

Bylaws

Independent Tertiary Education Council Australia

The Independent Tertiary Education Council Australia (ITECA) is the peak business organisation representing the independent higher education, vocational education and training sectors.



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Bylaws — Independent Tertiary Education Council Aust.

Constitution — Independent Tertiary Education Council Australia Limited

B1. Creation of bylaws, precedence and delegation

- B1.1 Authority and relationship to constitution
 - B1.1.1 These By-laws must not in any way affect the operation of the Constitution.
- B1.2 Amendment, revision and revocation
 - B1.2.1 These By-laws are created by the Board pursuant to the ITECA Constitution, rule 14.1.1a.
 - B1.2.2 These By-laws may be amended or revoked, either in part or in their totality, by the Board.
- B1.3 Precedence over Board decisions
 - B1.3.1 In the event that any decision of the Board conflicts with these By-laws, the provisions of the By-laws take precedence and the conflicting decision shall be automatically rendered invalid.
- B1.4 Publication
 - B1.4.1 A copy of these By-laws will be provided to each national and State Branch Office Bearer upon their assumption of office, will be published on the Association's website, and will be available to a representative of any Member upon request.
- B1.5 Delegation
 - B1.4.1 On matters concerning the application of the Constitution and by-laws, the Board reserves all decision making unless a delegation has been made to the Company Secretary and / or the Chief Executive Officer (or delegate).

B2. BOARD COMPOSITION, ELECTION & APPOINTMENT

- B2.1 Chair's term of office
 - B2.1.1 The Chair's term of office shall be not more than twenty-seven (27) months.
- B2.2 Chair's appointment and replacement
 - B2.2.1 At the Board meeting immediately after the expiration of the Chair's term the Board will appoint a Chair.
 - B2.2.2 The appointment of the Chair shall be made upon the recommendation of the Board Governance Committee and:

- (a) There shall only be one recommendation that is to be voted on; and
 - (b) In the event that the Board rejects the recommendation within two weeks the Board Governance Subcommittee must present an alternative recommendation to the Board.
- B2.2.3 The Chair may be removed as a director by a resolution of the Board or may resign by giving written notice to the Company Secretary.
 - B2.2.4 In the event that a casual vacancy occurs for the Chair the Board may appoint a replacement to fill the remainder of the term.
- B2.3 Deputy Chair's term of office
 - B2.3.1 The Deputy Chair – Higher Education's term of office shall be two (2) years.
 - B2.3.3 The Deputy Chair – Vocational Education and Training's term of office shall be two (2) years.
 - B2.4 Deputy Chair – Higher Education's election
 - B2.4.1 Not less than ten weeks before each Annual General Meeting where a Deputy Chair's term will expire, the Company Secretary shall issue to Voting Members that have been admitted to the Higher Education Network an invitation to nominate to be an elected director, and:
 - (a) The closure dates for nominations will be determined by the Company Secretary but not be less than two weeks from the date the invitations were issued; and
 - (b) The Nomination shall be made on the form issued by the Company Secretary and signed by representatives of two separate Voting Members;
 - (c) Only an Employee of a Voting Member admitted to the Higher Education Network under bylaw B5.1 will be eligible to nominate.
 - B2.4.2 In the event that more than one nomination is received, the resolutions with the Annual General Meeting shall include a ballot for the election of the Deputy Chair – Higher Education.
 - B2.4.3 Only Voting members admitted to the Higher Education Network under B5.1 shall be entitled to vote in the ballot for Deputy Chair – Higher Education.

