

Final version for signatures for the purposes of section 452 of the Education and Training Act 2020

NZQA Board: Date: 28 Nov 2022

Minister of Education: Date: 15/12/22

Quality Assurance (including External Evaluation and Review (EER)) Rules 2022

1. Authority

1.1 These Rules are made under section 452(1)(t) of the Education and Training Act 2020.

2. Commencement

2.1 These Rules commence on the 28th day after the date of approval by the Minister under section 452(5) of the Act.

3. Application of these Rules

3.1 These Rules apply to institutions of the following kind; Te Pūkenga—New Zealand Institute of Skills and Technology, wānanga, government training establishments, and PTEs.

4. Interpretation

4.1 In these Rules, unless the context otherwise requires:

Act means the Education and Training Act 2020

assessment materials means the assessment tasks, instructions and guidance given to students, the assessed student evidence, and the resources used by the assessor to make judgements about students' performance

Category 1 institution is an institution of the kind described in rule 11(1)(a)

Category 2 institution is an institution of the kind described in rule 11(1)(b)

Category 3 institution is an institution of the kind described in rule 11(1)(c)

Category 4 institution is an institution of the kind described in rule 11(1)(d)

Category *withdrawn* institution is an institution of the kind described in rule 11.1(e)

EER means external evaluation and review as described in rules 5.1 to 5.4

institution includes Te Pūkenga—New Zealand Institute of Skills and Technology, wānanga, government training establishments, and registered establishments

micro-credential has the same meaning as in section 10(1) of the Act

NZQA means the New Zealand Qualifications Authority

NZQCF means the Qualifications and Credentials Framework described in section 436 of the Act

PTE means a registered establishment

registered establishment has the same meaning as in section 10(1) of the Act

statement of confidence means one of the following levels of confidence in educational performance and in organisational capability in self-assessment (*with its Te Hono o Te Kahurangi quality assurance for EER equivalent in parenthesis*):

- (a) Highly Confident (*He pounamu kahurangi*):
- (b) Confident (*He pounamu whakairo*):
- (c) Not Yet Confident (*He pounamu hukihuki*):
- (d) Not Confident (*He pounamu*)

statutory permission includes Code signatory status, programme approval, micro-credential approval, accreditation to provide an approved programme or micro-credential, and consent to assess against standards

student includes learners and trainees

Te Hono o Te Kahurangi quality assurance means applying Te Hono o Te Kahurangi whare ako framework and quality assurance tools for the purposes of EER, as that framework and those tools are published from time to time by NZQA on its website

Te Pūkenga—New Zealand Institute of Skills and Technology means the institute continued by [section 314](#) of the Act, and includes any of its subsidiaries that provide education or training or both.

- 4.2 For the purposes of using Te Hono o Te Kahurangi quality assurance for EER under rule 6.1, unless the context otherwise requires references in these Rules to:
- (a) “educational performance” are to be treated as references to “organisational performance”:
 - (b) “self-assessment” are to be treated as references to “self-reflective practice”:
 - (c) “Highly Confident” are to be treated as references to “He pounamu kahurangi”:
 - (d) “Confident” are to be treated as references to “He pounamu whakairo”:
 - (e) “Not Yet Confident” are to be treated as references to “He pounamu hukihuki”:
 - (f) “Not Confident” are to be treated as references to “He pounamu”.

EER processes

5. Description of EER

- 5.1 EER is part of NZQA’s integrated framework for evaluative quality assurance described in **Appendix 2** and is an independent evaluation of an institution that leads to a statement of confidence by NZQA in the institution’s educational performance (*as described in rule 5.2.(a)-(b)*) and organisational capability in self-assessment (*as described in rule 5.2(c)*):
- 5.2 For the purposes of rule 5.1:
- (a) educational performance relates to the extent to which the educational outcomes achieved by the institution represent quality and value for students and others:
 - (b) for EER under rule 6.1 using Te Hono o Te Kahurangi quality assurance for EER, organisational performance relates to the extent to which organisational outcomes (*inclusive of educational outcomes*) achieved by the institution represent quality and

value for ākonga, whānau, hapū, iwi, and hāpori Māori (*where applicable*), other industry stakeholders, and bodies of knowledge such as Mātauranga Māori and Mātauranga ā Iwi

- (c) capability in self-assessment relates to the extent to which the institution uses self-assessment information to understand its educational performance and bring about improvements through applying the requirements for self-assessment set out in **Appendix 1**.

