

# University Rules: Student Guild

## 1. Preamble

These Rules are made under Statute No. 11 - Student Guild ("**Statute 11**").

## 2. Definitions and Interpretation

(1) In these Rules, unless the contrary intention appears:

"**Committee**" means a committee of the Guild as described in the Constitution;

"**Constitution**" means the constitution of the Guild adopted by the governing body of the Guild under section 5(2) of Statute 11 and approved by the Council;

"**Department**" means a department of the Guild as described in the Constitution;

"**Election**" means an election to fill an elected position or office of the Guild or a referendum issued by the Guild in accordance with the Constitution;

"**Electoral Commission**" means the Western Australian Electoral Commission established under the *Electoral Act 1907 (WA)*;

"**Electoral Commissioner**" means the Electoral Commissioner appointed under the *Electoral Act 1907 (WA)*;

"**Election Procedures**" means the election procedures approved by Council in accordance with the Constitution;

"**Election Tribunal**" means an Election Tribunal established under Rule 7(6);

"**General Meeting**" means an annual general meeting or special general meeting of the Guild;

"**Group Agent**" means a person appointed by a group of candidates to act on their behalf as described in the Election Procedures;

"**Guild**" means the Edith Cowan University Student Guild as continued in existence under section 41 of the Act;

"**Guild Body**" means any body of the Guild established under the Constitution including but not limited to the Senate, Secretariat, Departments and Committees;

"**Guild Employee**" means any person employed by the Guild;

"**Guild Operational Executive**" means the Guild's most senior salaried employee;

"**Member**" means a member of the Guild and "**Membership**" means the status of a person as a Member;

"**Officer**" means a person holding a position or office in the Guild and includes members of the Senate, Secretariat and Guild Bodies but does not include Guild Employees;

"**Returning Officer**" means the person for the time being appointed as the returning officer for an Election in accordance with Statute 11 and these Rules;

"**Secretariat**" means the executive members of the Senate as described in the Constitution;

**“Senate”** means the governing body of the Guild;

**“Senate Term”** means the term of office of elected members of the Senate, determined in accordance with the Constitution;

**“Special Majority”** means at least a 75% majority of all voting members of the relevant body present at the relevant meeting; and

**“Substitute Returning Officer”** means the person appointed as the substitute returning officer for an Election in accordance with these Rules.

- (2) Any terms which are not defined in these Rules but are defined in Statute 11 shall have the meaning given to them in Statute 11.

### **3. Procedure for adopting, amending or repealing the Constitution**

- (1) The Constitution shall be adopted, amended or repealed if a proposal for the adoption, amendment or repeal –
- (a) is the subject of a resolution, passed by Special Majority, by the Senate;
  - (b) is the subject of a resolution, passed by Special Majority, of Members of the Guild convened in accordance with the Rules and Constitution; and
  - (c) has been approved by the Council.
- (2) A proposal to adopt, amend or repeal the Constitution takes effect on the day following its approval by the Council or, if the Council specifies another date, on that date.
- (3) If the Council resolves not to approve a proposal to adopt, amend or repeal the Constitution, it shall provide its reasons to the Senate.
- (4) The Senate may appeal in writing to the Council within 30 days of being notified by Council that its proposal to adopt, amend or repeal the Constitution has not been approved. The Council shall consider the Senate’s appeal and advise its decision in writing to the Senate. The Council’s decision on the appeal is to be final and binding.

### **4. Duties, Obligations and Liabilities of Officers**

- (1) The duties, obligations and responsibilities of Officers shall be set out in the Constitution.

### **5. Disclosure of interests by Officers**

- (1) An Officer who has a material personal interest in a matter being considered or about to be considered by or involving the Guild shall, as soon as possible after the relevant facts have come to the Officer’s knowledge, disclose the nature and extent of the interest to the General Secretary.
- (2) Following receipt of such disclosure under Rule 5(1), the Guild shall comply with the provisions in respect of disclosures of interests by Officers set out in the Constitution.

