

Non-Academic Complaints and Appeals for Students Policy

1. POLICY STATUS AND DETAILS

Policy Number	10.1b
Approving Authority	Board of Directors
Date Implemented	August 2022
Current Version	3.0
Date of Review	August 2024
Contact Officer	Director of Learning & Innovation
Related NIDA Policies, Procedures and Documents	Admissions Policy NIDA Student Charter (incorporating the NIDA Code of Conduct) NIDA Student Handbook Privacy Policy Non-Academic Complaints and Appeals for Students Form Fee Policy – International Students Fee Policy – Domestic Students Sexual Misconduct Policy

2. DEFINITIONS

Term	Definition
Accredited Course	A course that is recognised under the Australian Quality Framework (AQF) and is registered with one of the two main regulatory agencies, being TEQSA (Tertiary Education Quality Standards Authority) for Higher Education and ASQA (Australian Skills Quality Authority) for Vocational programs.
Appeal	A request by an individual for review of a decision about a complaint.
Complainant	An individual who makes a complaint or lodges an appeal under this policy.
Decision-maker	A person with the delegated authority to make decisions on behalf of NIDA.
Grounds for Appeal	Reasons for requesting a review or reversal of a Decision.
Investigator	A person with the delegated authority to investigate complaints. This will be a nominated NIDA staff member or an externally engaged investigator.

Term	Definition
Non-Academic Appeal	Those matters that relate to conduct, behaviours and issues and breaches of policy that are not academic in nature and or may be criminal in nature. Matters including, but are not limited to, work health and safety, alcohol, drugs, smoking, privacy, discrimination, harassment, bullying, sexual harassment, sexual offences, equity and diversity, IT resources, parking, grounds and maintenance, working from home, counselling and mental health resources, disability and mobility resources, and student fees.
Repondent	A person against whom a complaint has been made under this policy.
Student	Any person enrolled in an accredited course at NIDA who was enrolled in an accredited course at the time the complaint relates to.
Support Person	Someone that an individual can nominate to attend a meeting with them to provide emotional support and reassurance. They are not an advocate. The Support Person cannot be a practising solicitor or barrister.
Unreasonable Conduct	Any behaviour by a student that, because of its nature or frequency, raises substantial health, safety, resource or equity issues for NIDA, staff, other students, or the student themselves.

3. PURPOSE

- 3.1 NIDA is committed to ensuring transparent processes for complaints and appeals and handling.
- 3.2 This policy and procedure outlines how NIDA manages and ensures that complaints and appeals are dealt with fairly, consistently, promptly, and respectfully.

4. SCOPE

- 4.1 This policy and procedure applies to all NIDA current and prospective students.
- 4.2 This policy applies to the management of appeals and complaints of a non-academic nature.
- 4.3 The procedures in this document do not replace or modify procedures or any other responsibilities that may arise under other higher education provider policies, statutes, or any other law.
- 4.4 This policy and procedure does not limit or prevent any person from seeking the assistance of an independent person or relevant external agency to resolve an appeal.
- 4.5 Complaints that fall under the [Crime and Corruption Act 2001](#), the [Public Interest Disclosure Act U 2010](#), or anti-discrimination legislation will be identified from the outset and referred to the appropriate position within NIDA delegated to handle such matters and/or the Police and local community services if required.
- 4.6 The Director Learning and Innovation is responsible for:
 - Ensuring the accessibility of this policy by staff and students.
 - Implementation of this policy.

5. PRINCIPLES

- 5.1 NIDA will manage grievances, complaints and appeals in accordance with the principles of procedural fairness (natural justice), and regulatory requirements in a transparent, consistent and timely manner.
- 5.2 NIDA values mutual respect for and by all students, staff and others involved.

