

## **Grievance Policy, Appeal Procedure and the Ombudsman**

### **Grievance Policy (See Ombudsman)**

Trinity College recognises the importance of sound and fair proceedings in dealing with disputes that may arise within the College. The College upholds and complies with the requirements of the State and Commonwealth, as well as the requirements of the Educational Services for Overseas (ESOS) Act 2007 which mandates the provision for international students of clear avenues for resolving grievances.

The College approaches student grievance resolution (except in the case of all forms of harassment and other misconduct - see Student Code of Conduct dated Jan. 1 2007) following the guidelines set out below. The intention at all times is to consider a range of options for the resolution and to approach the issue in good faith.

- Wherever possible, informal means will be used to resolve any dispute.
- A student can initiate a formal grievance by raising the issue with a TCFS mentor for referral, or by submitting a letter directly to the TCFS Executive at Wynne Cottage.
- The student may choose a nominee to assist in the process of dispute resolution.
- Any formal process will be conducted through the TCFS Executive or its nominees.
- Resolution of any dispute will be accomplished as close as possible to the source of student dissatisfaction.
- In the resolution of a dispute, respect for all parties' confidentiality will be paramount.
- Students should feel secure in the knowledge that they will not suffer any form of disadvantage as a result of making the complaint.
- Where a dispute remains unresolved after informal means or formal proceedings through the TCFS Executive, the parties to the dispute shall have the right to approach the Dean of International Programs.
- An appeal to the decision of the TCFS Executive or the Dean of International Programs can be made in writing to the Warden of Trinity College (See Appeal Procedure 1.2).
- Further Foundation Studies students may, also take the matter externally directly to the Overseas Student Ombudsman, who will at no cost:
  1. review the relevant documented policies and procedures of the College;
  2. review the facts of the particular student case;
  3. establish whether the College has adhered to its own internal policies and procedures and fully complied with the relevant external laws and regulations;
  4. establish whether the student's case has been fully considered in a fair and impartial way;
  5. make a final finding as to whether the appeal is denied (in which case the College's original ruling will stand), or whether the appeal is upheld (in

which case the College will reverse its decision relating to the student)  
and,

6. communicate that finding in writing to both the appellant and the College.

## **Appeal Procedure**

### **1. Internal stage:**

1.1. As a result of making a complaint under any of the College's policies and procedures, whether the matter is academic, administrative or to do with personal behaviour, a Trinity College Foundation Studies student may appeal the earlier decision within 20 working days of notification.

1.2. The student will submit to the Warden of the College a written statement outlining the grounds on which the appeal is to be based, which may be on one of the three following grounds:-

1.2.1. That there is new evidence to consider regarding the misdemeanours.

1.2.2. That the original decisions regarding each penalty were not made according to correct procedure as outlined above.

1.2.3. That the matters at one or more of the steps were not heard or decided fairly and on their merits.

1.3. The Warden of Trinity College will decide whether a case exists *prima facie* for at least one of the appeal criteria having been met. If no appeal hearing is deemed warranted, the matter will be decided as 'appeal denied'. A written statement explaining the refusal to take the matter further will be sent to the student. The student will be advised of his/her right to appeal externally to the Overseas Student Ombudsman. Where one or more of the criteria appear to have been met *prima facie*, the appeal will be heard within 10 working days of the lodgement of appeal.

1.4. An appellant is entitled to be accompanied by a nominated supporter who is not a lawyer.

1.5. The matter will be heard in person by a panel of two persons internal to the College, and appointed by the Warden for the purpose, not including any person involved directly in making earlier stages of the investigation and/or disciplinary process. The student's enrolment will remain current and they remain eligible to attend all classes whilst this process is undertaken, and there will be no cost to the student regarding making the appeal.

1.6. If an appeal is upheld, the student will not incur any penalty, nor will any action disadvantageous to the student be taken. Their enrolment will continue, with explanatory documentation lodged as record on the student's file. The student should feel secure in the knowledge that they will not suffer any form of disadvantage as a result of making any appeal.

## **2. External stage:**

2.1. If the appeal is denied, the student is entitled to take the matter directly to the Overseas Student Ombudsman. The Ombudsman is an independent party, not connected with the College in any way. There will be no cost to the student for this external process.

2.2. Where the Ombudsman's decision favours the student, the College will advise the student immediately. No action disadvantageous to the student will be taken. Where the appeal is denied, the College will take whatever action that is required by ESOS Act, DIAC, or by the various policies and procedures of the College.

## **3. Responsibilities**

3.1. Students are required to respect the rules and codes of conduct of Trinity College.

3.2. Staff of the College are required to assist with maintaining correct procedures and behaviours and to make whatever evidence they have available to the internal and /or external investigations.

3.3. The Dean of International Programs is required to adhere to College policies and procedures regarding complaints and appeals and to make all reasonable attempts to resolve matters informally where possible. Where formal appeal is made, the Dean will ensure that students are fully advised of their rights under the procedures and codes, including their right to lodge an appeal up to 20 working days from the initial notification of a ruling by the College.

3.4. The Warden of the College will establish the validity of grounds for an internal appeal and whether a prima facie case exists for such appeal to be heard. Warden appoints an internal appeal panel as required.

3.5. All parties are required to keep records of correspondence and findings which will be kept on the student's file.

## **4. Related Materials and Policies**

4.1. This policy for Trinity College Foundation Studies program students overrides the Trinity College Student Code of Conduct, (1 Jan 2007) at sections 32g and 39 (which disallow external appeal for all students other than FS students within the College) in respect of the provision this procedure allows for FS students to make external appeal.

## **5. Status of Policy**

This policy was devised by B.Cargill in June 2007, incorporating modifications to appeals processes as required for National Code compliance (Standard 8). Adopted by FS Executive after consultation and agreement with Warden in June 2007 and promulgated to all TCFS students and staff. **(Revised in April 2011 after creation of the Government Overseas Student Ombudsman's Office)**

## **Ombudsman (See Grievance Policy)**

If you have a complaint about matters affecting academic progress and/or personal safety or to appeal the outcome of a complaint raised internally within Trinity, you can contact **the Overseas Student Ombudsman**. The Ombudsman is responsible for reviewing the relevant documented policies and procedures of the College; reviewing the facts of the particular student case; establishing whether the College has adhered to its own internal policies and procedures and fully complied with the relevant external laws and regulations; establishing whether the student's case has been fully considered in a fair and impartial way; making a final finding as to whether the appeal is denied (in which case the College's original ruling will stand), or whether the appeal is upheld (in which case the College will reverse its decision relating to the student) and, communicating that finding in writing to both the appellant and the College.

**The Student can contact the Overseas Student Ombudsman directly to instigate an external appeal online by using online complaint form, or by telephone during Australian business hours, 9am to 5pm Monday to Friday by calling 1300 362 072 or by sending a fax on 02 6276 0123 or by writing to him confidentially.**

**Address your letter to Overseas Student Ombudsman, GPO Box 442, Canberra ACT 2601, Australia.**