

APPEAL PROCESS

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Documents

Complaint/Appeal Report Form FM110

Complaint/Appeal Register FM111

References

Access, Equity & Fairness Policy forms part of Learning and Assessment Guidelines POL01

Student Handbook FM172

Student Support Services Policy forms part of Learning and Assessment Guidelines POL025

Complaint Policy POL020

Privacy Policy POL026

Children's Protection Policy POL032

[Age Discrimination Act Cwlth. \(2004\) https://www.legislation.gov.au/Details/C2018C00038](https://www.legislation.gov.au/Details/C2018C00038)

[Australian Human Rights Commission Act Cwlth. \(1986\)
https://www.legislation.gov.au/Details/C2018C00050](https://www.legislation.gov.au/Details/C2018C00050)

[Children and Young People \(Safety\) Act 2017
https://www.legislation.sa.gov.au/LZ/C/A/Children%20and%20Young%20People%20\(Safety\)%20Act%202017.aspx](https://www.legislation.sa.gov.au/LZ/C/A/Children%20and%20Young%20People%20(Safety)%20Act%202017.aspx)

[Children and Young People \(Safety\) Regulations 2017
https://www.legislation.sa.gov.au/LZ/C/R/CHILDREN%20AND%20YOUNG%20PEOPLE%20\(SAFETY\)%20REGULATIONS%202017/CURRENT/2017.353.AUTH.PDF](https://www.legislation.sa.gov.au/LZ/C/R/CHILDREN%20AND%20YOUNG%20PEOPLE%20(SAFETY)%20REGULATIONS%202017/CURRENT/2017.353.AUTH.PDF)

[Children's Protection Act 1993
https://www.legislation.sa.gov.au/LZ/C/A/CHILDRENS%20PROTECTION%20ACT%201993/CURRENT/1993.93.AUTH.PDF](https://www.legislation.sa.gov.au/LZ/C/A/CHILDRENS%20PROTECTION%20ACT%201993/CURRENT/1993.93.AUTH.PDF)

[Children's Protection Regulations 2010
https://www.legislation.sa.gov.au/LZ/C/R/CHILDRENS%20PROTECTION%20REGULATIONS%202010/CURRENT/2010.176.UN.PDF](https://www.legislation.sa.gov.au/LZ/C/R/CHILDRENS%20PROTECTION%20REGULATIONS%202010/CURRENT/2010.176.UN.PDF)

[Children's Protection Law Reform \(Transitional Arrangements and Related Amendments\) Act 2017
https://www.legislation.sa.gov.au/LZ/C/A/CHILDRENS%20PROTECTION%20LAW%20REFORM%20\(TRANSITIONAL%20ARRANGEMENTS%20AND%20RELATED%20AMENDMENTS\)%20ACT%202017/CURRENT/2017.64.AUTH.PDF](https://www.legislation.sa.gov.au/LZ/C/A/CHILDRENS%20PROTECTION%20LAW%20REFORM%20(TRANSITIONAL%20ARRANGEMENTS%20AND%20RELATED%20AMENDMENTS)%20ACT%202017/CURRENT/2017.64.AUTH.PDF)

[Children and Young People \(Safety\) \(Transitional Provisions\) Regulations 2017](https://www.legislation.sa.gov.au/LZ/C/R/CHILDREN%20AND%20YOUNG%20PEOPLE%20(SAFETY)%20(TRANSITIONAL%20PROVISIONS)%20REGULATIONS%202017/CURRENT/2017.355.AUTH.PDF)

[https://www.legislation.sa.gov.au/LZ/C/R/CHILDREN%20AND%20YOUNG%20PEOPLE%20\(SAFETY\)%20\(TRANSITIONAL%20PROVISIONS\)%20REGULATIONS%202017/CURRENT/2017.355.AUTH.PDF](https://www.legislation.sa.gov.au/LZ/C/R/CHILDREN%20AND%20YOUNG%20PEOPLE%20(SAFETY)%20(TRANSITIONAL%20PROVISIONS)%20REGULATIONS%202017/CURRENT/2017.355.AUTH.PDF)

[National Framework for Protecting Australia's Children 2009-2020](https://www.dss.gov.au/our-responsibilities/families-and-children/publications-articles/protecting-children-is-everyones-business)

<https://www.dss.gov.au/our-responsibilities/families-and-children/publications-articles/protecting-children-is-everyones-business>