- 5.3** NIDA believes that complaints can allow the organisation to identify areas for improvement and improve the quality of services and the experience of its students.
- 5.4** NIDA will take all reasonable steps to prevent students and Complainants from suffering any disadvantage (including through victimisation) as a result of lodging a complaint or appeal.
- 5.5** NIDA recognises that staff, students and affiliates who study or work at NIDA have the legal and ethical right to:
- a. Raise any concern or complaint related to unfair treatment, discrimination, harassment, vilification, bullying and other such issues; and
 - b. Have that concern, problem, complaint, or grievance handled confidentially, fairly, effectively and within an appropriate timeframe.

6. POLICY STATEMENT

NIDA policy is that all complaints will be dealt with in accordance with the principles of procedural fairness (sometimes referred to as natural justice).

6.1 Rights and Responsibilities

6.1.1 Rights and Responsibilities of Complainants

Complainants:

- have the right to submit an informal or formal complaint if a matter cannot be resolved amicably, or where an attempt to resolve amicably is inappropriate;
- have the right to be heard by an unbiased investigator or decision-maker who is open to the merits of the case and who will consider only what is relevant and not take into account irrelevant matters;
- must provide information relating to their complaint when making an informal or formal complaint;
- must be given information about the procedures that will be followed to investigate their complaint;
- must be given advance notice of a requirement for them to attend any meeting to be held to discuss their complaint;
- must be given the opportunity to have a Support Person present at all meetings, provided that person is not a practising solicitor or barrister;
- must not make frivolous or vexatious complaints or allegation(s); and
- must be notified of the outcome of any investigation into their complaint.

6.1.2 Rights and Responsibilities of Respondents

Respondents:

- have the right to know about a complaint made against them;
- have the right to be heard in response to the complaint by an unbiased investigator or decision-maker who is open to the merits of the case and who will consider only what is relevant and not take into account irrelevant matters;
- must be given information about the procedures that will be followed to investigate a complaint;
- must be given details of the complaint or the case against them so they can respond to

it. This is their opportunity to present their version of events and to correct any information or evidence presented by the Complainant;

- must be given advance notice of a requirement for them to attend any meeting held to discuss the complaint so they have an opportunity to prepare their response;
- must be given the opportunity to have a Support Person present at all meetings, provided that person is not a practising solicitor or barrister;
- must ensure any response they provide in relation to the complaint is truthful;
- must be notified in writing of the outcome of any investigation; and
- have the right of appeal in some circumstances.

6.1.3 Responsibilities of Investigators and Decision-Makers

Investigators and Decision-makers must:

- conduct themselves in a fair and transparent manner and promptly disclose any actual or potential conflicts of interest or bias.
- treat any complaint or appeal as strictly confidential and only discuss these matters with another person to the extent that this is necessary for applying this policy or to seek legal or other professional advice;
- take into account all relevant matters and be careful to avoid taking into account any irrelevant matters.
- base their decision on the facts and evidence put before them. Evidence can be oral or documented, but must be logically capable of supporting any findings on the balance of probabilities;
- provide a statement that sets out what their decision is, the reasons for their decision, the findings made and the evidence on which their findings were based;
- that in an appeal, the same decision-makers involved in the original complaint are not dealing with the appeal;
- be mindful that where a procedural irregularity is found, the outcome does not represent a further disadvantage to either party. A procedural irregularity does not necessarily mean that a decision will be overturned.

6.2 Unreasonable student conduct

6.2.1 NIDA will not implement the original decision while an appeal is being heard unless the CEO, after giving the student notice of intention to do so and an opportunity of receiving submissions on this, where the behaviour of the student is having a disproportionate and unreasonable impact on the institution, its students, staff, services, and/or its time and resources.

6.2.2 NIDA may not action complaints where the complainant exhibits unreasonable conduct. This includes during the submission, investigation or determination of a complaint. Unreasonable conduct includes unreasonable persistence, unreasonable demands, unreasonable lack of cooperation, unreasonable arguments, or unreasonable behaviour.

6.2.3 NIDA may not consider an appeal where it is determined that the grievance is frivolous, vexatious or not made in good faith.

