
COMPLAINT AND APPEALS POLICY AND PROCEDURES

NATIONAL CODE STANDARD 10

Registered providers' complaints and appeals processes are independent, easily and immediately accessible and inexpensive for the parties involved.

(National Code Standard 10)

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ESOS AND NATIONAL CODE REQUIREMENTS

10.1.1 These policies and procedures for managing appeals are designed to ensure compliance with all legislative and regulatory requirements established under the:

- ESOS ACT;
- ESOS Regulations;
- The National Code;
- Migration Act; and
- Migration Regulations.

10.1.2 These requirements are effectively summarised under ‘Standard 10 – Complaints and Appeals’ of the National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students, which states the requirements as:

- a. The registered provider must have an appropriate internal complaint handling and appeals process that satisfies the following requirements, or can use its existing internal complaints and appeals processes as long as it meets these requirements:
 - A process is in place for lodging a formal complaint or appeal if the matter cannot be resolved informally, which requires a written record of the complaint or appeal to be kept
 - Each complainant or appellant has an opportunity to formally present his or her case at minimal or no cost to him or herself
 - Each party may be accompanied and assisted by a support person at any relevant meetings
 - Conducts the assessment of the complaint or appeal in a professional, fair and transparent manner
 - Responds to any complaint or appeal an overseas student makes about the registered provider or any agent or related party the registered provider engages
 - The complainant or appellant is given a written statement of the outcome, including details of the reasons for the outcome and keeps a record of written statement on students file
 - The process commences within 10 working days of the formal lodgment of the complaint or appeal and supporting information and all reasonable measures are taken to finalise the process as soon as practicable.

- b. The registered provider must have arrangements in place for a person or body independent of and external to the registered provider to hear complaints or appeals arising from the registered provider’s internal complaints and appeals process or refer students to an existing body where that body is appropriate for the complaint or appeal.

- c. If the student is not satisfied with the result or conduct of the internal complaint handling and appeals process, the registered provider must advise the student of his or her right to access the external appeals process at minimal or no cost. Advice must be given to student within 10 working days of completion of internal complaints handling and

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appeals process.

- d. If the student chooses to access the registered provider's complaints and appeals processes as per this standard, the registered provider must maintain the student's enrolment while the complaints and appeals process is ongoing.
- e. If the internal or any external complaint handling or appeal process results in a decision that supports the student, the registered provider must immediately implement any decision and/or corrective and preventative actions required and advise the student of the outcome.

10.1.3 The National Code continues to offer Compliance tips for providers:

For a provider to show it is complying with Standard 10, it may need some of the following as evidence:

- a documented complaint handling and appeals policy freely accessible to students
- full records of all complaints and appeals and their outcomes
- records of corrective and preventative action. Corrective action may include restoring a student's academic record after an appeal has resulted in a decision in the student's favor. Preventative action may include introducing a policy that provides more timely feedback to students
- evidence of an internal appeals handling process and appeals process that satisfies the requirements listed at 10.1.2
- evidence that the provider has made the student aware of the provider's obligation to maintain the student's enrolment while the appeal is ongoing;
- a statement of findings in relation to each complaint or appeal that demonstrates the reasons behind the decisions made at each stage of the appeal. Evidence that the statement is issued to the student and a copy retained on the student's file; and
- advice given to students of the independent bodies available to them. Evidence of where a student has accessed an independent body and the outcome of the appeal.

SCOPE AND PURPOSE

10.2.1 At any point of time during their study under a student visa an international student may find themselves in a situation in which they feel they have a justified grievance relating to the policies and procedures of their education provider, or in circumstances in which they have been wrongly represented and that their education provider has acted in a manner contrary to their best interests without full and fair consideration of all circumstances, and in which they have found it impossible to resolve their grievance informally.

10.2.2 Pivotal Education policies and procedures are based on the belief that in such circumstances students have a right to access accessible, affordable, equitable, fair, open and timely internal complaints and appeals policies and procedures, and should they fail to provide what the student sees as a just outcome, to a similarly accessible, affordable, equitable, fair, open and timely external appeals procedure.

10.2.3 To meet this commitment Pivotal Education differentiates between its Complaints and Appeals policies and procedures.