- B2.4.4 The nominee that receives the highest number of votes cast by Voting Members shall be deemed elected. In the event that two nominees receive the same number of votes, the Director shall be determined by lot.
- B2.4.5 The Deputy Chair – Higher Education may be removed under the rules or may resign by giving notice to the Company Secretary. In such circumstances a causal vacancy is created.
- B2.4.6 In the event that a casual vacancy occurs for the Deputy Chair – Higher Education, the Board may appoint an individual to serve the remainder of the term for which the vacancy occurred. The appointee must be an Employee of a member admitted to the Higher Education Network.
- B2.5 Deputy Chair – Vocational Education and Training's election
- B2.5.1 Not less than ten weeks before each Annual General Meeting where a Deputy Chair's term will expire, the Company Secretary shall issue to Voting Members that have been admitted to the Vocational Education and Training Network under bylaw B5.2 an invitation to nominate to be an elected director, and:
- The closure dates for nominations will be determined by the Company Secretary but not be less than two weeks from the date the invitations were issued; and
 - The Nomination shall be made on the form issued by the Company Secretary and signed by representatives of two separate Voting Members;
 - Only an Employee of a Voting Member admitted to the Vocational Education and Training Network will be eligible to nominate.
- B2.5.2 In the event that more than one nomination is received, the resolutions with the Annual General Meeting shall include a ballot for the election of the Deputy Chair – Vocational Education and Training.
- B2.5.3 Only Voting members admitted to the Vocational Education and Training Network under bylaw B5.2 shall be entitled to vote in the ballot for the Deputy Chair – Vocational Education and Training.
- B2.5.4 The nominee that receives the highest number of votes cast by Voting Members shall be deemed elected. In the event that two nominees receive the same number of votes, the Director shall be determined by lot.
- B2.5.5 The Deputy Chair – Vocational Education and Training may be removed under the rules or may resign by giving notice to the Company Secretary. In such circumstances a causal vacancy is created.
- B2.5.6 In the event that a casual vacancy occurs for the Deputy Chair – Vocational Education and Training, the Board may appoint an individual to serve the remainder of the term for which the vacancy occurred. The appointee must be an Employee of a member admitted to the Vocational Education and Training Network.
- B2.6 Elected director number and term of office
- B2.6.1 There shall be three (3) elected directors.
- B2.6.2 The term of office of an elected director shall be three (3) years.
- B2.7 Elected Directors' election
- B2.7.1 Elected directors will be elected on a rational basis with one being elected every three years.
- B2.7.2 Not less than ten (10) weeks before each Annual General Meeting the Company Secretary shall issue to Voting Members an invitation to nominate to be an elected director, and:
- The closure dates for nominations will be determined by the Company Secretary but not be less than two (2) weeks from the date the invitations were issued;
 - The Nomination shall be made on the form issued by the Company Secretary and signed by representatives of two (2) separate Voting Members; and
 - Only an Employee of a Voting Member shall be eligible to nominate.
- B2.7.3 In the event that more than one nomination is received, the resolutions with the Annual General Meeting shall include a ballot for the election of a director.
- B2.7.4 The nominee that receives the highest number of votes cast by Voting Members shall be deemed elected. In the event that two nominees receive the same number of votes, the Director shall be determined by lot.
- B2.7.5 An elected director may be removed under the rules or may resign by giving notice to the Company Secretary. In such circumstances a causal vacancy is created.
- B2.7.6 In the event that a casual vacancy occurs for an elected director, the Board may appoint an individual to serve the remainder of the term for which the vacancy occurred.
- B2.7.7 Upon the conduct of the annual general meeting following the initial approval of these by-laws, an election for all three Elected Directors shall occur. The candidate receiving the highest number of votes shall be elected for a three (3) year term, the candidate receiving the second highest number of votes shall be

elected for a (2) year term and the candidate receiving the third highest number of ballots shall be selected for a one (1) year term. In the event that two candidates receive the same number of votes, the order shall be determined by lot.

B2.8 Appointed director number and term of office

B2.8.1 There shall be three (3) appointed directors.

B2.8.2 The term of office of an elected director shall be not more than thirty-nine (39) months.

B2.9 Appointed director's selection

B2.9.1 Appointed directors will be selected on a rational basis with one (1) being appointed every three (3) years.

