

## Appealing an Exclusion

### Important Information For Students

#### **If you appeared at your hearing and/or submitted evidence to the Faculty, you are entitled to appeal to the Exclusion Appeals Committee**

You must lodge your appeal to the Secretary, Exclusion Appeals Committee, within 14 days of the date of the exclusion decision from the Faculty Academic Progress Committee.

In accordance with Statute 6.2, Exclusion for unsatisfactory progress, your right of appeal is limited to one or both of the following grounds:

#### **1. New evidence**

That is, new evidence **which was not reasonably available to the student concerned at the time of the faculty hearing**. Documentation (medical certificates, statutory declarations), or advice about when the documentation will be available must be furnished at the time the appeal to the Exclusion Appeals Committee is lodged. It is your responsibility to prepare and provide this information to the Exclusion Appeals Committee.

The granting of an appeal is not automatic.

Your appeal will be referred to the Law Chair of the Exclusion Appeals Committee, who will determine whether there are sufficient grounds for your appeal. If the Chair determines there was not sufficient evidence to establish your appeal on the ground of new evidence, the appeal is dismissed and this decision is final. If your exclusion appeal is dismissed, the decision of the Faculty will stand and you are excluded from your course or all degrees from within your Faculty for the 2006 academic year.

Where sickness has contributed to the student's unsatisfactory progress, additional information which existed and was available at the time of the APC hearing and is provided subsequent to a hearing, will not constitute "new evidence".

Where the ground of "new evidence" is established, the matter will be referred back to the Faculty APC for a *re-hearing* by the reconstituted membership of the APC which made the exclusion order, with the addition of the EAC Law Chair as an ordinary member of the committee.

#### **2. Procedural irregularity**

Procedural irregularity means failure on the part of the faculty to comply with the requirements in Statute 6.2, the Exclusion for Unsatisfactory Progress regulations, or the Faculty Academic Progress Committee Functions and Procedures, e.g.

- That the committee may be inquorate;
- That criteria for unsatisfactory progress has been incorrectly applied;
- That the student was not properly informed of the date and place of hearing (note however that failure by the student to notify the University of a change of address is **not** grounds for an appeal);
- That reasonable opportunity was not provided to the student to make a written submission, or submit written evidence;
- The student was not permitted to be accompanied, or assisted at the hearing. However, a student will not be permitted to delay the hearing unreasonably because he/she wishes to be accompanied by a particular person;
- Reasonable apprehension of bias on the part of a member of the Faculty Academic Progress Committee. A student would need to submit evidence of alleged bias, for example that any member had a prior involvement or personal involvement with the student, or may have pre-judged the student due to some past experience. The student would also need to provide

evidence, where applicable, of their original written objection to the faculty to this person's membership of the APC. The Faculty must provide the names of the members of the APC to the student prior to the hearing.

- Where an unreasonable outcome may occur. Where "an unreasonable outcome" is alleged, it would be necessary to prove that the decision to exclude was so unreasonable that no reasonable academic progress committee could ever have come to that decision. This would require something overwhelming. Your unhappiness with the decision of the committee does not mean that it was unreasonable.

The granting of an appeal is not automatic.

Your appeal will be referred to the Law Chair of the Exclusion Appeals Committee, who will determine whether there are sufficient grounds for your appeal. If the Chair determines there was not sufficient evidence to establish your appeal on the ground of procedural irregularity, the appeal is dismissed and this decision is final. If your exclusion appeal is dismissed, the decision of the Faculty will stand and you are excluded from your course or all degrees from your Faculty for the 2006 academic year.

If your appeal is referred to a hearing, the EAC will determine whether or not a procedural irregularity is established. The hearing will confine its considerations to the matter of procedural irregularity, and will not concern itself with the faculty's decision in as far as it was based on the academic merits of the student's case. If a procedural irregularity is established, the matter is referred back to the relevant Faculty Academic Progress Committee for a *de novo* hearing, that is, it will be heard by an APC of the faculty containing no member of the APC which made the exclusion order concerned.

In all instances, all evidence including any documentation, certificates, statutory declarations, etc. which is to be considered by the Exclusion Appeals Committee, must be provided with the Notice of Appeal form. If such documents exist but are not reasonably available at that time, the student must advise the Secretary.

Students are strongly recommended to seek assistance in the preparation of their appeal against exclusion, from the Student Rights Officer at their campus, or any of the Monash University Support Services available.

### **If you did not respond in writing to the Notice of Referral and failed to appear at your hearing before the Faculty Academic Progress Committee**

If you did not provide evidence to the Faculty and fail to appear before the Faculty Academic Progress Committee, you have no right of appeal against your exclusion and you have no right to lodge an appeal to the Exclusion Appeals Committee.

The only circumstance in which you could be granted a re-hearing by the Faculty Academic Progress Committee would be if, after considering your written explanation, the dean determines that your reasons for not responding to this letter were exceptional (refer to Section 7.2 of Statute 6.2 – *Exclusion for unsatisfactory progress*). A written request under section 7.2 must be lodged with the dean by 5pm on Monday, 13 March 2006. Only *one* application can be made to the dean and the dean's decision is final.

For more information visit:

[www.adm.monash.edu.au/community-services/academicprogress](http://www.adm.monash.edu.au/community-services/academicprogress)

Enquiries may be directed to the Secretary, Exclusion Appeals Committee, phone +61 3 9905 5049.