[Copyright Act 1968](https://www.legislation.gov.au/Series/C1968A00063)[Disability Discrimination Act Cwlth. \(1992\)](https://www.legislation.gov.au/Search/disability%20discrimination%20act)

<https://www.legislation.gov.au/Search/disability%20discrimination%20act>

[Equal Opportunity Act SA \(1984\)](https://www.legislation.sa.gov.au/LZ/C/A/EQUAL%20OPPORTUNITY%20ACT%201984.aspx)

<https://www.legislation.sa.gov.au/LZ/C/A/EQUAL%20OPPORTUNITY%20ACT%201984.aspx>

[Freedom of Information Act Cwlth. \(1982\)](https://www.legislation.gov.au/Search/freedom%20of%20information)

<https://www.legislation.gov.au/Search/freedom%20of%20information>

[National Vocational Education and Training Regulator Act 2011](https://www.legislation.gov.au/Details/C2017C00245)

<https://www.legislation.gov.au/Details/C2017C00245>

[Privacy Act Cwlth. \(1988\)](https://www.oaic.gov.au/privacy-law/privacy-act/)[Professional Standards Act 2004](https://www.legislation.sa.gov.au/LZ/C/A/PROFESSIONAL%20STANDARDS%20ACT%202004.aspx)

<https://www.legislation.sa.gov.au/LZ/C/A/PROFESSIONAL%20STANDARDS%20ACT%202004.aspx>

[Australian Professional Standards for Teachers](https://www.aitsl.edu.au/teach/standards)

[Quality VET Framework](https://www.asqa.gov.au/vet-registration/understand-requirements-registration/vet-quality-framework) (<https://www.asqa.gov.au/vet-registration/understand-requirements-registration/vet-quality-framework>)

[Racial Discrimination Act Cwlth. \(1975\)](https://www.legislation.gov.au/Search/racial%20discrimination)[Racial Vilification Act SA \(1996\)](https://www.legislation.sa.gov.au/LZ/C/A/RACIAL%20VILIFICATION%20ACT%201996.aspx)

<https://www.legislation.sa.gov.au/LZ/C/A/RACIAL%20VILIFICATION%20ACT%201996.aspx>

[Sex Discrimination Act Cwlth. \(1984\)](https://www.legislation.gov.au/Search/sexual%20discrimination)[Standards for Registered Training Organisations \(RTOs\) 2015 Cwlth. USERS GUIDE](https://www.asqa.gov.au/standards)

<https://www.asqa.gov.au/standards>

[Training & Skills Development Act 2008 \(SA\)](https://www.legislation.sa.gov.au/lz/c/a/training%20and%20skills%20development%20Act%202008.aspx)

<https://www.legislation.sa.gov.au/lz/c/a/training%20and%20skills%20development%20Act%202008.aspx>

[Work Health & Safety Act 2011](https://www.legislation.gov.au/Series/C2011A00137)[Workplace Gender Equality Act 2012](https://www.legislation.gov.au/Series/C2004A03332)

Purpose

This policy is to ensure that Skills Lab stakeholders and in particular Students are aware of the Appeals Process and the rights and responsibilities afforded to everyone.

It provides guidance and direction regarding legislative and Skills Lab requirements in the management of the Appeals 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 Complaint Process

Definitions

Skills Lab Representative	For the purposes of the Appeal Process this will normally be the General Manager, Skills Lab or their delegate.
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 Skills Lab.

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.
Contractor	Individual or entity engaged by Skills Lab under contract to deliver specified work on its behalf who is not an employee as defined by the ATO e.g. Sessional trainer/assessor.
Children's Protection Officer	The Senior Trainer is the Children's Protection Officer. Their role is to provide and/or facilitate appropriate support services and protections for minor children.
Employee	Person employed by Skills Lab on a full or part time or casual basis as defined by the ATO. 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 Skills Lab 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.
Minor Child	A child under the age of 18 years.
Non Employee Stakeholder	Individual or Entity who is not legally employed by Skills Lab 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 Skills Lab has a relationship including but not limited to employees, students, contractors and suppliers.
Student Support Officer	The Senior Trainer is the Student Support Officer. Their role is to provide and/or facilitate appropriate support services for students.
Zero Tolerance	Skills Lab will not under any circumstances tolerate behaviours that breach the fundamental principles of access, equity and fairness. Skills Lab 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.