B2.9.2 At the Board meeting immediately after the expiration of an appointed Director's term the Board will appoint a replacement appointed director.

B2.9.3 The appointment of the appointed director shall be made upon the recommendation of the Board Governance Committee and:

(a) There shall only be one (1) recommendation that is to be voted on; and

(b) In the event that the Board rejects the recommendation within two (2) weeks the Board Governance Committee must present an alternative recommendation to the Board.

B2.9.4 An appointed Director may be removed as a Director by a resolution of the Board or may resign by giving written notice to the Company Secretary.

B2.9.5 In the event that a casual vacancy occurs for an elected Director, the Board may appoint an individual to serve the remainder of the term for which the vacancy occurred.

B2.9.6 Following the conduct of the first annual general meeting following the approval of these by-laws, the ACPET Board will appoint three directors pursuant to this clause. In so doing it will decide the appointees serving for a three (3) year term, a two (2) year term and a one (1) year term. [Note: This Clause automatically expires upon the conduct of this appointment process].

B2.10 Company Secretary

B2.10.1 There shall be a Company Secretary appointed pursuant to provisions within the *Corporations Act 2001 (Cth)*.

B2.10.2 The Company Secretary shall attend all meetings of the Board and any of its subcommittees.

B4.1 Transfer of membership

B4.1.1 Membership is not transferable from one body corporate or individual to another.

B4.1.2 Membership rights and privileges are not transferable, and they cease on removal of a member from the Register.

B4.2 Grades of membership

B4.2.1 There will be the following administrative divisions (categories) of Voting Membership that are established pursuant to rule 2.3.1a and rule 2.4:

(a) Corporate Member

B4.2.2 There will be the following administrative divisions (categories) of Non-voting Membership that are established pursuant to rule 2.3.1b and rule 2.4.

(a) Associate Member

(b) Affiliate Member

(c) Individual Member

B4.3 Qualifications for Corporate Members

B4.3.1 Must be a company formed as one of the following:

(a) A company under the *Corporations Act 2010 (Cth)*;

(b) A partnership; and

(c) A trust.

B4.3.2 Must be a registered training provider by either ASQA, TEQSA, VRQA or TACWA and in continuous operation (as a registered training provider) for at least twenty-four months at the time of making the application.

B4.3.3 Must meet one of the following:

(a) The provider is CRICOS registered;

(b) Australian Government endorsed VET Student Loans Provider;

(c) The provider has a TPS policy covering 50% plus students;

(d) The provider has an ASTAS policy covering 50% plus students;

(e) The provider's training operations fall within an ACNC registration; and

(f) Financial statements for the last full financial year are attached.

B4.3.4 The applicant should be able to declare no Directors, senior management or others able to exercise control over the applicant in the past five years have been:

