Procedure

Complaints and appeals – subclass 500 (schools) visa procedure

Version: 4.0 | **Version effective**: 08/07/2024

Audience

Education Queensland International staff (EQI staff), school staff, Office of the Executive Director, Department of Education International staff (OED DEi staff), overseas students, EQI homestay providers, parents or guardians of overseas students and their agents.

Purpose

This procedure outlines the responsibilities and processes for the management of complaints and appeals made by overseas students (or persons acting on behalf of overseas students) enrolled in an EQI registered course.

Overview

Overseas students who are dissatisfied with elements of their program can make a complaint about the situation or appeal certain decisions. Depending on the type of matter being complained about, complaints from overseas students are either managed under the department's Customer complaints management procedure or under this procedure.

For complaints about the service or action of EQI, EQI schools, school staff, education agents, parties who deliver the student's program, homestay providers, or requests (for example, change of homestay or travel and activities) the Customer complaints management procedure applies. This includes where the complainant appeals the outcome of their customer complaint.

Overseas students can appeal certain decisions made by EQI about their enrolment and visa conditions. The internal appeal and external appeal process outlined in this procedure applies to the following decisions made by EQI:

- to report the student for failing to maintain satisfactory attendance or course progress;
- to refuse a request by the student to defer or suspend their enrolment;
- to suspend or cancel the student's enrolment (initiated by EQI);
- to refuse a request to transfer to another registered provider.
- to refuse a variation of enrolment request.

This procedure is supported by the department's Customer complaints and grievances management policy and Customer complaints management procedure, and the International Student Programs (ISP) standard terms and conditions.

There are no fees for using these complaints processes, they are free and accessible to all overseas students.

This procedure aligns with Standard 10 of the National Code of Practice for Providers of Education and Training to Overseas Students 2018 (National Code).

Responsibilities

All parties

- refer to the Customer complaints and grievances management policy and follow the Customer complaints management procedure for complaints
- observe and adhere to the complaints and appeals timeframes in this procedure.

All staff

- refer any appeals regarding certain decisions made by EQI about their enrolment (as per overview) to EQI as per notification letters or to OED DEi staff
- maintain accurate and up-to-date records.

Overseas student (or persons acting on the student's behalf)

- decide to appeal a decision made by EQI about their enrolment and request an internal appeal
- decide to nominate a support person for the purpose of attending meetings (if required)
- provide all relevant information and evidence when requesting an appeal
- cooperate in a respectful way and understands that unreasonable conduct will not be tolerated
- notify OED DEi staff if an external appeal is lodged with the Queensland Ombudsman's office if dissatisfied with the outcome of the internal appeal.

School staff

- assist the overseas student and EQI staff with accessing the relevant complaints and appeals processes
- maintain or dissolve agreed arrangements if overseas student is in an EQI approved accommodation arrangement during internal and external appeal process as directed by the Director EQI.

School principal (or delegate)

- support staff in managing complaints and appeals
- ensure accommodation, welfare and study arrangements are in place for the overseas student while the appeals process is ongoing and until an outcome has been reached
- ensure decisions are not implemented until the relevant appeals processes have concluded
- escalate to EQI immediately when the overseas student's health or wellbeing, or the wellbeing of others, is likely to be at risk and enact decision of the Director EQI.

EQI staff

- follow the relevant procedures to implement decisions as directed.

Director, EQI (or delegate)

- manage decisions to ensure they are not implemented until the relevant appeals processes have concluded
- decide to suspend or cancel the overseas student's enrolment when the overseas student's health or wellbeing, or the wellbeing of others, is likely to be at risk in accordance with the Welfare management procedure.

OED DEi staff

- manage appeal timeframes, update appeals register and liaising with involved parties regarding appeals.

Internal appeal review officer

- consider and assess internal appeals
- ensure adherence to the DoE Customer Complaints Management Framework
- consider human rights when responding to an internal appeal and make decisions that are compatible with the *Human Rights Act 2019* (Qld)
- provide timely decisions for internal appeals and communicate the outcome to all relevant parties (including advice to OED DEi Staff).