6.3 Conflict of Interest

- 6.3.1 Where it can be demonstrated that there is a conflict of interest or there may be a potential perceived conflict of interest:
- a. an investigator should refer the matter immediately to an alternative investigator or the next level of management; and
 - b. a complainant or respondent may request an alternate investigator.

6.4 Fees

- 6.4.1 NIDA charges no fees for non-academic appeals. Any other costs, such as those relating to legal representation and attending a hearing, are borne by the complainant.

7. COMPLAINTS PROCEDURE

7.1 Anonymous complaints

- 7.1.1 Anonymous complaints will be accepted by NIDA. The fact that the complaint is anonymous does not prevent corrective actions or decisions from being implemented, however, it may be difficult to pursue matters without the cooperation of the individual making the complaint.
- 7.1.2 Anonymous complaints can be submitted via email to [insert], the postal service, or delivered to NIDA at 215 Anzac Parade Kensington, NSW.

7.2 Third Party Complaints

- 7.2.1 Complaints made by a third party on behalf of another person will be considered by People and Culture who will determine if the complaint will be accepted for review.

7.3 Historical Complaints

- 7.3.1 Complaints made by Students who are no longer enrolled at NIDA, will be accepted and investigated in accordance with this policy.

7.4 Informal complaints

- 7.4.1 If a Student feels dissatisfied with a NIDA-related experience or feels they have been treated unfairly or adversely affected in some way, NIDA recommends that they raise the matter directly with the person involved or with the appropriate supervisor of that person, e.g. Manager or Course Leader.
- 7.4.2 If a Student is unsure who to contact or how to deal directly with the person involved to resolve an informal complaint, they can seek assistance from Student Services (email: [insert]) or the Director of Learning & Innovation (email: sarah.miller@nida.edu.au).
- 7.4.3 The following information should be available for an informal complaint:
- name/s and contact details;
 - date of the complaint;
 - student number and student email address (if applicable);
 - course (if relevant);
 - the nature of the complaint, including full details of what occurred and when it occurred;
 - any supporting documentation such as emails, screenshots, etc.; and
 - an indication of what outcome is being sought.
- 7.4.4 Options for handling informal complaints may include, but are not limited to the Manager or Course

Leader or Director of Learning & Innovation:

- having a conversation with the Respondent; and/ or
- facilitating a meeting with the individuals concerned to try to reach a resolution.

7.4.5 NIDA expects that in most cases, discussing the concern with Student Services or the Manager or Course Leader or the Director of Learning & Innovation will result in a prompt resolution.

7.4.6 If these measures fail to resolve the issue, a formal complaint can be made.

7.4.7 Full and accurate records of the informal complaint process are maintained. These records will not be used for reporting but will be utilised if a formal complaint is made.

7.5 Formal Complaints

7.5.1 If the Complainant has attempted to resolve a complaint informally and is not satisfied with the outcome, or if the Complainant is not able or unwilling to approach the person concerned, then they may lodge a formal complaint.

7.5.2 It is preferred that formal complaints be submitted in writing to ensure all relevant information and evidence is captured. All written and verbal formal complaints will be accepted and reviewed by NIDA.

7.5.3 Formal complaints can be submitted by:

- using the [NIDA Complaints and Appeals eForm](#);
- email to education@nida.edu.au;
- in writing to the [Director of Learning & Innovation](#) (sarah.miller@nida.edu.au);
- phoning 02 9697 7654; or
- in person at the NIDA Campus (Student Services NIDA, 215 Anzac Parade Kensington, NSW).

7.5.4 The following information should be included in a formal complaint submission:

- name/s and contact details;
- date of the complaint;
- student number and student email address (if applicable);
- course (if relevant);
- the nature of the complaint, including full details of what occurred and when it occurred;
- a summary of any action previously taken to resolve the complaint;
- any supporting documentation such as emails, screenshots, etc.; and
- an indication of the outcome being sought.

7.5.5 If the Complaint does not provide adequate information it may not be possible for NIDA to pursue the matter. If there is insufficient information, the Complainant will be contacted by the NIDA and further information will be sought. If no additional information is provided within 20 working days, the complaint will be dismissed, and the Complainant advised.

