

## STUDENT GRIEVANCE, COMPLAINTS, AND APPEALS POLICY

### 1. PURPOSE

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This document sets out CG Spectrum Institute's (**CGSI**) policy for responding to student grievances, complaints and appeals in accordance with the *Higher Education Support Act 2003 (HESA)*, *Higher Education Provider Guidelines 2021 (HEPG)* *Higher Education Standards Framework 2021 (HES Framework)* and the *National Code of Practice for Providers of Education and Training to Overseas Students 2018 (National Code)*.

### 2. SCOPE

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This policy applies to all current and prospective domestic and international higher education students of CGSI who have a grievance, wish to make a complaint, request a review, or appeal a decision which falls within the control of CGSI, its staff, education agents or service providers.

### 3. DEFINITIONS

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Term	Definition
<b>Academic Grievance</b>	is a concern about an academic matter or process which a student brings to the attention of CGSI staff in any informal way. Examples of academic matters include, but are not limited to, concerns about: <ul style="list-style-type: none"> <li>● academic progress decisions;</li> <li>● applications for credit transfer or recognition of prior learning (RPL);</li> <li>● curriculum, awards, and assessments;</li> <li>● academic integrity;</li> <li>● content, structure, or quality of the program; or</li> <li>● authorship or intellectual property.</li> </ul>
<b>Appeal</b>	means that a student is dissatisfied with a decision made by CGSI in response to a complaint. The student has ten (10) working days from the date of the written notification from CGSI in which to lodge an appeal to have the decision reviewed. This includes decisions relating to complaint outcomes, as well as admission, credit transfer and RPL, unsatisfactory academic progress, unsatisfactory attendance, misbehaviour, and/or suspension of enrolment and exclusion.
<b>Complaint</b>	means a grievance that has not been resolved informally (for example, by the affected parties discussing the matter) and the student's concern has been escalated requiring an official response.
<b>Grievance</b>	is a concern about a situation, a process, a person or group of people, a facility or a service provided by CGSI, which the student brings to the attention of CGSI's staff in an informal way.
<b>Non-Academic Grievance</b>	is a concern about a non-scholastic matter, situation, or process; or a concern about the conduct of a person or group of people, which the student brings to the attention of CGSI staff in an informal way. Examples of non-academic matters include, but are not limited to, concerns about:

	<ul style="list-style-type: none"> <li>● the provision of student support services;</li> <li>● unsatisfactory attendance;</li> <li>● the Code of Conduct;</li> <li>● CGSI's facilities and amenities, including exclusion from facilities or events;</li> <li>● application procedures;</li> <li>● suspension or cancellation of enrolment for non-academic reasons;</li> <li>● use of personal information;</li> <li>● fees and other financial matters;</li> <li>● perceived discrimination or unfairness; or</li> <li>● bullying, sexual harassment, and other forms of harassment.</li> </ul>
<b>Student</b>	for the purpose of this policy refers to a prospective, current, and former student of CGSI.
<b>Unsafe Behaviour</b>	<p>includes, but is not limited to, the following:</p> <ul style="list-style-type: none"> <li>● Bullying;</li> <li>● Discrimination;</li> <li>● Harassment;</li> <li>● Hazing;</li> <li>● Sexual Assault;</li> <li>● Sexual Harassment;</li> <li>● Sexual Misconduct;</li> <li>● Vilification; or</li> <li>● Victimisation.</li> </ul> <p>See <b>Appendix 1</b> for common definitions of the above unsafe behaviours.</p>

#### 4. RESPONSIBILITIES AND RESPONSIBILITIES

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The **CEO** is responsible for the implementation of this policy.

The **Grievance Adviser** is an appropriately qualified, trained and nominated member of staff (other than the Academic Director) whose role it is to provide advice to a student about the process for resolving a grievance or complaint.

All **staff** have a responsibility to advise students who have a grievance or are dissatisfied with a decision made by CGSI of their right to lodge a complaint or appeal. All staff must be familiar with and understand the terms of this policy and the *Student Grievance Complaints and Appeals Procedure* (which shall be a key component of induction and ongoing training).