10.2.4 **Pivotal Education Complaints Policy and Procedures** relate to situations in which a student has a grievance relating to:

- Pivotal Education facilities, including building, classrooms, information technology and/or learning resources;
- administrative, educational and/or student services procedures and/or delivery;
- a 'breach' of the **Trainers' Code of Conduct**;
- a 'breach' of Pivotal Education **Student Code of Conduct** by another party;
- a student being processed as Not Yet Competent when the student believes the assessment tool and procedures were in some way invalid – either inappropriate or not implemented correctly; and/or
- a student having a PRISMS entry made which they believe is unjustified on grounds such as the availability, compliance and/or implementation of Pivotal Education policies and procedures, and wishes to raise the issue as a complaint, notwithstanding the possibility of that matter being considered and treated as a "serious incident".

10.2.5 Students are encouraged to resolve their grievances and/or complaints through informal avenues, but where this is not possible or the grievance is of significant and ongoing concern, the complainant can engage the Formal Complaints procedures by completing and submitting the **Pivotal Education Student Complaint and Appeal Form**.

The Pivotal Education **Complaints Flowchart** presents an overview of the procedures outlined below.

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10.2.6 **Pivotal Education Appeals Policy and Procedures** are designed to secure resolution of situations in which a decision made in relation to a student is seen by that student as being against their interests and in some way contestable. Such decisions potentially include:

- a student being sent an Intention to Report Letter for unsatisfactory attendance and academic progress (see Pivotal Education **Overseas student visa requirements policy**)
- a student being notified of an intention to suspend or terminate their enrolment as a result of their breaching Pivotal Education Code of Conduct;
- a student not being able to secure an acceptable resolution (from the student's perspective) of a complaint through the informal and formal Complaints procedures;
- a student having their application for a release letter to transfer to another registered provider rejected;
- a student having an application for a refund of tuition fees rejected;
- a student having their application for a change of course rejected;
- a student having their application for leave of absence rejected; or
- a student having their application for course credit rejected.

10.2.7 The Pivotal Education **Appeals Procedure Flowchart** presents an overview of the procedures outlined below.

10.2.8 Apart from situations in which circumstances prevent it, all student Internal Appeals will be processed within 20 working days and the outcome of the appeal will be conveyed to the student by the Student Services.