- 5.3 The four stages of an EER are: scoping (*including selection of focus areas*); enquiry (*including on-site at the institution*); reaching conclusions (*including analysis*); and issuing a report.
- 5.4 In carrying out an EER NZQA will use the evaluation methods, tools, and processes that are published on its website to inform the conduct of each stage of an EER.

6. Te Hono o Te Kahurangi quality assurance for EER

- 6.1 An institution may request Te Hono o Te Kahurangi quality assurance for EER:
 - (a) to assess any focus area within the scope of an EER; or
 - (b) for the full scope of the EER.
- 6.2 NZQA will evaluate a request made under rule 6.1, may discuss the scope of the request with the institution, and will then make a decision on the request and its scope.

7. Process for and participation in EER

- 7.1 NZQA will notify the institution of a scheduled EER by giving the institution at least four months' notice, unless:
 - (a) a shorter timeframe is agreed between NZQA and an institution; or
 - (b) rule 12.2 applies, and NZQA gives notice of at least one month.
- 7.2 The frequency of an EER, for a category of institution that has previously been subject to an EER, is as set out in rule 12.1.
- 7.3 NZQA will reschedule a scheduled EER on request by an institution where NZQA is satisfied the institution has supplied convincing reasons to do so.
- 7.4 Following the scheduling of the EER, NZQA will notify the institution of the compulsory scope items set out in rule 7.6, consult the institution about the remaining scope of the EER and, after taking into account any submissions from the institution and any other relevant information, NZQA will set the scope for the review.
- 7.5 Where, at any time during the four stages of an EER NZQA obtains information that causes NZQA to have concerns over any area of performance of the institution, NZQA may amend the scope to include that area (*and adjust any set timeframes to accommodate the impact of the inclusion of that area*).
- 7.6 The content of the compliance declaration provided under rule 16.1, and the findings from any validation visit conducted under rule 7.8(a), must be included in the scope of the review that is set under rule 7.5.
- 7.7 NZQA will conduct the enquiry (*including on-site at the institution*) to gather sufficient evidence for reaching conclusions.
- 7.8 On reasonable notice from NZQA and for the purposes of the scheduled EER, an institution must:
 - (a) at a time specified in writing by NZQA to the institution, participate (*with full cooperation*) in a validation visit by NZQA (*for which fees are not chargeable by NZQA*) the purpose of

which is to verify some or all of the content of any compliance declaration of the institution as required by rule 16.1:

- (b) provide to NZQA access to the premises, equipment, and relevant records, data, and other information;
- (c) facilitate access to staff, contractors, and students;
- (d) provide evidence of its self-assessment, based on the requirements set out in **Appendix 1** to these Rules.

8. EER report

- 8.1 After NZQA carries out the enquiry and analysis for a scheduled EER and reaches conclusions, NZQA will generate a draft EER report with interim findings, conclusions, and statements of confidence.
- 8.2 NZQA will provide a copy of the draft report to the institution and interested parties for comment.
- 8.3 The institution and NZQA will discuss and attempt to reach agreement on the processes and timing towards finalising the report.
- 8.4 Where reasonable attempts have been made and agreement is unable to be reached under rule 8.3, NZQA will itself set the processes and timing towards finalisation of the EER report and notify the institution.
- 8.5 Except where rule 8.6 applies or where the rule 9 reconsideration process is undertaken, once a finalised report is sent to the institution to conclude the agreed or set processes and timing, the finalised report will be published as the final report on NZQA's website no less than 10 working days after providing the finalised report to the institution.
- 8.6 Where NZQA accepts for good reason that the processes and timing should be varied, NZQA may set new processes and timing for the finalisation of the report.

