

NMIT ĀKONGA APPEALS PROCEDURE

Section	Problem Resolution		
Approval Date	18.10.2023	Approved by	Academic Committee
Next Review	13.09.2024	Responsibility	Interim Operations Lead
Last Reviewed	13.09.2023	Key Evaluation Question	1-6

This procedure is supplemental to Te Kawa Maiooro, Te Pūkenga Educational Regulatory Framework and is the NMIT | Te Pūkenga (NMIT) procedure for implementing [Te Pūkenga Ākonga Appeals Policy](#).

Te Kawa Maiooro sets out the overarching regulations that apply to learning and delivery (teaching, assessment, rangahau and research, and support activities) at Te Pūkenga. As and when finalised, Te Pūkenga will publish policies and procedures that are intended to sit underneath Te Kawa Maiooro and prescribe detailed requirements.

In the meantime, pursuant to Te Pūkenga Grandparenting Policy, the regulations, policies, and procedures of the former subsidiaries apply unless there is a national regulation or policy in place. Accordingly, where a specific matter is not addressed within Te Kawa Maiooro, this procedure is intended to prescribe the requirements that are specific to NMIT.

To the extent that there is any conflict or inconsistency between any of NMIT policies or procedures and Te Kawa Maiooro, Te Kawa Maiooro shall prevail and have priority.

PURPOSE

To ensure that appeals received from ākonga are resolved in a timely, fair, and equitable way and are part of a continuous improvement process at NMIT.

SCOPE

- a) Any appealable decision, action, or omission process made by NMIT in relation to ākonga.
- b) Appealable decisions include:
 - i) The outcome of an academic complaint or academic integrity matter or review process
 - ii) The outcome of a non-academic complaint
 - iii) The outcome of a postgraduate research or scholarship decision
 - iv) The outcome of an ākonga breach of discipline decision

NMIT DEFINITIONS

The definitions of terms relevant to this procedure:

Academic Appeals Summary	A summary [Template available] (held centrally) in which all communications/events/decisions related to the appeal are recorded by the Appeals Coordinator.
Academic Standards and Quality Committee Appeal hearing	<p>An extraordinary Academic Standards and Quality Committee meeting convened specifically to address an ākongā academic appeal.</p> <p>Any person who has been involved in the original decision (including the AS&Q Committee Chair) or who is not considered by the Chair to be impartial shall not be part of the hearing.</p> <p>The protocols for the hearing are the same as for Academic Standards and Quality Committee meetings.</p> <p>Membership:</p> <ul style="list-style-type: none"> • Academic Standards and Quality Committee Chair, or delegate • Member of the Academic Standards and Quality Committee responsible for the ākongā programme • Two academic kaimahi from another Curriculum Area; OR • One representative member from another Curriculum Area and a registered nurse with a current practicing certificate, in accordance with the Nursing Council regulations (for a hearing convened to consider an appeal from Bachelor of Nursing ākongā). <p><i>[Please note: The Head of Nursing attends all Bachelor of Nursing ākongā appeal panels.]</i></p>
Advocate	<p>A person who advises the ākongā and may speak on their behalf.</p> <p>Examples of those who may be asked to be an advocate:</p> <ul style="list-style-type: none"> • A member of the Student Association (SANITI); • A chosen associate or professional person; • A colleague, friend, member of family or whānau. <p>Both the ākongā and the designated Advocate must sign an Authorisation to Advocate form.</p>
Appeal	A request to review a decision made by Te Pūkenga NMIT, that relates to, or impacts on, ākongā
Appeals Coordinator	The person responsible for the administrative steps of the appeal.