#### 5. POLICY

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5.1. It is CGSI's policy that:

- students are entitled to express their concerns about a situation, a process, a decision, conduct of an individual person or class of people, a facility or a service provided by CGSI;

- students have access to effective systems for handling any grievances and complaints that might arise prior to or during the course of their studies as one way of ensuring the highest possible academic and service standards;
  - complaints-handling and appeals processes for formal complaints will be impartial and shall draw on independent advice;
  - confidentiality will be strictly observed by all participants at all stages of the complaints and appeals process; and
  - records of all complaints and appeals will be kept in CGSI's formal record keeping system for not less than 5 years and will remain confidential.
- 5.2. If the internal or any external complaints handling or appeal process results in a decision or recommendation in favour of the student, CGSI will immediately implement the decision or recommendation and/or take the preventive or corrective action required by the decision and advise the student of that action in writing.
- 5.3. **(Grievance)**: Wherever possible, CGSI encourages students to resolve issues informally, with the staff member or person concerned. In cases where informal resolution is not possible or is not achieved, a formal complaint process may be commenced.
- 5.4. **(Complaint)**: A student may lodge a formal complaint and CGSI will commence assessment of the complaint within the (10) working days of it being received.
- 5.5. **(Appeal)**: A student has ten (10) working days, from the date of the decision to lodge an appeal and CGSI will commence assessment of that appeal within the (10) working days of it being received.
- 5.6. The student will receive acknowledgement of receipt of the complaint/appeal lodgement form within two working days of lodgement of the complaint/appeal.
- 5.7. Complaints will be heard and addressed through the internal complaints handling processes as quickly as possible (refer to the *Grievance, Complaints, and Appeals Procedure*).
- 5.8. Complaints and appeals will be treated seriously, sensitively, impartially. All students are entitled to a fair hearing in accordance with the principles of natural justice.
- 5.9. A respondent will be informed about the nature of the complaint against him / her in writing and provided with the opportunity to respond within five (5) working days.
- 5.10. When the appeal is against a decision by CGSI to terminate a student's enrolment, the student's enrolment will be maintained until the appeal has been resolved.
- 5.11. Complainants, appellants, and respondents will not be subject to discrimination or harassment as a result of their participation in a complaints or appeals process. Students can be confident that there will be no negative consequences, and that the complaint or appeal will be investigated fairly.

- 5.12. All parties will receive weekly updates on the progress and outcome decisions of their complaint or appeal.
- 5.13. After exhausting all avenues of resolution available within CGSI, students have the right to refer their complaint to an external professional mediator approved by CGSI. CGSI's contribution to the cost of mediation will be capped at \$100 per session.
- 5.14. In the event of the student remaining dissatisfied with the result or conduct of CGSI's internal procedures for handling of the complaint and the external mediation process, the student has the right to take further action. The student may choose, for example, to take further action under Australia's consumer protection laws, through Fair Trading NSW (<http://www.fairtrading.nsw.gov.au/>) or the New South Wales Ombudsman (<http://www.ombo.nsw.gov.au/>).

Comprehensive information for domestic and international students about lodging a higher education student complaint is available on the Australian Government's Study Assist web site <https://www.studyassist.gov.au/support-while-you-study/higher-education-student-complaints>

## **6. MONITORING**

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All formal complaints, decisions and outcomes will be monitored by the CEO (or delegate).

## **7. TIME LIMITS FOR FORMER STUDENTS**

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CGSI is unlikely to consider a complaint from a former student whose enrolment was finalised six months or more prior to the time of lodging the complaint.

Student records are kept for a minimum of five years in the event of a complaint requiring further investigation.

## **8. RECORDS OF FORMAL COMPLAINTS AND APPEALS**

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There will be a central tracking system for complaints that identifies the issue and how it was resolved. Secure system records will be available to appropriate officers or staff of CGSI to help ensure consistent treatment of like cases.

The student's record will be updated to document the outcome of each stage of the process and any subsequent actions.

A copy of all related documentation, including a statement of findings, outlining the reasons for decisions made at each stage of the complaint and appeal(s) process, will be retained securely on the student's record.

A copy of the statement of findings and reasons for decisions will be provided to the student, and any respondent.

