

PROCEDURE

PPMF | TAFESA | 31

Title

Student Complaint Resolution Procedures for Non-academic Matters

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TAFE SA Procedures are issued under the TAFE SA Policy and Procedure Management Framework. They are binding on all TAFE SA employees.

1 Purpose

This procedure sets out the steps to manage Student Complaints and is built on the principles underpinning the Student Complaint Resolution Policy for Non-academic Matters.

In order to maintain and further improve its high quality performance, TAFE SA welcomes students' suggestions and feedback regarding its processes. The Student Complaint Resolution Policy and Procedures for Non-academic Matters provides students with the opportunity to easily access a fair, inexpensive, confidential and equitable complaint and appeal process.

2 Outcome

Consistency of practice in managing student complaints.

TAFE SA is committed to implementing effective and transparent student complaint resolution procedures that, where possible, are managed quickly, at the local level and with a minimum number of people involved. The resolution process will be available to students, staff and others in the community. It focuses on a rapid re-establishment of good working relationships and positive outcomes. The procedures aim to avoid blame and undue investigation.

3 Scope

This procedure applies to all students (including prospective, current and existing students) applying for or undertaking study or training in courses delivered by TAFE SA regardless of the location of the campus at which the grievance arose, the student's place of residence or mode of study. This includes domestic and international students and apprentices and trainees under a contract of training. Students may also seek advice from the Training Advocate about their rights and responsibilities

4 Definitions

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| Complaint | An expression of a grievance, resentment or displeasure about a decision service or product. |
| Confidentiality | The process of ensuring that the privacy of the parties involved in a complaint is protected as much as legally possible, to minimise the grounds for possible defamation action and to facilitate a positive complaint resolution process. |
| Mediation | A process by which parties in a dispute are brought together with the assistance of a mediator to try to reach a mutually satisfactory solution to a dispute. |

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| Defamation | The publication or making of false statements about another, which damage that person's reputation. The defamatory statements must be untrue and also intended to be taken seriously. Its effect must be damaging to the reputation of the person claiming to be defamed. A defamatory statement may be either verbal or written. |
| Natural Justice | The duty to act fairly and includes two rules: <ul style="list-style-type: none"> • The fair hearing rule – meaning that all parties must be given the opportunity to present their case and be fully informed about allegations and decisions made and • No bias rule – meaning that a decision maker must have no personal interest in the matter. |
| Non-academic matters | Non-academic matters include those matters which do not relate to student progress, assessment course content or awards in a course and include complaints in relation to personal information that TAFE SA holds in relation to a student. |
| Victimisation | The act or acts of treating someone unfairly either because they have made a complaint or because they were the subject of a complaint. It does not include appropriate sanctions imposed following proper and fair processes |

5 Associated Documents

| | |
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| PPMF TAFESA 42 | Student Complaint Resolution Policy for Non-academic Matters |
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6 Procedure Details

Students may elect, according to the nature and seriousness of their complaint, to seek resolution using one or more of the following options:

Option 1 – Informal Complaint Resolution Process

Option 2 – Formal Complaint Resolution Process

Option 3 – Using external agency process (e.g. Equal Opportunity Commission)

Procedures for Options 1 and 2 are guided by the following principles:

- The privacy of all parties involved in the TAFE SA complaint resolution process will be protected, subject to any legal requirement to disclose information.
- At each stage of the process, complainants and/or respondents are entitled to appropriate explanations in writing, if requested, of any decisions or actions taken as part of these procedures as they relate to them.
- The focus for resolution will be on issues rather than individuals.
- Students and staff are to be protected from victimisation and discrimination.
- Natural justice principles will be adhered to in order to ensure procedural fairness.
- Strategies that allow students to express a concern rather than a complaint are to be encouraged (e.g. discussions, student forums, evaluation forms).
- Resolution of a complaint is to be achieved as quickly as possible, preferably at the local level and involving necessary parties.

- Processes are to be commenced within two weeks of a formal complaint being made. In most cases, resolution should be finalised within a further two weeks.
- The complainant has the right to withdraw the complaint at any stage and to choose or alter the process of resolution (i.e. formal or informal). However, some complaints, because of their nature, may require action regardless of any mediated outcome that may be sought. Students and staff have the right to be accompanied or represented by a third person such as a family member, friend, counsellor or professional support person.