Policy

It is the policy of Skills Lab 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.

Skills Lab provides a process for advocacy, internal mediation and external independent mediation to resolve disputes and appeals.

A stakeholder and/or Skills Lab may nominate;

- an advocate to accompany, represent and support them
- or
- an external independent mediation process

at any stage of the appeal process.

GUIDING PRINCIPLES

Confidentiality

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

Discussion of the matter by parties to the appeal with other Skills Lab stakeholders, or other parties either internal or external is not permitted and will breach Australian 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.

Skills Lab 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.

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

Skills Lab 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.

Where the investigation and response to an appeal is anticipated to exceed 20 days Skills Lab will advise the appellant in writing.

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

Procedure

Documentation

The process must:

- be documented at each step using the Complaint/Appeal Report Form
- 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 Australian Privacy Principles

- Complaint/Appeal Register is to be updated throughout and at the completion of the process.

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.

Skills Lab will provide assistance throughout the process.

Minor Children

It is Skills Lab policy not to enrol minor children. In the event that Skills Lab policy changes the following will apply.

All minor children should initially discuss an Appeal with a staff member they feel most comfortable with. The staff member will advise the Children's Support Officer who will proceed with the appeal.

Where a minor child indicates that they wish to lodge an appeal their parent/guardian will be contacted prior to the process commencing and the process will be deemed to have commenced once the parent/guardian has been engaged in the process.

Appeal Process

The process will be:

Learning & Assessment Appeal

The process for appeal for a learning or assessment decision made by Skills Lab is as follows:

- Appellant (person who is appealing the decision) lodges a verbal or written appeal to Skills Lab within twenty (20) days of the date of the decision
- An appeal in relation to a learning or assessment outcome should be directed to the Trainer/Assessor concerned
- The Trainer/Assessor documents details of the appeal attaching the original appeal letter from the Appellant if provided
- Within 5 working days of receipt of the appeal a meeting is arranged by Skills Lab, with the Appellant and Trainer/Assessor to discuss the Appellant's concerns. The discussion is recorded by the Skills Lab Trainer/Assessor and signed off by the Appellant.

- Within 5 working days of the meeting Skills Lab's Trainer/Assessor informs the Appellant of their decision. The decision may be given verbally or in writing, however, a written notification must be provided to the Appellant within 5 working days of the verbal advice.

If the Appellant is dissatisfied with the decision, they may make an appeal directly to the Senior Trainer. This appeal must be in writing clearly stating the Appellant's concerns.

- The Senior Trainer will meet with both the Trainer/Assessor and the Appellant within 5 working days of receiving the appeal notice. The meeting is to be documented.
- The Senior Trainer will advise the Trainer/Assessor and the Appellant within 5 working days of the meeting of their decision.

In the case of an assessment appeal the Senior Trainer 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.

If the Appellant is dissatisfied with the Senior Trainer's decision they may appeal to the General Manager, Skills Lab in writing within 5 days.

- The General Manager, Skills Lab will meet with both the Senior Trainer and the Appellant within 5 working days of receiving the appeal notice. The meeting is to be documented.
- The General Manager, Skills Lab will advise the Senior Trainer and the Appellant within 5 working days of the meeting of the decision.

If the Appellant remains dissatisfied with the process or the decision they may request referral to the Complaints/Appeals Committee.

- Complaints/Appeals Committee will meet with all parties within 5 working days of receipt of referral.
- Complaints/Appeals Committee will provide their decision in writing within 5 working days.

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

- a. request than external mediator agreeable to all parties be engaged. Skills Lab generally uses the services of Access OCAR Australia.

Australia free call number: 1300 66 77 00

b. contact:

