



**RTO Code: 2293
APPEAL PROCESS
POLICY & PROCEDURE**

APPEAL POLICY


NUMBER : POL002_12 PAGES : 13

VERSION : V2.4
CREATED : 24/11/2012
LAST MODIFIED : 17/02/2020
REVISION DATE : 01/04/2021

REVIEWED BY : RTO Advice Group

DOCUMENTS : Complaint/Appeal Report Form
Complaint/Appeal Register

REFERENCES : Access, Equity & Fairness Policy
Student Handbook
Student Support Services Policy
Complaint Process
Children's Protection Policy
VET Quality Framework
Standards for Registered Training Organisations (RTOs) 2015 (Cth)
National Vocational Education and Training Regulator Act 2011
GTS Privacy Policy
Motor Trades Association of SA Inc Privacy Statement
Privacy Act 1988 & Australian Privacy Principles
Working with Children (Criminal Record Checking) Act 2004

AUTHORISED :  DATE : 12/5/2020
CHIEF EXECUTIVE OFFICER

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PURPOSE

This policy and procedure provides guidance and direction regarding the MTA Group Training Scheme Inc.'s (MTA RTO) requirements in the management of its Registered Training Organisation (MTA RTO) in relation to the appeals process that students or other stakeholders may undertake.

STANDARDS

Standards for Registered Training Organisations 2015

Made under the National Vocational Education and Training Regulator Act 2011

Standard 6

Complaints and appeals are recorded, acknowledged and dealt with fairly, efficiently and effectively.

Clause 6.2:

The RTO has an appeals policy to manage requests for a review of decisions, including assessment decisions, made by the RTO or a third party providing services on the RTO's behalf.

Clause 6.3:

The RTO's complaints policy and appeals policy:

- a) ensure the principles of natural justice and procedural fairness are adopted at every stage of the complaint and appeal process;
- b) are publicly available;
- c) set out the procedure for making a complaint or requesting an appeal;
- d) ensure complaints and requests for an appeal are acknowledged in writing and finalised as soon as practicable; and
- e) provide for review by an appropriate party independent of the RTO and the complainant or appellant, at the request of the individual making the complaint or appeal, if the processes fail to resolve the complaint or appeal.

Context:

RTOs must implement a transparent complaints and appeals policy that enables learners and clients to be informed of and to understand their rights and the RTO's responsibilities under the Standards.

Clause 6.4

Where the RTO considers more than 60 calendar days are required to process and finalise the complaint or appeal, the RTO:

- a) informs the complainant or appellant in writing, including reasons why more than 60 calendar days are required
- b) regularly updates the complainant or appellant on the progress of the matter.

Clause 6.5

The RTO:

- a) securely maintains records of all complaints and appeals and their outcomes
- b) identifies potential causes of complaints and appeals and takes appropriate corrective action to eliminate or mitigate the likelihood of reoccurrence.

POLICY

This policy is to ensure that the MTA RTO stakeholders and in particular students are aware of the appeals process and the rights and responsibilities afforded to everyone.

It is the policy of the MTA RTO to manage its process in a fair and equitable manner that ensures all stakeholders are provided with a timely and transparent framework to lodge appeals.

The MTA RTO provides a process for advocacy, internal mediation and external independent mediation to resolve disputes and appeals.

A student, contractor, staff member, other stakeholder and/or the MTA RTO may nominate;

- an advocate to accompany, represent and support them

or

- an external independent mediation process

at any stage of the appeal process.

The MTA RTO commits to an appeal process with the following guiding principles:

Confidentiality

Only the parties directly involved in lodging or investigating or mediating an appeal will have access to information about the appeal.

Should the appeal be in relation to a person, i.e. a student or a member of staff, or a decision made by them, the person must be notified to either offer them the opportunity to present their side, and/or to be involved in the review of the assessment decision.

Discussion of the matter by parties to the appeal with other MTA RTO stakeholders, or other parties either internal or external is not permitted and will breach Privacy Principles. Such discussion may also hamper the effectiveness of the process.

Impartiality

All parties will be provided with equal opportunity for discussion and response. No assumptions will be made and no action will be taken until all relevant information has been collected and considered.

The MTA RTO reserves the right to seek expert advice as to the appropriate action to be taken in regards to the outcome of an investigation.

Stakeholders may have an advocate present throughout the process.

Free from Repercussions

No action will be taken against any individual or entity for lodging a bona fide appeal or assisting someone to lodge or manage a bona fide appeal.

The MTA RTO will take all necessary steps to ensure that victimisation does not occur against anyone who lodges or is involved in a bona fide appeal.

The MTA RTO reserves the right to take appropriate action against an individual or entity that lodges a False or Malicious appeal, or knowingly lodges a false appeal.

Timely & Transparent

All appeals will be dealt with as quickly and transparently as possible.

An abbreviated description of the appeals process is included in the Students Information Booklet and Students will be verbally informed of the appeals procedure as part of their induction process.

SCOPE

This policy encompasses:

- current and past students;
- student candidates;
- employees;
- contractors;
- suppliers and providers;
- regulatory authorities.

This policy does not cover complaints. Please refer to *Complaint Process Policy*.