TAFE SA will not charge students any fees in relation to their accessing the grievance processes outlined in this policy.

6.1 **OPTION 1 – Informal Complaint Resolution Process**

- 6.1.1. Informal complaint resolution often proves to be quick and effective by encouraging students to resolve the complaint themselves. Informal resolution may not be appropriate for more serious matters, or where the student wants to proceed directly to a formal or external process.
- 6.1.2 If the student is willing and able, they can self-manage the matter by:
- discussing the complaint directly with the person/s involved, and/or
 - writing to the person/s involved to inform them of the complaint and desired resolution.
- 6.1.3 To assist the self-management process, students can seek advice from a TAFE SA Student Services Staff member.
- 6.1.4 A student either resolves the matter themselves or can leave it unresolved in the informal process. If the student is still aggrieved following engagement of the informal process, they can also decide to use the formal complaint resolution process in which case they will lodge a formal written complaint as described below.

6.2 **OPTION 2 – Formal Complaint Resolution Process**

- 6.2.1 From the outset, students may choose a formal complaint resolution process by forwarding a signed, written complaint to the relevant Executive Director. If the complaint relates to the relevant Executive Director, the student should address the complaint to the Chief Executive, TAFE SA. The same process will be followed but the Chief Executive will take the place of the Executive Director in the process. The written complaint must be made within three months of the incident (or unsuccessful resolution using the informal complaint resolution procedures). This is when the official TAFE SA process commences. Throughout the formal complaint resolution process, a student may be accompanied by a support person. This can occur at any stage of the formal complaint resolution procedure, including the appeal.

6.2.2 **Formal Complaint Resolution – Step 1.**

Upon receipt of any complaint, the Executive Director will consider whether the matter may fall within the scope of the Whistleblowers Policy. If so, the Executive Director will ask the student whether they consider themselves a Whistleblower and, if so, the Executive Director will refer the complaint for resolution under that process.

If the complaint falls outside the scope of the Whistleblowers Policy, the Executive Director will determine the appropriate TAFE SA staff to take responsibility for the investigation, and may refer the complaint accordingly to a fellow Executive Director within five working days of receiving the complaint. Where the complaint relates to the Executive Director, the complaint will be investigated by persons outside the Division.

- 6.2.3 The designated Executive Director, TAFE SA will appoint an Investigating Officer to manage the formal complaint resolution process. In the case of formal student complaints in which the complainant states that there has been potential misconduct by a staff member, the complaint will be referred directly to the Director of People and Culture by the Executive Director (or Chief Executive TAFE SA). A confidential file will be opened. A written acknowledgement will be made to the student within a further five working days. Investigations will commence within two weeks of the receipt of the complaint. In most cases, they will be completed within a further two weeks.
- 6.2.4 A student may withdraw a complaint at any stage. Alternatively the student may choose to have the complaint resolved informally. The police may have been contacted in instances where behaviour may constitute a criminal offence and the formal process may not be terminated.
- 6.2.5 Some complaints, because of their nature, may require other formal management and action regardless of any mediated outcome that may be sought or achieved. This is particularly so when misconduct by a staff member has occurred.
- 6.2.6 Students and staff can obtain advice from organisations outside TAFE SA at any time including legal advice, union advice etc.
- 6.2.7 Options for dealing with complaints formally include having the matter formally mediated and/or investigated. A formal mediation can be requested by invitation from the investigating officer.
- 6.2.8 When a complaint is formally mediated:
- It may be successful in that an agreement is reached between the parties,
 - OR**
 - It may be unsuccessful, in which case the complaint may either be withdrawn or the student may request that the matter be referred for further investigation. This request will be considered by the officer. The student is responsible for initiating further action making a written request to the Investigating Officer within 5 days of an unsuccessful mediation.
- 6.2.9 When a complaint is formally investigated by an Investigating Officer, that officer will:
- Establish the facts by interviewing the relevant parties.
 - Conduct the interviews privately and maintaining confidentiality as far as legally possible.
 - Caution all parties to maintain confidentiality to reduce the possibility of a defamation suit.
 - Where necessary, consult with the Legislation and Delegation unit and/or People and Culture.
 - Where possible complete the investigation within 6 weeks.
 - Provide a written report making recommendations to the Executive Director who received the original complaint.
 - Within 2 weeks of receiving the recommendations, the Executive Director will provide written feedback to the student including information as appropriate.