9. Reconsideration of an EER report

- 9.1 An institution may request a reconsideration of the statements of confidence reached by NZQA in a finalised report where the institution:
 - (a) sends the request in writing on the official letterhead of the institution and signed by its Chief Executive (*or equivalent*) and the request is received by NZQA no later than 10 working days after the finalised report has been sent to the institution;
 - (b) alleges there have been process failures in finalising the report, or errors of fact or judgement made in the finalised report;
 - (c) provides sufficient information and evidence to support the allegation, being information that the institution considers necessary to give a full understanding of the reasoning and circumstances leading to the request; and
 - (d) provides information which shows that during the process leading to the finalised report the institution had raised the allegation with NZQA.
- 9.2 Where any request for reconsideration involves educational performance data, the reconsideration will only involve the data that were available to NZQA at the date the EER report was finalised.
- 9.3 Where a request is received that meets the requirements of rule 9.1, NZQA will appoint an appropriately experienced reviewer who has not been involved in that EER of the institution to conduct the reconsideration and produce a reconsideration report.
- 9.4 NZQA will attempt to reach agreement with the institution on the processes and timing towards finalising the reconsideration report.

- 9.5 Where reasonable attempts have been made and agreement is unable to be reached under rule 9.4, NZQA will itself set the processes and timing towards finalisation of the reconsideration report and notify the institution.
- 9.6 Subject to rule 9.7, once the reconsideration report is finalised and if it requires changes to be made to the EER report, the changed EER report will be provided to the institution prior to publication on the NZQA website.
- 9.7 Where NZQA accepts for good reason that the processes and timing should be varied for the reconsideration report, NZQA may set new processes and timing for that report.

10. Fees

- 10.1 The fees payable for EERs and requests for reconsideration are the fees from time to time charged under section 457(1) of the Act, and published on NZQA's website.
- 10.2 Where there is a finding in a reconsideration that there was a process failure in finalising the report or there were errors of fact or judgement, and this has resulted in a change to either or both of the statements of confidence in the finalised report, no fee will be payable for the reconsideration.

Statements of confidence, categorisation, frequency, and incentives and sanctions

11. Categorisation of institutions based on statements of confidence

11.1 For the purposes of these Rules:

- (a) a Category 1 institution is an institution that has received, in the most recent EER report published on the NZQA website in respect of that institution, either of the following statements of confidence:
- (i) Highly Confident in educational performance and Highly Confident in organisational capability in self-assessment; or
 - (ii) Highly Confident in educational performance and Confident in organisational capability in self-assessment:
- (b) a Category 2 institution is an institution that has received, in the most recent EER report published on the NZQA website in respect of that institution, either of the following statements of confidence:
- (i) Highly Confident in organisational capability in self-assessment and Confident in educational performance; or
 - (ii) Confident in educational performance and Confident in organisational capability in self-assessment:
- (c) a Category 3 institution is an institution that has received, in the most recent EER report published on the NZQA website in respect of that institution, Not Yet Confident in educational performance or in organisational capability in self-assessment, or Not Yet Confident for both (*provided it has not also received Not Confident in either educational performance or organisational capability in self-assessment*):
- (d) a Category 4 institution is an institution that has received, in the most recent EER report published on the NZQA website in respect of that institution, Not Confident in educational performance or in organisational capability in self-assessment, or in both:
- (e) a Category *withdrawn* institution is an institution that has received Category *withdrawn* status following the conclusion of the processes set out in rules 11.2 – 11.4.

- 11.2 Where, since the publication of the most recent EER report in respect of an institution, NZQA considers that one or more of the statements of confidence the institution received in that

report (*and its categorisation status*) no longer applies due to one or more of the serious concerns set out in rule 11.3, NZQA may, after following the process set out rule 11.4:

- (a) change the categorisation status of the institution from its existing categorisation to that of Category *withdrawn*; and
- (b) schedule an EER earlier than the frequency set out in rule 12.1 (*except where NZQA became aware of the serious concerns during an EER which has started but not yet concluded*).

11.3 The serious concerns referred to in rule 11.2 are:

- (a) significant or repeated non-compliance with the Act or with rules made under section 452 of the Act which resulted in NZQA issuing one or more compliance notices, withdrawing one or more statutory permissions, or imposing any statutory conditions:
- (b) the taking of any prosecution proceedings:
- (c) the financial position or financial performance of the institution detrimentally impacting on its provision of education or training:
- (d) a significant change in circumstances has occurred at the institution, resulting in NZQA having significantly lower confidence in:
 - (i) the governance or management of the institution; or
 - (ii) the ability of the institution to provide or arrange a sound educational or training environment for its students.

