



POLICY

APPEALS

Version Control	
Policy Number	8-1
Status (draft version / approved)	Approved on 24 August 2017 at the 55 th Commission meeting
Policy owner	Director
Effective from	24 August 2017
Review date	23 August 2022

Key search words	Legislative compliance; Legislative Breach Register, Appeals, Representation, Registration, Recognition
-------------------------	---

Relevant legislation	Higher Education Act 2008 Higher Education Regulations 2009 Revised Edition of the Laws (Consequential Amendments) Regulations 2016 Higher Education (Amendment) Act 2017
Related FHEC documents: procedures/guidelines, etc.	8-1-P: Procedures for Appeals Fiji Higher Education Strategy Policy 0-1: Recognition of Higher Education Institutions Policy 0-2: Registration of Higher Education Institutions Policy 7-1: Legal compliance Policy 7-2: Resolution of unresolved complaints against Higher Education Institutions Schedule 7 - HER2009 - Application Fees

Table of Contents	
Section	Page
1.0 Policy objective	2
2.0 Policy	2
3.0 Background	4
4.0 Definitions	4
5.0 Sign-off	5

1.0 POLICY OBJECTIVE

As part of its Provider Monitoring Framework, this policy sets out the Fiji Higher Education Commission's approach to the conduct and monitoring of appeals. This will provide assurance to Higher Education Institutions (HEIs) that relevant processes are in place to handle appeals, particularly when Registration is not successful or has been revoked following the mandated Review.

2.0 POLICY

Scope of policy

- 2.1 This policy applies to all HEIs operating in Fiji. This policy includes compliance with all Fiji laws and regulations that govern HEI operations, specifically relating to appeals and representations made to the Commission regarding the Registration of HEIs.
- 2.2 For the purpose of this policy, the Higher Education Appeals Tribunal shall be referred to as the Appeals Tribunal.
- 2.3 All applications for appeal must be conducted using the prescribed forms and all prescribed fees must be paid at the time of lodgement.

Reconsideration of decision – Recognition

- 2.4 In cases where the Commission does not approve Recognition, the HEI may request a copy of the assessment report and make a representation to the Commission for a reconsideration of its application.
- 2.5 The Commission must inform the applicant in writing of its decision.
- 2.6 An HEI that is not satisfied with the decision in 2.4 above may appeal the decision to the Appeals Tribunal.

Reconsideration of decision – Registration

- 2.7 An institution that is granted registration subject to conditions may, in writing, make representations to the Commission concerning the conditions, within 3 months after receiving notification from the Commission.
- 2.8 In the event the institution is not satisfied with the outcome of representation in 2.7 above, the institution may, within 21 days from the date of being notified of the outcome of representation, appeal in writing, to the Appeals Tribunal.

Reconsideration of decision – Accreditation of Programmes or course of study

- 2.9 An institution that is not self-accrediting whose application for the accreditation of a programme or course of study has been declined by the Commission may make representation to the Commission for reconsideration. If that representation is

unsuccessful, the HEI may then appeal the decision to the Appeals Tribunal within 21 days of receiving notice of the final decision.

Application for Appeal

- 2.10 The Appeals Tribunal shall have jurisdiction to review only the Commission's decisions relating to:
- a) The rejection of an application for recognition following an unsuccessful request for reconsideration;
 - b) The rejection of an HEI's application for the accreditation of a programme or course of study following an unsuccessful request for reconsideration;
 - c) The rejection of an application for the conversion of provisional registration to full registration or the request to extend the period of provisional registration;
 - d) The imposing of conditions on an HEI's registration, or accreditation of a programme or course of study; and
 - e) The suspension or cancellation of an HEI's existing Recognition, Registration, accredited programme or course of study.
- 2.11 Further to 2.10 above, the application must:
- a) Be made in writing;
 - b) Set out the grounds for appeal;
 - c) Be filed with the Secretary of the Appeals Tribunal; and
 - d) Be accompanied by the fee prescribed in Schedule 7 of the HER 2009.
- 2.12 When hearing and determining an appeal, the Appeals Tribunal must:
- a) Exercise all rules and powers of a court for the execution of its functions;
 - b) Keep a record of the proceedings; and
 - c) State in writing the reason for its decision on the appeal.
- 2.13 The Commission and the appellant:
- a) Must be given the opportunity to make representations either orally or in writing or both;
 - b) Are entitled to be represented by legal practitioners or by persons authorised by the Appeals Tribunal in writing.
- 2.14 The use of technology in any form to facilitate the hearing shall be at the discretion of the Appeals Tribunal.