Process

Complaints

Overseas students can make a complaint about the service or action of EQI, EQI schools, school staff, education agents, parties who deliver the student's program, or homestay providers and the Customer complaints management procedure applies. Where a complaint is in relation to a decision made by EQI about their enrolment, the appeals process in this procedure must be followed.

- School staff assist overseas student with accessing the relevant complaints and appeals process when requested.
- If a matter is assessed as a customer complaint, all staff involved in managing customer complaints will manage the complaint in accordance with the Customer complaints management procedure, whilst adhering to timeframes that apply to complaints from overseas students as follows:
  - written acknowledgement of receipt of the complaint within 10 working days
  - assessment of the complaint begins within 10 working days of receipt of the complaint
  - where an appeal is incorrectly lodged as a complaint, refer the complainant to the appeals process in this procedure (see details below).

Appeals

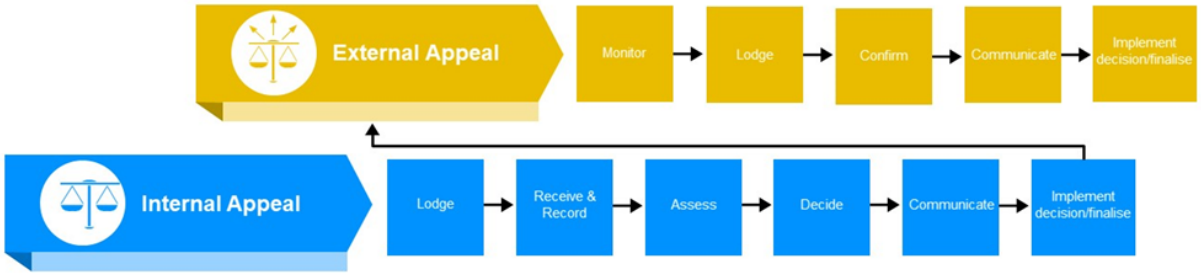

Image 1 – Appeals process

Internal appeals

Lodge

- The overseas student decides to lodge an appeal, within 20 working days of being given written notice of a decision and cooperates in a respectful way, understanding that unreasonable conduct will not be tolerated.
- The overseas student follows the instructions for an appeal in the decision letter and provides:
  - the overseas student's full name
  - the overseas student's support person (if requested by the student) to attend meetings (if required)
  - the decision that is being appealed
  - supporting evidence
  - why the decision is being appealed
  - any compassionate or compelling circumstances that should be considered in the appeal
  - the above information by one of the following methods:
    - sending via email (recommended) to OED.DEI@qed.qld.gov.au, including "Appeal to Internal appeal review officer" in the subject line; or
    - in writing, by post to EQI Appeals, PO Box 15050, City East Qld 4002.
- School staff assist the overseas student with accessing the complaints and appeals process when requested.

Receive and record

- OED DEi staff review the internal appeal request to make sure it is not a complaint or an appeal regarding the outcome of their customer complaint. If determined to be related to a complaint, OED DEi staff refer the overseas student or the person on their behalf to the Customer complaints management procedure.

Received outside 20 working day limit

- OED DEi staff acknowledge receipt of appeal, either by email or in writing by post, within 10 working days, and advise that the appeal has been received outside of the 20-day limit and the original decision cannot be appealed, and:

- notify all concerned parties, including the overseas student, parents or guardians, school principal (or delegate), Director, EQI (or delegate) and EQI staff that an internal appeal review will not proceed
- record appeal on the DEi appeals register (CM 19/26372 - DoE employees only).

Follow the actions for to implement decision below.