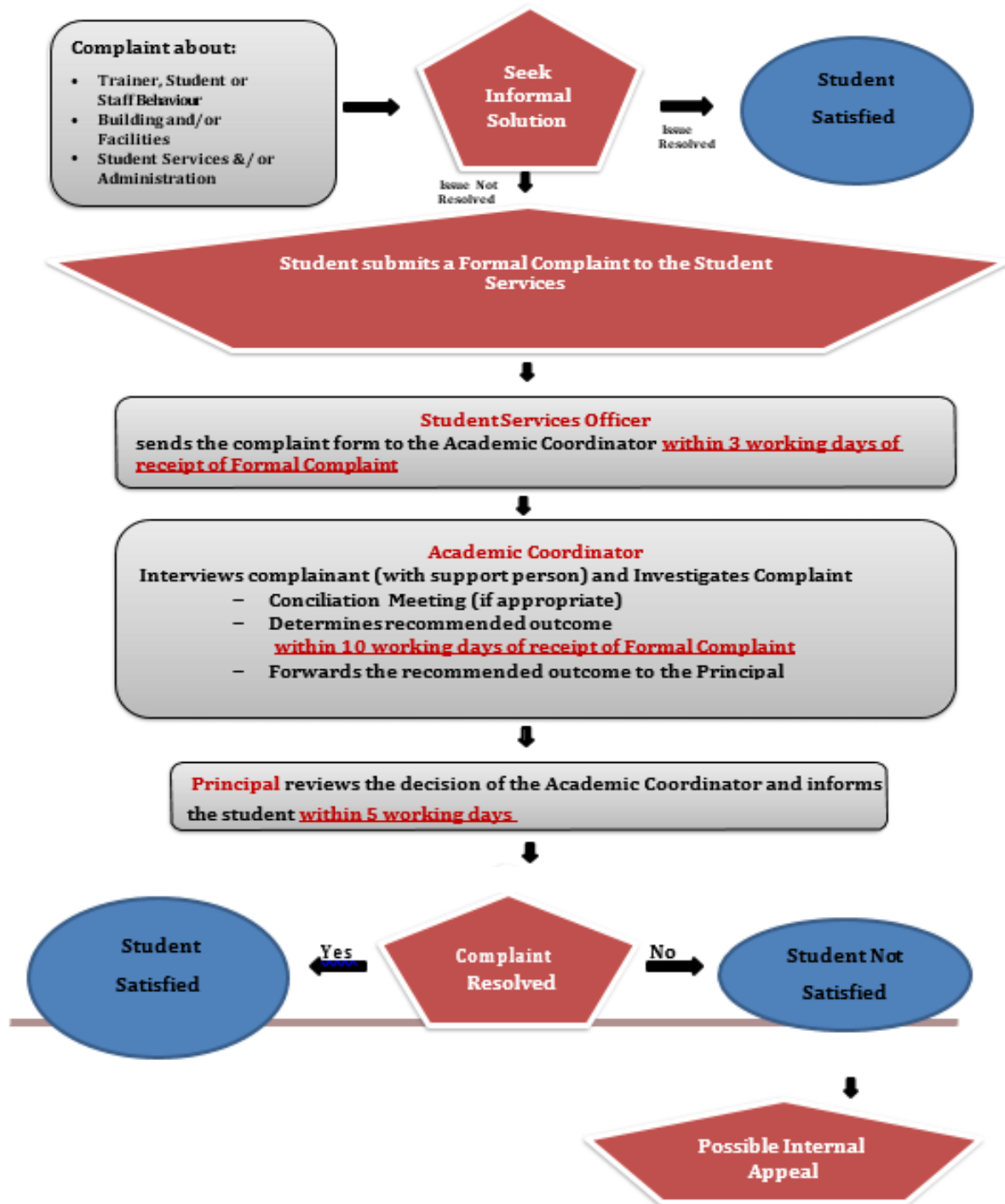
10.2.9 Where appropriate, students are encouraged to resolve their concerns through informal avenues, but where this is not possible or the concern is for significant matter, students can engage the Internal Appeals procedures by completing and submitting a **Student Complaint Appeal Form**.

