



**Terms of
Reference**

**TERMS OF REFERENCE
HIGHER EDUCATION APPEALS
TRIBUNAL**

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Related FHEC documents: procedures/guidelines, etc.	Fiji Higher Education Strategy Higher Education Act Higher Education Regulations 2009 Revised Edition of the Laws (Consequential Amendments) Regulations 2016 Higher Education (Amendment) Act 2017 Schedule 7 – HER 2009
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1. **Title**
 - 1.1 The name of the Tribunal shall be the *Higher Education Appeals Tribunal*. For the purpose of this Terms of Reference (ToR) and related policy and procedures document, it shall be referred to as the Appeals Tribunal.
2. **Authority**
 - 2.1 The Appeals Tribunal is established in accordance with section 41(1) of the Higher Education Act 2008.
3. **Purpose**
 - 3.1 To conduct an independent review of a decision made by the Commission when a provider is aggrieved by that decision relating to an application for Recognition or Registration, or accreditation of a programme or course of study.

4. Responsibilities

- 4.1 The Appeals Tribunal shall conduct a review of the Commission's decisions only when all means of reconsideration by the FHEC have been exhausted.
- 4.2 Subject to 4.1 above, the Appeals Tribunal shall have jurisdiction to review only the Commission's decisions relating to:
- A refusal of an institution's application for registration or recognition, or for accreditation of a programme or course of study;
 - The imposing of conditions on an institution's registration or recognition, or accreditation of a programme or course of study; and
 - The suspension or cancellation of an institution's registration or recognition, or accreditation of a programme or course of study.

5. Membership

- 5.1 The Appeals Tribunal shall consist of three (3) members who shall be appointed by the Minister for Education:
- A Chairperson, who must be a person qualified to be appointed as a judge or is a retired judge; and
 - Two (2) members who are of standing in the community.
- 5.2 No person who has a direct association with any Higher Education Institution (HEI) shall be appointed a member of the Appeals Tribunal.
- 5.3 An Appeals Tribunal member will cease to be a member if he or she:
- Resigns from the Appeals Tribunal;
 - Fails to attend 3 consecutive meetings without providing apologies to the Chairperson;
 - Breaches confidentiality; or
 - Fails to declare a conflict of interest.

6. Term of Appointment of Appeals Tribunal members including the Chairperson

The appointment is for a term of 3 years. Members are eligible for reappointment but may not serve more than two consecutive terms.

7. Administration of Appeals Tribunal

- 7.1 The administrative costs of the Appeals Tribunal must be borne by the Commission.

- 7.2 The Commission must employ a Secretary who shall be responsible for the administration of the Appeals Tribunal and must report directly to the Chairperson of the Appeals Tribunal.

8. Vacant Positions

- 8.1 A member of the Appeals Tribunal may resign from office at any time by giving one month's notice in writing to the Minister for Education.
- 8.2 Upon the death of a member, the position will become vacant.
- 8.3 The FHEC will request the Minister for Education to remove the Chairperson or any other member of the Appeals Tribunal from office for the reasons mentioned in 5.3 above.

9. Meeting Procedures

- 9.1 The Chairperson plus one other member shall constitute a quorum.
- 9.2 The Secretary shall provide support including meeting coordination, preparation and distribution of materials and drafting of minutes;
- 9.3 Persons from within or outside the Commission may be invited to attend the hearing at the request of the Chairperson for advice and assistance as necessary or as a witness for the purpose of the appeal. They may be requested to leave at any time by the chairperson.
- 9.4 The Appeals Tribunal must set the time and date for the hearing of the appeal and must notify the Commission and the appellant.
- 9.5 The Appeals Tribunal must send a notice of appeal to the Commission in the prescribed form.
- 9.6 The Appeals Tribunal may determine its own procedure for the conduct of hearings appeals.

10. Conflict of Interest Disclosure

- 10.1 Further to 5.2 above, a member of the Appeals Tribunal who has any direct or indirect personal monetary or institutional interest in any matter coming before the Appeals Tribunal, shall on each and every occasion on which the matter comes before the Appeals Tribunal and as soon as possible after the relevant facts have come to the member's knowledge declare his or her interest in the matter.

10.2 A disclosure under 10.1 above shall be recorded in the minutes of the hearing of the Appeals Tribunal and the member shall not in respect to that matter:

- a) Be present during any deliberation of the Appeals Tribunal; and
- b) Take part in any deliberations or decision making of the Appeals Tribunal.

10.3 The Appeals Tribunal shall include in its report to the Minister for Education all such matters determined under 10.2 above.

11. Confidentiality

11.1 Each member must maintain the confidentiality, security and integrity of all materials during and after their term of office.

12. Sitting Allowance

12.1 Members shall be paid remuneration, sitting allowance, travelling, and other expenses as may from time to time be determined by the Commission, following the approval by the Minister for Education.

13. Amendment to Terms of Reference

13.1 These terms of reference may be amended from time to time by the Commission in consultation with the Appeals Tribunal as the need arises, and where it is deemed necessary, the Minister for Education.

14. APPROVAL BY THE CHAIRPERSON, FIJI HIGHER EDUCATION COMMISSION



Dr Milika Sobey
Chairperson
Fiji Higher Education Commission

Date 24/08/17