

Guidelines for applications to use the word ‘university’ in a company name

Introduction

1. Ensuring that the word ‘university’ is used only in appropriate company names is one element of Australia’s higher education quality arrangements. Restricting use of the word ‘university’ in line with these Guidelines will ensure that any company with the word ‘university’ in its name is not using the name in a way that might mislead prospective students, higher education providers (providers), or other stakeholders.

Note: Where these Guidelines refer to the use of the word ‘university’ in a company name, the reference to ‘university’ also includes letters, words or expressions of like import to the word ‘university’.

2. Pursuant to the *Corporations Act 2001* (the Act) and the *Corporations Regulations 2001* (the Regulations), a company cannot register a company name containing the word ‘university’ with the Australian Securities and Investments Commission (ASIC) unless the application for registration is accompanied by written consent from the Minister responsible for Education (the Minister).
3. The Minister has authorised the following Department of Education, Skills and Employment (the department) officers to consider applications (to use the word ‘university’ in a company name) on his or her behalf:
 - i. Secretary
 - ii. Deputy Secretary, Higher Education, Research and International Group
 - iii. First Assistant Secretary, Higher Education Division
 - iv. Any Band 1 Senior Executive Service officer (Assistant Secretary level) within Higher Education Division.
4. The Guidelines set out the procedures and criteria that will normally apply when considering applications for consent to use the word ‘university’ in a company name. Each application will be considered on its merits, having regard to the individual circumstances of each application.

Background

5. The Tertiary Education Quality and Standards Agency (TEQSA) is the statutory agency responsible for the regulation and quality assurance of higher education in Australia. Providers who fall within TEQSA’s jurisdiction must be registered with TEQSA.
6. TEQSA regulates higher education providers against the [Higher Education Standards Framework \(the Threshold Standards\) 2021](#). The Threshold Standards set out the criteria that higher education providers must meet in order to be registered by TEQSA, including registration in a category that permits the use of the word ‘university’.

Corporations Act 2001 , the Corporations Regulations 2001 and other legislation

7. Sections 147 and 601DC of the Act and items 2B.6.02 and 5B.3.02 of the Regulations operate to restrict the use of the word ‘university’ in company names. Specifically, sub-items 2B.6.02(4) and 5B.3.02(4) operate such that an application for registration, reservation or a change of name which includes the word ‘university’ must be accompanied by the written consent of the Minister, or a person authorised by the Minister.

Criteria for granting consent

Consent to use the word ‘university’ in a company name will normally be granted in the following circumstances:

8. Where the applicant:
 - a. is a provider as defined in the *Tertiary Education Quality and Standards Agency Act 2011* (the TEQSA Act), and is or proposes to become registered by TEQSA in a category that permits the use of the word ‘university’; or
 - b. is not a provider as defined in the TEQSA Act, but is an overseas company or body approved to operate as a university in its home country by that country’s registration or accreditation authority; or
 - c. is controlled entirely by another company or body that is a provider (as defined in the TEQSA Act) which is registered by TEQSA in a category that permits the use of the word ‘university’, and
 - i. the application is supported in writing by the university concerned; and
 - ii. the proposed name accurately reflects the purpose for which the company in question is being formed; or
 - d. is an Australian Government-funded Regional University Centre, and the proposed name accurately reflects the activities of that university centre.
9. Where the applicant does not intend to provide education services or information about education services; issue higher education awards; or intend in any other respect to operate, or purport to operate, as a university:
 - a. the proposed name as a whole accurately reflects the purpose for which the company is being formed and is not likely to mislead people dealing with the company about the nature of its activities, or its connection to any particular university; and
 - b. if the proposed name implies a connection with any existing university (for example, Sydney University Catering Pty Ltd), the application must be supported in writing by the university concerned.

How to apply

10. Applicants should specifically address the above criteria and include all required supporting documentation, listed below in paragraph 11. Submit all applications to:

Assistant Secretary
HELP and Provider Integrity Branch
Higher Education Division
Department of Education, Skills and Employment
GPO Box 9880
Canberra ACT 2601

Or by email:

highered@dese.gov.au.

Supporting documentation

11. All applications must include the following supporting documentation:
- the proposed company name(s);
 - a description of the applicant's intended business, the nature of its activity and the relevant criterion in paragraphs [8] and [9] above under which it is seeking consent;
 - a statement on whether or not the applicant intends to provide education services or information about education services; issue higher education awards; or intends in any other respect to operate, or purport to operate, as a university;
 - if the company is not registered by TEQSA, but has authority to operate as a university as outlined in criterion 8(b), evidence of the applicant's authority to operate as a university from:
 - the relevant Australian State or Territory authority; and
 - for an overseas company or body, the applicant's home country registration or accreditation authority;
 - if the company name has a connection with any existing university and the activities of the applicant will be controlled completely by the relevant university, as outlined in criterion 8(c), written confirmation is required from a senior delegate of the relevant university, stating that:
 - the activities of the applicant will be controlled completely by the relevant university;
 - the application is supported by the relevant university;
 - the applicant's proposed name accurately reflects the purpose for which the company was/will be formed; or
 - if the proposed name implies a connection with any existing university, as outlined in criterion 9(b), written support from a senior delegate from the relevant university for the proposed name.

Processing of applications

12. The decision maker may seek additional information to determine an application. The applicant will receive a written notice requesting additional information with a date by which the additional information must be provided. If an applicant fails to comply with such a request for further information, the decision maker will consider the application based on the available information, which may result in a refusal.

13. Applications will be handled by the department in accordance with the provisions of the *Privacy Act 1988* (the Privacy Act). Information contained in applications will only be used for the purposes of determining whether consent will be granted for the use of the word 'university' in a company name. Applications may be disclosed to other Australian Government departments or agencies including TEQSA and ASIC, and State or Territory governments, where required, for determining the outcome of the application. Applications will not be disclosed for any other purpose unless required or authorised by law. Outcomes of applications may also be disclosed to other Commonwealth agencies, including TEQSA and ASIC or State or Territory governments.
14. As a general rule, the outcome of an application will be provided to the applicant in writing within two months of receipt. Additional time may be required where the application raises complex issues or additional information is required from the applicant. Applicants will be informed in writing if additional time is required.

Revocation of consent

15. Consent is granted on the basis that the applicant will continue to use the word 'university' in its company name, in the manner described in its application. Where the applicant's circumstances change, particularly circumstances that relate to the criteria set out in paragraphs [8] and [9], consent may be revoked or varied.
16. In addition, consent to use the word 'university' in a company name may be granted subject to conditions. If any such conditions are breached, consent may be revoked. If consent for use of the word 'university' is revoked, ASIC may direct the relevant body to change its name under section 158 or 601DJ of the Act.

Review

17. If an application to use the word 'university' in a company name is refused, the applicant may submit a revised application to the department along with new supporting material, or submit an application for a different company name that meets the criteria set out in paragraphs [8] and [9]. If a new application is identical to a previously refused application, the new application is likely to be refused.
18. An applicant may also seek judicial review of decisions under the *Administrative Decisions (Judicial Review) Act 1977* or the common law and should seek their own advice in relation to any such review.

Further enquiries

19. All enquiries relating to applications for use of the word 'university' in a company name or these Guidelines should be directed to the department via email to highered@dese.gov.au.

Criminal Code

20. In respect of information of any kind submitted to the Minister or the Commonwealth, the *Criminal Code Act 1995* (Cth) provides that giving false or misleading information is a serious offence.