6.3 **Appealing the decision**

- 6.3.1 **Appealing the Executive Director's Decision.** Following the resolution or completion of the Step 1 of the Formal Complaint Resolution process, the student may appeal against the decision as follows:
- 6.3.2 A written appeal must be lodged with the Chief Executive, TAFE SA within 4 weeks of the complainant being notified of the decision resulting out of Step 1 of the Formal Complaint Resolution process.
- 6.3.3 The Chief Executive, TAFE SA will then delegate responsibility for organising an Appeals Committee. This Committee will be comprised of at least three members (one of whom will be a Student Services staff member), will always have an odd number of members and have, as far as possible, a gender balance. The Committee members must not have been involved in the conduct of Step 1 of the Formal Complaint Resolution process or the complaint itself. The Chair of the Committee must be from a business unit other than that of the complainant or from TAFE SA Educational Services. The Appeals committee will be convened within 2 weeks of receiving the request from the student.
- 6.3.4 The Committee is not a formal court or tribunal, therefore it is not bound by any formal legal rules (aside from the rule of natural justice) and lawyers will not make submissions to the Committee. The Committee will consider appeals in the following manner:
- A. If no new information is provided with the written appeal, then the Committee will simply review the original decision. This process will require the Committee to review the information presented to the original decision maker to consider whether the decision reached was reasonable in all the circumstances of the complaint. The Committee will, by majority, make a written recommendation to the Chief Executive, TAFE SA as to whether the original decision was reasonable, generally within five days of conducting the review.
 - B. If new information is provided with the written appeal, the Committee may reconsider the complaint. If the Committee decides to reconsider the complaint, all parties will be invited to meet with the Committee or to provide them with further written material. The Committee will, by majority, make a written recommendation as to the outcome of the complaint to the Chief Executive, TAFE SA generally within five working days of conducting the hearing.
- 6.3.5 The recommendation of the Committee will then be considered by the Chief Executive, TAFE SA and a final decision made. This final decision will not be subject to any further internal TAFE SA review process. The Chief Executive, TAFE SA will ensure that written feedback of the decision is made within a further five working days.
- 6.3.6 If they are still dissatisfied, the student may choose to approach the South Australian Ombudsman, the Training Advocate or the Training and Skills Commission for assistance to pursue the matter further.
- 6.3.7 Any endorsed recommendations will be implemented as soon as possible but generally within 30 days. The grievance will then be deemed resolved and closed.

6.4 **OPTION 3 – Using External Agency process**

- 6.4.1 A student may approach an external agent such as the Equal Opportunity Commission or the Training Advocate.
- 6.4.2 The Office of the Training Advocate provides a free and independent mechanism for the resolution of grievance for domestic and overseas students. The Training Advocate can be contacted by phone 1800 006 488 (toll free). Policies and procedures on grievances should include the Training Advocate's full contact details as shown below:

Office of the Training Advocate
Ground Floor
55 Currie Street (entrance doors at Bus Stop W1 on Currie Street)
Adelaide SA 5000
Office hours: Monday to Friday 8:30 – 5:30pm
Phone (toll free) 1800 006 488
Email: trainingadvocate@sa.gov.au
Web: WWW.trainingadvocate.sa.gov.au
Post: GPO Box 320 Adelaide SA 5001

- 6.4.3 Once a formal complaint has been lodged with an external agent, the TAFE SA process will be suspended.
- 6.4.4 TAFE SA will cooperate with such processes as required by the situation and where appropriate will commence responding to recommendations within 2 weeks of receiving recommendations from the external agency.

7 **Authentications and Responsibilities**

7.1 **Approval of TAFE SA Procedures**

The Chief Executive, TAFE SA approves TAFE SA Procedures.

TAFE SA procedures will be recommended by the TAFE SA Policy Framework Steering Committee and endorsed by TAFE SA Executive prior to approval.

7.2 **Review of TAFE SA Procedure**

This Procedure will be reviewed by the TAFE SA Policy Framework Steering Committee every two years, but may be actioned earlier by the Policy Framework Steering Committee according to feedback received and/or contextual changes.

