

# Appeal Against Notice of Intention to report a Student to the Department of Home Affairs Procedure

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## Contents

Purpose .....	1
Applicable governance instruments.....	1
Procedure.....	2
1. Notice of Intention to Report .....	2
2. Grounds for Appeal.....	2
3. Compassionate or Compelling Circumstances .....	2
4. Lodging Appeals.....	3
5. Assessment of Appeals .....	3
6. Appeal Decisions.....	4
7. External Review .....	4
Versions.....	5

## Purpose

This Procedure provides international students with a fair appeal process where the University intends to report the student to the Department of Home Affairs, for failure to meet visa conditions. These circumstances include, but are not limited to, failure to meet course attendance or progress requirements and non-payment of fees.

This Procedure applies to all international students on student visas at all University campuses. It describes the process followed when a student has received a Notice of Intention to Report from the University and the student chooses to appeal the decision.

## Applicable governance instruments

Instrument	Section	Principles
<a href="#">Education Services for Overseas Students (ESOS) Act 2000 (Cth)</a>	Part 3. Division 1. Section 20 (Sending students notice of visa breaches)	N/A
<a href="#">National Code of Practice for Providers of Education and Training to Overseas Students 2018 (Cth)</a>	Part B. Standard 10 (Complaints and Appeals)	N/A

## Procedure

### 1. Notice of Intention to Report

In accordance with Federal legislation and the University's processes, the University will write to a student to issue a formal Notice of Intention to Report if:

- a) there is unsatisfactory course attendance or progress, even though a University support strategy is in place; or
- b) outstanding fees have not been paid; or
- c) the student has had their enrolment suspended for a period of time due to misconduct. Misconduct includes both [academic misconduct](#) (academic dishonesty or plagiarism) and [behavioural misconduct](#) (behaviour that goes against the University's Behaviour Procedure).

The notice will clearly state:

- a) that the student has breached their visa conditions, under Standard 8 of the National Code;
- b) that the student has 20 working days, from the date they were sent the notice in which to appeal the decision;
- c) how to appeal the notice;
- d) the start and end date of the appeal period;
- e) that if the student does not wish to take part in the internal appeals process, their Confirmation of Enrolment will be cancelled and this may lead to cancellation of their student visa;
- f) if the Confirmation of Enrolment is cancelled they should seek advice from the Department of Home Affairs in relation to their visa status; and
- g) that a copy of the notice will be kept on the student's University file.

Students who receive a Notice of Intention to Report for outstanding tuition fees can contact the Fees team through [U.Connect@utas.edu.au](mailto:U.Connect@utas.edu.au) to arrangement payment. Once payment has been confirmed, the University will not report the student to the Department of Home Affairs.

### 2. Grounds for Appeal

Students may appeal a Notice of Intention to Report on the following grounds:

- a) compassionate or compelling circumstances that have impacted upon them or their ability to meet visa conditions, or to pay their tuition fees on time; or
- b) procedural or administrative error.

To appeal a Notice of Intention to Report students will need to:

- a) explain to the University what the compassionate or compelling circumstance is that has impacted upon their studies and/or ability to pay their tuition fees (supported by evidence); or
- b) explain the procedural or administrative error has allegedly occurred.

Students should also provide evidence of the difficulties faced and whether their situation has now improved. This evidence may be provided by a health professional or other relevant authority.

### 3. Compassionate or Compelling Circumstances

A compassionate or compelling circumstance is one that is beyond the student's control and has an impact upon their wellbeing or progress in a program of study.

Students will need documentation (such as from a health professional, government body or agency) that demonstrates how these circumstances have impacted upon their ability to attend classes and/or pay their tuition fees.

