

HO TECHNICAL UNIVERSITY

APPEALS BOARD RULES



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HO TECHNICAL UNIVERSITY APPEALS BOARD RULES, 2019

IN EXERCISE of the power conferred on the Ho Technical University Council by section 39 (2) of the Technical Universities Act, 2016 (Act 922), these Rules are made this September 2019

THE APPEALS BOARD

Jurisdiction of the Appeals Board

1. In furtherance of section 39(1) of the Technical Universities Act, 2016(Act 922), the Appeals Board shall hear and determine on appeal matters on
 - a. acts or omissions in contravention of this Act or the Statutes enacted by the Council;
 - b. breach of employment contracts by the University;
 - c. the promotion of persons duly employed by the University;
 - d. grievances by students against the University on matters related to welfare and discipline; or
 - e. any other matter or dispute referred to the Appeals Board by the Council.
2. A right to commence an appeal under these rules shall accrue to an applicant after all grievance procedures provided under the Statutes of the University including Conditions of Service have been exhausted.

Membership of the Appeals Board

3. In accordance with section 39(3) of Act 922, the Appeals Board shall consist of
 - a. a chairperson who is a retired justice of the Superior Court of Judicature or a lawyer qualified to be so appointed;
 - b. two (2) lawyers of at least ten (10) years standing at the Bar who are persons of high moral integrity; one of (1) whom is a woman; and
 - c. two (2) persons who are not lawyers or employees of the Technical University who are persons of high moral integrity, one (1) of whom is a woman.
 - d. In the absence of the Chairperson, one (1) of the two (2) lawyers as provided for in sub-rule (b) shall act as a Chairperson.

Tenure of office of members of the Appeals Board

4. (1) A member of the Appeals Board shall serve on the Appeals Board for a period of three (3) years and is eligible for re-appointment for another term but a member shall not be appointed for more than two terms.
 - (2) A member of the Appeals Board may at any time resign from the Appeals Board by serving prior written notice of at least three (3) months on the Council of his or her intention to resign.

- (3) A member of the Appeals Board who does not attend or participate in the proceedings or matters relating to, or affecting the Board, without just cause or notice to the Council, for a cumulative period of more than six (6) months in any calendar year ceases to be a member of the Appeals Board.
- (4) The Council may at any time revoke the appointment of a member of the Appeals Board for good cause.
- (5) Where there is a vacancy under this rule, the Council shall appoint a new person to fill the vacancy in accordance with section 39(3) of the Act.
- (6) A panel which is affected by a vacancy in its membership shall be reconstituted by the Chairperson and the panel shall continue an appeal pending before the panel.

Co-opted member

5. (1) The Appeals Board may co-opt any competent person or persons to serve as technical advisor on any matter the Appeals Board requires assistance.
- (2) For the avoidance of doubt such a co-opted person shall not vote with members of the Board.

Meetings of the Appeals Board

6. (1) The Appeals Board shall meet during the University's academic calendar only for the dispatch of business.
- (2) Sub-rule (1) notwithstanding, the Appeals Board may meet during the period when the University is on vacation, in cases of emergencies or as the Chairperson or Council may deem necessary.

Allowances of members of the Appeals Board

7. Members of the Appeals Board, a person co-opted by the Appeals Board and the Secretariat shall be paid allowances determined by Council.

SECRETARIAT OF THE APPEALS BOARD

Secretariat of the Appeals Board

8. (1) The Appeals Board shall have a Secretariat to facilitate the work of the Appeals Board.
- (2) Secretariat shall be serviced by the Legal Office and shall comprise the Legal Officer or a representative of the Legal Officer, a Secretary with a legal background of a rank higher or equivalent to an Assistant Registrar and other officers that may be appointed by the University on the advice of the Legal Officer.
- (3) The Secretariat shall
 - a. manage the affairs of the Appeals Board;
 - b. organise meetings of the Appeals Board;

- c. take proceedings of the Appeals Board and keep such records or minutes decisions of the Appeals Board;
- d. perform any other assignment assigned by the Appeals Board;
- e. In consultation with the Vice-Chancellor and the Chairman propose procedural rules and guidelines to govern the proceedings and meetings of the Appeals Board for the approval of the Council.

Cause List

9. (1) The Secretariat shall maintain a cause list of all appeals pending before the Appeals Board.
- (2) The Secretariat shall keep the cause list of all appeals pending before the Appeals Board.