11.4 The process NZQA must follow for the purposes of rule 11.2 is:

- (a) NZQA will give written notice to the institution of NZQA's intention to change its categorisation status to that of Category *withdrawn*, and set out which statement or statements of confidence NZQA considers no longer applies due to one or more of the serious concerns set out in rule 11.3:
- (b) NZQA will give the institution at least 10 working days to respond to the notice:
- (c) NZQA will consider any submissions which are made by the institution within the response period given under paragraph (b):
- (d) after considering any submissions under paragraph (c), NZQA will notify the institution of the decision of NZQA as to whether or not NZQA has changed the categorisation status of the institution to Category *withdrawn* and, where NZQA does change the categorisation status to Category *withdrawn*, begin the process for scheduling an early EER for the purposes of rule 11.2(b) (*except where an EER has been started but not yet concluded*).

12. Frequency of EERs following first EER

12.1 Following the first EER of an institution, further EERs will be scheduled for:

- (a) Category 1 and Category 2 institutions within four years following publication of the report for their previous EER:
- (b) Category 3 institutions within 12 to 24 months following publication of the report for their previous EER:
- (c) Category 4 institutions within 6 to 12 months following publication of the report for their previous EER.

12.2 NZQA may schedule an EER earlier than the frequency set out in rule 12.1 where there are outstanding concerns over the quality of its provision of education or over non-compliance issues relating to the Act or Rules.

13. Restrictions on the assessment and moderation of student work by Category 3 and 4 institutions

- 13.1 This rule applies to institutions of the following kind:
- (a) Category 4 institutions; and
 - (b) Category 3 institutions in respect of any programmes, micro-credentials, or standards of a kind notified by NZQA to the institution.
- 13.2 From the date that is six weeks (*or such longer period as NZQA may allow*) after the date of publication of an EER report that results in an institution to which rule 13.1 applies becoming a Category 3 or 4 institution, the institution must appoint one or more institutions (*of the kind described in rule 13.3*) to:
- (a) carry out pre-assessment moderation of all assessment materials being used to assess students, prior to those materials being used for assessment of the students; and
 - (b) either carry out the assessment and moderation of all student work, or verify the assessment and moderation of all student work that is carried out by the institution to which rule 13.1 applies.
- 13.3 For the purposes of rule 13.2, the kind of institution that must be appointed is an institution that:
- (a) is a Category 1 or 2 institution; and
 - (b) has proven performance in, and provides, similar programmes or micro-credentials to those in respect of which the students being assessed are enrolled, or has proven expertise in the standards that the students are being assessed against; and
 - (c) has a sufficient degree of independence from the Category 3 or 4 institution.
- 13.4 An institution to which rule 13.1 applies may not:
- (a) if it is a Category 3 institution, enrol new students unless NZQA considers the institution has acceptable assessment and moderation arrangements in place (*noting that for Category 4 institutions rule 15 applies*); or
 - (b) use any materials for assessment of students until the pre-assessment moderation referred to in rule 13.2(a) confirms that the materials appropriately assess the relevant learning outcomes; or
 - (c) release assessment results to students or report results to NZQA until the assessment and moderation referred to in rule 13.2(b) has occurred and any necessary changes to assessment decisions have been made.
- 13.5 The appointment of a Category 1 or 2 institution under rule 13.2 must be set out in a written agreement that meets the purposes of rule 13.2, and -
- (a) a copy must be supplied to NZQA by the institution to which rule 13.1 applies prior to the agreement being implemented; and
 - (b) the institution must address any concerns with the content of the agreement that are notified to the institution by NZQA.
- 13.6 Where an institution has not appointed any necessary Category 1 or 2 institution in accordance with rules 13.2 and 13.5, and NZQA has not approved a longer period for the appointment under rule 13.2, -
- (a) NZQA may appoint a suitable Category 1 or 2 institution, or appoint one or more suitably qualified persons, so that students can continue to be assessed in their study or training without unnecessary disruption; and
 - (b) the Category 3 or 4 institution is responsible for ensuring there is a written agreement in place with the Category 1 or 2 institution or with the suitably qualified person, including provision for payment by the Category 3 or 4 institution of the reasonable cost of the assessment and moderation work carried out, and rule 13.5 applies to the agreement.

13.7 Where NZQA is satisfied that an institution to which rule 13.1 applies is fully competent at any particular kinds of assessment and moderation of student work that must be assessed and moderated by an independent institution under rule 13.2, NZQA may release the institution to which rule 13.1 applies from the requirements of rule 13.2 in respect of those kinds of student work.

