

## Student Complaints and Appeals Procedure

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### 1. PURPOSE

This procedure sets out the processes for the timely and fair resolution of complaints and appeals raised by students and prospective students of JMC Academy.

### 2. SCOPE

This procedure applies to all JMC Academy's students (including potential students) and includes staff who are involved in managing or responding to a student complaint or appeal. This procedure should be read congruently with the Students Complaints and Appeals Policy.

Dissatisfaction with the following matters are dealt with **solely as Appeals** within the scope of this procedure:

- Decisions relating to assessment and progression,
- Decisions relating to academic misconduct,
- Decisions to report international students,
- Decisions relating to deferring, suspending and cancelling international students.

If a complaint or appeal has been dealt with formally under another procedure, it cannot also be dealt with under this procedure.

This Procedure does not apply to international students appealing against a decision by JMC Academy to report the student to the Australian Government via the Provider Registration and International Student Management System (PRISMS), which is covered in the International Students Appeal against Intention to Report Procedure.

### 3. DEFINITIONS

#### **Appeal**

An appeal is an application for a review and reversal of a decision or an outcome, previously made by JMC Academy, by virtue of an error or breach of procedural fairness in the initial decision.

**Appellant means** the student(s) submitting an appeal under the Student Complaints and Appeals Procedure

#### **Complaint**

A complaint can be defined as a student's expression of an unsatisfactory or unacceptable experience within the control or responsibility of JMC Academy. This includes operations, services, facilities, decisions or the conduct of JMC Academy staff and/or students.

**Complainant means** the student/s submitting a complaint under the Student Complaints and Appeals Procedure.

#### **JMC Representative**

This is the JMC Academy staff member responding to an Application to Lodge a Formal Complaint Form, normally the Campus Manager or in instances where there may be a conflict of interest, the Director of Finance and Operations.

### **Student**

This includes all enrolled students (commencing and continuing), as well as ‘potential students’. A JMC Academy student may be either a domestic or overseas student.

### **Potential student**

A potential student is a person who has not yet enrolled in a course of study at JMC Academy. They have however had contact with JMC as part of the application and enrolment process.

For definitions not listed here please refer to *JMC Academy Glossary*.

## **4. PROCEDURE**

Students are advised of JMC Academy’s Student Complaints and Appeals Policy and the related Procedure by the following means:

- Within the International Students Enrolment Form and Acceptance Agreement (International Students) and Student Handbook,
- On the JMC Academy website,
- On JMC Academy Student Learning Portal – PLATO,
- Within the information provided by student services,
- By publication, from time to time, of bulletins and notices.

### **4.1. STAGES OF COMPLAINTS RESOLUTION PROCESS**

#### **4.1.1. Stage 1: Informal Resolution**

JMC Academy students are strongly encouraged to attempt to resolve their concerns informally by making an initial approach to the relevant student or staff member to discuss the matter. This informal method allows all parties to explore the options and to make their own decisions about how to best resolve a complaint or an appeal.

The academic support officer is generally the first point of call for students who may want to make a complaint or lodge an appeal or simply wish to discuss their options on any matters of concern.

To ensure all issues are addressed by the appropriate person, with student consent, the Academic Support Officer may raise the issue with the relevant staff members and attempt a resolution.

Questions, complaints, or appeals dealt with in this way do not become part of the formal complaint or appeal process and will not be documented, recorded or reported on unless the academic support officer involved determines that the issue – question, complaint, or appeal – was relevant to the wider operation of JMC Academy as it identifies potential areas of risk or improvement, in which case the Campus Manager would be advised.

#### **4.1.2. Stage 2: Formal Resolution**

Students can initiate the formal complaint process when or if the student:

- was unable to informally resolve the matter, and/or
- felt the matter was too serious and needed to be treated with more formality, and/or
- was not satisfied with the outcome of the informal resolution process.

The formal complaint must be submitted by the student in writing using the Application to Lodge a Formal Complaint Form to the relevant Campus Manager within ten (10) business days after the latest

relevant action or notification of a decision regarding the matter. Applications received later than the prescribed time will only be considered at the discretion of JMC Academy.

A formal complaint should include a detailed breakdown of the reasons for the grievance and include any supporting materials or evidence that is relevant to the matter as well as the outcome sought by the student.

Students may seek the assistance of the Academic Support Officer in completing the Application to Lodge a Formal Complaint Form.