DEFINITION

| | |
|----------------------------|--|
| Advocate | Individual who accompanies an appellant for the purposes of support throughout the process. An advocate for the purposes of this policy does not include Legal Representation. |
| Appeal | An appeal arises when a stakeholder is not satisfied with a decision taken by the MTA RTO. |
| Appeal Event | Actual instance of decision that occurred for which the appeals being lodged. |
| Appellant | Person or entity that lodges an appeal. |
| Complaint/Appeal Committee | A number of persons nominated by the CEO to review decisions that an Appellant does not accept as satisfactory. |



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| Contractor | Individual or entity engaged by the MTA RTO under contract to deliver specified work on its behalf e.g. sessional trainer/assessor. |
| Child Protection Officer | The MTA RTO has appointed the Accountable Officer as the Child Protection Officer. |
| The MTA RTO Representative | For the purposes of the Appeal Process this will normally be the CEO or their delegate. |
| Employee | Person employed by the MTA RTO on a full or part time or casual basis. Does not include Contractors. |
| False Appeal | Fictitious appeal or one made intentionally without foundation or to cause detriment or mischief. Knowingly lodging a false appeal (without truth or foundation). |
| Legal Representation | A lawyer or similar who is engaged by the appellant or the MTA RTO to represent them in a formal and legal process which may be initiated if the appeal process including external mediation fails. |
| Malicious Appeal | Fictitious appeal or one made intentionally without foundation or to cause detriment or mischief. Knowingly lodging a false appeal (without truth or foundation). |
| Mediation Event | Meeting, intervention or other event specifically designed and arranged with the goal of a satisfactory outcome. |
| Non Employee Stakeholder | Individual or Entity who is not legally employed by the MTA RTO e.g. Supplier, Contractor, Regulatory Authority. |
| Parties to the Appeal | All individuals and/or entities who are directly involved in lodging or investigating or mediating an appeal. |
| Stakeholder | General term inclusive of any individual or entity with whom the MTA RTO has a |

relationship including but not limited to employees, students, contractors and suppliers.

Zero Tolerance

The MTA RTO will not under any circumstances tolerate behaviours that breach the fundamental principles of access, equity and fairness. The MTA RTO will take action against any individual or group of individuals proven to have breached these principles and that action may be to the extent of termination of employment or contract or removal of students from hosting.

PROCEDURE

Documentation

The process must:

- be documented at each step using the Complaint/Appeal Report Form;
- registered in the Complaint/Appeal Register;
- ensure that all parties sign and receive hardcopy of the record within 5 working days of the completion of each step;
- a copy is filed in line with Privacy Principles

Appellant Support

If for whatever reason the stakeholder is unable to undertake any of the following steps, they should speak with a senior staff member with whom they are most comfortable.

NB: The stakeholder is encouraged, at any stage of the process, to invite an advocate or support person to participate.

The MTA RTO will provide assistance throughout the process.

Training & Assessment Appeal

The process for appeal for a training or assessment decision made by the MTA RTO is as follows:

STEP 1: Appellant (person who is appealing the decision) lodges a verbal or written appeal to the MTA RTO within five (5) working days of the date of the grading;

An appeal in relation to a training or assessment outcome should be directed to the Trainer/Assessor concerned;

Appeal details are to be documented on the Complaints/Appeal Form and the original appeal letter from the Appellant is to be attached;

Within 5 working days of receipt of the appeal a meeting is arranged by the Trainer/Assessor with the Appellant to discuss the Appellant's concerns and to determine whether the grading stands. The discussion is recorded by the Trainer/Assessor and signed off by both the Trainer/Assessor and the Appellant. The Trainer/Assessor must provide the decision in writing to the Appellant.

If MTA RTO believes the appeal will take more than sixty (60) days to resolve, they will advise the appellant within five (5) working days of this and the reason for this.

STEP 2: If the Appellant is dissatisfied with the decision, they may make an appeal directly to the Accountable Officer of the learning stream they are undertaking. This appeal must be in writing clearly stating the Appellant's concerns.

NB: Where the Trainer/Assessor is the Accountable Officer for the stream then the Appellant may make an appeal to the RTO Manager.

The Accountable Officer will meet with both the Trainer/Assessor and the Appellant within 5 working days of receiving the appeal notice. The meeting and decision is to be documented, signed off by all parties and a copy provided to the Appellant.

In the case of an assessment appeal the Accountable Officer may determine:

- a. that a Student should be reassessed by an alternate assessor;
- b. that the original decision is correct and will stand;
- c. that an adjustment to the original decision is warranted.

STEP 3: If the Appellant is dissatisfied with the Accountable Officer's decision they may make an appeal to the RTO Manager in writing within 5 days.

The RTO Manager will meet with both the Accountable Officer and the Appellant within 5 working days of receiving the appeal notice. The meeting and decision is to be documented, signed off by all parties and a copy provided to the Appellant.

STEP 4: If the Appellant remains dissatisfied with the process or the decision they may request, within 5 working days, for referral of the appeal to the Complaints/Appeals Committee who will, within 5 working days, assess all of the evidence and inform the Appellant in writing of their decision.

