

The Tertiary Education (2020 Annual Maximum Fee Movement) Notice 2019

Under sections 159L(3)(d) and 159M(b) of the Education Act 1989, the Minister of Education (“Minister”) gives notice of the proposed conditions setting limits on the annual increases that tertiary education organisations may make to fees charged to domestic students in 2020.

Notice

1. **Title**—This notice may be cited as the Tertiary Education (2020 Annual Maximum Fee Movement) Notice 2019.
2. **Commencement**—The proposed conditions outlined in this notice apply for the 2020 academic year only.
3. **Proposal**—I propose to specify conditions under section 159L(3)(d) that the Tertiary Education Commission (TEC) must attach to funding provided under the relevant funding mechanisms, in particular to specify:
 - a. the annual limits by which tertiary education organisations (TEOs) can increase fees charged to domestic students enrolled in courses that are leading to short awards, certificate, diploma, degree, and postgraduate qualifications that receive Student Achievement Component (SAC) funding for provision at level 3 or above on the New Zealand Qualifications Framework (NZQF) in 2020 (including provision at Information and Communications Technology (ICT) Graduate Schools); and
 - b. the other conditions in relation to fees that the TEC must attach to SAC funding for provision at level 3 or above (including provision at ICT Graduate Schools).
 - c. The proposed conditions do not apply to fees for SAC-funded courses that are at level 1 and 2 on the NZQF, which remain subject to the conditions as set out in the Tertiary Education Fees-Free Conditions Notice 2015, published in the [New Zealand Gazette, 28 May 2015, No. 58, Notice No. 2015-go3051](#), and The Tertiary Education Fees-Free (Levels 1 and 2) Conditions Notice 2016, published in the [New Zealand Gazette, Issue No. 54, Notice No. 2016-go3430](#).
4. **Application**—The conditions set out in this notice refer to:
 - a. Fees as including the following items: tuition fees, compulsory course costs, examination fees, other charges associated with a programme of study, material charges, cost of field trips and any compulsory purchase of equipment or books through the organisation.
 - b. TEOs as organisations as defined in section 159B, include tertiary education institutions (TEIs), private training establishments (PTEs) and rural education activities programme providers (REAPs).
5. **Call for submissions**—Any TEO and any other person, body or organisation having an interest in the matter is invited to make a submission on the proposed Annual Maximum Fee Movement (AMFM) and other proposed conditions set out in this notice.

All submissions should be sent to:
Annual Maximum Fee Movement Submissions, Tertiary Education Policy, Ministry of Education, PO Box 1666, Wellington 6140.
Email: tertiary.strategy@education.govt.nz.
6. **Date for submissions**—All submissions must be received by **7 August 2019**.

Dated at Wellington this 17th day of July 2019.

HON CHRIS HIPKINS, Minister of Education.

Proposed Conditions to be Attached to Student Achievement Component Funding (SAC) Allocated and Paid for by the Tertiary Education Commission (TEC) to Tertiary Education Organisations (TEOs)

General

1. These conditions apply to fees charged for SAC funding for provision at levels 3 and above in all TEOs (including ICT Graduate Schools).
2. The fees associated with a particular course are subject to these conditions if:
 - a. the TEO is the sole source of the item to which the fee relates; and

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- b. all domestic students validly enrolled in the course are required to pay the fees.

AMFM

3. For 2020, the AMFM is a 2% increase on the fees, (GST exclusive) charged in 2019 for a course that is part of a programme that leads to a qualification at level 3 and above on the NZQF for which a TEO receives SAC funding.
4. The AMFM applies to any new courses at level 3 and above on the NZQF established by a TEO in substitution for an existing course dealing with the same or similar subject matter, at a same or similar level on the NZQF, for which SAC funding can be used.

