

## **ORDINANCE NO 8**

### **STUDENT COMPLAINTS**

The Council of the University of Tasmania makes this ordinance under the University of Tasmania Act 1992.

As outlined in the *Code of Conduct for Teaching and Learning*, the University will provide an environment in which concerns and complaints will be treated seriously, attended to and resolved as quickly as possible. A student may lodge a complaint without fear of disadvantage. While students are encouraged to attempt to resolve complaints informally, the procedures outlined in this ordinance apply to the formal dealing with complaints. At any stage in the process after the ordinance has been invoked, the matter can revert to informal reconciliation if the matter can be resolved by agreement between the student and the other party or parties concerned to the satisfaction of all parties. The Deputy Vice-Chancellor (Academic) & Provost is formally responsible for the oversight of the process set out in this ordinance.

#### **PART 1 - INTRODUCTION**

##### **Commencement and revocation**

- 1.1 This ordinance takes effect on 1 January 2009.
- 1.2 This ordinance replaces Ordinance 8 (Student Complaints) made by Council on 20 May 2005.

##### **Definitions**

**“appeals committee”** means a committee constituted under clause **4.1.1**.

**“appropriate person”** means:

1. the head of the relevant school to which the complaint relates or, if the complaint is about that head of school, the dean of the faculty. If the dean is also the head of school about whom the complaint is made, “appropriate person” means the dean of another faculty nominated by the Deputy Vice-Chancellor (Academic) & Provost;
2. in the case of a research higher degree candidate, the Dean of Graduate Research or, if the complaint is about the dean of Graduate Research, the Pro Vice-Chancellor (Research) or nominee;
3. in the case of an administrative complaint, the head of the relevant section or, if the complaint is about that head of section, the head of division.
4. in relation to the Australian Maritime College, the Director of the relevant centre or, if the complaint is about that Director, the Principal; or

5. any agent or employee of the University duly authorised in writing by the Deputy Vice-Chancellor (Academic) & Provost;  
as the case may be.

**“Board of Graduate Research”** means the Board constituted by Ordinance 70 (Graduate Research)

**“complaint”** means, subject to clause 1.3.7, a complaint about any academic or administrative matter or a student support service provided by the University. It does not include a complaint about student discipline or a complaint about harassment or discrimination.

**“Decision maker”** means a person or body making a decision under this ordinance.

**“Director, Governance & Legal”** includes a person authorised by the Director, Governance & Legal for the relevant purpose.

**“Graduate Research Complaints Committee”** means a committee constituted under clause 3.1.1.

**“lawyer”** means a person whose name is currently on the roll of practitioners of the Supreme Court of Tasmania or of any other State or Territory of Australia.

**“Legal Officer”** means a lawyer employed in the University’s Legal Office.

**“research higher degree candidate”** means a student currently enrolled for a doctorate or for a master’s degree research.

**“section”** means a unit of an Administration Division approved by Council including but not limited to Academic Administration, the Library, Information Technology Services, International Services, Asset Management Services.

**“senior member of the administrative staff”** means a member of general staff appointed at or above HEO Level 10.

**“student”** means, subject to clause 1.3, a person currently enrolled in any course, unit or other program of study at the University of Tasmania.

**“Student complaints tribunal”** means a committee constituted under clause 3.1.1.

**“teaching and learning committee”** means a teaching and learning committee established under Ordinance 99.

### 1.3 Students and Complaints

1.3.1 A student (other than a research higher degree candidate) ceases to be a student for the purposes of this ordinance when they:

- graduate or withdraw from studies; or
- are excluded;

but if the exclusion is subject to review under this ordinance the student does not cease to be a student for the purposes of this ordinance until -

- (a) the time for review has expired; or
  - (b) the exclusion is confirmed on review -
- whichever happens first.

1.3.2 A research higher degree candidate ceases to be a student for the purposes of this ordinance when:

- they graduate or withdraw from studies; or
- their candidature is terminated;

but if the termination is subject to review under this ordinance the research higher degree candidate does not cease to be a student for the purposes of this ordinance until:

- (a) the time for review has expired; or
  - (b) the termination is confirmed on review -
- whichever happens first.