14. Applications by Category 3 and 4 institutions for statutory permissions

14.1 A Category 4 institution will not be granted new statutory permissions until the institution improves its statements of confidence to at least Confident both in educational performance and in organisational capability in self-assessment at its next EER.

14.2 Where there are outstanding concerns over the quality of the provision of particular kinds of study or training of a Category 3 institution, or over non-compliance issues relating to the Act or Rules, NZQA will not grant new statutory permissions in those particular kinds of study or training until the institution improves its statements of confidence to at least Confident both in educational performance and in organisational capability in self-assessment at its next EER.

14.3 Despite the lack of confidence in the institution as a result of its EER report, where NZQA is satisfied that a Category 3 or 4 institution is fully competent to provide particular kinds of study or training or where extenuating circumstances apply, NZQA may consider granting new statutory permissions.

15 Category 4 institutions may no longer enrol new students

15.1 From the date of publication of an EER report that results in an institution becoming a Category 4 institution (*or such longer period as NZQA may allow*), that institution must not enrol any new students into programmes, micro-credentials, or standards assessment that are quality assured by NZQA.

16. Annual declaration of compliance

16.1 Institutions must provide to NZQA, within 5 months of the end of the financial year of the institution, an annual declaration as to their compliance with the Act and NZQA Rules.

16.2 In providing the declaration required by rule 16.1, institutions must use the compliance declaration form published on the NZQA website.

17. Student assessment material retention requirements

17.1 Institutions (*except for PTEs, which must comply with the record retention requirements set out in the PTE Enrolment and Academic Records Rules*) must either:

- (a) keep all student assessment materials generated from education or training in which students are enrolled at the institution, or full copies of them, for at least 12 months from the date of completion of that education or training (*for the avoidance of doubt this includes assessment materials of education or training provided by sub-contractors of the institution*); or
- (b) reach an agreement with NZQA on the retention of student assessment materials generated from education or training in which students are enrolled at the institution.

Impact on other actions, and revocation

18. No prejudice to use of other sanctions under the Act

18.1 These Rules do not affect the ability of NZQA to take any of the following actions under the Act:

- (a) cancellation of the registration of a private training establishment, or imposition of conditions on its registration:

- (b) withdrawal of Code signatory status, a programme approval, an accreditation to provide an approved programme, a micro-credential approval, or a consent to assess against standards:
- (c) imposition of conditions on a Code signatory, a programme approval, a micro-credential approval, an accreditation to provide an approved programme or micro-credential, or a consent to assess against standards:
- (d) the exercise of any other regulatory, enforcement, or compliance powers.

19. Revocation

19.1 The Quality Assurance (including External Evaluation and Review (EER)) Rules 2021 are revoked.

APPENDIX 1

Requirements for self-assessment

1. Institutions must implement the following requirements for self-assessment:
 - (a) implement self-assessment using the key features of effective self-assessment set out in clause 2 of this **Appendix**:
 - (b) except where Te Hono o Te Kahurangi quality assurance for EER is used, answer the key evaluation questions to provide a common basis for both the self-assessment and external evaluation and review processes set out in clause 3 of this **Appendix**:
 - (c) where Te Hono o Te Kahurangi quality assurance for EER is used, respond to the pātai aromātai set out in clause 4 of this **Appendix**:
 - (d) use relevant minimum quantitative and qualitative data on such matters as learner enrolments, retentions and completions, to achieve the objects of clause 5 of this **Appendix**.
2. The key features of effective self-assessment referred to in clause 1(a) of this **Appendix** are in the following clauses 2.1 to 2.3.
 - 2.1. The institution uses ongoing processes to gain evidence of its own effectiveness in providing quality education.
 - 2.2. The processes the institution uses are comprehensive, authentic, transparent, and robust.
 - 2.3. The processes referred to in clauses 2.1 and 2.2 are focussed on:
 - (a) needs assessment:
 - (i) being the extent to which the institution systematically determines and addresses the needs of the relevant students, employers and the wider community; or
 - (ii) where Te Hono o Te Kahurangi quality assurance is used, being the extent to which the institution systematically determines and addresses the needs of ākonga, whānau, hapū, iwi, hāpori Māori (*where applicable*), other industry stakeholders, and bodies of knowledge such as Mātauranga Māori and Mātauranga ā Iwi:
 - (b) processes and practices that support successful learning and help achieve outcomes:
 - (c) student achievement, being the impact of educational provision on student progress and the achievement of intended learning outcomes:
 - (d) outcomes for students, including educational achievement and longer term economic, social, and cultural benefits for them, and:
 - (i) the value of those achievements for the relevant students, employers and the wider community; or
 - (ii) where Te Hono o Te Kahurangi quality assurance for EER is used, the value of those achievements for the relevant students, ākonga, whānau, hapū, iwi, hāpori Māori (*where applicable*), other industry stakeholders, and bodies of knowledge such as Mātauranga Māori and Mātauranga ā Iwi:
 - (e) using what is learned from self-assessment to reach evidence-based conclusions, to inform decision-making on strategic and business planning, and to drive improvements:
 - (f) actual improvements that have occurred, and the extent to which those improvements are relevant and worthwhile.
3. The key evaluation questions referred to in clause 1(b) of this **Appendix** are:
 - (a) How well do students achieve?