7.5.6 A complaint must be lodged within 12 months of the adverse experience occurring. It is advisable that a complaint be lodged as soon as possible, as the sooner a complaint is lodged, the better the opportunity for resolution.

7.5.7 A complaint about an adverse experience that occurred more than 12 months ago may be considered if there are exceptional circumstances that prevented the complaint from being lodged within 12 months. Details of the exceptional circumstances must be included in a complaint lodged outside the

12-month timeframe.

7.6 Timeframes

- 7.6.1 NIDA will contact the Complainant within five (5) days of the lodgement by the Complaint with information about Investigator who has been appointed to handle the matter. An Investigator will not be appointed without consultation with the Complainant.
- 7.6.2 The Investigator will investigate the complaint and provide a resolution or outcome to the Complainant within 25 working days from the lodgement of the complaint.
- 7.6.3 If the complaint cannot be resolved within the expected timeframes, the Investigator will advise the Complainant that additional time is required, the action that has been taken to date, and the estimated time required to resolve the complaint.

7.7 Withdrawal of Complaints

- 7.7.1 A Complainant may decide to withdraw a complaint at any stage.
- 7.7.2 The withdrawal must be in writing (this may be by email to: [INSERT]).
- 7.7.3 Where a complaint has been withdrawn, the complaint will be deemed to be resolved.
- 7.7.4 In exceptional circumstances, the NIDA Chief Executive Officer may determine whether the nature of the complaint requires further internal investigation or whether it should be referred to an external agency. In the case of the latter, the Complainant will be provided with the opportunity to provide written comment on the matter.

7.8 Investigation

- 7.8.1 All formal complaints will be assigned to a Investigator by the Director of Learning and Innovation within five (5) days of the lodgement of the complaint.
- 7.8.2 The Investigator will be the single point of contact for the investigation of the complaint. The Director Learning and Innovation will notify the Complainant of the contact details of the Investigator.
- 7.8.3 The investigation of the complaint will typically include:
- confirming and reviewing the facts in the information supplied;
 - identifying the issues;
 - identifying relevant stakeholders and persons to be interviewed and subsequent interviews if required;
 - analysing all relevant information and formulating findings and recommendations; and
 - preparing a report on the results of the investigation.
- 7.8.4 The Investigator will keep accurate records of the investigation.
- 7.8.5 Where a complaint is made against a Student regarding any conduct which has interfered with the rights of others on campus, or is a breach of requirements as set out in the NIDA Code of Conduct or any other NIDA policy, the matter will be actioned under the Student Misconduct Policy.
- 7.8.6 Where a mediated discussion between the relevant parties is considered the most appropriate action, the Complainant and Respondent may be accompanied and assisted by a support person. A support person may be another student or a NIDA employee. A support person may not be a legal representative.

7.9 Complaint outcomes and decisions

- 7.9.1 While it may not always be possible for Complainants to receive the outcome they seek, NIDA is committed to ensuring that substantiated complaints are addressed and corrective actions and decisions implemented.
- 7.9.2 The decision-maker (Director of Learning & Innovation or their delegate) may:
- review a decision and determine whether or not it should be confirmed or rescinded;
 - change a decision previously made or an apology;
 - request any documents that were used in the decision-making process by the original decision-maker (Investigator); and /or
 - request any staff member or student to provide further relevant information.
- 7.9.3 Upon completion of the complaint investigation, the Investigator will prepare a report on the outcome of the complaint, including if it was resolved during the process, or withdrawn by the complainant.
- 7.9.4 NIDA will advise the Complainant in writing of the following:
- the outcome of the complaint;
 - the reason/s for the decision made;
 - how the decision and/or corrective and preventative actions will be implemented (if applicable)
 - invitation to provide feedback on the complaint management process, and
 - the review mechanism if the complainant was not satisfied with the outcome.
- 7.9.5 If the internal or external complaint handling results in a decision or recommendation in favour of the overseas student, NIDA will immediately implement the decision or recommendation and/or take the preventative or corrective action required by the decision, and advise the overseas student of that action.