Exceptions to the AMFM

5. A TEO may apply for an exception from the 2020 AMFM for a SAC-funded course that is part of a programme that leads to a qualification at level 3 or above on the NZQF on the basis of exceptional circumstances. Any exception granted will not exceed an additional 2% increase over and above the permitted 2% increase.
6. In considering exceptional circumstances, the TEC must only have regard to the following criteria:
 - a. the TEO is unable to support the course(s) while remaining financially viable;
 - b. for courses at levels 3-8 on the NZQF, the completion rate for the qualification met or exceeded the median performance benchmark for that level in the previous year;
 - c. the TEO can demonstrate that the course is in some way unique or special, for example, that there are no available local alternatives to the course; and
 - d. not allowing an exception will prevent the TEO from making a significant contribution to the achievement of one or more of the Government's priorities, as set out in the current Tertiary Education Strategy.
7. An application must satisfy all criteria to gain an exception.

Low or Zero Fee Courses

8. If the fees for a SAC-funded course that is part of a programme that leads to a qualification at level 3 or above on the NZQF are less than \$511.11 (GST inclusive) (\$444.44 (GST exclusive)) per Equivalent Full-Time Student (EFTS) in 2019, then for 2020, the TEO may increase the fee to up to \$511.11 (GST inclusive) (\$444.44 (GST exclusive)) per EFTS, or can increase the fee for the course by 2%, whichever is the greater.

Fee setting limits for new courses

9. The fees for a new course at level 3 and above on the NZQF established by a TEO must be no more than the 75th percentile from the range of fees charged for similar courses. The TEC will specify how similar courses will be determined.
10. The fee setting limits apply to any new courses at level 3 and above on the NZQF established by a TEO, except where the course is in substitution for an existing course dealing with the same or similar subject matter, at a same or similar level on the NZQF, for which SAC funding can be used.

Exceptions to fee setting limits for new courses

11. A TEO may apply for an exception from the fee setting limits for new courses for a SAC-funded course that is part of a programme that leads to a qualification at level 3 or above on the NZQF on the basis of exceptional circumstances (listed below in paragraphs 13 (a)-(d)).
12. The TEC will have discretion to determine how much a TEO can set fees for any new courses granted an exception.
13. In considering whether or not there are exceptional circumstances, the TEC must only have regard to the following criteria:
 - a. the TEO can demonstrate that the course is in some way unique or special, for example, there are no or

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very few similar courses to compare fees with; and

- b. the course is aligned to Government priorities as set out in the Tertiary Education Strategy; and
- c. the course is part of a programme of study that would be financially unviable without a higher fee; and
- d. where the course is part of a qualification at levels 3-8 on the NZQF that has been delivered previously, the qualification has a cohort-based completion rate that meets or exceeds the median performance benchmark for that NZQF group in the previous year.

14. The TEC must only grant an exception if it is satisfied that the TEO meets all of the above criteria.

Note: Effect of this Notice

These notes do not form part of this notice, but are intended to indicate its general effect.

- A. Section 159L(3)(d) of the Education Act 1989 (“Act”) provides that the Minister, when determining the design of a funding mechanism, may specify the conditions that the TEC must attach to funding provided under the mechanism, including conditions that limit the fees that an organisation may charge domestic students.
- B. Under section 159M(b) of the Act, the Minister may not specify conditions that set limits on the fees that organisations may charge domestic students until:
 - i. the Minister has published a notice in the *New Zealand Gazette* that:
 - A. states that the Minister proposes to specify such conditions;
 - B. sets out the proposed conditions; and
 - C. invites submissions on the proposed conditions; and
 - D. specifies the date by which submissions must be received, which must be a date no later than 21 days after the date of the *New Zealand Gazette* notice; and
 - ii. the date by which submissions must be received has passed.
- C. The conditions setting limits on fees subsequently specified by the Minister in accordance with section 159L(3)(d) of the Act must be imposed as conditions on funding payable by the TEC to an organisation under section 159YA and 159ZC of the Act.
- D. Under sections 227(1A) and 234A of the Act, TEIs and PTEs respectively must not charge domestic students a fee that exceeds the maximum specified as a condition on funding approved by the TEC under sections 159YA and section 159ZC of the Act.
- E. The fee setting limits for new courses, specified in paragraphs 11-14, incorporate existing fee setting regulations from The Tertiary Education (Conditions Setting Limits on Fees for New Courses) Notice 2018, published in the [New Zealand Gazette, 19 November 2018, Notice No. 2018-go5821](#).