Appeals Officer (NMIT)	A dedicated NMIT manager who manages the appeals process.
Appeals Panel	<p>A panel convened to consider:</p> <ul style="list-style-type: none"> • An Academic Standards and Quality Committee Appeal hearing decision (academic), <p>OR</p> <ul style="list-style-type: none"> • The outcome of a non-academic complaint, <p>OR</p> <ul style="list-style-type: none"> • The outcome of a postgraduate research or scholarship decision, <p>OR</p> <ul style="list-style-type: none"> • The outcome of an ākongā breach of discipline decision. <p>and determine whether the following grounds for appeal are satisfied.</p> <ol style="list-style-type: none"> a) That the procedure used for investigating or resolving the Prohibited Conduct was unfair or biased, OR b) That the decision of the Investigator could not reasonably be sustained on the evidence, OR c) That significant new evidence which was not previously available has become available since the investigation which could have a material effect on the decision made or the penalty imposed, OR d) That the disciplinary action/s taken were not proportional to the nature of the breach of discipline and the full circumstances of the case. <p>The Appeals Panel consists of kaimahi with knowledge and experience of appeals processes.</p> <p>Membership is determined by the nature of the decision being appealed and the cultural, disability, or other needs of the appellant.</p> <p>All Appeals Panel members will be independent of the process in question to date.</p> <p>The membership of each Appeals Panel must also consider any Professional or Regulatory Body representation requirements.</p> <ul style="list-style-type: none"> • Any appeals panels held for Bachelor of Nursing ākongā will also include a registered nurse with a current practising certificate, in accordance with the Nursing Council regulations. <p><i>[Please note: The Head of Nursing attends all Bachelor of Nursing ākongā appeal panels.]</i></p> <p>The Appeals Panel decides who amongst them will Chair the appeal hearing.</p>
Appellant	Ākongā submitting an appeal of any appealable decision, action, or omission made by NMIT
SANITI	Student Association of NMIT

Support Person	<p>Person or group able to provide support or advice to the appellant (e.g. NMIT Student Learning Advisor; Student Association (SANITI); friend or family member).</p> <p>A Support Person's role is to empower the ākongā to speak for themselves with knowledgeable support.</p> <p>A Support Person cannot speak on behalf of the ākongā unless ākongā chooses for the Support Person to move into the role of Advocate, in which case they need to complete the Authorisation to Advocate form.</p>
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RESPONSIBILITIES

ADVOCATE

- Work with appellant to ensure culturally appropriate format for hearing.
- Read all documentation prior to the hearing.
- Offer guidance to appellant throughout all stages of the appeal.

An Advocate may speak on behalf of the appellant and must have signed authority to speak for the person they represent.

APPEALS COORDINATOR

- Collate all documentation for the Appeals Panel hearing, including the original decision document on which the appeal is based.
- Provide additional documentation required by the Panel.
- Attend and minute the hearing.

APPEALS OFFICER

- Receive the Notice of Appeal
- Log the appeal on the Ākongā Appeals Register and Summary
- Forward the Notice of Appeal to the delegated Appeals Panel member to determine whether grounds of appeal are sufficient to proceed to a hearing.
- Notify all parties of date, time, venue, and format of hearing.
- Receive Appeal of the Decision and liaise with and forward all documentation to the Ohu Whakahaere Appeals secretary.
- Manage documentation and reporting.

SUPPORT PERSON(S)

- Listen to the appellant's concerns and explain the informal and formal resolution processes.
- Discuss options but allow them to make their own decisions.
- Discuss possible outcomes and consequences.
- Where English is the appellant's second language ensure they are given the option of an interpreter.
- A Support Person cannot speak on behalf of the appellant, unless the appellant chooses for the Support Person to move into the role of Advocate. In which case, the ākongā and the Advocate must

complete and sign the Authorisation to Advocate Form and submit to the Appeals Coordinator.

During meetings, a Support Person might:

- Ask for clarification.
- Remind the appellant of questions to ask or points to make.
- Observe if the process is fair.
- Request breaks.
- Take notes and de-brief the appellant after the meeting.