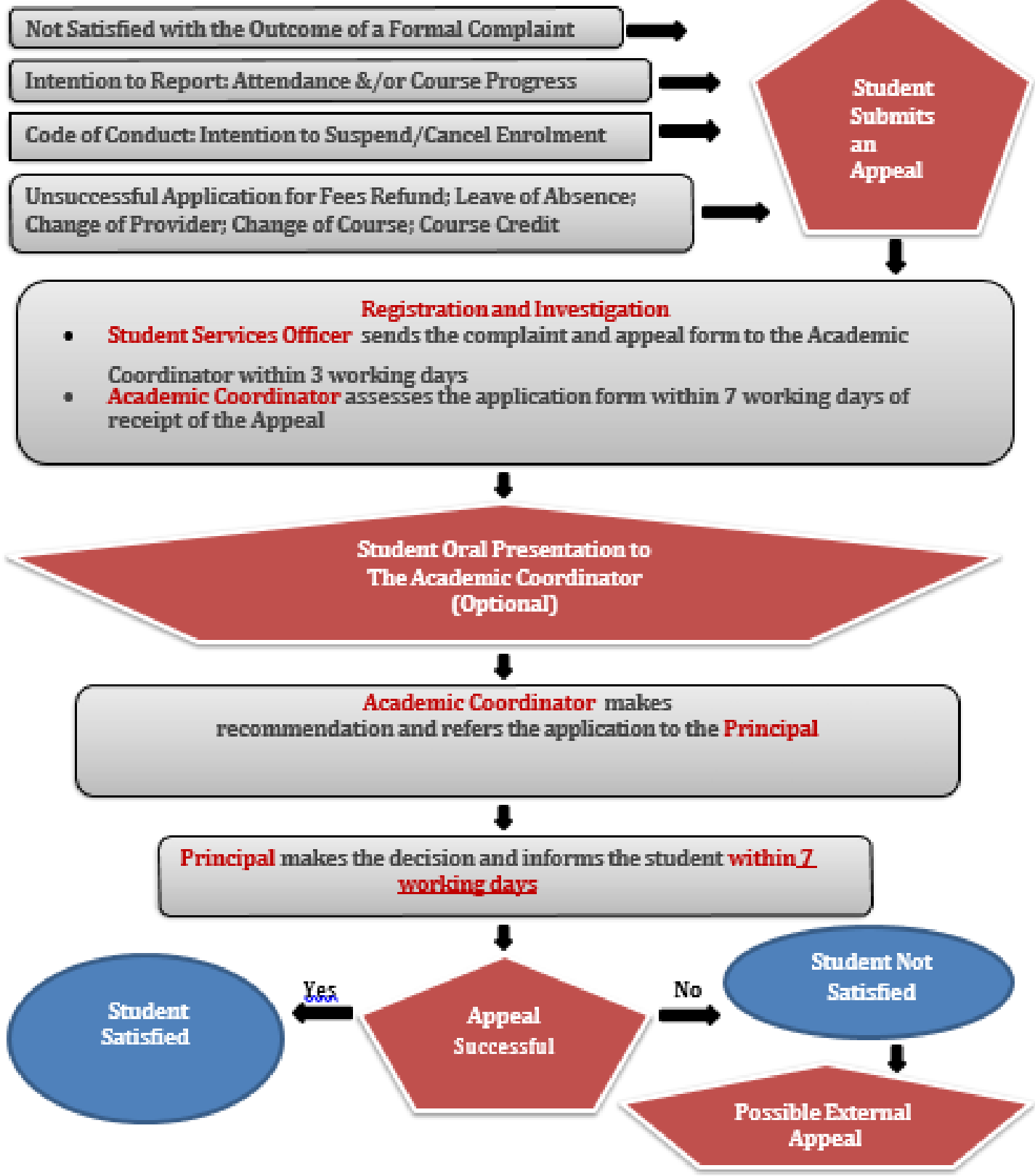
10.2.10 Given the fact that the policies and procedures for appeals come into play across a number of National Code Standards, this statement provides the foundation for appeals relating to other standards, and should be read in association with Pivotal Education policy and procedures statements for:

- Standard 7, Overseas student Transfers;
- Standard 8, Overseas Student Visa requirements
- Standard 9, Deferment, suspension or cancellation of study during enrolment.

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STUDENT COMPLAINTS FLOWCHART





COMPLAINTS AND APPEALS POLICY PRINCIPLES

10.3.1 Respecting the mutual rights and responsibilities of all staff and students Pivotal Education has adopted the following principles as guides for addressing and resolving all complaints and appeals. These principles have also informed the development of **Pivotal Education Trainers’ Code of Conduct** and the **Pivotal Education Student Code of Conduct**.

10.3.2 Pivotal Education is committed to:

- a. Observing the principles of natural justice in the resolution of complaints and appeals – the parties involved should respect each other’s rights and responsibilities, act with openness, fairness and flexibility, and with no fear of retribution, victimisation or breach of confidentiality
- b. Openly informing students as to their rights and responsibilities as international students and Pivotal Education policies and procedures.
- c. Dealing with grievances, complaints and appeals impartially and, in the first instance, informally, and seeking resolution in a timely manner – complainants, appellants and/or respondents will be fully informed of all outcomes/decisions and of the reasons for those decisions.
- d. Respecting the right of complainants, appellants and/or respondents to nominate a third person to support their representation, including the use of an interpreter.
- e. Maintaining full records of complaints and appeals, their processing and resolution, and making them available to all parties.
- f. Respecting the rights of students to remain enrolled throughout all stages of any internal and external appeals processes they enter, except in cases of suspension or cancellation of enrolment for serious misbehavior (suspected criminal activity, a student being a danger to themselves and/or others, etc.)