Received within 20 working day limit

- OED DEi staff acknowledge receipt of appeal, either by email or in writing by post, within 10 working days, and advise that the assessment has commenced and will be finalised as soon as practicable;
- OED DEi staff notify the Director, EQI (or delegate), EQI staff and the school principal (or delegate) by email that an appeal has been received and:
  - allocate the appeal to an internal appeal review officer and provide student record
  - notifies the internal appeal review officer that a decision is required in 7 working days
  - informs overseas student/parent of any further information and evidence that may be required
  - update the DEi appeals register (CM 19/26372 - DoE employees only) and monitor to comply with appeal timeframes.
- School principal (or delegate) liaises with school staff to ensure appropriate accommodation, welfare, and study arrangements (approved arrangements) are maintained for overseas student during the internal appeal process.
- School principal (or delegate) escalates to the Director, EQI (or delegate) immediately if overseas student's health or wellbeing, or the wellbeing of others, is likely to be at risk.
- Director, EQI (or delegate) takes action in accordance with the Welfare management procedure.

Assess and decide

- Internal appeal review officer analyses the decision to determine if the outcome reached was appropriate by considering and assessing:
  - evidence and internal appeal provided by the overseas student, or any person nominated to act on the overseas student’s behalf
  - the decision under appeal and materials attached as part of managing the original decision
  - adherence to the relevant EQI policy and procedure/s.
- If requested by the overseas student, the overseas student meets with the internal appeal review officer to discuss the internal appeal and formally present their case, all relevant information and the proposed resolutions. A nominated support person may attend this meeting (if required).
- Internal appeal review officer considers if the appeal engages or limits human rights by considering the following questions:
  - were human rights impacted by the decision being appealed?
  - if so, did the decision being appealed limit those human rights?
  - if so, was the limitation lawful, justified and reasonable under the circumstances (for example lawful, justified and reasonable under the *Education Services for Overseas Students Act 2000)*?

- are any human rights impacted by the appeal process itself?

- Internal appeal review officer ensures that:
  - this assessment of human rights considerations (DoE employees only) is saved in the department's records management system.
  - if any health, safety or resourcing issues are raised by the appeal request or the appellant's conduct, and refers to the Managing unreasonable complainant conduct procedure for the process for dealing with unreasonable conduct.
- Internal appeal review officer identifies suitable resolutions to the internal appeal. This may include, but is not limited to:
  - finding the original decision was reasonable and the appeal does not merit further investigation
  - finding the original decision was unreasonable and should be amended without further investigation
  - providing a clearer explanation for reason of original decision to the overseas student
  - accepting feedback to amend a policy, procedure or practice, or recommending that such documents be amended within legislative requirements
  - offering an apology or recommending some other remedy.
- Internal appeal review officer makes a decision, within 7 working days about the outcome of the internal appeal.

Communicate

- Internal appeal review officer notifies all concerned parties, including the overseas student, parents or guardians, the school principal (or delegate), the Director, EQI (or delegate) and OED DEi staff within 10 working days of concluding the appeal review
- The notification must provide a clear explanation of the reason for the final decision, and the outcome of the appeal process, which could be either:
  - the appeal is successful, and EQI will immediately take any action required to implement decision, using *Internal appeal successful letter template* (CM 24/341872 – DoE employees only); or:
  - the appeal is unsuccessful, and within 10 working days, the student may lodge an external appeal with Queensland Ombudsman at no cost, using *Internal appeal unsuccessful letter template* (CM 24/341881 – DoE employees only).
- OED DEi staff updates the DEi appeals register, including notes describing the outcome and any further activities that need to occur.

Implement decision

For decisions relating to transfers:

- Director, EQI (or delegate) instructs EQI staff to implement the decision.
- EQI staff implement the decision in accordance with Transfer procedure.
- EQI staff liaise with school staff to implement the transfer decision.

An overseas student's enrolment must be maintained for temporary suspension or cancelation of enrolment decisions relating to course progress or attendance, until the internal and external appeals process have been completed.