STEP 5 If the Appellant remains dissatisfied with the process or the decision they may

- a. Request an external mediator agreeable to all parties be engaged.

The MTA RTO generally uses the services of

ACCESS Programs

Australia Wide Tel: **1300 66 77 00.**

- b. Contact:

- Training Advocate 188 006 488
- National Training Complaints Hotline on 1800 000 674
- Australian Skills Quality Authority (ASQA) via the online complaint form at:

<http://asqa.gov.au/forms.html#complaintforms>

Service or Other Operational Practice Appeal

The process for appeal for any decision related to service provision or operational practice made by the MTA RTO is as follows:

STEP 1: Appellant (person who is appealing the decision) lodges a verbal or written appeal to RTO Manager within five working (5) days of the date of the decision;

Within 5 working days of receipt of the appeal a meeting is arranged by the MTA RTO, with the Appellant to discuss the Appellant's concerns. The discussion is recorded by the MTA RTO representative and signed off by the Appellant who is provided with a copy.

Within 5 working days of receipt of the appeal, a meeting is also held with the person in which the appeal is raised against. The MTA RTO must provide the opportunity for them to present their case.

The MTA Group must take into account all presenting facts.

Within 5 working days of the meeting the MTA RTO informs the Appellant of the decision. The decision may be given verbally or in writing, however, a written notification must be provided to the Appellant supporting a verbal advice.

If MTA RTO believes the appeal will take more than sixty (60) days to resolve, they will advise the appellant within five (5) working days of this and the reason for this.

STEP 2: If the Appellant is dissatisfied with the RTO Manager's decision they may appeal to the Complaints/Appeal Committee in writing within 5 days of the date of the written notification.

The Complaints/Appeal Committee will meet with both the RTO Manager and the Appellant within 5 working days of receiving the appeal notice. The meeting is to be documented, signed by all parties and a copy provided to the Appellant.

The Complaints/Appeal Committee will advise the Appellant in writing of their decision within 5 working days of the meeting.

Operational Policy

In relation to operational policy the Complaint/Appeal Committee's decision will be final.

Legislated Policy

In relation to decisions taken for areas for which legislation or regulatory authority standards apply the Appellant may access an external appeal process.

External Facilitator

Where it is felt appropriate the MTA RTO may engage the services of an external facilitator to assist the process.

The MTA RTO generally uses the services of

ACCESS Programs

Australia Wide Tel: **1300 66 77 00.**

Unsuccessful Appeal Process

If all the MTA RTO avenues of appeal process are not successful the RTO Manager should advise the appellant in writing of their right to seek external appeals process as follows:

Students

- Training Advocate 1800 006 488

or

- The National Training Complaints Hotline on 1800 000 674
- Australian Skills Quality Authority (ASQA) via the online complaint form at <http://asqa.gov.au/forms.html#complaintforms>
- Australian Appeals Tribunal <http://www.aat.gov.au/ContactUs.htm>
- or legal intervention;

Employees

- Workplace Ombudsman - 1300 724 200
 - Union Representative
- or
- Other appropriate regulatory body

Other non employee stakeholders

- Australian Skills Quality Authority (ASQA) via the online complaint form at <http://asqa.gov.au/forms.html#complaintforms>

- The National Training Complaints Hotline on 1800 000 674
 - Office of Consumer & Business Affairs (08) 8204 9777
 - Safe Work SA 1300 365 255 legal intervention;
- or
- Other appropriate regulatory body

The Training Centre Manager must immediately advise the CEO of the Appellant's intention to seek external appeal process.

FALSE OR MALICIOUS APPEALS

A 'False or Malicious Appeal' is a fictitious appeal or one made intentionally without foundation or to cause detriment or mischief.

The MTA RTO maintains a Zero Tolerance policy in regards to false or malicious appeal.

Appellants found to have made a 'False or Malicious Appeal' will face disciplinary action (see Disciplinary Process – Students *Policy*) and dependent upon the supposed grounds for appeal and to the extent to which the appeal has proceeded the consequences may include termination of employment or contract or expulsion from further studies.

RECTIFICATION AND CONTINUOUS IMPROVEMENT

At the completion of any complaint or appeal the RTO Manager will provide a summary to (not including personal details) the Chief Executive Officer and General Manager TEC for review. Apart from reviewing the case involved, the summary will also identify and promote possible rectifications and improvements to processes and/or procedures to mitigate future similar issues arising. The CEO and GM TEC will review and support or advise other improvements that can be adopted to the RTO Manager.

The RTO Manager will be responsible for the Quality Assurance & Continuous Improvement process for evaluation and actioning of improvements.



RESPONSIBILITY

Appellant

It is the responsibility of the Appellant to ensure that they commence the appeal process within the specified period and that their appeal is supported with a genuine argument and/or evidence.

Chief Executive Officer through MTA RTO Staff

It is the responsibility of the MTA RTO to ensure that the appeal process is open, fair, equitable and accurate at all times.

ACCESS

All MTA RTO stakeholders have the right to access the appeal process fairly and equitably.

The Appellant has the right to access their personal records as per the *Records Management Policy*.