In the event that a complaint is against the Campus Manager, the Application to Lodge a Formal Complaint Form should be forwarded to the Director of Finance and Operations.

For the purposes of this procedure, the relevant person who is required to deal with the Application to Lodge a Formal Complaint Form will be referred to hereinafter as the 'JMC Representative'.

The JMC Representative will generally be a member of the Senior Management Committee or other person nominated by the Chief Executive Officer.

Once the JMC Representative receives the student's formal written request they will promptly acknowledge receipt. At this stage the JMC Representative may also make an assessment as to whether the complaint is vexatious, trivial or frivolous and may choose to dismiss the complaint and notify the student. This does not preclude the student from making an appeal to the Student Appeals Committee.

Should the complaint be lodged by an international student, the JMC Representative will inform the Department of International Services and consult with them throughout the resolution process.

It is the JMC Representative's responsibility to consider the complaint, and how it can best be resolved. This should include:

- Meeting with the student to discuss the matter in more detail and to provide the opportunity for the student to formally present their case. The student can choose to be accompanied by a friend, relative or colleague, but not a legal representative, at this stage,
- Talking to the other party/ies involved,
- Gathering other evidence as required,
- Referring to any past complaints similar in nature to see what the resolution was in those circumstances.

Once the JMC Representative is satisfied that they have collected enough information to assess the complaint, then they will take the necessary steps to decide, fairly, equitably and in the student's best interest.

The JMC Representative will provide the student no later than ten (10) business days after receiving their formal request a written statement of the outcome including details of the reasons for the decision. If it is not possible to achieve a resolution within this timeframe the complainant will be advised of this and will be kept informed of the progress of the complaint.

The JMC Representative will log the formal complaint and the outcome in the complaints register and report it at the next scheduled Senior Management Committee meeting.

Should the student remain dissatisfied with the decision of the formal resolution process they can appeal the outcome by submitting an Application to Lodge an Appeal Form.

#### 4.1.3. Stage 3: Internal Appeal

JMC Academy manages appeals in three distinct cases.

- 4.1.3.1. Appeals due to dissatisfaction with a decision of JMC Academy arising from the **formal complaint resolution process** (including dissatisfaction how sexual harassment or sexual assault, bullying, discrimination and harassment complaints were handled)
- 4.1.3.2. Appeals due to dissatisfaction with a decision of JMC Academy in relation to **academic matters** including:
  - Assessment for an individual item or of a unit or a review of that assessment,
  - Penalty for academic misconduct,
  - Outcome of an application for recognition of prior learning,
  - Decision of JMC Academy to suspend or cancel the enrolment of a domestic student due to unsatisfactory academic progression.
- 4.1.3.3. Appeals due to dissatisfaction of an **international student** with a decision of JMC Academy in relation to
  - deferrals, suspensions and cancellations of enrolment,
  - transfers to other Institutions,
  - notices of intention to report the international student's enrolment due to unsatisfactory academic progression.

#### 4.1.4. Composition of Student Appeals Committees

The process and principles of hearing an appeal is the same for each case. The Chair and composition of the Student Appeals Committee convened to hear the appeal will vary depending on the nature of the appeal and will take into account of any conflicts of interest.

The composition of the Student Appeals Committee for appeals following a decision of JMC Academy arising from:

- The **complaint resolution process** is
  - The Chair of the Governing Council, or their delegate (Chair), and
  - CEO, and
  - a member of the Senior Management Committee.
- **Academic matters** is
  - The Director of Education or the Chair of the Learning and Teaching Committee as the delegated Chair, and
  - two academic members of the Learning and Teaching Committee, and/or
  - other members as determined by the Chair.
- **Deferrals, suspensions and cancellations of enrolment and transfers to other institutions of international students** is
  - the relevant Campus Manager as the delegated Chair, and
  - the Director of International Services (or nominee), and
  - one academic staff member, and/or
  - other members as determined by the Chair.

*Staff who have previously been directly involved in the matters leading to the Appeal will not be appointed as members and/or the Chair of the relevant Student Appeals Committee.*

#### 4.1.5. Lodging an Appeal

A formal appeal can be made for one or more of the following reasons:

- The student believes that the decision contravenes a relevant published rule or policy,
- The student can provide new evidence that potentially could change the outcome,
- The student believes the procedure was unfair. In this case, they must refer to the Statement of JMC Academy Principles of Procedural Fairness.