For decisions relating to temporary suspension or cancellation of enrolments due to non-payment of fees or behaviour:

- Director, EQI (or delegate) instructs EQI staff to notify the Department of Home Affairs (DHA) of the suspension/cancelation of enrolment, in Provider Registration and International Student Management System (PRISMS), where either:
  - no appeal is made against the decision to initiate a suspension/cancellation
  - an appeal is withdrawn
  - the internal appeal (20 working days) is in favour to suspend/cancel (EQI is only required to wait for the outcome of an internal appeal before implementing the suspension or cancelation of enrolment due to non-payment of fees or behaviour. For course progress or attendance, these must wait until the external appeals process is complete).
- EQI staff implement the decision in accordance with the relevant procedure and as instructed by the Director, EQI (or delegate).

For all other decisions under appeal (including temporary suspension or cancellation of enrolment due to an attendance or course progress breach) follow the actions below.

Monitor

- OED DEi staff monitor timeframes by noting in calendar 10 working days from the internal appeal letter issue date.
- OED DEi staff monitors the OED.DEI@qed.qld.gov.au inbox to confirm if an overseas student had notified lodgement of an external appeal within 10 working days.

Non-lodgement of external appeal

- OED DEi staff notify the overseas student in writing that decision of Internal appeal review officer takes effect immediately, using the *No external appeal received letter template* (CM 24/341889 – DoE employees only).
- OED DEi staff notify Director, EQI (or delegate) by email that an external appeal was not lodged.
- Director, EQI (or delegate) notifies EQI staff and the school principal (or delegate) by email that an external appeal was not lodged.
- Director, EQI (or delegate) instructs EQI staff to implement decision in accordance with appropriate procedure:
  - Attendance procedure
  - Course progress procedure
  - Student management procedure.

External appeals

If an overseas student is dissatisfied with the outcome of an internal appeal, an overseas student may seek an external review by lodging an appeal with Queensland Ombudsman within 10 working days.

For external appeals the Queensland Ombudsman will consider if the decisions made by the Director, EQI (or delegate) and the internal appeal review officer were made in accordance with the relevant policies and procedures and may not result in a change of the original decision.

Lodge

- Overseas student decides to lodge an external appeal, which must be within 10 working days of receiving the outcome of the internal appeal, and submits an external appeal either:
  - via email (preferred), send email to ombudsman@ombudsman.qld.gov.au; or,
  - by post, sending to Queensland Ombudsman, GPO Box 3314, Brisbane QLD 4001.
- Overseas student notifies EQI that an external appeal has been lodged:
  - in writing by sending via email to OED.DEI@qed.qld.gov.au, including “External appeal lodged” in the subject line
  - in accordance with the appeals section of the ISP standard terms and conditions (failure to notify EQI will be considered as non-lodgement).

Notify and maintain

- OED DEi staff notify the Director, EQI (or delegate) if an external appeal has been lodged and records and update DEi appeal register.
- Director EQI (or delegate) notifies EQI staff and the school principal (or delegate) by email that an external appeal has been lodged.

For temporary suspension or cancellation of enrolment decisions regarding attendance or course progress breaches:

- School principal (or delegate) notifies school staff that an external appeal has been lodged and:
  - confirms appropriate accommodation, welfare, and study arrangements (approved arrangements) remain in place for overseas student during the external appeal process (if required)
  - escalates to the Director, EQI (or delegate) immediately if overseas student's health or wellbeing, or the wellbeing of others, is likely to be at risk.
- School staff maintain appropriate accommodation, welfare, and study arrangements (approved arrangements) remain in place for overseas student during the external appeal process.
- Director, EQI (or delegate) takes action in accordance with the Welfare management procedure (if required).

Communicate outcome

- Overseas student notifies EQI that an external appeal has not been accepted by the Queensland Ombudsman (if required).