## 6. Financial provisions

- (1) The Senate shall, as soon as practicable after 31 December and not later than 30 April in each financial year, prepare and present for adoption by the Guild at a General Meeting a financial report on the operation of the Guild during the immediately preceding calendar year together with a balance sheet and statement of income and expenditure in respect of the same calendar year which have been audited by the Auditor in the manner set out in Rule 6(5).
- (2) The Senate shall, not later than 31 October in each calendar year, prepare and present for adoption by the Guild a budget of proposed income and expenditure for the next succeeding calendar year. The budget shall be presented for confirmation at the first meeting of the Senate in the following calendar year and the confirmed budget shall be provided to the Council not later than 31 March each year.
- (3) A budget may be amended from time to time by resolution of the Senate passed by Special Majority. The amended budget shall be provided to Council within 14 days of its amendment.
- (4) The Senate shall within 30 days of the end of each calendar quarter provide to the Council a quarterly report on its financial position, including an unaudited balance sheet and statement of income and expenditure for the relevant quarter.
- (5) An auditor, who shall be external to the University and a member of the Institute of Chartered Accountants of Australia or the Australian Society of Certified Practising Accountants and whose appointment has been approved by the Council, shall be appointed each year by the Senate ("**Auditor**"). The Auditor shall audit the balance sheet and statement of income and expenditure prepared by or on behalf of the Guild in respect of each calendar year and shall report to the Guild as follows:
  - (a) that the Auditor has conducted the audit;
  - (b) whether or not the Auditor has obtained all the information and explanations he or she has required to conduct the audit;
  - (c) whether the Guild's financial statements (including balance sheet and statement of income and expenditure) ("**Statements**") are based on proper accounts and records;
  - (d) whether the Statements have been produced in accordance with the Guild's accounts and records and show in the Auditor's opinion a true and fair view of the financial position and transactions of the Guild; and
  - (e) on such other matters arising out of the Statements as the Auditor considers should be reported to the Members.
- (6) The Senate shall provide a copy of the Auditor's report prepared in accordance with Rule 6(5), together with copies of the audited Statements, to the Council as soon as practicable following their adoption by the Members at a General Meeting, but in any event no later than 4 months after the conclusion of the Guild's financial year.

## 7. Elections

- (1) The Vice-Chancellor, in consultation with the Guild Operational Executive, may appoint a Returning Officer or, if Rule 7(4A) or Rule 7(4B) becomes applicable, a Substitute Returning Officer. Alternatively the Vice-Chancellor may request the Electoral Commissioner to appoint a Returning Officer or, if applicable, a Substitute Returning Officer.
- (2) If the Electoral Commissioner fails to make an appointment within 7 days of a request under Rule 7(1), the Vice-Chancellor shall appoint a Returning Officer or, if applicable, a Substitute Returning Officer, taking into account the views of the Guild Operational Executive.

- (3) A Returning Officer and, if applicable, a Substitute Returning Officer appointed under Rule 7(1) or Rule 7(2) shall:
  - (a) have demonstrated experience and ability to undertake the role of Returning Officer;
  - (b) possess a high standard of organisational and communication skills;
  - (c) be independent of both the University and the Guild; and
  - (d) be solely responsible for the proper conduct of the Election and may do all things necessary or convenient to be done for the conduct of the Election.
- (4) The appointment of a Returning Officer and, if applicable, a Substitute Returning Officer will not be effective until the appointee signs an instrument of appointment that the appointee will perform the duties of Returning Officer impartially and in accordance with Statute 11, these Rules, the Constitution and the Election Procedures.
- (4A) Following consultation with the Guild Operational Executive, the Vice-Chancellor may terminate the appointment of the Returning Officer, or if the Returning Officer was appointed by the Electoral Commissioner, ask the Electoral Commissioner to terminate the appointment of the Returning Officer, where in the Vice-Chancellor's reasonable opinion, the Returning Officer is unwilling or unable to fulfil the duties of Returning Officer. The Electoral Commissioner may decide to comply with any request made by the Vice-Chancellor in accordance with this Rule in their absolute discretion. The vacancy shall be filled in accordance with these Rules, with the new appointee serving as Substitute Returning Officer for the remainder of the Election.
- (4B) If the Returning Officer resigns from the position of Returning Officer, the vacancy shall be filled in accordance with these Rules, with the new appointee serving as Substitute Returning Officer for the remainder of the Election.
- (5) If the Returning Officer or, if applicable, Substitute Returning Officer for an Election is appointed by the Electoral Commissioner, any appeal concerning the validity of the Election outcome shall be referred to the Electoral Commission which shall determine its own procedure in dealing with the appeal.
- (6) If the Returning Officer or, if applicable, Substitute Returning Officer for an Election is appointed by the Vice-Chancellor, the Vice-Chancellor shall arrange for an Election Tribunal to be established prior to the calling of nominations to consider and determine appeals concerning the validity of an Election outcome.
- (7) An Election Tribunal established under Rule 7(6) shall comprise:
  - (a) a Chairperson appointed by the Council who is independent of both the University and the Guild and who is agreed upon by both the University and the Guild;
  - (b) a person appointed by the Vice-Chancellor; and
  - (c) a person appointed by the Guild Operational Executive.
- (8) Members of the Election Tribunal shall:
  - (a) be knowledgeable of or experienced in electoral matters and/or appeal and review processes;
  - (b) not act as representatives of a nominating person or body;
  - (c) act impartially and avoid conflicts of interest; and
  - (d) not be a candidate or Group Agent in the Election or a person who canvasses votes in support of any candidate or group of candidates.
- (9) An appeal in relation to the validity of an Election outcome shall be lodged with the Electoral Commission or the Chairperson of the Election Tribunal (as applicable) within 7 days of the date on which notice of the Election results is published by the Returning Officer following the declaration of the poll.
- (10) The Electoral Commission or the Election Tribunal (as applicable) shall make its determination on an appeal within 21 days following the deadline for lodging appeals. The Election Tribunal, at its sole discretion, may extend this period providing that the determination of an appeal is made no later than ten (10) business days prior to the commencement of the term of office of the position(s) for which the Election was held.
- (11) The Electoral Commission or the Election Tribunal (as applicable) shall have the power to hear any appeal lodged with it in respect to the validity of an Election outcome.