## 9. RELATED

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Grievance Complaints and Appeals Procedure  
Student Selection and Admission Policy  
Student Selection and Admission Procedure  
Advanced Standing and Credit Transfer Policy  
Advanced Standing and Credit Transfer Procedure  
Academic Integrity Policy  
Academic Integrity Procedure  
Student Assessment Policy  
Student Assessment Procedure  
Student Welfare and Support Policy  
Student Welfare and Support Procedure  
Students at Risk Policy  
Students at Risk Procedure  
Wellbeing and Safety for All in the Learning Environment Policy and Procedure

## **APPENDIX 1: UNSAFE BEHAVIOUR COMMON DEFINITIONS**

### **Bullying**

Bullying is repeated and unreasonable behaviour directed towards a person or group of people that creates a risk to health and safety:

- **Repeated behaviour** is behaviour which occurs more than once and may involve a range of behaviours over time.
- **Unreasonable behaviour** is behaviour that a reasonable person, having regard for the circumstances, would see as unreasonable, including behaviour that is victimising, humiliating, intimidating or threatening.

The following behaviours do not constitute bullying:

- A single incident of unreasonable behaviour. (However, single, or one-off incidents of unreasonable conduct can also cause a risk to health and safety, may breach other CGSI policies, and could constitute misconduct.)
- Low level conflict defined as interpersonal conflict or disagreement which is not sufficient to constitute bullying. People can and will disagree with each other, however, such situations must be dealt with in a respectful manner.
- Reasonable direction and expectations of staff, including as part of performance management procedures.

### **Bystander**

A bystander includes a person who observes unsafe behaviour, which can include someone bullying, harassing, discriminating against, sexually harassing, or sexually assaulting another person.

## **Complaint**

A complaint is a complainant's expression of dissatisfaction that their rights, existing interests and/or reasonable expectations under this policy have been adversely and unjustifiably affected because of an action, decision or omission within the control or responsibility of CGSI.

A complaint involves providing detailed information seeking disciplinary action or other resolution against the respondent. A complaint is different to a report (which is defined below).

## **Complainant**

A person(s) who makes a complaint about a matter that they wish CGSI to consider and for which outcome(s) or resolution(s) are explicitly or implicitly expected.

## **Consent**

Consent means the free and voluntary agreement, by a person with the cognitive capacity to do so, to participate in an activity which may include an intimate or sexual relationship. Consent is not freely and voluntarily given if the person is:

- Coerced;
- Unconscious or asleep;
- Under the influence of drugs or alcohol;
- Under threat or intimidation;
- In fear of bodily harm;
- Subjected to the exercise of authority;
- Under false or fraudulent representations about the nature or purpose of the act, or
- Under a mistaken belief that the offender was someone else (for example, their sexual partner).

Consent can be given and subsequently withdrawn at any point.

## **Discrimination**

Discrimination is against the law. Discrimination is treating someone unfairly because of a characteristic they have, or they are assumed to have, that is protected by New South Wales and Commonwealth law. These characteristics include:

- Disability (includes diseases and illness);
- Sex (includes pregnancy and breastfeeding);
- Race;
- Age;
- Marital or domestic status;
- Sexual orientation;
- Gender identification status; and
- Carer's responsibilities.

The following conduct does not constitute unlawful discrimination:

- A person is not offered a job because, notwithstanding that reasonable adjustments have been made, they cannot meet the inherent requirements of the job.
- A student with a disability does not pass the requirements of a course, notwithstanding that reasonable adjustments have been made.

- The Higher Education Provider (**Provider**) has gained a lawful exemption, or the law otherwise permits the Provider, to target a job at a particular group of people to help redress disadvantages that group may have experienced in the past.
- The Provider lawfully implements specific equal employment opportunity, or 'affirmative action' strategies, plans or programs designed to ensure genuine equal opportunities in the workplace, particularly in relation to groups that have been disadvantaged in the past.

## **Harassment**

Harassment occurs when a person, or a group of people, is intimidated, insulted, or humiliated because of one or more characteristics, or from working in a hostile or intimidating environment that makes a person feel offended, humiliated, or intimidated, and where that reaction is reasonable in the circumstances. Harassment can arise as the result of a single incident as well as repeated incidents (for example, hazing). See further definition of *Sexual Harassment* below.

## **Hazing**

Hazing is any action or situation, with or without the consent of the participants, which recklessly, intentionally, or unintentionally endangers the mental, physical, or academic health or safety of staff or students and can include the practice of rituals, challenges, and other activities as a way of initiating a person into a group including a new residential college, team, or club.

## **Report**

A report is information provided to CGSI about an incident or suspected wrongdoing that the person making the report believes to be the case. A report can be anonymous, and the person reporting is able to, but does not have to, identify the other person/people involved.

