

<b>Name of Policy</b>	<b>Staff Appeals Policy</b>
<b>Description of Policy</b>	This policy covers the provision for Staff Appeals at ACU.
<b>Policy applies to</b>	<input checked="" type="checkbox"/> University-wide <input type="checkbox"/> Specific ( <i>outline location, campus, organisational unit etc.</i> ) <hr/>
	<input checked="" type="checkbox"/> Staff Only <input type="checkbox"/> Students Only <input type="checkbox"/> Staff and Students
<b>Policy Status</b>	<input type="checkbox"/> New Policy <input checked="" type="checkbox"/> Revision of Existing Policy

<b>Approval Authority</b>	Vice-Chancellor and President
<b>Governing Authority</b>	Chief Operating Officer
<b>Responsible Officer</b>	Director, Human Resources

<b>Approval Date</b>	5 June 2008
<b>Effective Date</b>	5 June 2008
<b>Date of Last Revision</b>	4 April 2019
<b>Effective Date of Last Revision</b>	4 April 2019
<b>Date of Policy Review*</b>	4 April 2022

\* Unless otherwise indicated, this policy will still apply beyond the review date.

<b>Related Policies, Procedures, Guidelines and Local Protocols</b>	Position Classification for Professional Staff Policy Position Classification Procedure for Professional Staff Staff Assistance, Support and Representation Policy Academic Promotions Policy Academic Promotions Application Procedures 2016 Guidelines on the Criteria for Promotions to Level D 2016 Guidelines on the Criteria for Promotions to Level E 2016 Guidelines on the Criteria for Promotions to Levels B and C Academic Promotions 2016 Appendix - Evidence of Academic Performance Recruitment and Selection Policy Recruitment and Selection Procedures Protected Disclosures Policy Protected Disclosures Procedures Equal Opportunity Policy
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### 1. Background Information

The University recognises that staff may wish to have the outcome of certain processes reviewed. Where the University provides for a staff member to appeal the outcome of a process within the relevant policy, the provisions of this Staff Appeals Policy will apply. If a staff member is aggrieved by the outcome of a process that does not provide for an appeal, the University Grievance process may be utilised.

### 2. Policy Purpose

This policy informs staff at ACU of the matters on which they may seek an appeal, and the grounds and procedure for appeal.

### 3. Application of Policy

This policy applies to Academic Staff and Professional Staff covered by the ACU Staff Enterprise Agreement 2017 -2021 and employed on a:

- continuing appointment, and
- fixed-term appointment for a period greater than six (6) months.

The policy does not apply to a staff member who is employed on a casual basis.

Nothing in this policy limits the rights of a staff member to make a Protected Disclosure in accordance with the Protected Disclosures Policy.

### **3.1 Matters covered by the Policy**

**3.1.1** An Academic Staff member may appeal to have the following matters reviewed:

- an unsuccessful application for promotion under the Academic Promotion Policy and Procedures.
- an unsuccessful application for appointment to an advertised vacant position at a higher Academic Level to which a current ACU staff member has been appointed.

**3.1.2** A Professional Staff member may appeal to have the following matters reviewed:

- an unsuccessful application for review of classification of a Professional Staff position; or,
- an unsuccessful application for appointment to an advertised vacant position at a higher HEW level to which a current ACU staff member has been appointed.

### **3.2 Grounds for an Appeal**

**3.2.1** The grounds for an appeal are:

- whether the relevant committee was comprised of members in accordance with the requirements of the relevant policy;
- whether there is evidence that a committee discriminated against an applicant in terms of the University's equal opportunity requirements;
- whether correct voting procedures were followed (in the case of academic promotions);
- whether there was a quorum for the meeting when the matter was considered; or
- any other significant breach of procedures set out in the relevant policy.

**3.2.2** Procedural error or omission will not include failure by a Committee to:

- keep a record of its deliberations (provided that the committee recorded its membership, votes taken, its recommendations and reasons, and the written advice to be given to unsuccessful applicant/s); or
- interview an applicant.