- (12) An appeal may be rejected by the Electoral Commission or the Chairperson of the Election Tribunal (as applicable) where the appeal is determined to be vexatious, trivial or unlikely to have any bearing on the Election outcome.
- (13) The Election Tribunal shall act in accordance with the principles of procedural fairness including, without limitation:
- (a) the appellant shall be given a reasonable opportunity to be heard;
  - (b) a person about whom an appeal is made or to whom the appeal relates shall be informed of the details of the appeal and shall have a reasonable opportunity to be heard in response;
  - (c) any member of the Election Tribunal who has a material personal interest in relation to an appeal shall declare that interest and withdraw from the Election Tribunal for the purposes of determining that appeal and a substitute member shall be appointed in accordance with Rule 7(7);
  - (d) the Election Tribunal shall state its reasons for its decision which shall be communicated in writing to the person who lodged the appeal and the person(s) about whom the appeal was made; and
  - (e) any witness called by the Election Tribunal shall be entitled to bring a support person, being a person other than a legal practitioner, to a hearing of the Election Tribunal.
- (14) The Electoral Commission and the Election Tribunal (as applicable) shall have the power to:
- (a) dismiss an appeal;
  - (b) order nominations reopened;
  - (c) declare a nomination or nominations invalid;
  - (d) declare valid a nomination the Returning Officer did not accept;
  - (e) instruct the Returning Officer to vary or implement an electoral process in a manner which is not contrary to Statute 11 or these Rules;
  - (f) declare that a candidate who was declared elected was not validly elected;
  - (g) declare a candidate validly elected who was not returned elected;
  - (h) declare part of an Election invalid and order a fresh Election for the relevant position(s); and
  - (i) declare an Election wholly invalid and order a fresh Election.
- (15) The Chairperson of the Election Tribunal may arrange for secretarial support to be provided to the Election Tribunal following consultation with the Vice-Chancellor and the Guild Operational Executive. If neither the University nor the Guild provide the necessary secretarial support, the Chairperson may arrange for secretarial support to be provided by a third party and the costs of obtaining such support are to be shared equally by the Guild and the University.
- (16) Complaints relating to Elections that do not constitute an appeal of the validity of an Election outcome shall be dealt with in accordance with the Election Procedures, the Constitution and any applicable University statutes and University rules.

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Approved by Council on 03 May 2012. Effective from 24 August 2012, the day Amending Statute No 2 of 2012 (Statute No. 11 – Student Guild) was published in the Government Gazette. Common Seal Applied to the Student Guild Rules by the Vice-Chancellor on 29 August 2012.

Amendments Approved by Council on 24 August 2017, Resolution UC183/23, Rule Amendment No 2 of 2017.

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