CGSI can provide support to a person making the report (if they have identified themselves) including accommodations and precautionary measures, and advice about making a complaint. Reports are processed and recorded on the Incident Register.

## **Representative (or Support Person)**

A representative (also referred to as a support person) is a person to assist, accompany and support a complainant, respondent, or interviewee in their participation in matters relating to this policy and supporting procedures. A representative may be a friend or family member, a staff member, or delegate.

## **Respondent**

A person(s) against whom a complaint is made.

## **Sexual Assault**

Sexual assault is any unwanted or forced sexual act or behaviour without consent.

Sexual Assault occurs when a person:

- Touches or makes contact with another person (and the touching or making contact is sexual in nature) without their consent – groping and any physical contact such as patting, pinching, or touching in a sexual way is a form of sexual assault.
- Forces another person against their will to commit an act of gross indecency – a sexual act that does not involve penetration, for example a person forces another person to touch their genitals.
- Forces another person to see an act of gross indecency, for example the person masturbates in front of the other person.

Rape is the most serious form of sexual assault and occurs where a person or persons force another person or persons to have sexual intercourse without her or his consent. Rape includes forcing someone to perform oral sex, digital penetration, and inserting any object into the vulva, vagina, or anus of another person without their consent.

### **Sexual Harassment**

Sexual harassment is an unwelcome sexual advance, unwelcome request for sexual favours or sexual gestures, jokes or comments that are intended to offend, humiliate, or intimidate another person, or where it is reasonable to expect the person might feel that way.

Sexual harassment may include:

- Displays of sexually graphic materials including posters, cartoons or messages left on noticeboards, desks or common areas, but does not include sexually graphic materials for educational purposes that have been approved and are intentionally used by CGSI solely as part of the curriculum;
- Repeated invitations to develop a closer or intimate relationship after prior refusal;
- Unwelcome and uncalled for remarks or insinuations about a person's sex or private life;
- Comments of a sexually suggestive nature about a person's appearance or body;
- Sexually offensive phone calls;
- Offensive emails, text messages or graphics of a sexual nature;
- Unwanted sexual attention using internet, social networking sites and mobile phones;
- Sexually offensive screensavers or posters;
- Threats online of a sexual nature;
- Revenge porn;
- Sexual propositions;
- Indecent exposure;
- Stalking;
- Pressuring a student or staff member to engage in sexual behaviour for some educational or employment benefit, or
- Making a real or perceived threat that rejecting sexual behaviour will carry a negative consequence for the student in education, accommodation, or in a programme or activity of the Provider.

### **Sexual Misconduct**

Sexual misconduct refers to instances of sexual harassment or sexual assault that CGSI is notified of or is responding to. If proven, allegations of sexual misconduct are a breach of this policy and also of the Code of Conduct that apply to both the staff and students of CGSI.

## CGSI Community

CGSI Community means the members of the Board of Directors, Academic Board, staff, students and as well as those who use the CGSI campus or facilities for work, study, living and socialising, or other authorised activity.

## Vilification

Vilification is a public act that could incite hatred, serious contempt or ridicule towards a person or group. Vilification is against the law for certain characteristics. These characteristics include race, sexual orientation, gender identification status, or HIV/AIDS status.

## Vexatious

A complaint is deemed to be vexatious if it is:

- Dishonest or contains intentionally misleading information;
- Malicious; pursued with undue persistence;
- Has the intent to harass or cause delay or detriment, or
- Is pursued in a manner that threatens, menaces or harasses a member of the Board of Directors, Academic Board, staff or students of CGSI.

## Victimisation

If you are mistreated because you have made a (or plan to make) a complaint of discrimination, or you have provided information or evidence about a complaint of discrimination, this is known as victimisation. Victimisation is against the law in New South Wales.

## Version Control

<b>Document:</b> Grievance Complaints and Appeals Policy		
<b>Approved by:</b> Academic Board		<b>Date:</b> February 2022
<b>Version:</b> V4. 2	<b>Replaces Version:</b> V4. 1	<b>Next Review:</b> February 2024
V4.1	Updating logo, formatting and minor amendments	
V4.0	CRICOS minor adjustments 24/06/2021	
V3.3	Further refinements	
V3.1, V3.2	Changes made as requested by Academic Board	
V3.0	Refinements arising from external review and logo added	