8. Appeals

8.1 Types of appeal

Students and complainants have a right to appeal a decision made by NIDA. The types of decisions that can be appealed:

- a misconduct decision;
- a complaint decision;
- a safety decision; or
- a decision about the way in which a NIDA policy has been applied.

8.2 Grounds for appeal

- 8.2.1 A student or prospective student can appeal a non-academic decision that arises from, but is not limited to any matters such as the following:
- harassment, sexual or otherwise, and/or vilification of a student enrolled in a course of NIDA by another student or member of the NIDA staff.
 - being refused enrolment or progression or graduation in a NIDA course on the grounds of gender, colour, race or country of origin.
 - the claim that a student enrolled in a NIDA course has an unpaid financial obligation to NIDA.
 - exclusion from a course of NIDA or from progression or from graduation in that course, or
 - complaint arising from the use of personal information provided by a student.

8.3 Appeals Process

8.3.1 NIDA provides three (3) escalating levels for resolving non-academic appeals, two internal and one external.

8.3.2 Students wishing to appeal a decision or outcome must follow the three (3) escalating levels to resolve the non-academic appeal.

8.4 Level 1 – Informal appeal

8.4.1 Students are encouraged to engage in informal discussion with the person directly responsible for the matter, or their supervisor or course leader if they are comfortable doing so with a view to resolution.

8.4.2 Students may bring a support person with them to any informal meetings about complaints or appeals provided that person is not a practising solicitor or barrister;

8.4.3 Discussions at this level may resolve a matter, and it is expected that the person directly responsible for the matter will work to resolve it within 14 days.

8.5 Level 2 – Formal internal appeal

8.5.1 If not satisfied with the response to the complaint or the process or if uncomfortable in speaking directly with the person directly involved, or their supervisor, the Complainant may submit a formal complaint or appeal setting out the grounds for the appeal or complaint.

8.5.2 Complaints or Appeals are submitted using the Non-Academic Complaints and Appeals for Students form on NIDAs Policy page <https://www.nida.edu.au/courses/policies>.

8.5.3 Formal internal complaints and appeals will be reviewed by the Director of Learning & Innovation or their appointed delegate. If the Director of Learning & Innovation or their appointed delegate was a decision-maker or involved in the matter originally raised, then the complaint or appeal will be reviewed by the Chief Executive Officer or their appointed delegate.

8.5.4 The delegate acting as Investigator in the matter will be independent of the matter up to the point of investigation.

8.5.5 The Director of Learning & Innovation or the appointed delegate will consider the matter with the aim of resolving it within 30 days.

8.5.6 Within 10 working days of the resolution the Student will receive written notification of the outcome of their complaint or appeal, including information on their right to an external appeal process if they are not satisfied with the outcome.

8.5.7 The Director of Learning & Innovation or their delegate will investigate with all parties having a right to procedural fairness. The Director Learning and Innovation may request any person to provide information or documents in relation to the grievance

8.5.8 The Director of Learning & Innovation or their delegate will make the decision and will inform the complainant in writing of the outcome of the investigation, related decisions and the reasons for making the decisions.

8.5.9 In complaints involving the Chief Executive Officer (CEO), the formal complaint will be submitted to the Chair, NIDA Board of Directors.

8.6 Level 3 – External complaint or appeal

8.6.1 If not satisfied with the decision of the Director of Learning & Innovation or their delegate, the

complainant may request an external dispute resolution process to be undertaken by an independent party by lodging an appeal via the Non-Academic Complaints and Appeals form.

8.6.2 NIDA will forward requests for an external resolution process to the relevant independent external body within five days of the student submitting the request.