PROCEDURE

STEP	ACTION	TIMEFRAME / NOTES	RESPONSIBILITY
1.0	<p>If an ākongā wishes to appeal an academic decision, they must complete a Notice of Appeal form and provide to the Appeals Officer.</p> <p>They can request a Support Person or Advocate. e.g. from Learner Services or SANITI etc.</p>	<p>Within 7 working days of receiving notification of the academic decision.</p> <p>In exceptional circumstances, and with the approval of the delegated authority, an appeal may be received later than 7 working days.</p> <p>e.g. A summative assessment may be appealed on the grounds that:</p> <ul style="list-style-type: none"> - the assessment process was unfair; - the personal circumstances of the ākongā, relevant to the assessment, were not adequately considered by the assessor 	Appellant (the ākongā making the appeal)
1.1	Log Notice of Appeal on Ākongā Appeals Register	Within 2 working days of receiving Notice of Appeal	Appeals Officer
1.2	Set up a Summary Document [Template available] (held centrally) in which to record all communications/events/decisions related to the appeal.	Within 2 working days of receiving Notice of Appeal	Appeals Coordinator
1.3	Convene AS & Q Committee Appeal hearing.	Within 2 working days of receiving Notice of Appeal	Appeals Officer
1.4	Appoint a Chair to the AS & Q Committee Appeal hearing. The Chair must be a senior NMIT kaimahi.	Within 2 working days of receiving Notice of Appeal	AS & Q Committee Appeal hearing members
1.5	Letter [Template available] sent to the appellant (via email) advising: <ul style="list-style-type: none"> a. Acknowledgement of the appeal b. Rights of the appellant including the right to a Support Person or Advocate and the principles of natural justice which will be followed c. Authorisation to Advocate form d. Ākongā Appeals Procedure (copy of the policy enclosed/linked) 	Within 2 working days of receiving Notice of Appeal	Appeals Coordinator

STEP	ACTION	TIMEFRAME / NOTES	RESPONSIBILITY
	<p>e. Request for confirmation of availability to attend a hearing.</p> <p>f. Option for the appellant not to attend but the hearing will proceed</p>		
1.6	<p>Receipt of Appeals Coordinator's letter is acknowledged and availability for attending hearing sent to Appeals Coordinator. N.B. this communication may occur via a designated Advocate</p>	<p>Within 2 working days of receiving Appeals Coordinator's letter</p>	<p>Appellant (-> Advocate) -> Appeals Coordinator</p>
1.7	<p>The AS & Q Committee Appeal hearing is scheduled (see note, at right) and key kaimahi and ākonga are notified. Agenda of the hearing is sent to all.</p>	<p>The hearing must be conducted within 7 working days of receiving the Notice of Appeal, unless notified to all parties.</p>	<p>Appeals Coordinator</p>
1.8	<p>Confidential evidence is recorded, collated and copied, and the following people are provided with documentation packs in preparation for the hearing:</p> <ul style="list-style-type: none"> • All members of the AS & Q Committee Appeal hearing • The appellant • A Support Person and/or Advocate • Curriculum Area representative <p>The documents in the pack are stamped 'confidential' and must not be copied or distributed to anyone other than those stated above, either knowingly or unknowingly.</p>	<p>At least 3 working days before hearing date.</p>	<p>Appeals Coordinator</p>
1.9	<p>Hearing is conducted, under "confidential business", in three parts:</p> <p>Both sides are heard; A deliberation takes place; A decision is made.</p> <p>Decision is by majority vote where the Chair may exercise a casting vote where necessary.</p> <p>Appeals Coordinator records the meeting.</p>	<p>The hearing must be conducted within 7 working days of receiving the Notice of Appeal, unless notified to all parties.</p>	<p>Appeals Coordinator</p> <p>AS & Q Committee Appeal hearing members</p> <p>Appellant (if they choose to attend)</p> <p>Support Person and/or Advocate</p>