- National Training Complaints Hotline on 13 38 73
- International Students only - Overseas Students Ombudsman 1300 362 072 in Australia and +61 2 6276 0111 from outside of Australia.
- Australian Skills Quality Authority (ASQA) via the online complaint form at <http://asqa.gov.au/forms.html#complaintforms>
- SA Office of Consumer & Business Affairs (08) 8204 9777
- Victoria Consumer Affairs Victoria 1300 558 181
- WA Dept of Commerce 1300 304 054
- NSW Fair Trading Tel 13 32 20
- NT Consumer Affairs Tel: 08 8999 1999
- Tasmania Office of Fair Trading – Consumer Affairs & Fair Trading Tel: 03 6233 4567
- QLand Office of Fair Trading Tel: 13 74 68
- WorkSafe ACT
 - Website: www.worksafe.act.gov.au
 - Email: worksafe@act.gov.au
 - Telephone: (02) 6207 3000
- WorkCover NSW
 - Website: www.workcover.nsw.gov.au
 - Telephone: 13 10 50
- NT WorkSafe
 - Website: www.worksafe.nt.gov.au
 - Email: ntworksafe@nt.gov.au
 - Telephone: 1800 019 115
- Workplace Health and Safety Queensland, Office of Fair and Safe Work Queensland, Department of Justice and Attorney-General
 - Website: www.worksafe.qld.gov.au
 - Telephone: 1300 369 915 or (07) 3225 2000

- SafeWork SA
Website: www.safework.sa.gov.au
Telephone: 1300 365 255
- Workplace Standards Tasmania
- Website: www.wst.tas.gov.au
- Telephone: 1300 366 322 (inside Tasmania) or (03) 6233 7657 (outside Tasmania)
- WorkSafe Victoria
Website: www.worksafe.vic.gov.au
Email: info@worksafe.vic.gov.au
Telephone: 1 800 136 089 or (03) 9641 1444
- WorkSafe WA Part of the WA Department of Commerce
Website: www.worksafe.wa.gov.au
Telephone: 1300 307 877
- Workplace Ombudsman Tel: 13 13 94 or www.fairwork.gov.au
- Union Representative – refer relevant Union
- Or other relevant regulatory body may be available related to the specific issue.

Service or Other Operational Practice Appeal

The process for appeal for any decision related to service provision or operational practice made by Skills Lab is as follows:

- Appellant (person who is appealing the decision) lodges a verbal or written appeal to General Manager, Skills Lab within twenty (20) days of the date of the decision
- General Manager, Skills Lab documents details of the appeal attaching the original appeal letter from the Appellant if provided;
- Within 5 working days of receipt of the appeal a meeting is arranged by Skills Lab, with the Appellant and General Manager, Skills Lab to discuss the Appellant's concerns. The discussion is recorded by the General Manager, Skills Lab and signed off by the Appellant.

- Within 5 working days of the meeting General Manager, Skills Lab 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 within 5 working days of the verbal advice.

If the Appellant is dissatisfied with the General Manager, Skills Lab's decision they may appeal to the CEO in writing within 5 days of the date of the written notification.

- The CEO will meet with both the General Manager, Skills Lab and the Appellant within 5 working days of receiving the appeal notice. The meeting is to be documented.
- The CEO will advise the General Manager, Skills Lab and the Appellant within 5 working days of the meeting of the decision.

Operational Policy

In relation to operational policy the CEO'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 Skills Lab may engage in negotiation with the other party the services of an external facilitator to assist the process. The other party will be responsible for their costs.

Skills Lab generally uses the services of Access OCAR Australia.

Australia free call number: 1300 66 77 00

Unsuccessful Appeal Process

If all Skills Lab avenues of appeal process are not successful the General Manager, Skills Lab should advise in writing:

- the appellant of their right to seek external appeals process as follows:

Students

- 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 or as may be relevant in the State/Territory
- Australian Appeals Tribunal <http://www.aat.gov.au/ContactUs.htm>
- legal intervention;

or

- Other appropriate regulatory body

and the CEO of an Appellant's intention to seek external appeal process.

False or Malicious Appeals

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

Skills Lab 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 and dependent upon the appeal the consequences may include termination of employment or contract or expulsion from further studies.

Responsibilities

General Manager

It is the responsibility of the General Manager to ensure that Skills Lab has appropriate, fair and equitable policy and procedure in the management of appeals.

Skills Lab Staff

It is the responsibility of Skills Lab staff to ensure that the appeal process is open, fair and accurate at all times; well documented and that the Appellant signs off and is provided with a copy of each stage of the process.

Student Support & Children's Protection Officers

The Student Support Officer and Children's Protection Officer is responsible for the welfare of students and Children's Protection throughout the student's period of study with Skill Lab.

The Student Support Officers and Children's Protection Officers are to provide assistance to students and where relevant their parent/guardian(s) throughout the Appeal Process.

Students

Students are responsible for making accurate appeals and asking for assistance in the process.

Applicable 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.