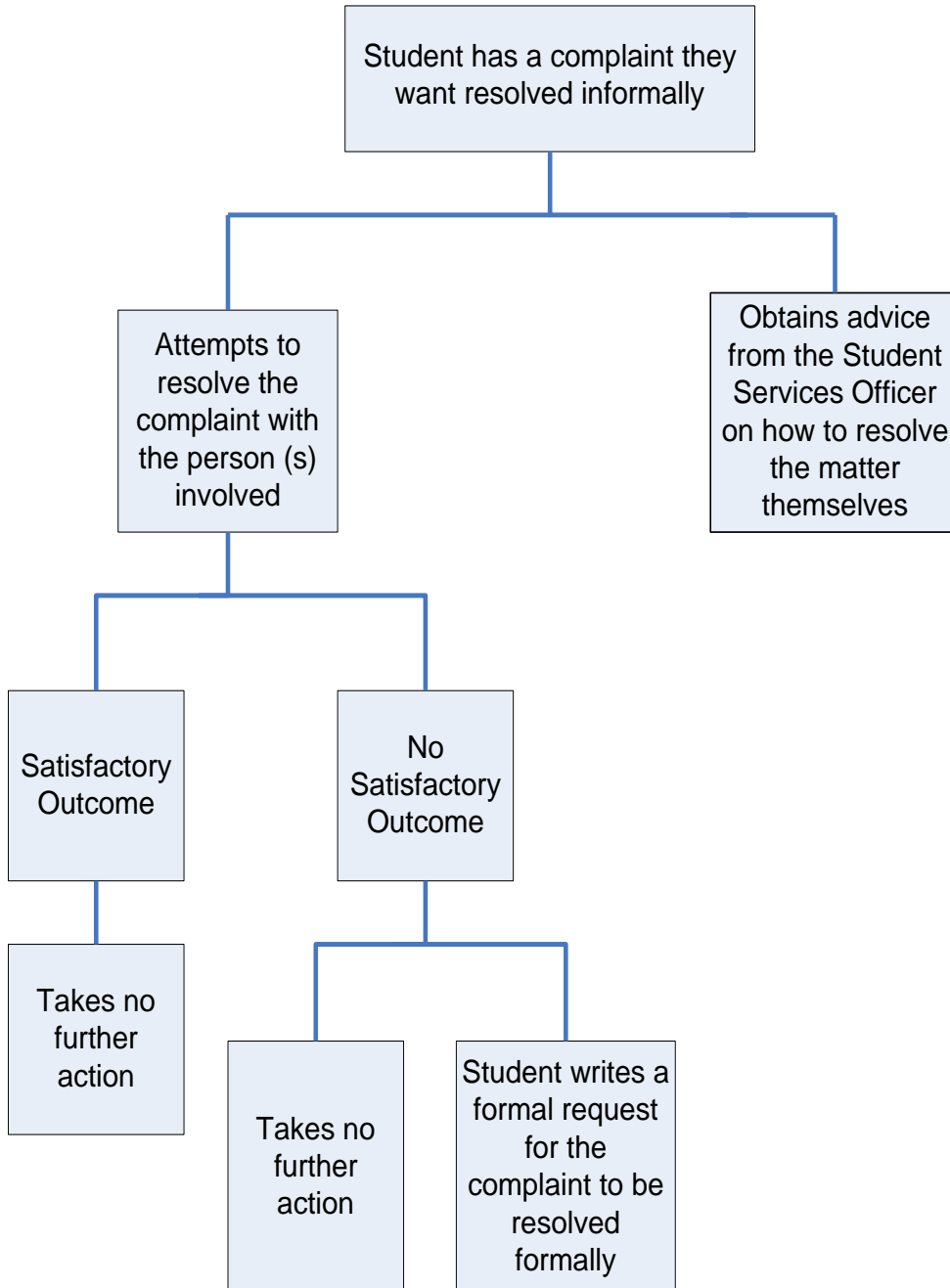
7.3 **Publication**

This TAFE SA procedure will be made publicly available on the TAFE SA website in an online accessible and printable format, in the section About Us \ Policies and Responsibilities. Amendments will be incorporated within two working days.