HEARING OF APPEALS

Filing of an Appeal

10. (1) A person who is dissatisfied with a decision taken by the University against that person may file a notice of appeal with the Appeals Board within one (1) month after receipt of the decision.
- (2) A person specified in sub-rule (1) may apply to the Appeals Board within six (6) months from the date of receipt of the decision, for an extension of time to file the appeal if the specified time within which to file an appeal has lapsed.
- (3) The Appeals Board may grant an application for extension of time under sub-rule (2) where the applicant shows good and just cause.
- (4) An appeal filed under sub-rule (1) shall
 - a. in the form set out in Form 1 or 2 of the Schedule; and
 - b. filed with the Secretariat by depositing two copies of the original form in the office of the Registrar.
- (5) A notice of appeal shall state the following:
 - a. the decision that is being appealed against; and
 - b. when the decision was made.
- (6) An appellant may attach any relevant documents in support of the appeal.
- (7) Any appeal filed by an appellant which does not conform to these Rules shall not be heard by the Appeals Board and the Secretariat shall take the necessary steps to assist the appellant to file an appeal which conforms to these Rules.

Hearing of Appeal

11. (1) An appeal filed in accordance with these Rules shall be heard by a panel comprising the Chairperson and any two members of the Appeals Board.
- (2) A panel shall be constituted by the Chairperson or in the absence of the Chairperson, the Acting Chairperson.

- (3) An appellant may appear before the Appeals Board alone or with a lawyer.
- (4) A lawyer who appears before the Appeals Board shall ensure processes filed by the lawyer on behalf of the appellant and the respondent bear a valid Solicitor's Licence issued by the General Legal Council.
- (5) The Appeals Board may conduct oral hearings and may take testimonies of witnesses where available or necessary.
- (6) The Appeals Board may conduct its own investigations into the matter, in addition to considering the written or oral testimonies of the parties.
- (7) An appellant shall not argue any matter which has not been stated in the notice of appeal.
- (8) The rules of natural justice shall apply to all proceedings or the hearing of all matters before the Appeals Board.
- (9) Where provision is not expressly made by these Rules regarding the practice and procedure which apply to any cause or matter before the Appeals Board, the Appeals Board shall determine the practice and procedure to be adopted which in the opinion of the Appeals Board may be necessary in determining the matter before the Board.
- (10) Any Rules made under sub-rule (9) above shall be publicized and made available or served on the parties within a reasonable time.

Non-appearance of Appellant

- 12.** (1) Where an appellant fails to appear before the Appeals Board for a hearing and has not filed a written submission to the Appeals Board, the Appeals Board may dismiss the appeal.
- (2) Where an appellant fails to appear before the Appeals Board for a hearing and has filed a written submission, the Board may proceed to determine the matter in the absence of the appellant.
- (3) Where an appeal has been dismissed in accordance with sub-rule (1), the Appeals Board may direct the appeal to be re-entered for hearing on the terms determined by the Appeals Board.

Non-appearance of Respondent

- 13.** Where a respondent fails to appear before the Appeals Board for a hearing and has not filed a written submission, the Appeals Board may proceed to hear in the absence of the respondent.

Decision of the Appeals Board

14. (1) The appeal process shall be completed as soon as it is practicable and the Board shall deliver its decision no later than six (6) weeks after closing of appeal.
- (2) A matter before the Appeals Board shall be decided by a simple majority.
- (3) For purposes of this rule, an appeal shall be considered closed when final arguments have been concluded.
- (4) A member of the Appeals Board who has a dissenting opinion shall state it in writing and give the reasons for the dissent. Any dissenting opinion shall form part of the record and rulings of the Board.
- (5) The period specified in sub-rule (1) shall not include public holidays, Saturdays, Sundays and vacation periods of the University.
- (6) Decisions of the Appeals Board shall be final save manifest error or error of law.

CORRECTIONS IN A DECISION

Clarification, Explanation and Correction of mistakes or errors in a decision by the Appeals Board

15. The Appeals Board, with notice to either Party to an appeal or on the request of a party, may:
 - b. Correct some clerical mistake(s) in its decision;
 - c. Correct any error in its decision which arose from any accidental slip or omission; and
 - d. Clarify or explain its decision or any part thereof.

REVIEW OF DECISION

Review of decisions of the Appeals Board

16. (1) The Appeals Board may upon its own motion or upon an application of a party review its decisions where:
 - a. There have been exceptional circumstances which have resulted in a miscarriage of justice; or
 - b. There has been a discovery of new matter or evidence which, after the exercise of due diligence, was not within the knowledge of the parties or could not be produced by the party at the time the decision was given.
 - c. There has been error of law or a manifest error on the face of the record or decision.
- (2) A review may only be made on an application by either the appellant or respondent to the appeal.