1.3.3 A person will not be prevented from having a complaint dealt with under this ordinance merely because they are no longer enrolled as a student, provided that they were enrolled at the time they made the complaint.

1.3.4 A student may, where special circumstances prevent them from making a complaint personally, be permitted to have a suitable person acting with their written authority and who is not a lawyer, make a complaint on their behalf. Permission to make a complaint in this manner must be sought from the Director, Governance & Legal.

1.3.5 A group of students having a common cause of complaint may collectively make a single complaint, in which case this ordinance will be interpreted accordingly, provided that:

- (a) having regard to the nature of the complaint and the circumstances of each student, a single decision in relation to the complaint would, in all the circumstances, be likely and appropriate;
- (b) the Director, Governance & Legal may at any stage require one or more of the students to continue by way of an individual complaint if not satisfied of the matters in clause 1.3.5(a);
- (c) the complaint designates a single point of contact to be regarded as ‘the student’ for the purposes of satisfying the administrative requirements in this ordinance; and
- (d) each student signs the complaint.

- 1.3.6 A student may only have a complaint dealt with under this ordinance if they are personally affected by the subject-matter of the complaint.
- 1.3.7 Academic Senate Rules 2 and 3 provide processes for the resolution of certain complaints as detailed below. Where any of these processes are applicable to a student's complaint, the student may only have the complaint dealt with under this ordinance once those processes have been exhausted, and subject to any limitations placed on the right of review or appeal under this ordinance by the rules providing those processes:
- (a) a review of assessment under Rule 2 (Academic Assessment);
  - (b) a complaint about being placed on probation or being excluded from further enrolment in a course (as the result of an academic progress review) under Rule 2 (Academic Assessment);
  - (c) a review of a decision under Rule 3 (Admission and Student Progress) including a decision:
    - (i) refusing enrolment in a unit or course;
    - (ii) refusing credit on academic grounds; and
    - (iii) concerning the academic requirements to complete an award.

#### **1.4 Time limits**

A time limit set out in this ordinance must be complied with if reasonably practicable. In exceptional circumstances where it is not possible for an action to be completed within the time limit, steps must be taken to ensure that the process is completed within a reasonable time. Under such circumstances the student will be kept informed of progress. However, despite anything else in this ordinance, no action is invalidated simply because a time limit is exceeded.

A reference to days means working days, ie days on which the University is ordinarily open for business, unless otherwise stated.

#### **1.5 Guidelines for considering evidence**

- 1.5.1 A decision maker may consider evidence presented on behalf of one party in the absence of any other party.
- 1.5.2 A decision maker considering evidence under clause **1.5.1** must make sure that each party who will be affected by the decision –
- (a) is informed of the substance of all evidence that the person or body intends to rely on in making the decision; and
  - (b) is given the opportunity to respond to it.
- 1.5.3 Academic Senate may from time to time issue guidelines for the consideration of evidence, including the conduct of hearings, under this ordinance.

**1.6 Consultation with Student Advocate**

Before making a complaint under this ordinance, or at any stage in the process of having a complaint dealt with under this ordinance, a student may consult a Student Advocate for advice and assistance in accordance with Part 6.

**1.7 Resolution by mutual agreement**

At any stage in the process after this ordinance has been invoked, a complaint may be resolved by agreement between the student and any other party involved, by written notice, signed by the parties, and sent to the Director, Governance & Legal.

**PART 2 - INITIAL COMPLAINTS PROCEDURE**

**2.1 Initial Complaint**

2.1.1 A student who wishes to have a complaint dealt with under this ordinance must report the complaint to the appropriate person.

The student must report the complaint in writing, clearly specifying the details of the complaint and requesting that it be dealt with under this ordinance.

2.1.2 The appropriate person must, without delay and in any case within 10 days after the complaint is reported to them -

- (a) discuss the matter with the student and any member of staff immediately concerned; and
- (b) investigate the matter; and
- (c) make a decision on the complaint.