- (b) What is the value of the outcomes for key stakeholders¹, including students?
 - (c) How well do programme design and delivery, including learning and assessment activities, match the needs of students and other relevant stakeholders?
 - (d) How effectively are students supported and involved in their learning?
 - (e) How effective are the governance and management in supporting educational achievement?
 - (f) How effectively are important compliance accountabilities managed?
4. The pātai aromātai for the purposes of clause 1(c) of this **Appendix** are:
- (a) Ka pēhea tā koutou whakapuaki i te kaupapa, ā, ka pēhea koutou e mōhio ai e whakatutukihia ana?; and
 - (b) The kaupapa as consistent with Te Hono o Te Kahurangi are:
 - (i) Rangatiratanga
 - (ii) Whanaungatanga
 - (iii) Manaakitanga
 - (iv) Pūkengatanga
 - (v) Kaitiakitanga
 - (vi) Te Reo Māori.
5. Relevant minimum quantitative and qualitative data referred to in clause 1(d) of this **Appendix** should meet the following objectives:
- (a) being available to enable the key evaluation questions to be answered consistently or, for Te Hono o Te Kahurangi quality assurance for EER, being available to enable the pātai aromātai to be answered consistently;
 - (b) generating comprehensive evidence that an institution needs for the purposes of:
 - (i) answering the key evaluation questions or, for Te Hono o Te Kahurangi quality assurance for EER, answering the pātai aromātai;
 - (ii) providing the basis for making valid comparisons; and
 - (iii) reaching consistent conclusions about performance and quality.

¹ “Stakeholders” for each institution will be different groups of people, but are likely to include some or all of students, communities, whānau, hapū, iwi, hapori Māori, employers, professional bodies, and other relevant local and national groups.

APPENDIX 2

The integrated framework for evaluative quality assurance

1. NZQA's integrated framework for evaluative quality assurance encompasses:
 - (a) self-assessment by institutions;
 - (b) front-end quality assurance processes, such as granting applications for:
 - (i) approval of qualifications for listing on the NZQCF;
 - (ii) approval of programmes leading to qualifications;
 - (iii) approval of micro-credentials;
 - (iv) accreditation to provide approved programmes or micro-credentials;
 - (v) approval of standards for listing on the Directory of Assessment and Skill Standards (Directory);
 - (vi) consent to assess against standards on the Directory;
 - (vii) registration of PTEs; and
 - (viii) Code signatory status for the purposes of section 531A of the Act;
 - (c) risk and compliance monitoring and enforcement, including:
 - (i) remedial actions including but not limited to improvement plans which are established for Category 3 and 4 institutions;
 - (ii) issuing compliance notices, issuing quality assurance improvement notices, imposing conditions, and withdrawal or cancellation in respect of granted applications of the kind described in paragraph (b);
 - (iii) prosecuting certain offences set out in the Act and related criminal offences;
 - (d) EER and any other quality assurance within these Rules.
2. The high-level policy expectations for the evaluative quality assurance framework are set out on NZQA's website.
3. In implementing its evaluative quality assurance framework, NZQA uses the evaluation methods, tools, and processes that are published on its website, and revises them from time to time.