- OED DEi staff receive notification from the overseas student at the external appeal has not been accepted or from the Queensland Ombudsman that a decision has been provided to the overseas student's external appeal and issue one of the following notices:
  - if the external appeal is successful, the overseas student is notified that EQI will immediately take any action required to implement the decision of the Queensland Ombudsman, using the *External appeal successful letter template* (CM 24/341899 – DoE employees only)
  - if the external appeal is unsuccessful, the overseas student is notified that the decision of the internal appeal review officer takes effect immediately, using the *External appeal unsuccessful letter template* (CM 24/341907 – DoE employees only).
- OED DEi staff notify the Director, EQI (or delegate) of the outcome.
- Director, EQI (or delegate) notifies EQI staff and the school principal (or delegate) when outcome of Queensland Ombudsman's decision is received.
- Director, EQI (or delegate) instructs EQI staff to implement decision in accordance with the appropriate procedure.

Finalise

- EQI staff immediately take any action required to implement the decision or recommendation of the Queensland Ombudsman.
  - where the external appeal decision upholds EQI's internal appeal decision, EQI staff refer to the relevant procedure:
    - Attendance procedure
    - Course progress procedure
    - Student management procedure.
  - where overseas student's external appeal was successful, EQI staff immediately take corrective action required by the decision, referring to the relevant procedure and implement the decision of the Queensland Ombudsman.
- OED DEi staff updates DEi appeals register, keeping a written record of the appeal, including a statement of outcome and reasons for that outcome.

Definitions

Term	Definition
Agent	Education agent is a person or organisation (in or outside Australia) who EQI has entered into a written agreement with to formally represent EQI for the purpose of recruiting overseas students to participate in EQI programs.
Complaint	A complaint is an expression of dissatisfaction about the service or action of EQI, EQI schools, school staff, agents, or accommodation providers by an overseas student who is directly affected by the service or action.

Term	Definition
Course	A program of study registered on the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) offered by Department of Education trading as EQI.
Decision	A conclusion or resolution reached after consideration and made by EQI regarding an overseas student's enrolment in an EQI registered course, which can be appealed by the overseas student through the complaints and appeals process.
DEi	The international branch of the Department of Education. The Department of Education, trading as EQI.
Department of Home Affairs (DHA)	Australian Government department responsible for immigration.
DHA approved guardian	A parent, legal custodian or a relative over 21 years old approved by the Department of Home Affairs (DHA) to be responsible for the welfare of overseas students under the age of 18 years.
EQI	The trading name of the Queensland Department of Education used by commercial business units within Department of Education International (DEi).
EQI staff	Department of Education (DoE) employees working in DEi, trading as EQI. Employees from the following units include but are not limited to: • International Student Programs (ISP) • Corporate Services • Office of the Executive Director
External appeal	A process conducted by the Queensland Ombudsman to ensure departmental decision-making is fair, reasonable and proper. The purpose of the external appeals process is to consider whether EQI has followed published policies and procedures, rather than make a decision in place of EQI. EQI will comply with any decision the Ombudsman makes. Any decisions to report an overseas student for unsatisfactory course progress or attendance that are appealed externally cannot take effect until after the external appeal process has concluded.
Homestay provider	Homestay provider is a person registered to deliver accommodation services and have been approved to provide supported and supervised in-home accommodation where food and shelter and a safe, caring and supportive home environment is provided to an overseas student. Homestay is arranged by schools, ISP and the DEi staff. For International Student Programs: when overseas student accommodation has been arranged for student visa 500 holders; EQI is responsible for the welfare of the overseas student at all times, including outside school hours.