2.1.3 The appropriate person may consult with anyone they think appropriate, including but not limited to the Legal Officer, before making a decision on the complaint under clause 2.1.2.

2.1.4 The appropriate person must give a copy of their decision to the student, without delay and in any case within 5 days after making the decision. The appropriate person must at the same time advise the student that they are entitled to have the decision reviewed by a student complaints tribunal or, in the case of a research higher degree candidate, by a Graduate Research Complaints Committee.

2.1.5 The appropriate person must give a copy of their decision in writing to the dean of the faculty concerned or Principal of the Australian Maritime College as appropriate, and the Director, Governance & Legal at the same time that it is given to the student.

## **2.2 Review**

- 2.2.1 The student may ask that a review committee, as described in clause 3.1, review the decision, by written request given to the Director, Governance & Legal within 20 days after receiving the copy of the appropriate person's decision.
- 2.2.2 The student's request for review must set out clearly
  - (a) what the complaint is; and
  - (b) the grounds on which review is sought.
- 2.2.3 The student must provide any supporting documentation with the request.

## **2.3 Mediation**

- 2.3.1 If, after receiving a student's request for review, the Director, Governance & Legal considers it appropriate in all the circumstances, the Director, Governance & Legal may offer the parties the opportunity to participate in a formal mediation as an alternative means of resolving the complaint.
- 2.3.2 Participation in any mediation offered under clause 2.3.1 is voluntary for all parties and a decision by a party not to participate will not operate to disadvantage that party in any way.
- 2.3.3 If the parties elect to mediate the complaint following an offer under clause 2.3.1:
  - (a) the Director, Governance & Legal will arrange the mediation and notify the parties accordingly; and
  - (b) the procedure and time-frames in Part 3 will be suspended pending the outcome of the mediation.
- 2.3.4 Where mediation has been offered under clause 2.3.1, Part 3 will only apply to the complaint if:
  - (a) one or more parties elect not to mediate the complaint; or
  - (b) at the conclusion of the mediation the parties have not resolved the complaint by mutual agreement.

## **PART 3 - REVIEW COMMITTEE PROCEDURE**

### **3.1 Review committees**

- 3.1.1 Subject to clause 2.3, when the Director, Governance & Legal receives a student’s request for review these procedures will apply for the selection of review committees.
- (a) student complaints tribunal:  
The Chair or Deputy Chair of the Academic Senate will appoint a student complaints tribunal consisting of 3 members of the student complaints panel, including a student and, in the case of a review of an administrative decision, one senior member of the administrative staff.  
The Chair or Deputy Chair of Academic Senate must not be a member of the tribunal.  
The Chair or Deputy Chair of Academic Senate will appoint a chair of the tribunal.
- (b) Graduate Research Complaints Committee:  
The Chair or Deputy Chair of the Academic Senate will appoint a Graduate Research Complaints Committee consisting of 3 members of the Board of Graduate Research Complaints Panel, including a research higher degree candidate.  
The Chair or Deputy Chair of Academic Senate must not be a member.  
The Chair or Deputy Chair of Academic Senate will appoint a chair of the committee.
- 3.1.2 The Director, Governance & Legal must make sure that no member of the review committee, outlined in **3.1.1**, has been previously involved in the matter.
- 3.1.3 The Director, Governance & Legal will arrange for a secretary to be appointed for the committee and for the secretary to notify the student of that appointment. The secretary will be a member of faculty or section administrative staff who, in the reasonable opinion of the Director, Governance & Legal, has not previously been involved in the matter.
- 3.1.4 The secretary must make sure that a meeting of the review committee is convened within 10 days after the Director, Governance & Legal receives the request. In exceptional circumstances in which it is not practicable for the committee to meet within that time, the secretary must make sure that the committee meets at the earliest practicable time.
- 3.1.5 The secretary must make sure that the student is given at least 5 days’ notice of the committee meeting and informed of the requirements of clause **3.1.7**.
- 3.1.6 The secretary must give the appropriate person, and any staff member who is the subject of the complaint, the opportunity to provide written comments on the complaint and any supporting documentation.
- 3.1.7 The student must give to the secretary, at least 3 days before the review committee meeting, any other documents the student wants the committee to

consider in support of the complaint. Those documents must be provided to all parties without delay.