A student must submit the appeal in writing, using the Application to Lodge an Appeal Form addressed to the Campus Manager within ten (10) business days of the notification of the outcome of the a formal resolution process or decision of JMC Academy and must include justification for the appeal. This means the student will need to:

- Explain what rule or policy was not adhered to with specific references,
- Explain why the decision, condition or penalty imposed was inappropriate,
- Describe and/or provide the new evidence and/or,
- Write about how they think the procedure was unfair, referencing the Statement of JMC Academy Principles of Procedural Fairness,
- Detail the outcome sought.

#### Appeals of decisions in relation to decisions on assessment grades

In addition, the grounds for appeals of in relation to decisions on assessment grades, can also include:

- an error has occurred in the calculation of the grade, or/and
- the assessment did not comply with criteria published in the course guide or other course/unit assessment information, or/and
- the assessment process did not comply with the JMC Academy's policies on assessment.

#### Appeals of decisions in relation to unsatisfactory academic progress of international students

Under the ESOS Act 2000 and its associated National Code, JMC Academy must report international students for failing to make satisfactory academic progress. In this regard JMC Academy must issue students with a formal notification of intent to report. Students may then within 20 business days lodge a formal appeal against JMC Academy's decision.

The grounds for the appeal are not restricted but should demonstrate why the student should not be reported. For example, if the student produces documentary evidence demonstrating that compassionate or compelling circumstances apply.

For [appeals of decisions in relation to unsatisfactory academic progress of international students](#) please refer to the *International Students Appeal against Intention to Report Procedure*.

Students may seek the assistance of the Academic Support Officer in completing the Application to Lodge an Appeal Form.

On receiving the application, the Campus Manager will immediately advise the JMC Academy CEO and forward all application documentation received from the student.

On receipt of the application the JMC Academy CEO will request the chair of the Governing Council to convene or authorise the convening of a Student Appeals Committee.

All details of the application will be provided to the chair of the Student Appeals Committee.

Upon consideration of the appeal application the Chair of Student Appeals Committee will confirm whether the submission satisfies the grounds for review. If the appeal submission is rejected, the Chair of the Student Appeals Committee will advise the student in writing of this outcome with supporting reasons and information regarding their right to seek external review.

Where the appeal submission is not rejected, the Chair of the Student Appeals Committee will write to the student, no later than ten (10) business days of receiving the request for an appeal, that the appeal will be heard by the Student Appeals Committee.

The student will be given at least ten (10) business days notice of the date of the Appeal Hearing. Any other people involved or invited by the Student Appeals Committee to participate in the matter will be given the same written notice and the opportunity to be heard. If the complaint involves any member of the Governing Council, then they will not be involved in the Hearing or any other activity that is part of the Appeal process.

At the Appeal Hearing the student will be given an opportunity to discuss their case with the members of the Student Appeals Committee and can expect to be treated with courtesy and without fear of victimisation or prejudicial treatment. The student can bring a support person to that meeting if they so desire and have the right to be represented by someone else at the Hearing if they feel they are unable to attend in person. Whether the student brings a support person or are to be represented by someone else at the Hearing, they are not there to provide legal advice or legal representation.

The Student Appeals Committee will hear and consider each case on its merit/s, considering all relevant circumstances, the evidence provided and how the resolution process/es were conducted.

The Student Appeals Committee shall reach its decision after consideration of all evidence available and will be decided by a majority vote of the members, each of whom has equal voting rights.

The Student Appeals Committee may decide to:

- Confirm the outcome/decision against which the student lodged their appeal,
- Uphold the appeal,
- Remove or modify any penalty imposed on the student,
- Ask the JMC Representative to undertake another course of action to resolve and close the matter.

The Secretary of the Student Appeals Committee will:

- Document the decision and the reasons for the decision,
- Prepare the written communication for co-signing by the Chair of the Student Appeals Committee and one other member of the Student Appeals Committee,
- The written advice shall be sent to the student's nominated address,
- This written advice will advise the student that if they are dissatisfied with the Student Appeals Committee's decision, then they can proceed to an external resolution service.

As there is no other avenue within JMC Academy to have this matter heard again, if the student is still dissatisfied with the outcome, then they can initiate an external resolution process involving a professional mediation service.

The written advice will let the student know that JMC Academy will meet the costs of this external resolution process.