**3.2.3** An appeal following an unsuccessful application for appointment to an advertised vacant position is subject to the following conditions being met:

- the person appointed to the position concerned is currently employed by the University;
- the position applied for carries a higher classification than that currently occupied by the appellant and the successful applicant;
- the appellant satisfies the advertised selection criteria for the position; and/or
- the appellant can take up the duties of the position concerned.

**3.2.4** A Professional Staff member may appeal an unsuccessful application for review of classification of the staff member's position on the grounds that the breach of procedure materially affected the decision of the Classification Review Subgroup.

### **3.3 Appeals Committee**

**3.3.1** The Chief Operating Officer and Deputy Vice Chancellor will appoint a Secretary to the Appeals Committee who will:

- receive all matters for the Committee's consideration;
- make all necessary arrangements for the Committee's consideration; and,
- in the case of an appeal resulting from an unsuccessful application for appointment to an advertised vacant position, inform the successful applicant (who will be an existing ACU staff member) that an appeal has been lodged.

**3.3.2** Appeals Committees will be constituted in accordance with the Participation of Staff in Employment Related Committees Guidelines and will comprise the following:

*Appeals Committee – Academic Staff member*

- a Chair nominated by the Vice-Chancellor and President;
- a member of Academic Staff nominated by the Vice-Chancellor and President; and
- a full-time Academic Staff member elected by the University's Academic Staff.

*Appeals Committees - Professional Staff member:*

- a Chair nominated by the Vice-Chancellor and President;
- a member of Professional Staff nominated by the Vice-Chancellor and President; and
- a full-time Professional Staff member elected by the University's Professional Staff.

**3.3.3** The Director, Human Resources (or nominee) will be notified of and may attend meetings of the Appeals Committee as an observer.

**3.3.4** The following persons will not be eligible to be appointed as members of an Appeals Committee:

- the Vice-Chancellor and President;
- the appellant;
- the appellant's nominated supervisor or manager;
- the Member of the Executive responsible for the organisational unit in which the appellant works;
- a member of the Committee whose decision is the subject of the appeal.

## 4. Procedures

**4.1** All appeals must be in writing and lodged with the Secretary of the Staff Appeals Committee, Office of the Chief Operating Officer and Deputy Vice Chancellor, Vice-Chancellery, 40 Edward Street, North Sydney, NSW 2060. The appeal notification will:

- set out the grounds of appeal; that is, describe the alleged procedural breach. The obligation to establish procedural error lies with the appellant.
- be lodged no later than 10 working days after the date on which the appellant received written notification of the outcome being appealed.

**4.2** Following lodgement of the appeal, the Secretary of the Appeals Committee will provide the Appeals Committee with copies of the relevant documentation including:

- the staff member's written appeal together with any supporting material relevant to the matter under review;
- the procedures followed by the relevant committee in considering the matter under review including the relevant policy;
- documentation originally submitted by the staff member to the relevant committee in relation to the matter under review;
- the record of proceedings of the committee related to the matter under review;
- the written advice informing the applicant of the outcome of the proceedings of the committee related to the matter under review;
- a copy of this policy; and
- the University Equal Opportunity Policy.

**4.3** In the case of an appeal in relation to an unsuccessful application for review of classification of a Professional Staff position, the documentation will also include:

- the original application for of review of classification; and
- the Position Classification for Professional Staff Policy.

**4.4** The Appeals Committee will normally meet within 15 working days of receipt of the written appeal.

**4.5** The Appeals Committee may, at its discretion, interview any or all of the following concerning the procedures followed:

- the appellant who may be accompanied by a support person of the appellant's choosing, provided that person is not a practising barrister or solicitor (the role of support person is outlined in the Staff Assistance, Support and Representation Policy);
- the Chair of the committee whose decision is under review; or
- any other person or persons whom the Appeals Committee may consider relevant to the matter under review.

