introduces the Committee members including the committee officer to the Parties.
- The Chair will ask if any Committee member has a conflict of interest in regard to the case being heard.
- The Chair will advise the Committee members that the matter being heard is private and confidential.
- The Chair advises the Parties that the meeting may be audio recorded.
- The Chair confirms with the Parties that they have the same paperwork.
- The Chair confirms with the student the purpose of the meeting and clarifies the appeal.
- The Committee notes the Student Rules relating to professional experience appeals, and the Committee's Procedural Guidelines. This documentation is provided as part of the meeting papers.
- Should the student not appear at the meeting, the University's representative may request the committee to hear the matter in the student's absence. The committee should discuss whether to proceed in the absence of the student or adjourn the matter in accordance with section 7.1.2 of the Procedural Guidelines for the Professional Experience Appeals Committee. The Committee should consider whether the student has been provided with the relevant details of the meeting, details of the allegation and whether the student has contacted the University to explain his/her absence.
- The Chair will determine whether the student or the University's representative will present first. The Committee members can ask questions of either Party at any time.
- The Committee Officer will take minutes of the meeting.
- Once all the information is heard, the Chair will advise the Parties that the Committee will discuss the case and reach a decision.
- The Chair will advise the parties that they will be informed of the Committee's decision in writing by the University Secretary.
- The Chair will request the student, the student's support person (if relevant) and the University's representative to leave the room.
- The Committee will deliberate and reach a decision on the appeal being heard.
- At the conclusion of the meeting, all hard copies of the meeting papers must be returned to the Committee Officer. Committee members should delete electronic copies of meeting papers if no longer required.