(a) A Director of a company placed into liquidation or administration; or

(b) Banned by ASIC to be a Director of a company; or

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- (c) Were a Director of a training provider with a registration cancelled by TEQSA (National), ASQA (National), VRQA (Victoria), TAC (Western Aust.)
- B4.3.5 Must not be eligible for Associate Membership.
- B4.4 Qualifications for Associate Members**
- B4.4.1 Must be a company formed as one of the following:
- A company under the *Corporations Act 2010 (Cth)*;
 - A partnership; and
 - A trust.
- B4.4.2 Must be a registered training provider by either ASQA, TEQSA, VRQA or TACWA for any duration.
- B4.4.3 Must be a company endorsed by a two Corporate Members.
- B4.4.5 Must not be eligible for Corporate Membership.
- B4.5 Qualifications for Affiliate Members**
- B4.5.1 Must be a Not-for-profit membership-based body.
- B4.5.2 Must be a Company limited by guarantee under the *Corporations Act 2010 (Cth)* or an incorporated association under state / territory law.
- B4.5.3 In the event that the applicant is eligible for Corporate Membership (i.e. have training operations) they must apply for Corporate Membership and are ineligible for Affiliate Membership.
- B4.6 Qualifications for Associate**
- B4.6.1 Must be a company formed as one of the following:
- A company under the *Corporations Act 2010 (Cth)*;
 - A partnership;
 - A trust; and
 - A sole trader.
- B4.5.3 In the event that an applicant is eligible for Corporate Membership or Affiliate Membership (i.e. have training operations) they must apply for the relevant membership category and are ineligible for Affiliate Membership.
- B4.7 Qualifications for Individuals Members**
- B4.7.1 Must be a natural person;
- B4.7.2 Have met the criteria for admission to, and retain association with, the ITECA College of Vocational Education Professionals.
- B4.8 Transfer from Corporate Member to Affiliate Membership**
- B4.8.1 The Chief Executive Officer may at their absolute discretion transfer a member from Corporate Membership to Affiliate Membership once it can be demonstrated that the member does not meet the eligibility requirement set out in Bylaw 4.3.3 of 4.3.4.
- B4.8.2 A member transferred under bylaw 4.8.1 must be notified within seven (7) days of their grade transfer.
- B4.8.3 A member transferred under bylaw 4.8.1 can apply for reinstatement at the original grade upon demonstration that they meet the requirement set out in Bylaw 4.3.2 or 4.3.4 (as appropriate to their business).
- B4.9 Transfer from Affiliate to Corporate Membership**
- B4.9.1 A member may be transferred from Associate Membership or Affiliate Membership to Corporate Membership when:
- The application is made in writing using the form determined by the Chief Executive Officer;
 - The eligibility criteria set out in bylaw 4.3 have been met; and
 - Payment of any fee set by the Board.
- B4.10 Individual Member Non-Transfer**
- B4.10.1 An individual may not transfer to Corporate Membership.
- B4.10.2 An individual may not transfer to Associate Membership.
- B4.10.3 An individual may not transfer to Affiliate Membership.
- B4.11 Approval of membership**
- B4.11.1 The Board may approve any application for Affiliate membership on the basis that they meet the membership criteria.
- B4.11.2 The Chief Executive may approve any application for Corporate Membership on the basis that:
- The application has been circulated to the Board; and
 - After three (3) working days no Director has asked that the application be referred to the Board for Decision.
- B4.11.3 The Board may approve any application for Corporate Membership referred to it pursuant to bylaw 4.11.2c.
- B4.11.4 The Chief Executive may approve any application for Associate or Individual membership.
- B4.11.5 In the event that there is no Chief Executive or the Chief Executive is incapacitated, the Board may approve any application for Corporate Membership, Associate Membership or Individual Membership.
- B5 MEMBERSHIP NETWORKS**
- B5.1 Higher Education Network**
- B5.1.1 There shall be an "ITECA Higher Education Network".
- B5.1.2 The purpose of the network shall be to establish a community of quality independent providers offering qualifications at AQF Level 7 and above to:

- (a) provide members with information on changes to the commercial and regulatory environment in which higher education providers operate;
 - (b) provide a focus for the provision facilitate the delivery of continuing professional development programs by the Company relating to provision of quality higher education by independent providers;
 - (c) provide a vehicle to support campaigns managed by the company that promote the benefits to students and their employers of quality higher education by independent providers;
 - (d) provide a vehicle to support policy advocacy efforts that support a strong, vibrant and sustainable independent higher education sector.
- B5.1.3 Members will automatically be associated with the ITECA Higher Education Network shall only be those members that:
- (a) Have been admitted to Corporate Membership under bylaw 4.3; and
 - (b) Are a registered as a training provider by TEQSA.
- B5.2 ITECA Vocational Education and Training Network
- B5.2.1 There shall be an "ITECA Vocational Education and Training Network".
- B5.2.2 The purpose of the network shall be to establish a community of quality independent providers offering qualifications at AQF Level 6 and below to:
- (a) provide members with information on changes to the commercial and regulatory environment in which vocational education and training providers operate;
 - (b) provide a focus for the provision facilitate the delivery of continuing professional development programs by the Company relating to provision of quality vocational education and training by independent providers;
 - (c) provide a vehicle to support campaigns managed by the company that promote the benefits to students and their employers of quality vocational education and training by independent providers;
 - (d) provide a vehicle to support policy advocacy efforts that support a strong, vibrant and sustainable independent vocational education and training sector.
- B5.2.3 Members will automatically be associated with the ITECA Vocational Education and Training Network shall only be those members that:
- (a) Have been admitted to Corporate Membership under bylaw 4.3; and
 - (b) Are a registered as a training provider by ASQA.