Term	Definition
Human rights	The *Human Rights Act 2019* (Qld) (the Act) protects the freedom, equality and dignity of every person in Queensland. The Act respects, protects, and promotes human rights. The Queensland Government has a human rights approach to service delivery, which means Queensland public servants put people first when making decisions and providing services. Noting that a decision will be compatible with the Act where a human right is limited where federal legislation applies (for example where decisions are lawful, justified and reasonable under the *Education Services for Overseas Students Act 2000*).
Internal appeal	A process conducted by appropriately trained and impartial departmental staff nominated to review a decision made by EQI regarding an overseas student and their enrolment in an EQI registered course. The appeal examines if the process for the overseas student was appropriate and/or if the outcome reached was reasonable. An internal appeal review is not a reinvestigation of the original decision. Decisions cannot take effect until the internal appeal process has concluded, unless the overseas student's health or wellbeing, or the wellbeing of others, is likely to be at risk.
Internal appeal review officer	A department employee who conducts an internal appeal review. The officer must be • independent from the original decision; and • in a position equal to, or higher than, the original decision -maker and authorised to make internal appeal review decisions, including recommendations, or be nominated by someone with this authority • a corporate officer. An internal appeal review may involve more than one internal appeal review officer.
International Student Programs	A study pathway that offers overseas students the opportunity to study within a Queensland state school with dedicated support services to meet individual student needs. International Student Programs include a variety of different study options.
OED DEi staff	Department of Education (DoE) employees working in DEi, trading as EQI within the Office of the Executive Director (OED) unit.
Overseas student	A person (whether within or outside Australia) who holds a student visa subclass 500 (schools sector) enrolled in an EQI course.
Parent	A parent, of a child, is any of the following persons: • the child's mother; • the child's father; • a person who exercises parental responsibility for the child.

Term	Definition
School	For this procedure: Queensland state schools accredited by DEi to deliver ISP.
School staff	Employees of EQI schools with responsibilities to support overseas students. For example – international student coordinator, homestay coordinator, guidance officer, specialist staff, EALD support staff, head of department, line manager, deputy principal, accredited officer (study tours).
Unreasonable conduct	Conduct is likely to be unreasonable where it involves actions or behaviours which because of the nature or frequency, raises substantial health, safety, resource or equity issues for the department, its staff, other service users or the complainant themselves. Examples include unreasonable: • persistence (for example, excessive and unnecessary phone calls or emails) demands (for example, demanding more reviews than departmental procedures allow, or demanding a different outcome without showing the original decision was incorrect) • lack of cooperation (for example, refusing to identify the issue of complaint or providing disorganised information) • arguments (for example, making irrational claims) • behaviour (for example, aggression or violence to staff, or threatening harm to self and others).

Legislation

- *Education Services for Overseas Students Act 2000* (Cth)
- *Human Rights Act 2019* (Qld) ss 58(1), 63, 97
- National Code of Practice for Providers of Education and Training to Overseas Students 2018
- *Public Sector Act 2022* (Qld) Section 264

Delegations/Authorisations

- Delegation of Director-General's Powers under Education (Overseas Students) Act 2018

Policies and procedures in this group

- International Student Programs - subclass 500 (schools) visa policy
- Attendance - subclass 500 (schools) visa procedure
- Course progress - subclass 500 (schools) visa procedure
- DEi homestay provider management procedure
- DEi incident management procedure

- DEi recruit and on-board homestay providers procedure
- DEi student homestay placement procedure
- Distance education - subclass 500 (schools) visa procedure
- Enrolment - subclass 500 (schools) visa procedure
- Student management - subclass 500 (schools) visa procedure
- Student orientation - subclass 500 (schools) visa procedure
- Transfer - subclass 500 (schools) visa procedure
- Non-routine travel and activities for homestay students - subclass 500 (schools) visa procedure
- Welfare management - subclass 500 (schools) visa procedure

Supporting information for this procedure

- Nil

Other resources

- Client service standards
- Customer complaints management framework, policy and procedure
- Information management
- ISP standard terms and conditions
- PRISMS User Guide
- Student visa conditions

Contact

International Student Programs:
Department of Education International
Phone: 1800 316 540 (inside Australia) +61 7 3513 5301 (outside Australia)
Email: EQInternational@qed.qld.gov.au

Review date

8/07/2027

Superseded versions

Previous seven years shown. Minor version updates not included.

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