

2015-07 EDU.AU COMPLAINTS POLICY

Policy Number	2015-07
Publication Date	01/07/2015
Status	Current

Background	<p>This policy sets out processes for the handling of complaints, and requests for review of decisions made by the edu.au Registrar (“the Registrar”) about:</p> <ul style="list-style-type: none">a) the decisions and actions of the Registrar for the closed edu.au second level domain (2LD);b) the eligibility of a registrant to hold a domain name licence in the closed edu.au domain space, i.e. whether the registrant’s identification details are valid. <p>In addition it details the process for seeking a review of decisions made by the Registrar.</p> <p>Note that the edu.au Domain Administration Committee (eDAC) is not a government agency or statutory authority; therefore it does not have legislative power to impose fines or other penalties.</p>
-------------------	---

1 SCOPE OF COMPLAINTS POLICY

1.1 This policy applies to all complaints/requests for review of decisions relating to the allocation and management of the edu.au domain space including:

- a) the registration of a domain name;
- b) the renewal of a domain name;
- c) the delegation/re-delegation of a domain name;
- d) the transfer of a domain name licence to another registrant;
- e) possible breaches of edu.au Published Policy; and
- f) a registrant’s eligibility to hold a domain name licence.

This policy also applies to complaints about edu.au policy.

1.2 This policy does not apply to complaints about:

- a) Internet access or email services;
- b) Web hosting, website management, website design or other related third party services;
- c) Objectionable or offensive website content;
- d) Whether an edu.au domain name infringes upon or otherwise violates the rights of any third party (for example, trade mark or copyright matters); and
- e) Possible breaches of the Telecommunications Act 1997, the Broadcasting Services Act 1992, the Competition and Consumer Act 2010, the Privacy Act 1988 or any other

legislation. For complaints about matters listed in this Section, the relevant government authority should be contacted, such as the Australian Communications and Media Authority (ACMA), the Telecommunications Industry Ombudsman (TIO), the Australian Competition and Consumer Commission (ACCC), or the Office of the Australian Information Commissioner.

- 1.3 Complaints about a registrant's use of a domain name (i.e. whether it violates or infringes on another party's rights to a domain name) may be handled under the auDA Dispute Resolution Policy, *.au Dispute Resolution Policy (auDRP)*, or alternatively the complainant should seek legal advice.

2 HOW TO MAKE A COMPLAINT

- 2.1 All complaints must be directed to the Registrar.

3 PROCESSING OF COMPLAINTS BY THE REGISTRAR

- 3.1 The Registrar must refer the complaint to its Internal Review Officer.
- 3.2 The Registrar must respond to every complaint within a reasonable period of time.
- 3.3 The complainant is advised to keep a record of their dealings with the Registrar, including copies of any correspondence, the names of relevant customer support staff and the key points discussed.

4 PROCESSING OF COMPLAINTS ABOUT ELIGIBILITY

- 4.1 If the Registrar receives a complaint about the eligibility of an edu.au registrant, it must reconfirm the eligibility details of the registrant. If the eligibility details are current and the registrant is still eligible for the domain name, the Registrar is not required to take any further action.
- 4.2 If the eligibility details are not current, the Registrar must request the registrant to update their eligibility details within 14 calendar days. The Registrar must use reasonable endeavours to contact the registrant (for example, if an email bounces, the Registrar should attempt to contact the registrant by phone or fax).
- 4.3 If the registrant updates their eligibility details within the 14 day period, the Registrar must:
 - a) Review the information provided and determine if the registrant is still eligible; and
 - b) Enter the new information in the registry database as a correction to the registrant details.

If the registrant does not update their eligibility details within the 14 day period, does not respond to the Registrar's request, or the Registrar determines the registrant is no longer eligible, the Registrar must commence the process for termination of the licence outlined in the *edu.au Mandatory Terms and Conditions Policy*.

- 4.4 Once the domain name is deleted, it will not be transferred to the complainant, or reserved for the complainant. If the complainant wants to licence the domain name, they must apply for it using the normal application process.
- 4.5 The original registrant may re-apply for the domain name when it becomes available.
 - a) The registrant does not have to use the same eligibility criteria that they originally used to support their domain name registration.

- b) If the registrant is unable to confirm their eligibility against the eligibility criteria originally used for the granting of their domain name registration, they must provide new eligibility details. The Registrar must confirm registrant eligibility in accordance with the *edu.au Registration Policy*, because the registrant's new eligibility details may no longer have any connection with the domain name.

5 REFERRAL OF COMPLAINTS TO EDAC

- 5.1 If you are unhappy with the response provided by the Registrar, you may request the Registrar to refer your complaint to eDAC for review and resolution.
- 5.2 When requesting a review by eDAC, you should provide to the Registrar any relevant supporting documentation, such as agreements, policies, emails and other correspondence with the Registrar. Failure to do so may mean that eDAC is unable to investigate your complaint for lack of evidence.
- 5.3 You should also think about what you want to achieve by requesting a review, having regard to the remedies available for complaints listed in Section 7. In some cases, even if your request is justified, there may be legal or technical reasons why eDAC is unable to grant the remedy that you seek.
- 5.4 eDAC reserves the right not to investigate a complaint that is frivolous, vexatious, abusive or offensive.

6 EDAC COMPLAINTS HANDLING PROCESS

- 6.1 eDAC must acknowledge receipt of your request and indicate the timeframe in which you can expect a response. eDAC will endeavour to resolve your request as quickly as possible, but if your request is complex it may take longer to resolve. If this is the case, eDAC will keep you informed of the progress.
- 6.2 On receipt of your request for review, eDAC will seek a response from the Registrar. eDAC will investigate the matter based on the facts provided by both parties. eDAC may seek further information from either party to assist with its investigation.

7 ACTION EDAC MAY TAKE

- 7.1 Depending on the circumstances of the matter under review, eDAC may take one or more of the following actions:
 - a) request the Registrar to remedy their error and/or refund any payment for services not received;
 - b) request the Registrar to amend the practice or procedure that led to the review;
 - c) notify the Registrar that they are in breach of their Registrar agreement with auDA or an edu.au Published Policy, and request them to immediately remedy the breach;
 - d) refer your complaint to the relevant government authority; or
 - e) uphold the decision of the Registrar.
- 7.2 If the Registrar does not comply with a request made by eDAC pursuant to Section 7.1, auDA may suspend or terminate the Registrar agreement.
- 7.3 eDAC must notify the complainant by email of the outcome of the review.

8 COMPLAINTS ABOUT EDU.AU POLICY

- 8.1 Members of the public or registrants can raise concerns regarding the clarity or operation of edu.au policies including suggestions for improvements. Your concerns can be lodged with the Registrar who will pass them on to eDAC for consideration in response. Alternatively, your concerns can be lodged with the eDAC Secretariat.
- 8.2 The Chair of eDAC will consider the merits of your concern, and if appropriate submit it for consideration by eDAC. If it is considered that the matter is adequately dealt with by existing edu.au or auDA policy the Chair will respond to you outlining why this is the case.
- 8.3 If eDAC considers that a concern raised under this Section 8 warrants the amendment of edu.au policy then eDAC will proceed with changes to the edu.au policy in accordance with the *edu.au Policy Change Process Policy*. You will be advised by the Chair if eDAC approves any policy amendments as a result of the concern you have raised.