Examples of compassionate/compelling circumstances include, but are not limited to:

- a) serious illness or injury of the student;
- b) death or serious illness of a close family member such as a parent or grandparent;
- c) major political upheaval or natural disaster in the home country of the student requiring emergency travel by the student that is, or is likely to have, an impact on the student's ability to continue or commence their studies;
- d) a traumatic experience where a student has been a victim of, or a witness to, a serious accident or crime, and this experience has adversely impacted on the student;
- e) misadventure, for example: an unusual/one-off event such as a major traffic incident that prevented the student from being able to travel to and attend class;
- f) severe and unexpected financial hardship that has impacted on the student's ability to pay their tuition fees.

Circumstances that are within the control of the student and/or will not impact upon the student's capacity to progress with their planned course of study will not be considered as compassionate or compelling.

These include, but are not limited to:

- a) failure of a student to understand or seek clarification of University requirements as specified in its policies, processes and rules, for example, if a student misreads the exam timetable;
- b) any delay by the student in checking correspondence sent by the University;
- c) conflicts of priorities which are to be expected in the normal course of the student's study, work, family or social life, for example, working while studying and any timetabling challenges that arises because of this work;
- d) events that could have been prevented, for example, failing to attend class because an alarm was not set.

#### 4. Lodging Appeals

If the student wishes to appeal the notice, they must submit a formal request in writing to [NOIR.Appeals@utas.edu.au](mailto:NOIR.Appeals@utas.edu.au). The appeal request should:

- a) outline the reasons that, in the student's view, the University should not report them;
- b) include all relevant supporting documentation that the student would like considered; and
- c) outline the changes in behaviour or approach the student will make if their appeal is upheld.

In the case of reporting due to unsatisfactory academic progress, the student should include reasons for any non-submission of assignments and/or specific reasons for absences.

Students are very strongly encouraged to contact their [International Student Adviser](#) or a Tasmanian University Student Association (TUSA) [Student Advocate](#) for help with their appeal.

#### 5. Assessment of Appeals

The University will consider the student's appeal and may ask for additional evidence (e.g., medical certificates) as required.

The University may consult other members of staff and/or take into account additional information, such as class attendance records, academic progress and engagement or fee payment history, when deciding the outcome of the appeal.

Students will not be reported to the Department of Home Affairs while their appeal is being assessed.

## 6. Appeal Decisions

### 6.1. If the appeal is successful

If the appeal is successful, the student will be notified in writing within 10 working days.

The appeal decision notice will include advice to the student that:

- a) they will not be reported to the Department of Home Affairs;
- b) their enrolment will be re-instated as soon as is possible ;
- c) a learning support plan will be created with an International Student Adviser, if applicable, as part of an intervention strategy; and
- d) a payment plan will be created if the appeal is tuition fee related.

### 6.2. If the appeal is not successful

If the appeal is unsuccessful, the student will be notified in writing within 10 working days.

The appeal decision notice will include:

- a) the date that the students' Confirmation of Enrolment will be cancelled;
- b) that this will result in the cancellation of the student's Confirmation of Enrolment;
- c) that the Department of Home Affairs may cancel the student's visa and that they may be excluded from entering the country for some time;
- d) a reminder that it is important for them to discuss their visa situation directly with the Department of Home Affairs, as this is beyond the University's control; and
- e) advice that the student may access an external review process.

## 7. External Review

Following an unsuccessful appeal, students will be advised that they may submit a request for review to the [Tasmanian State Ombudsman](#).

Students must inform the University, through [NOIR.Appeals@utas.edu.au](mailto:NOIR.Appeals@utas.edu.au), if they have asked the Ombudsman for an external review.

The student may not enrol during an external review process.

Students will not be reported to the Department of Home Affairs for unsatisfactory attendance and/or course progress while their external review is being assessed.

Reports will be made immediately for non-payment of fees and/or misconduct, following the conclusion of the internal appeals process.

The University will comply with the outcomes of the external review process.

**Versions**

<u>Version</u>	<b>Action</b>	<b>Approved by</b>	<b>Business Owner/s</b>	<b>Approval Date</b>
Version 1	Approved	Provost	Manager, International Compliance	16 July 2021
Version 2	Approved	Deputy Vice-Chancellor (Academic)	Director, Academic Quality and Standards	5 September 2022

REPLACED