STEP	ACTION	TIMEFRAME / NOTES	RESPONSIBILITY
1.10	<p>The decision of the AS & Q Committee Appeal hearing is communicated, verbally a.s.a.p. and in writing [Template available], to:</p> <ul style="list-style-type: none"> • Appellant • Support Person; and/or • Advocate <p>any other affected parties.</p> <p>The decision will also inform the appellant of their right to further appeal.</p>	<p>Within 5 working days of the AS & Q Committee Appeal hearing.</p>	<p>Chair of the AS & Q Committee Appeal hearing</p>
1.11	<p>The Appeals register is updated to reflect outcome.</p>		<p>Appeals Coordinator</p>

FURTHER APPEAL (INTERNAL WITHIN NMIT)			
STEP	ACTION	TIMEFRAME / NOTES	RESPONSIBILITY
2.0	<p>If the ākongā wishes to appeal:</p> <ul style="list-style-type: none"> • An Academic Standards and Quality Committee Appeal hearing decision (academic), <p>OR</p> <ul style="list-style-type: none"> • The outcome of a non-academic complaint, <p>OR</p> <ul style="list-style-type: none"> • The outcome of a postgraduate research or scholarship decision, <p>OR</p> <ul style="list-style-type: none"> • The outcome of an ākongā breach of discipline decision. <p>they should write to the Academic Committee (Appeals) Chair.</p>	<p>An appeal at this stage can be made on the basis that:</p> <ol style="list-style-type: none"> a) That the procedure used for investigating or resolving the Prohibited Conduct was unfair or biased, OR b) That the decision of the Investigator could not reasonably be sustained on the evidence, OR c) That significant new evidence which was not previously available has become available since the investigation which could have a material effect on the decision made or the penalty imposed, OR d) That the disciplinary action/s taken were out of proportion to the nature of the breach of discipline and the full circumstances of the case. 	<p>Appellant (the ākongā making the appeal)</p>

		<p>The Appeal must be made within 7 working days of receiving the decision.</p> <p>The letter should include the specific issues the appellant has identified.</p>	
2.1	<p>Where grounds for appeal are satisfied:</p> <ul style="list-style-type: none"> - Formally acknowledge the written appeal to appellant and support person / advocate and advise on next steps. <p>Where grounds for appeal are not satisfied:</p> <ul style="list-style-type: none"> - Notify decision to appellant and support person / advocate and reasons why 	<p>Within 3 working days of receiving the written appeal.</p> <p>Within 10 working days of receiving the written appeal.</p>	Appeals Officer
2.2	Consider the appeal	<p>The Appeals Panel must be conducted within 7 working days of receiving the Notice of Appeal, unless notified to all parties.</p> <p>A person who has been involved in the appeal or who is not considered by the Chair to be impartial cannot be a member of the Appeals Panel.</p>	Appeals Panel
2.3	<p>The Appeals Panel Chair will convey the outcome of the hearing to:</p> <ul style="list-style-type: none"> • The Academic Standards and Quality Committee Appeal hearing members, • The appellant, and • Any other affected parties 	Within 5 working days of the decision being reached.	Chair of the Appeals Panel
2.4	If the appeal to the Appeals Panel is upheld, the ākongā is notified of the outcome, verbally and in writing.	Within 5 working days of the decision being reached.	Chair of the Appeals Panel