8.6.3 For purposes of this policy, external appeals are determined as follows:

- For Domestic Higher Education and Vocational Education and Training Students, matters will be referred to either UNSW Pro Vice-Chancellor (Students), UNSW Chancellery Building, UNSW Kensington or to a relevant independent external reviewer, nominated by the Chief Executive Officer, who will be the nominated contact for such an external review.
- For International Higher Education Students, the Commonwealth Ombudsman is the nominated contact:

<https://www.ombudsman.gov.au/How-we-can-help/overseas-students/private-education-providers>

Phone: 1300 362 072.

- External appeals will be at minimal or no cost to the student.

8.7 Withdrawal of Appeal

8.7.1 At any stage an appellant may decide to withdraw an appeal, in which case the original decision shall stand and may be forthwith implemented

8.7.2 The withdrawal must be in writing (this may be by email to: [insert]).

8.8 Appeals Outcomes

8.8.1 While it may not always be possible for appeals to receive the outcome they seek, NIDA is committed to ensuring that substantiated appeals are upheld and corrective actions and decisions implemented.

8.8.2 The decision-maker shall decide the appeal and determine whether or not it should be upheld or dismissed. In doing so, the decision-maker may:

- Request any documents that were used for the making of the decision by the original decision-maker; and /or
- Request any staff member or student to provide further relevant information.

In then deciding the appeal, the decision maker may:

- Change the original decision
- Alter a penalty imposed in the original decision; or
- Apply a penalty or another penalty

8.8.3 Upon completion of the appeal, NIDA will prepare a report on the outcome of the appeal, including if it was resolved during the process or withdrawn by the Complainant.

8.8.4 NIDA will advise the Complainant in writing of the following:

- the outcome of the appeal;
- the reason/s for the decision made;
- how the decision and/or corrective and preventative actions will be implemented (if applicable)

- invitation to provide feedback on the appeal management process.

8.8.5 Any penalties applied will be done so in line with the Student Misconduct Policy and Procedure.

8.8.6 If the appeal process results in a decision or recommendation in favour of the overseas student, NIDA will immediately implement the decision or recommendation and/or take the preventative or corrective action required by the decision and advise the overseas student of that action.

8.9 Record Keeping and Reporting

8.9.1 All documents relating to complaints and/or grievances will be kept strictly confidential and will not be accessible to anyone who is not directly involved in the handling of the complaint.

8.9.2 All documents and evidence collected in the course of an investigation, and any letters or written communications, minutes of emails will be filed electronically on the relevant student's file in a designated secure file.

8.9.3 The decision on the the complaint or on the appeal will be recorded in the Appeals and Complaints Register.

8.10 Support and Advice

8.10.1 Support and advice with regards to non-academic appeals are available from NIDA Student Services, education@nida.edu.au

8.11 Further options

8.11.1 If all internal procedures have been followed, but the complainant does not feel the problem has been resolved or does not feel they have been dealt with fairly, they may lodge an external complaint with the NSW Ombudsman or other external body. Time limits for the lodging of external complaints may apply. The complainant should contact the relevant external body (hyperlinks below) to determine any complaint submission time limits.

- Australian Human Rights Commission – www.humanrights.gov.au
- Anti Discrimination New South Wales – <https://antidiscrimination.nsw.gov.au>
- Commonwealth Department of Education, Skills and Employment – www.education.gov.au
- NSW Ombudsman – <https://www.ombo.nsw.gov.au>
- Tertiary Education Quality and Standards Agency – <https://www.teqsa.gov.au/complaints>

9. CHANGE HISTORY

Date	Change Description	Reason for Change	Author	Version
August 2022	New format, revised content	CRICOS audit feedback	SSQA	3.0
September 2014				14/02999 & 14/06489
December 2008	Original policy	Creation		1.0

10. BENCHMARKING AND ACKNOWLEDGEMENTS

This policy has been benchmarked against policies and good practice from a number of higher education providers and other sources.

Relevant policy documents from the following are gratefully acknowledged:

- Avondale University
- Sydney University
- University of New South Wales
- Moore Theological College

Legislation and Regulatory Frameworks	Higher Education Standards Framework (Threshold standards) 2021 Higher Education Support Act 2003 National Code 2018 ASQA Standards and
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