### **3.2 Review committee procedure**

- 3.2.1 The review committee may follow any procedure it thinks appropriate. It is not bound by the rules of evidence or other technicalities or legal forms, and it may inform itself in relation to any matter in any manner that it thinks fit. However, the committee must -
- (a) act fairly; and
  - (b) give each party the opportunity to state their case and to correct or contradict any relevant statement that they believe to be prejudicial to their case; and
  - (c) make sure that all documents that are to be relied on by a party at the meeting have been made available to the other parties.
- 3.2.2 Each party may be accompanied to the meeting by a person who is not a lawyer. That person may assist the party before the committee.
- 3.2.3 The committee may make any decision that it considers appropriate in relation to the complaint, including substituting its decision for any decision of the appropriate person, and must make that decision within 5 days after the meeting.
- 3.2.4 The decision of the committee must be in writing and signed by the members of the committee.
- 3.2.5 The chair must make sure that written notice of the decision is given to the student, the dean or Principal of the Australian Maritime College as appropriate, the appropriate person, any staff member who is the subject of the complaint, and the Director, Governance & Legal, within 3 days after the decision is made.

### **3.3 Appeals**

- 3.3.1 Notice to the student under clause **3.2.5** must include advice that there are limited rights of appeal to a complaints appeals committee.
- 3.3.2 Part 4 applies to an appeal.

## **PART 4 - APPEALS**

### **4.1 Complaints appeals committee**

- 4.1.1 An appeals committee to consider a complaint is to consist of the Chair of the Academic Senate or nominee as chair, and 3 members of the complaints appeals panel, including a student, appointed by the Chair of Academic Senate or nominee.

4.1.2 The chair must make sure that no member of the appeals committee has been previously involved in the matter.

4.1.3 The Director, Governance & Legal will appoint a secretary to the committee.

## **4.2 Grounds of appeal**

4.2.1 The only grounds on which a student may appeal against a decision under this ordinance are:

- (a) personal bias or ill will on the part of the person or body making the decision;
- (b) failure to comply with the principles of natural justice, but a ground which alleges that the decision maker considered evidence in breach of the principles of natural justice will not be sufficient for the purposes of clause **4.3.3** if the decision maker considered that evidence in accordance with this ordinance and any relevant guidelines under clause **1.5.3**;
- (c) evidence that the student did not have at the time of the decision, and could not by reasonable diligence have obtained at that time, and that would probably have affected the decision.

## **4.3 Notice of appeal**

4.3.1 A student who wants to appeal against a decision made by a review committee under this ordinance must lodge with the Director, Governance & Legal a written notice setting out:

- (a) on which of the grounds specified in clause **4.2.1** they intend to rely; and
- (b) the basis on which they believe that the ground of appeal is made out.

4.3.2 The notice must be lodged within 20 days after receipt by the student of the notice of the relevant decision, or any longer time allowed in a particular case by the Director, Governance & Legal.

4.3.3 Within 5 days after receipt of the notice, the committee must meet and deliberate to determine whether there are sufficient grounds for appeal.

The committee may refuse to hear the appeal if it is satisfied –

- a) that the notice of appeal does not disclose any of the grounds set out in clause **4.2**; or
- b) that the appeal is trivial, frivolous, vexatious or not made in good faith; or
- c) in all the circumstances, an investigation into the appeal is unnecessary or unjustifiable.

The Director, Governance & Legal will notify the student in writing of the committee's decision whether or not to hear the appeal.

- 4.3.4 If the committee decides to hear the appeal, the secretary must make sure that the committee is convened within 15 days after the notice of appeal is lodged. The secretary must give the student at least 5 days' written notice of the meeting.