COMPLAINTS PROCEDURES

10.3.3 The **Student Complaints Flowchart** presents the sequence of procedural steps involved in managing student grievances and complaints

10.3.4 As indicated in Paragraph 10.3.2 students with a grievance or complaint are encouraged to first seek an informal resolution by directly raising the matter with the person responsible. If desired the persons involved may also seek the informal advice of appropriate third parties such as the welfare officer, a trainer or other staff member. Where these informal approaches resolve the grievance the agreed adjustments and changes will be implemented at that level.

10.3.5 Some grievances will be more amenable to such resolution and the nature of other

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grievances and complaints may suggest that they will be less open to informal resolution, and where informal resolution is either unsuccessful or inappropriate, students can initiate the Formal Complaints procedures by completing a Student Complaint and Appeal Form and submitting it to the Student Services Officer.

10.3.6 There are two separate Complaint forms:

- one for complaints about the behavior of an administration staff member, a trainer for a suspected breach of the Trainers’ Code of Conduct, or a fellow student for a claimed breach of the Student Code of Conduct;
- one for complaints relating to student admissions, enrolments, transfers and withdrawals, administration and services, and building facilities and resources.

10.3.7 On receipt of a Complaint the Student Services Officer will check the details and any attached documentation, and refer it and the associated materials to the Academic Coordinator or to the relevant staff (varies depending on the nature/subject of the Complaint) whom will assess the application within 3 working days of its receipt.

10.3.8 In all cases, and especially in complaints relating to the conduct of staff, trainers and/or students, the investigation of Complaints will be undertaken by a person in a higher position and removed from the person identified in the complaint, either directly or indirectly.

10.3.9 The designated person will:

- examine the complaint and associated documentation;
- interview the complainant and any other relevant people the subject of or involved with the complaint (with all parties able to nominate an appropriate support person);
- where appropriate, facilitate negotiation and conciliation between the parties;
- make a recommendation for resolving the complaint.

10.3.10 On receipt of the Complaint and the designated person’s recommendations, the Principal will review the case and recommendations and make a decision to:

- endorse a conciliated/negotiated resolution;
- reject the complaint if there are insufficient grounds to sustain the Complaint; or
- resolve the complaint in favor of the complainant.

10.3.11 The Student Services will notify both the complainant and respondent of the decision in writing, providing

- the reasons for the decision;
- information relating to any actions to be taken by all parties as a result of the decision; and
- informing them of the right of either the complainant or respondent to make a formal

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Internal Appeal against the decision.

10.3.12 It is expected that this process will be completed within 20 working days from the date of the submission of the complaint.

SUBMITTING INTERNAL APPEALS

10.3.13 Pivotal Education Appeals procedures can be triggered by a student seeking to prevent or reverse an action by Pivotal Education which is viewed by the student as having resulted from a decision and/or action which is either invalid or unjustified, including:

- a student being sent an Intention to Report Letter for unsatisfactory attendance and academic progress (see Pivotal Education Overseas student visa requirements policy)
- a student being notified of an intention to suspend or terminate their enrolment as a result of their breaching the Pivotal Education Code of Conduct;
- a student not being able to secure an acceptable resolution (from the student’s perspective) of a complaint through the informal and formal Complaints procedures;
- a student having their application for a release letter to transfer to another registered provider rejected;
- a student having an application for a refund of tuition fees rejected;
- a student having their application for a change of course rejected;
- a student having their application for leave of absence rejected; or
- a student having their application for course credit rejected.

UNSATISFACTORY ACADEMIC PROGRESS AND/OR ATTENDANCE

10.3.14 When a student is sent an **Intention to Report Letter** for unsatisfactory attendance and/or academic progress, it will inform them of:

- the intention to report them;
- the reasons for this;
- their right to appeal within twenty (20) working days from the receipt of the letter;
- how to enter the Appeal process; and of
- the possible grounds for an appeal, namely that:
 - i. Pivotal Education had not made the performance requirements and Appeals Policies and Procedures available to the students; and/or
 - ii. Pivotal Education had not measured/recorded the relevant requirements correctly, and had thereby made a demonstrably wrong decision; and/or Pivotal Education had not implemented its procedures in accordance with its published policies and procedures; and/or
 - iii. there existed demonstrable compassionate and/or compelling reasons which were

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responsible for or contributed to the student’s unsatisfactory attendance.