- (3) A person specified in sub-rule (2) who is dissatisfied with a decision of the Appeals Board may file an application for review of the decision of the Appeals Board with the Secretariat not later than fourteen (14) days after receipt of the written decision of the Appeals Board.
- (4) An application for review shall
 - a. be supported by an affidavit sworn to by the applicant, and
 - b. accompanied with a written statement of the applicant's case which clearly sets out all relevant grounds on which the applicant relies.
- (5) An application for review shall be on notice to all parties affected by the application or decision.
- (6) A matter before the Appeals Board under rule 17 hereof shall be heard by the full membership of the Board and a decision shall be made by simple majority.
- (7) The Secretariat shall make available a written copy of the decision to the parties no later than twenty-one (21) days after delivery of the decision of the Board.

MISCELLANEOUS

Interpretation

17. In these Rules, unless the context otherwise requires,

“Act” means the Technical Universities Act, 2016 (Act 922) as amended by the Technical Universities (Amendment) Act, 2018 (Act 974);

“Academic year” means the first day of August to the 31st day of July the following year;

“Appeals Board or Board” means the Ho Technical University Appeals Board established under section 39 of the Act;

“Appellant” means the person applying for the appeal, review or seeking clarification;

“Council” means the University Council established under section 5 of the Act;

“Good cause” includes but shall not be limited to the conviction of a person for a felony under the laws of Ghana, conduct of an immoral, scandalous or disgraceful nature incompatible with the duties of the office; conduct consisting of failure or persistent refusal, inability or neglect to perform the duties of the office, breach of trust or confidentiality and any matter of a scandalous nature occurring during the tenure of a member's term.

“Respondent” means the person responding to an appeal, application for review or clarification;

“Statutes” means the Statutes of Ho Technical University, 2018; and

“University” means Ho Technical University established under Part 1 of the First Schedule of the Technical Universities Act, 2016 (Act 922) as amended by the Technical Universities (Amendment) Act, 2018 (Act 974).

DRAFT

SCHEDULE
FORM 1 – NOTICE OF APPEAL
(STAFF)
(Rule 10 (1))

1. THE APPELLANT APPEALS AGAINST THE AWARD OF THE
.....

2. THE PARTICULARS REQUIRED TO BE GIVEN ARE AS FOLLOWS

a. NAME AND STAFF NO.

ADDRESS OF THE APPELLANT

TEL NO.

(HOME)

(OFFICE)

(MOBILE)

EMAIL.....

b. DESCRIPTION OF THE SUBJECT MATTER OF THE APPEAL
PLEASE TICK THE APPLICABLE BOX

1. ACTS OR OMISSIONS IN CONTRAVENTION WITH THE
TECHNICAL UNIVERSITIES ACT OR THE STATUTES OF HO
TECHNICAL UNIVERSITY

2. BREACH OF EMPLOYMENT

3. PROMOTION

c. DATE DECISION WAS
GIVEN.....

d. PARTICULARS OF DECISION

.....
.....
.....
.....

.....

 e. GROUNDS AND REASONS FOR THE APPEAL (PLEASE USE AN EXTRA SHEET IF NEEDED)

IF YOU ARE REPRESENTING YOURSELF:

DATE OF SUBMISSION:

SIGNATURE OF APPELLANT:

IF YOU ARE REPRESENTED BY COUNSEL:

DATE OF SUBMISSION:

NAME OF LAWYER:

SOLICITOR’S LICENCE NUMBER:

Lodged with:
 Secretariat of the Appeals Board
 Office of the Registrar
 Ho Technical University
 Ho

Notes:

1. The Notice of Appeal must be lodged with the Secretariat of the Appeals Board at the Office of the Registrar within 14 days of the date of the receipt of Decision.
2. Two (2) copies of the Notice must be lodged

FORM 2 – NOTICE OF APPEAL
(JUNIOR MEMBERS)
(Rule 10 (1))

To be completed by students only.

1. NAME OF STUDENT	
2. STUDENT IDENTIFICATION NUMBER	
3. ADDRESS(RESIDENTIAL AND/OR POSTAL)	
4. TELEPHONE NUMBER(S)	
5. EMAIL ADDRESS	
6. DECISION BEING APPEALED AGAINST (State what is being appealed against. Attach a copy of the letter received if applicable)	
7. REASONS FOR APPEALING AGAINST THE DECISION (Please use an extra sheet if needed)	

IF YOU ARE REPRESENTING YOURSELF:

DATE OF SUBMISSION:

SIGNATURE OF APPELLANT:

IF YOU ARE REPRESENTED BY COUNSEL

DATE OF SUBMISSION:

NAME OF LAWYER:

SOLICITOR'S LICENCE NUMBER:

Lodged with:
Secretariat of the Appeals Board
Office of the Registrar
Ho Technical University
Ho

Notes:

1. The Notice of Appeal must be lodged with the Secretariat of the Appeals Board at the Office of the Registrar within 14 days of the date of the receipt of Decision.
2. Two (2) copies of the Notice must be lodged