B6. FEES

- B6.1 Determination of fee
- B6.1.1 The Board has the authority to:
- (a) fix any application fee;
 - (b) fix any annual fees for the various grades of membership;
 - (c) waive or reduce the amount of any fee payable by any member; and
 - (d) set conditions under which fees are to be charged and paid.
- B6.1.2 Members who do not pay annual subscriptions within four (4) of their membership notice being issued lose all membership rights and privileges, unless an arrangement has been entered into under Clause 6.2.2.
- B6.1.3 In the event that a liquidator appointed by a competent jurisdiction, any outstanding membership fee due from that member will be written off.
- B6.2 Payment of fees
- B6.2.1 The Chief Executive Officer may, at their absolute discretion, offer any member the opportunity to pay by instalments and add to the fees any administrative costs associated with the provision of such services.
- B6.2.2 A member granted the opportunity to pay their fees by instalments must commit to incurring the liability for the full year. A decision to discontinue any payment instalment plan does not discharge this obligation.
- B6.2.3 It is acknowledge that an arrangement set out under bylaw 6.2.1 may have the effect of extending the term set out in B.6.1.2

B7 NATIONAL COMMITTEES

- B7.1 Establishment and composition
- B7.1.1 The Board may appoint standing or short-term national committees to provide advice to the Board, Staff and to facilitate member engagement in the Company's decision-making framework.
- B7.1.2 Each committee is composed of the following representatives:
- (a) A Chair appointed by the Board;
 - (b) The committee shall consist of not more than fifteen other individuals who will reflect a broad cross-section of the education industry, having regard for large and small companies in addition to the geographic spread of the membership.
 - (c) The Chief Executive Officer (or their delegate) is an ex-officio member of all national committees.

B7.1.3 The Chief Executive Officer (or delegate) shall approve members appointed pursuant under by-law B7.1.2(b).

B7.2 Authority and delegations

B7.2.1 A national committee has no power to make decisions or provide instructions unless it has been given delegated authority by the Board. Committee decisions, which are made under any such delegation, must be reported as Committee Resolutions, which (other than procedural) will be listed in the Resolutions Register maintained by the National Office.

B7.3 Conduct of meetings

B7.3.1 In order for a national committee meeting to be properly constituted, the following criteria need to be met:

- a. A meeting may be held either in person or via teleconference;
- b. A quorum for any committee is the lesser of three people or 50% of the committee membership;
- c. A meeting notice must have been distributed not less than three days before the meeting is conducted; and
- d. The meeting is attended by the Chief Executive Officer (or delegate).

B7.4 Interaction with government

B7.4.1 To ensure that engagement with Government is coordinated in a manner that allows the Company to secure its desired outcomes and protects its reputation, all written correspondence by a national committee communication with Government must only be conducted through the Chief Executive Officer (or delegate).

B7.4.2 For the purposes of bylaw 7.1.1, Government is defined as any Australian Government, State Government, Territory Government or Local Government: Parliamentarian, Department, Agency or Authority and their employees.

B8 STATE BRANCHES

B8.1 Establishment and composition

- B8.1.1 The Board may establish a State Branch covering a defined regional area (which may include a territory).
- B8.1.2 Any Corporate Member, Associate Member or Affiliate Member will be designated as belonging a State Branch where the Company's membership records shows the member as having employees in that state.
- B8.1.3 An Individual Member will be designated belonging to the State Branch where they have their principle place of residence.