10.3.15 If a student fails to submit an Internal Appeal within 20 working days of receiving an Intention to Report Letter, or appeals but then withdrawals from the Internal Appeals process before its resolution, Pivotal Education will notify the Department of Education and the Department of Home Affairs through PRISMS that the student has failed to maintain satisfactory performance (attendance and/or academic progress).

10.3.16 If a student appeals against being reported, the student’s enrolment will be maintained throughout the internal and, if that process ends in a decision against the student, any possible subsequent External Appeals process. Pivotal Education will not report the student to the Department of Home Affairs via PRISMS for unsatisfactory attendance and/or academic progress unless and until the internal and (if utilised) external appeals processes are complete and have supported Pivotal Education’s initial intention to report.

10.3.17 Students will be expected to continue to meet all course attendance and progress requirements throughout the appeals (internal and external) processes.

BREACH OF CODE OF CONDUCT

10.3.18 When a student is sent an **Intention to Suspend/Cancel Enrolment letter** informing them that Pivotal Education intends to either suspend or cancel their enrolment due to the student breaching the **Pivotal Education Code of Conduct** that letter will inform them of:

- the intention to report them;
- the reasons for this;
- their right to appeal within twenty (20) working days from the receipt of the letter;
- how to enter the Appeal process; and of
- the possible grounds for an appeal, namely that:
 - i. Pivotal Education had not made the relevant policies and procedures and requirements available to the students; and/or
 - ii. Pivotal Education had not measured/recorded the relevant requirements correctly, and had thereby made a demonstrably wrong decision; and/or
 - iii. Pivotal Education had not implemented its procedures in accordance with its published policies and procedures; and/or
 - iv. that demonstrable and previously unconsidered compassionate and/or compelling reasons significantly contributed to the student’s situation.

10.3.19 Depending on the severity of the breach of the Code of Conduct, Pivotal Education will either:

- hold any implementation of its original decision/outcome for the period of any Internal and, if that process ends in a decision against the student, any subsequent

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- External Appeals process; or
- immediately implement the intended suspension/cancellation of enrolment.

10.3.20 A student who enters the Appeals process and whose enrolment is not immediately suspended/ cancelled will be expected to continue to meet all course attendance and progress requirements throughout the appeals processes.

10.3.21 If a student fails to submit an appeal within 20 working days of receiving the Intention to Suspend/Cancel Enrolment letter, or appeals and then withdrawals from the Internal Appeals process before its resolution, Pivotal Education will implement its original intension.

UNSATISFACTORY COMPLAINT RESOLUTION

10.3.22 If as an outcome of an Internal Appeals process a student is sent a **Complaint Rejection Letter** that letter will inform the student that:

- if they are dissatisfied with the decision/outcome, they have a right to appeal and enter the External Appeals process within ten (10) working days from the receipt of the letter;
- their right to submit an External Appeal to the Overseas Students Ombudsman; and of
- the possible grounds for an External Appeal.

10.3.23 If a student appeals against the decision/outcome, Pivotal Education will determine whether or not to implement its original decision/outcome prior to or after the Internal Appeal outcome is determined. Should the original decision be implemented and the Internal Appeal is subsequently determined in favour of the Appellant, Pivotal Education will reverse its implementation.

REJECTION OF APPLICATION

10.3.24 When a student's Application for **Leave of Absence, Course Withdrawal and Release Letter, a Refund of Tuition Fees, a Change of Course Preference,** or an Application for **Course Credit** is rejected, the student is sent notification informing them of the decision and:

- the reasons for the decision;
- their right to appeal against the decision;
- the possible grounds for an Internal Appeal; and
- the procedure for lodging an Internal Appeal by submitting a completed
- **Pivotal Education Student Appeal Form** along with relevant supporting documentation.

10.3.25 If a student fails to submit an Internal Appeal within 20 working days of receiving Complaint Outcome letter, or appeals and then withdrawals from the appeals process before its resolution, or if the appeal is rejected, Pivotal Education will maintain it the original decision/outcome.

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10.3.26 If a student appeals against the decision/outcome, and the appeal is successful, Pivotal Education will reverse its original decision and act in accordance with the determination.