## 4.6 Confidentiality

- 4.6.1 All proceedings of the Appeals Committee will be held in confidence. Only members of the Committee, any person/s providing executive support to the Committee or any observer (refer to section 3.3.3) will be present during its deliberations. Members of the Appeal Committee will be required to sign a confidentiality agreement in relation to participation in the proceedings (see Appendix 1).
- 4.6.2 All documents pertaining to the appeal will be returned to the Secretary following the appeal and no copies of the documentation will be made by a member of the Appeals Committee to ensure privacy legislation requirements are met. The University will seek written authority of a referee or assessor prior to submitting a copy of a referee or assessor report to the Appeals Committee where this is requested.

## 4.7 Terms of Reference

The Appeals Committee:

- 4.7.1 will determine whether or not a prima facie case has been established by the appellant.
- 4.7.2 will determine whether the original Committee that made the decision under review made a procedural error or omission which materially and adversely affected a decision concerning the staff member's application.
- 4.7.3 is not empowered to decide the merits of any application. The decision made by the original Committee on the merits of applications will be final, and will not be subject to review by the Appeals Committee.
- 4.7.4 has authority to seek additional information relevant to its terms of reference, but may not consider new material which supplements the original application.

## 4.8 Findings of the Appeals Committee

- 4.8.1 The determination of an appeal will normally be concluded within 20 working days following lodgement of the appeal.
- 4.8.2 The Appeals Committee may:

- reject the appeal;
  - determine that there has been a significant breach of fair and proper procedures which materially and adversely affected the decision on the appellant's application; or
  - in the case of Professional Staff review of classification, determine that the decision failed to take account of a material aspect or aspects of the application.
- 4.8.3** If the appeal is upheld, the Appeals Committee will recommend that the application be referred for reconsideration by the relevant committee. In the event of such a recommendation, the Appeals Committee will provide specific information for the relevant Committee concerning improved process to ensure the proper application of the applicable policy and procedures.
- 4.8.4** The Appeals Committee will submit a written report of its findings to the Chief Operating Officer and Deputy Vice Chancellor.
- 4.8.5** No further rights of appeal will exist within the University for a staff member in respect of a matter considered by an Appeals Committee.

## 5 Revisions made to this Policy

Date	Major, Minor or Editorial	Description
31 October 2016	Major	Consistency with Protected Disclosures Policy and Procedures, and academic probation provisions in the ACU Staff Enterprise Agreement 2013-2017. The latter provides for a review process thus making the appeal process under this policy superfluous.
4 April 2019	Editorial	Updated to include reference to Australian Catholic University Staff Enterprise Agreement 2017 – 2021 and Service Central.

The University may make changes to this policy from time to time to improve the effectiveness of its operation. In this regard, any staff member who wishes to make any comments about this policy may forward their suggestions to Human Resources.

## 6 Further Assistance

Any staff member who requires assistance in understanding this policy should first consult their nominated supervisor who is responsible for the implementation and operation of these arrangements in their work area. Should further information or advice be required staff should visit [Service Central](#).

## Appendix 1

### CONFIDENTIALITY AGREEMENT

The Staff Appeal Policy sets out the Australian Catholic University's requirements in relation to confidentiality. As a member of the Appeals Committee or participant in the Appeal Committee process you are required to sign this Confidentiality Agreement.

Please read this document carefully and ask any questions prior to signing it. You will be provided with a copy of this document.

1. The ACU Staff Appeal Policy notes that all proceedings will be held in confidence. This meeting of the Appeals Committee is being conducted in accordance with the policy.
2. **Confidentiality must be observed by all parties involved.** Unless required to do so as part of legal proceedings, matters under review by the Appeals Committee must not be discussed by you with persons not involved in the process.
3. A breach of confidentiality would be viewed as seriously by the University and may result in disciplinary action.
4. If you have any concerns about the process, either in fact or detail, you may discuss your concerns confidentially with the Director, Human Resources.

#### **Confidentiality Agreement**

*I have read and understood the above. I agree to observe the protocols outlined and maintain confidentiality.*

Name (please print)

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Contact Tel.

Position

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Date

Signed

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Witnessed by

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Date

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