8 Appendices

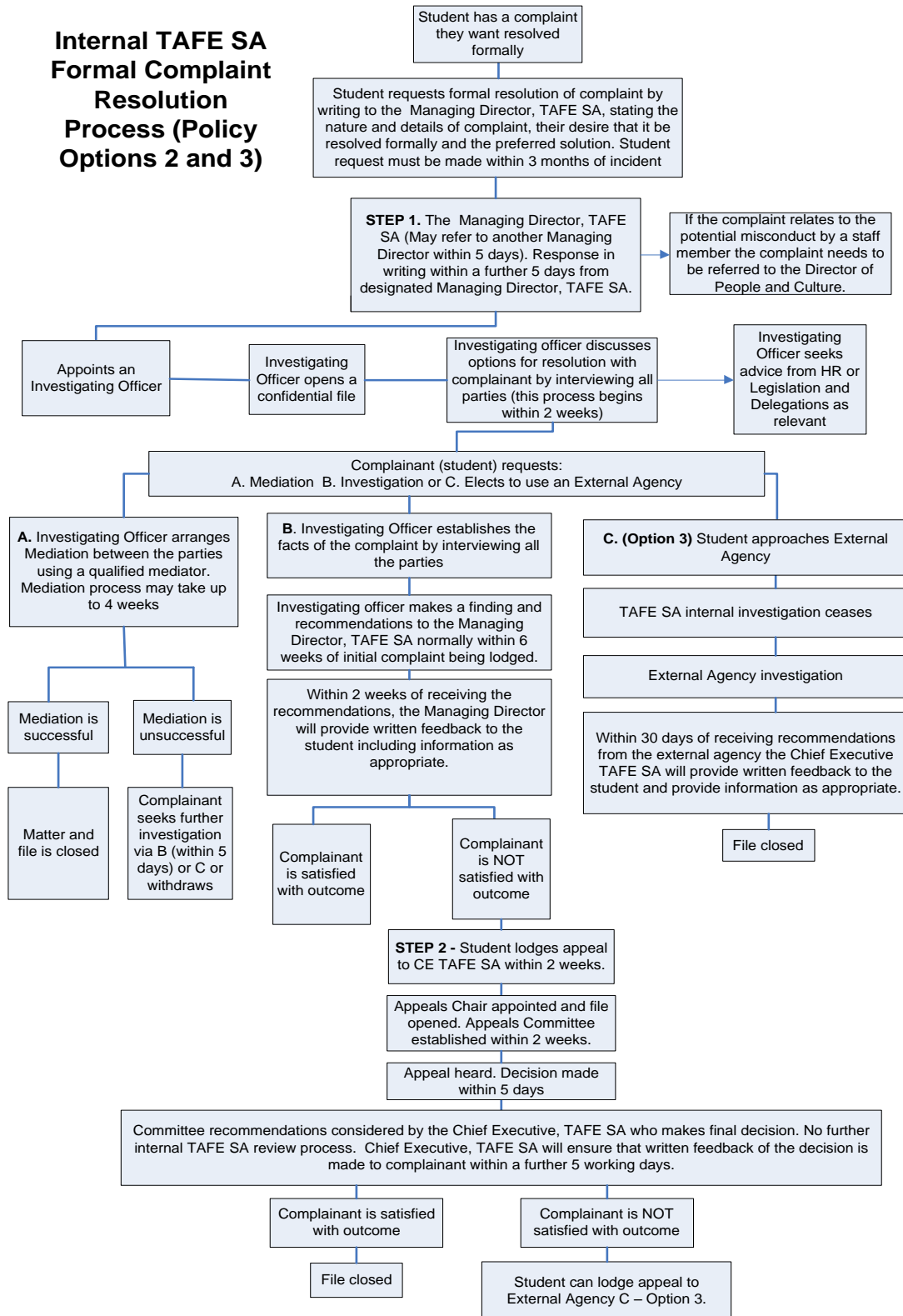
8.1 Informal Complaint Resolution Process

Informal Complaint Resolution Process Policy Option 1



8.2 Internal TAFE SA Formal Complaint Resolution Process (Options 2 and 3)

**Internal TAFE SA
Formal Complaint
Resolution
Process (Policy
Options 2 and 3)**



8.3 Seniority of Investigation Officers for General TAFE SA Complaints

The relevant hierarchy structure in regard to General Complaints is outlined below.