10.3.27 Students will be expected to continue to meet all course attendance and progress requirements throughout the appeals processes.

PROCESSING INTERNAL APPEALS

10.4.1 All Internal Appeals will be processed within 10 working days and finalised within 20 working days of the Appeal Form being submitted, with the Appellant being informed by the close of business on the 20th day. If for unavoidable reasons the investigation of an Internal Appeal is held up, and the appeal cannot be resolved within 20 working days, the Appellant will be notified of this and advised when the outcome will be communicated to him/her.

10.4.2 The Academic Coordinator is responsible for the coordination and management of all Internal Appeals.

10.4.3 All Internal Appeal Forms will be submitted to the Student Services Officer for initial registration and referral for investigation. This entails:

- attach a **Complaint and Appeal form; and,**
- inform (in person or by telephone call or email) the student that they have a right to make a personal representation of their case to the responsible person, and that they have a right to be accompanied by a support person at such a meeting.

10.4.4 The designated responsible investigating person will be the:

- Intervention Officer for appeals relating to an intention to report a student for unsatisfactory attendance and course/academic progress;
- Pivotal Education Accounts Manager for fees and charges refund related appeals;
- Student Services Officer for appeals relating to a negative outcome of a request for Leave of Absence, Course Withdrawal and Release Letter, a Change of Course Preference, or a request for Credit Transfers; or the
- Academic Coordinator for appeals relating to an intention to suspend or terminate a student's enrolment for a breach of the Code of Conduct.

10.4.5 The responsible investigating officer will:

- gather relevant information and documents;
- make a preliminary evaluation of the materials (for example, checking the

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- validity of medical certificates);
- refer the appeal to the Academic Coordinator or to the relevant staff depending on the nature of the appeal.

10.4.6 Where necessary, the investigating person will source information from other Pivotal Education staff.

10.4.7 If a student decides to take up the opportunity to make an in-person presentation of their case (with or without a support person being present) the Academic Coordinator (or the other relevant staff depending on the nature of the appeal) will:

- facilitate that meeting at a time and place mutually agreeable to both parties;
- conduct the meeting, ensuring that minutes are taken; and

10.4.8 The Academic Manager (or the other relevant staff depending on the nature of the appeal) will then:

- formulate a recommended outcome and related action;

10.4.9 For Code of Conduct related appeals the Academic Coordinator’s recommended decisions and supporting reasons will be referred to the Principal who carries responsibility for determining the outcome of internal appeals relating to breaches of the Code of Conduct.

10.4.10 The Principal will:

- confirm that all necessary steps have been taken by the Academic Coordinator and/or by the relevant staff;
- evaluate the available material pertaining to the appeal;
- decide on the final determination;
- draft the Appeal Outcome letter and make an entry on VETtrak; and
- refer the appeal documents to the Student Services.

10.4.11 Pivotal Education Student Services will:

- print and send the Appeal Outcome Letter;
- make soft copies of all the appeal documents and save them on VETtrak; and
- file hard copies of all the appeal documents in the student’s file.

10.4.12 If the Internal Appeal is successful the **Student Appeal Approval Letter** will indicate that the appeal has been successful and advise the student to maintain satisfactory attendance and academic progress and requiring them to make an appointment with the Academic Coordinator to sign an agreement/plan designed to ensure that the student maintains satisfactory attendance, maintains satisfactory academic progress and completes

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their course in the expected CRICOS duration.

- 10.4.13 If the Internal Appeal is rejected the **Student Appeal Rejection Letter** will advise the student of the grounds for the rejection, and advise them of their right to an **External Appeal to the Overseas Students Ombudsman (OSO)**, and indicating that if nothing is heard from the student within 10 working days of the Appeal Rejection letter being sent, the original/intended decision/action will be implemented. The letter will also request that the student inform the Student Services Officer if they decide to make an External Complaint/Appeal, with attached documentary evidence of their lodging the complaint ([Click here](#) for the contact details of OSO).
- 10.4.14 If a student lodges an External Appeal against a decision by Pivotal Education to reject their appeal and to report them for either unsatisfactory attendance or unsatisfactory academic progress, implementation of the original/intended decision/action will be deferred for as long as the external appeal process takes, and the student will be informed of his/her obligations to maintain satisfactory attendance and academic performance for that period.
- 10.4.15 In all matters not related to unsatisfactory attendance or academic progress where Pivotal Education decides against a student's Internal Appeal, the student will have the same right to external appeal, but Pivotal Education will implement its decision as soon as the student is notified.
- 10.4.16 At all times through any appeals procedures the student's file and record will be promptly updated on VETtrak to include the outcome of any appeals process, and any subsequent actions
- 10.4.17 Students who are reported via PRISMS will be sent a letter to their last known address notifying them that they have been reported, and advising them to contact Department of Home Affairs in relation to possible implications for their student visa.