#### 4.1.6. Stage 4: External mediation

If the student is not satisfied with the decision of the Student Appeals Committee, they can then request the matter be dealt with through an external resolution service. If the student decides to go to external resolution, then they must write to the Chief Executive Officer to advise of their decision, no later than ten (10) business days after the notification of the outcome of their appeal.

JMC Academy will participate fully in this process and will meet all reasonable costs incurred.

Students will be referred to the:

##### **Resolution Institute**

The Resolution Institute is an independent national association of dispute resolution.

Level 1, 13-15 Bridge Street

Sydney NSW 2000

Phone: (+61 2) 9251 3366

Fax: (+61 2) 9251 3733

Free call: 1800 651 650

Email: [infoaus@resolution.institute](mailto:infoaus@resolution.institute)

Website: [www.resolution.institute](http://www.resolution.institute)

An international student may also lodge a complaint about the decision to the Overseas Student Ombudsman. The Overseas Student Ombudsman offers free and independent advice to international students who may have a complaint about their private education or training provider; however, the Ombudsman does not handle complaints about the quality of the education provider.

##### **Overseas Student Ombudsman**

GPO Box 442 Canberra ACT 2601

Phone: 1300 362 072

[www.oso.gov.au](http://www.oso.gov.au)

If the external complaints process results in a decision or recommendation in favour of the student, JMC Academy will immediately implement the decision or recommendation and/or take the preventive or corrective action required by the decision and advise the student of that action.

## 5. RECORDS OF COMPLAINTS and APPEALS

The JMC Representative charged with the formal resolution of complaint and the Chair of a Student Appeal Committee will lodge a report of the process and outcomes of the complaint or appeal hearing to the Governing Council.

Details of the reports will be entered into the JMC Academy Complaints and Appeals Register.

The annual Student Complaints and Appeals reports will be provided to:

- the Academic Board,
- the Governing Council, and
- the Risk Management Committee

through the Senior Management Committee, summarising types of complaints and appeals, identified by course of study, campus location, international/domestic students and the outcomes of these complaints and appeals.

Senior Management Committee and Academic Board will initiate improvements where systemic issues are identified.

## 6. POSITIONS RESPONSIBLE FOR IMPLEMENTING PROCEDURE

- Governing Council
- Academic Board
- Chief Executive Officer
- Director of Education
- Director of International Services
- Campus Manager
- Administration
- JMC Academy Students
- JMC Academy Staff

## 7. RELATED DOCUMENTS

- Discrimination, Bullying, Harassment and Sexual Misconduct Policy
- Diversity Equity and Inclusion Policy
- Student Complaints and Appeals Policy
- Personal Information and Privacy Policy
- Sexual Assault procedure
- Sexual Harassment Procedure
- International Students Appeal against Intention to Report Procedure
- Academic Integrity Policy and related procedures
- Student Conduct
- A Statement of JMC Academy Principles of Procedural Fairness
- JMC Academy Glossary

## 8. RELATED LEGISLATION

This Procedure supports JMC Academy's compliance with the following legislation:

- Higher Education Support Act 2003 (Cth),
- Higher Education Standards Framework (Threshold Standards) 2015,
- Education Services for Overseas Students (ESOS) Act 2000 (Cth),
- National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2018
  - ESOS National Code 2018, Part B, Standard 10

## 9. PROCEDURE REVIEW DATE

14<sup>th</sup> July, 2022

## 10. VERSION CONTROL TABLE

Title	<i>Student Complaints and Appeals Procedure</i>			
Maintained By	CEO			
Approving Authority	Governing Council			
Approved Date	05/08/2019			
Version Number	Modified By	Modifications Made	Date Modified	Status
1.0	G. Markakis		01/09/2018	Superseded
2.0	G. Jedlinska	Added related legislation section, amended related documents and positions, reformatted.	25/09/2018	Approved by the Governing Council on 05/10/2018 Superseded
2.1	G. Markakis	Retitled the procedure to ' <i>Resolving Student Complaints Procedure</i> '. Modified scope and procedure.	3/10/2018	Superseded
2.2	G. Markakis	Retitled the procedure to ' <i>Student Complaints and Appeals Procedure</i> '. Modified the scope of the procedure.	10/10/2018	Superseded
2.3	G. Jedlinska	Scope extended to sexual harassment procedure and sexual assault procedure Concept of sole appeal included. Terms of Reference of Student Appeals Committee amended to reflect recent changes to policies and procedures related to resolving complaints and managing appeals	23/07/2019	Approved as a Health Check by G. Markakis on 05/08/2019