#### **4.4 Hearing of appeal**

- 4.4.1 The committee may follow any procedure it thinks appropriate. It is not bound by the rules of evidence or other technicalities or legal forms, and it may inform itself in relation to any matter in any manner that it thinks fit. However, the committee must -
- (a) act fairly; and
  - (b) give each party the opportunity to state their case and to correct or contradict any relevant statement that they believe to be prejudicial to their case; and
  - (c) make sure that all documents that are to be relied on by a party at the meeting have been made available to the other parties.
- 4.4.2 Each party may be accompanied to the meeting by a person who is not a lawyer. That person may assist the party before the committee.
- 4.4.3 After considering the material relied on in support of the appeal or in opposition to it, the committee must either dismiss the appeal or uphold it, and confirm, set aside or vary any decision made, or substitute its own decision for it. The committee must make its decision within a reasonable time.
- 4.4.4 The committee must report its decision to the Deputy Vice-Chancellor (Academic) & Provost within 5 days after it is made, and must notify the Director, Governance & Legal and the student within that time. The decision of the committee must be in writing and signed by the members of the committee.
- 4.4.5 The decision of the committee is final\*.

### **PART 5 - PANELS AND COMMITTEES**

#### **5.1 Student Complaints Panel**

- 5.1.1 At its first meeting in each calendar year, the Academic Senate must appoint a student complaints panel consisting of at least 15 members of the academic staff, 3 senior members of the administrative staff, and at least 3 students.
- 5.1.2 The members of a student complaints panel hold office until the first meeting of the Academic Senate in the next calendar year after their appointment. They may be reappointed.

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\* Although this decision is final in terms of the University's internal procedures, a student may ask the Ombudsman (or, in appropriate circumstances, the Anti-Discrimination Commission) to review the decision.

## **5.2 Board of Graduate Research Complaints Panel**

- 5.2.1 The Board of Graduate Research Complaints Panel is to consist of:
- (a) at least 2 research higher degree candidates appointed by the Board of Graduate Research in accordance with clause **5.2.2**; and
  - (b) 16 experienced and registered research higher degree supervisors appointed by the Academic Senate on the recommendation of the Board of Graduate Research in accordance with clause **5.2.3**.
- 5.2.2 At its first meeting in each calendar year the Board of Graduate Research must appoint at least 2 research higher degree candidates to serve on the Board of Graduate Research Complaints Panel. Research higher degree candidates appointed under this clause hold office until the first meeting of the Board of Graduate Research in the next calendar year after their appointment. They may be reappointed.
- 5.2.3 At its first meeting in each calendar year, the Academic Senate must appoint (on the recommendation of the Board of Graduate Research) 8 experienced and registered research higher degree supervisors to serve on the Board of Graduate Research Complaints Panel. Research higher degree supervisors appointed under this clause hold office until the first meeting of the Academic Senate in the second calendar year after their appointment. They may be reappointed.

## **5.3 Senate complaints appeals panel**

- 5.3.1 At its first meeting in each calendar year, the Academic Senate must appoint a complaints appeals panel consisting of at least 9 members of the Academic Senate, at least 3 of whom are student members.

## **5.4 Tenure of membership of panels**

- 5.4.1 The members of the panels, outlined in clauses **5.1** and **5.3**, hold office until the first meeting of the Academic Senate in the next calendar year after their appointment. They may be reappointed.
- 5.4.2 A person ceases to be a member of a panel outlined in clauses **5.1**, **5.2** or **5.3** if they resign from the panel.
- 5.4.3 The Academic Senate may fill a vacancy in the membership of a panel by appointing a person for the remainder of the term of office of the former member. If the former member was a student, the replacement member must be a student.

## **PART 6 – STUDENT ADVOCATES**

### **6.1 Availability of Student Advocates**

Student Advocates are available to be consulted by a student with a complaint, and to provide advice and assistance to the student as detailed in this Part.