COMPASSIONATE AND COMPELLING CIRCUMSTANCES

- 10.5.1 On application and with sufficient professional documentary and professional evidence students may be professionally judged as having compassionate and/or compelling reasons for their failure to enrol on time and/or attend scheduled classes.
- 10.5.2 When determining whether or not compassionate and/or compelling circumstances exist, Pivotal Education will consider documentary evidence provided to support the claim, and copies of such documents will be kept, together with a record of the decision and the basis for the decision, in the student's file, and recorded in VETtrak and PRISMS

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10.5.3 In determining whether or not compassionate and/or compelling circumstances exist Pivotal Education will follow the requirements set down in **ESOS National Standard 9 Deferment, Suspension or Cancellation of a Student During Enrolment Policy.**

REVIEW AND IMPROVEMENT

10.6.1 Pivotal Education is committed to ongoing monitoring and improvement of its policies and procedures, and to this end has an integrated strategy including:

- i. Compliance Manager conducts reviews of specific elements of the Appeals policy and procedures when an appeal is upheld and thereby indicates a possible problem to be addressed;
- ii. Staff with responsibilities relating to the managing of appeals being encouraged to submit any concerns about, and suggestions for making improvements to the appeals policies procedures to the Compliance Manager_who is responsible for ensuring that appropriate responses are developed and implemented.
- iii. Compliance Manager review on an annual basis all Pivotal Education’s policies and procedures relating to the ESOS National Code which may lead to modifications and improvements.
- iv. Compliance Manager monitors legislative and regulatory changes to ensure that policies and procedures are updated and fully compliant with the National Code 2018.

DEFINITIONS

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Appeal	<p>An Appeals can be initiated when Pivotal Education decision made in relation to a student is seen by that student as being against their interests and in some way contestable. Such decisions potentially include:</p> <ul style="list-style-type: none"> • an Intention to Report a student for unsatisfactory attendance or unsatisfactory. academic progress; • an intention to suspend or terminate a student’s enrolment for breaching the Pivotal Education Code of Conduct; • not being able to secure and acceptable resolution (from the student’s perspective) of a complaint through the informal and formal Complaints procedures; • an application for a refund of tuition fees rejected; • an application for a change of course rejected • an application for a release letter to transfer to another registered provider rejected; or • a student having a PRISMS entry made which they believe is unjustified on grounds such as the availability, compliance and/or implementation of Pivotal Education policies and procedures.
Compassionate and Compelling Circumstances	<p>Circumstances which are generally beyond the control of the student and which have an adverse impact on the student’s capacity and/or ability to:</p> <ul style="list-style-type: none"> • commence their course on the scheduled start date, but within two weeks of that date, or to • attend scheduled classes for a significant period of time during the Study Period.
Complaint	<p>A Complaint can be initiated when:</p> <ul style="list-style-type: none"> • a student or staff member believes they have a legitimate concern relating to some aspect of Pivotal Education’s facilities, and/or administrative, educational and/or student services procedures and/or delivery; and/or • a student or staff member believes that there has been a breach of the Pivotal Education’s Code of Conduct by another party, and wishes to raise it as a complaint, notwithstanding the possibility to that matter being considered and treated as a “serious incident”.
Course	<p>A full-time registered program of education or training registered on CRICOS for the attainment of a testamur or certificate. Defined as course in the ESOS Act.</p>

International Student	A person who holds an Australian Student Visa, and is an 'overseas student' as defined by the ESOS Act.
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