B.8.1.4 Any member may participate in the activity of a State Branch to which they do not belong; however, they may not vote in elections for State Branch office bearers.

B8.2 Branch responsibilities

B8.2.1 Manage and direct the affairs of the State Branch and exercise such powers as may be delegated by the Board.

B8.2.2 Provide forums for members to exchange information, experiences and ideas that will advance the shared interests of quality tertiary education providers.

B.8.2.3 Provide a reference point for the state government on matters associated with the regulation, funding and promotion of tertiary education.

B8.2.4 Conduct the Correspondence of the State Branch within the following guidelines:

- (a) All broadcast communication to members (whether by regular mail or email) must be managed by the Chief Executive Officer (or delegate) in a manner consistent with approved procedures and communications guidelines.
- (b) A copy of all Correspondence is sent to the Chief Executive Officer (or delegate) for filing and archive purposes; and
- (c) A State Branch must not correspond with any national or overseas organisation (including Federal Members of Parliament, Australian Government Departments and Agencies) without the prior consent of the Chief Executive Officer (or delegate).

B8.3 Financial management

B8.3.1 A State Branch may not establish nor operate its own bank accounts.

B8.3.2 A State Branch may not enter into any financial commitment without the approval of the Chief Executive Officer (or delegate).

B8.4 Branch committee composition

B8.4.1 The affairs of each State Branch must be directed by a State Branch Committee comprising:

- (a) One State Branch Chair;
- (b) One State Branch Deputy Chair; and
- (c) Up to ten (10) Committee members.

B8.5 Chair and Deputy Chair election and removal

B2.5.1 During January each year the Chief Executive Officer shall issue to Voting Members an invitation to nominate to be a Branch Chair or Deputy Chair member and:

- (a) The closure dates for nominations will be determined by the Chief Executive Officer but not

- be less than two weeks from the date the invitations were issued; and
- (b) The Nomination shall be made on the form issued by the Chief Executive Officer and signed by representatives of two separate Voting Members;
- B2.5.2 In the event that more than one nomination is received, the Chief Executive Officer shall cause to be issued a postal ballot to Voting Members for the purposes of the election.
- B2.5.3 For the position of Chair and Deputy Chair, the nominee:
- (a) that receives the highest number of votes cast by Voting Members shall be deemed elected Chair
 - (b) that receives the second-highest highest number of votes cast by Voting Members shall be deemed elected Deputy Chair
 - (c) In the event that two nominees receive the same number of votes, the Director shall be determined by lot.
- B2.5.4 An individual for the position of Chair may not nominate if, within the past five (5) years, they have served a cumulative period of four (4) years as Chair.
- B2.5.5 A Chair, Deputy Chair or Committee member may be removed by the Board or may resign by giving notice to the Chief Executive Officer. In such circumstances a casual vacancy is created.
- B2.5.6 In the event that a casual vacancy for the Chair they shall be replaced by the Deputy Chair.
- B2.5.7 In the event that a casual vacancy for the Deputy Chair or Committee member they shall be replaced by the Committee upon a majority vote.
- B8.4 Committee members
- B8.4.1 Following the election for the Chair and Deputy Chair, the Chief Executive shall invite Corporate Members and Associate Members for nominate for the position of branch Committee members.
- B8.4.2 In the event that more than ten (10) expressions of interest are received, appointments will be made by the national Chair, State Chair, State Deputy Chair and Chief Executive.
- B8.4.3 A casual vacancy for a Committee member may be filled by the Chief Executive.



The Independent Tertiary Education Council Australia (ITECA) is the peak body representing independent providers in the higher education, vocational education and training sectors.

ITECA members are unified, informed and influential. They share an interest in creating an environment in which independent providers deliver students and their employers the quality outcomes they are looking for.

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