### **6.2 Role of Student Advocates**

A Student Advocate may assist a student with a complaint, including by:

- (a) providing advice and assistance in defining the grievance;
- (b) explaining the options for resolving the grievance, including referral to appropriate parties;
- (c) assisting students with a formal complaint under this ordinance;
- (d) facilitating informal resolution where appropriate; and
- (e) attending any formal complaint hearings or mediation to support the student.

## **PART 7 – REFUSAL TO INVESTIGATE CERTAIN COMPLAINTS**

### **7.1 The Deputy Vice-Chancellor (Academic) & Provost may refuse to investigate certain complaints**

7.1.1 This Part applies despite any other provision of this ordinance.

7.1.2 An appropriate person or chair of a review committee to whom a complaint is reported under clauses **2.1.1** or **3.1.1**, or the Director, Governance & Legal may, if in their opinion the matter may fall within this Part, refer the complaint to the Deputy Vice-Chancellor (Academic) & Provost for consideration under this Part. A referral under this clause by an appropriate person or chair of a review committee must be made through the Director, Governance & Legal.

7.1.3 The Deputy Vice-Chancellor (Academic) & Provost may refuse to entertain a complaint, or to refuse to continue to investigate a complaint, if the Deputy Vice-Chancellor (Academic) & Provost decides that –

- the matter raised in the complaint is trivial
- the complaint is frivolous, vexatious or not made in good faith
- in all the circumstances, the investigation or continuance of the investigation, of the matter raised in the complaint is unnecessary or unjustifiable.

7.1.4 The Deputy Vice-Chancellor (Academic) & Provost must without delay refer the complaint back to the referring appropriate person, chair or the Director, Governance & Legal, by notice to the Director, Governance & Legal, if the Deputy Vice-Chancellor (Academic) & Provost decides that the matter does not fall within clause **7.1.3**.

- 7.1.5 The appropriate person, chair or the Director, Governance & Legal must continue to deal with the complaint in accordance with this ordinance if the Deputy Vice-Chancellor (Academic) & Provost refers the complaint back to them.
- 7.1.6 The Deputy Vice-Chancellor (Academic) & Provost must without delay notify the student of a decision to refuse to entertain a complaint, or to refuse to continue to entertain a complaint, under this Part. Any decision by the Deputy Vice-Chancellor (Academic) & Provost not to entertain a complaint will apply to any other complaint from the same student arising out of the same circumstances or incidents. The Deputy Vice-Chancellor (Academic) & Provost must give a copy of any decision under this clause to the Director, Governance & Legal.
- 7.1.7 The decision of the Deputy Vice-Chancellor (Academic) & Provost under this Part is final.\*

## **PART 8 – MISCELLANEOUS**

### **8.1 Record keeping**

The Director, Governance & Legal must make sure that the proceedings of a review and appeals committee set out in Parts 3 and 4 of this ordinance are recorded (mechanically or otherwise).

### **8.2 Notice to students**

Notice to a student may be given by sending it by prepaid post to the most recent appropriate address for the student as recorded on the University Student Record System, and must, in the absence of evidence of earlier receipt, be taken to have been received by the student –

- (a) if that address is within Australia, on the third working day after it was sent, and
- (b) if that address is outside Australia, on the tenth working day after it was sent.

## **PART 9 - TRANSITIONAL PROVISIONS**

### **9.1 Existing complaint procedures**

- 9.1.1 Subject to clause **9.1.2**, a complaint that is, before this ordinance takes effect, being dealt with under a previous Student Complaints ordinance will, once this ordinance takes effect, be dealt with under this ordinance.
- 9.1.2 Clause **9.1.1** will not apply if, in the opinion of the Director, Governance & Legal, its application is unreasonable having regard to the circumstances and any detrimental effect on the person making the complaint. In such circumstances, the

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\* Although this decision is final in terms of the University's internal procedures, a student may ask the Ombudsman (or, in appropriate circumstances, the Anti-Discrimination Commission) to review the decision.

complaint must continue to be dealt with under the previous ordinance, as in force immediately before its revocation.

**Made by Council on 17 October 2008**

**Sealed with the seal of the University of Tasmania on**

**Vice-Chancellor**

**Director, Governance & Legal**