



10 August 2011

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Re: Academic Grievance Policy

1. This submission is made on behalf of the Victoria University of Wellington Students' Association (VUWSA).
2. VUWSA is the official representative body of students at Victoria University of Wellington and has been advocating on their behalf since 1899. This submission is based on the experiences of VUWSA assisting students through the Academic Grievance and appeal processes.
3. VUWSA is concerned that the changes outlined in the updated policy do not address the concerns of students or VUWSA and actually keep elements of the process concealed from parties involved (particularly students). We are also concerned that the updated policy does not take into account clear principles of natural justice.
4. VUWSA's experience assisting students through academic grievances and appeals processes to date has highlighted that the process has been less than transparent and has, as a result, been more adversarial and stressful for the student than necessary.
5. VUWSA is concerned that the proposed changes to the policy do not, from the position of students, ensure the process will be any more transparent and consistent than previously. Rather, it appears that decisions can be made in a non-transparent, inconsistent and unknown manner. The interests of VUW staff are instead protected, and/or prioritised, over those of students. We understand that the University may not see this process as 'adversarial' but the reality for students is one of unnecessary stress and anxiety as the student, from the start, is not in an equal position to that of the academic staff member. In the experiences of students, the process is adversarial and, without clear recourse to processes of natural justice, the process remains adversarial.

6. VUWSA is concerned that these issues have been raised throughout the consultation of this policy, to such an extent, that VUW was advised in the May Academic Committee to look back through the policy and ensure that concerns of transparency and natural justice were addressed; however, in this revised policy, these issues appear not to have been addressed at all.
7. We would insist that the University incorporate the following changes. These changes are suggested to ensure that for both VUW and the student involved:
 - 7.1 The process is transparent (and known beforehand) and the policy that underlines the process is, in itself, transparent and well documented and able to be understood and followed.
 - 7.2 That decisions made throughout the process (including the informal stage) are recorded and that the student involved is supplied with all written responses; to this effect, we are opposed to the wording of clauses that suggest the University 'should' supply a response to students [but can withhold]. Given the process is not meant to be adversarial to students, withholding information can have the complete opposite effect. We believe the principles of natural justice require all parties do have the right to see all information gathered on their case.
 - 7.3 The process is not adversarial to the student involved. To ensure this, students must have a right to appeal the membership of the ABGC. Whilst this may be an oversight in the proposed amended policy, it appears that not openly providing this opportunity may show that the University is overly concerned that all students will do this; this is not the case. Just as in restorative justice (and most tribunals (disciplinary)), both parties can appeal the officials presiding over the case, the same should occur within the context of an academic grievance.
 - 7.4 The process follows natural justice principles. To this effect, 4.3 (b) needs to be removed. It removes transparency completely for the student and allows the University to change the process to suit the needs of the University in each case. Whilst we do understand that different cases may be addressed differently the actual steps of grievance, investigation and appeal should be the same in *all* cases. We are concerned that a statement allowing for complete flexibility moves away from natural justice principles. All grievances must follow a process that is fair and transparent without any surprises for staff involved and the student making the grievance.
 - 7.5 That the removal of any information in written documents to students must have incorporated detail on the relevant Privacy Act principle clause which allows for the deletion. This is required in the Privacy Act.
 - 7.6 Both parties need to have an opportunity to challenge the information that is presented by other parties. The current wording of 4.3 (d) does not allow this to occur in any transparent manner.
 - 7.7 Appeals to any decision should not be convened by a Deputy Vice-Chancellor as this, again, could be, or be perceived to be, a conflict of interest hiding the transparency within the appeal decision. Ideally, any appeal should be

convened by an independent person. If VUW is confident in their processes and policy there should be no concern at an outside convener and an opportunity to progressively improve the process. Given recent appeals before VUW, this should be a priority.

- 7.8 The process on the appeal to decisions when the GAC upholds a decision needs to contain a sufficient level of detail to ensure the student knows what to expect should the appeal be upheld. The omission could again allow for inconsistent practices to become the norm.
8. Overall, VUWSA does not support the proposed updated policy and finds that it fails to address the concerns students have had with the process to date. As it stands VUWSA considers the suggested amendments to make little improvement to the original under review and in effect just a rewording of what currently exists.
 9. This policy continues to expose students to unfair and unaccountable decision making processes and continues to leave VUW vulnerable to legal and reputational risk (as recent judicial review cases have demonstrated).
 10. VUWSA urges that the University adjust this policy to address the concerns outlined about. VUWSA is happy to continue to assist in this process.

Yours sincerely

A handwritten signature in cursive script that reads "Seamus Brady".

Seamus Brady

President

Victoria University of Wellington Students' Association