FURTHER APPEAL (INTERNAL WITHIN TE PŪKENGA)			
STEP	ACTION	TIMEFRAME / NOTES	RESPONSIBILITY
3.0	<p>If the appeal is not upheld, the appellant has the right to appeal to the Chair of Te Ohu Whakahaere Appeals, a subcommittee of Te Poari Akoranga, Te Pūkenga Academic Board.</p> <p>The appeal is submitted, in writing, to Te Ohu Whakahaere Appeals Officer.</p> <p>A copy of the Appeals Panel decision and supporting evidence is also sent.</p>	<p>Within 7 working days of the written appeal decision being received by the appellant.</p>	<p>Appellant (the ākonga making the appeal)</p>
3.1	<p>The appeal is referred to the Chair of Te Ohu Whakahaere Appeals.</p>	<p>As soon as practicable.</p>	<p>Te Ohu Whakahaere Appeals Officer</p>
3.2	<p>The appeal is reviewed, and a decision made on the appropriate procedure to deal with the appeal, including whether to hold a hearing or not.</p>		<p>Chair of the Ohu Whakahaere Appeals</p>
3.3	<p>Appellant advised of the procedure to be followed and/or timeframe.</p>	<p>Within 5 working days of the written appeal being received.</p>	<p>Te Ohu Whakahaere Appeals Officer</p>
3.4	<p>If hearing is required, it is held as soon as practicable and the appellant has the right to attend, to make submissions, and be supported by a support person/s and/or advocate.</p>	<p>As soon as practicable.</p>	
3.5	<p>The appellant and their support person/s and/or advocate is informed in writing of Te Ohu Whakahaere Appeals' decision.</p>	<p>As soon as practicable.</p> <p>If a hearing is held, the decision will be released within 5 working days of the Panel hearing.</p>	<p>Chair of the Ohu Whakahaere Appeals</p>
3.6	<p>The decision of Te Ohu Whakahaere Appeals is final.</p>		

FURTHER APPEAL (INTERNAL WITHIN TE PŪKENGA)			
STEP	ACTION	TIMEFRAME / NOTES	RESPONSIBILITY
	<p>There is no further internal appeal process available.</p> <p>The decision document informs the appellant of their right to refer the matter to an external organisation.</p>		

APPEAL TO EXTERNAL BODIES			
STEP	ACTION	TIMEFRAME	RESPONSIBILITY
4.0	<p>If the decision of Te Ohu Whakahaere Appeals is disputed, the appellant may appeal to an external group, for example:</p> <p>Domestic ākongā:</p> <ul style="list-style-type: none"> • Domestic Tertiary Student Contract Dispute Resolution Scheme (DRS). The legal rules that govern this process are set out in the Education (Domestic Tertiary Student Contract Dispute Resolution Scheme) Rules 2021. These set out the process that everyone involved must follow. • New Zealand Qualifications Authority (NZQA). Contact: https://www2.nzqa.govt.nz/about-us/contact-us/complaint/education-provider/ • The Office of the Ombudsman Contact: info@ombudsman.parliament.nz • Human Rights Commission. Contact: https://tikatangata.org.nz/resources-and-support/contact-us <p>International ākongā:</p> <ul style="list-style-type: none"> • iStudent Complaints Scheme. Contact: https://www.istudent.org.nz/contact-us 		Appellant

REPORTING			
STEP	ACTION	TIMEFRAME	RESPONSIBILITY
5.0	Summarise information from ākongā appeals and facilitate regular reporting to NMIT Academic Standards and Quality Committee (<i>Confidential – In Committee</i>).	Quarterly	Appeals Officer
	Identify, as part of the appeals' hearing or process, institutional improvements, or corrective actions. Add to NMIT's Continuous Quality Improvement Plan. Report to Te Ohu Whakahaere Quality.	Annually	Appeals Officer

REFERENCES

INTERNAL

[Academic Standards and Quality Committee Appeals hearing process](#)

[Ākongā Problem Resolution at NMIT leaflet](#)

[Ākongā Misconduct Procedure](#)

[Authorisation to Advocate Form](#) [available on Intranet]

[NMIT Ākongā Concerns and Complaints Resolution Procedure](#)

Programme Regulations

Templates (available from Intranet. internal use only):

[Agenda \[template\]](#)

[Ākongā Appeals Register and Summary \[Template\]](#)

Appeal Acknowledgement letter [Template]

Letter advising appeal hearing decision [Template]

Letter advising ākongā of appeal decision – re-submission/re-sit [Template]

EXTERNAL

Education and Training Act 2020

Privacy Act 2020

The Education (Pastoral Care of Tertiary and International Learners) Code of Practice 2021

Human Rights Act (1993)

Accreditation tool for Education programmes leading to registration in the registered nurse scope of practice (2022)

RECORDS

Appeal Panel hearing minutes and associated appeal papers

Ākongā Appeals Register and Summary