Notification of decision of appeal

- 2.15 A copy of the decision of the Appeals Tribunal must be sent to the Minister for Education, the Commission and the appellant within seven (7) days after the decision is made.

Determination of appeals

- 2.16 In determining an appeal, the Appeals Tribunal may:
- a) Confirm the original decision;

- b) Amend the original decision;
- c) Substitute another decision for the original decision; or
- d) Set aside the original decision and return the matter to the Commission with any directions it considers appropriate.

3.0 BACKGROUND

- 3.1 This policy is designed to protect the interests of students and other stakeholders including the Fiji government, particularly where HEIs can access public funding.
- 3.2 Primary accountability for legal compliance lies with the HEIs themselves. Where breaches are inadvertent or minor, the FHEC will endeavour to work with HEIs to ensure systems are in place to remedy the breach and prevent it re-occurring. Where breaches are more systematic and serious, the FHEC needs to (and will) take whatever level of direct action it deems appropriate.
- 3.3 The appeals process, specified in legislation, allows the decisions of the FHEC to be independently reviewed.

4.0 DEFINITIONS

Legislative compliance	In general, this means conforming to a specification or policy, standard or law that has been clearly defined. Organisations are expected to have systems and processes in place to ensure that personnel are aware of and take steps to comply with relevant laws and regulations.
Legislative Breach Register	An FHEC register of all proven breaches requiring FHEC intervention, details of the investigation outcomes, remedial actions taken and their effectiveness.
Accreditation	The process of determining whether a programme meets the standards required to enable the qualification that it leads to, to be registered on the FQF.
Provisional Accreditation	Accreditation with conditions, normally to be met within a given timeframe. Provisional accreditation of existing programmes may also be granted to HEIs on registration.
Self-accreditation	Where an HEI has been specifically established under its own act and is legally entitled to undertake its own programme accreditation processes
Higher Education Institution	An educational institution in or operating in Fiji that provides award-conferring post-secondary education or provides educational support services for students of other higher education institutions including overseas institutions, including but not limited to: <ul style="list-style-type: none"> a) technical and vocational education and training centres; b) information technology centres; c) secretarial schools; d) language schools; e) hospitality training centres; f) educational agencies; g) caregiving training providers;

	h) performing arts and sports academies; i) religious educational institutions; j) colleges; and k) Universities.
Heads of HEIs	The senior manager of the HEI, <i>e.g.</i> Vice Chancellor, Chief Executive, President, Executive Director.
Governors of HEIs	The council or board of directors with governance oversight of the HEI.
Appeal	An application to the Higher Education Appeals Tribunal for the review of a decision made by the Commission relating to Recognition, Registration, the accreditation of a programme and/or a course of study.
Appellant	A person or institution that is appealing a decision.
Representation	An appeal that is made in writing to the Commission for the reconsideration of its decision.
Higher Education Appeals Tribunal	A tribunal appointed by the Minister for Education that has the jurisdiction to hear and review appeals based on the Commission's decisions relating to applications for Recognition, Recognition, and or the accreditation of a programme. The appellant must exhaust all remedial measures provided by the Higher Education Act before an application to the Appeals Tribunal may be made.

5.0 APPROVAL BY THE CHAIRPERSON, FIJI HIGHER EDUCATION COMMISSION



Dr Milika Sobey
Chairperson
Fiji Higher Education Commission

Date 24/08/17