

Australian Capital Territory

University of Canberra (Election of Staff and Student Members to Academic Board and Council) Rules 2019

made under the

University of Canberra Act 1989, s40 (Statutes), University of Canberra (Academic Board) Statute 2011, s6, and University of Canberra (Election of Staff and Student Members of Council) Statute 2010, s5

1. Name of Instrument

These Rules may be cited as the University of Canberra Election Rules 2019.

2. Commencement

These Rules commence on the date of approval by Council.

3. Repeal

These Rules repeal:

- (1) University of Canberra (Election of Staff Members of Council) Rules 2015;
- (2) University of Canberra (Election of Student Members of Council) Rules 2015;
- (3) University of Canberra (Election of Professorial Members of Academic Board) Rules 2015;
- (4) University of Canberra (Election of Academic Staff Members of Academic Board) Rules 2015; and
- (5) University of Canberra (Election of Student Members of Academic Board) Rules 2015.

4. Application

These Rules apply to the following elections.

- (1) Election of staff to Council;
- (2) Election of students to Council;
- (3) Election of professors to the Academic Board;
- (4) Election of academic staff to the Academic Board; and
- (5) Election of students to the Academic Board.

5. Definitions

In these Rules, unless the contrary intention appears, the following definitions apply.

academic staff means a person who is appointed by the University on a permanent or contract basis as a member of academic staff and includes such persons appointed by the University as professors, associate professors, senior lecturers, lecturers, and associate lecturers.

Act means the University of Canberra Act 1989 (ACT).

ballot paper means a document upon or through the medium of which, each person eligible may cast a vote in print or electronic form in an election.

ballot period means the formal period during which voters may vote if a ballot is called at an election.

Academic Board means the Academic Board established by section 19 of the Act.

Council means the Council of the University established by section 9 of the Act.

course means a course of study specified in or made under the University of Canberra (Courses and Awards) Statute 2010 or a course of study that is declared or approved by the Academic Board or Council to be a course of study.

Deputy University Secretary means the office holder of the University holding the title Deputy University Secretary or an office holder of the University undertaking a similar role and of equivalent status.

election means an election under a Statute.

electoral constituency means all persons eligible to vote in an election.

enrolled means the person's name appears on the University student information system of undergraduate or postgraduate students on a specified date and they have not ceased to be enrolled in accordance with these Rules.

general staff means a person who is appointed by the University on a permanent or contract basis as a member of general staff other than academic staff and the vice-chancellor.

postgraduate student means a student enrolled as a postgraduate student in a course leading to a degree of doctoral degree, master's degree, graduate diploma or graduate certificate.

professor means a member of the academic staff of the University who has been appointed as a professor and, for the purposes of these Rules.

Returning Officer means the University Secretary, Deputy University Secretary or another person appointed by the vice-chancellor to be the Returning Officer for the purposes of these Rules.

Rules means these University of Canberra (Election of Staff and Student Members to Academic Board and Council) Rules 2019.

serious misconduct has the same meaning as defined in the University of Canberra (Student Conduct) Rules 2015.

staff member means a member of academic staff or general staff.

statute means a statute of the University made by Council under the Act.

Statute means the University of Canberra (Academic Board) Statute 2011 when used in the context of elections for members of Academic Board or University of Canberra (Election of Staff and Student Members of Council) Statute 2010 when used in the context of elections for members of Council.

student means a person whose name appears on the University student information management system as being enrolled with the University as an undergraduate or postgraduate student.

undergraduate student means a student enrolled as an undergraduate student in a course of the University leading to a bachelor's degree, diploma or certificate of the University other than a postgraduate student.

University Secretary means the office holder of the University holding the title University Secretary or an office holder of the University undertaking a similar role and of equivalent status.

Vice-Chancellor means the Vice-Chancellor and President of the University appointed under section 25 of the Act.

ELIGIBILITY TO PARTICIPATE IN AN ELECTION

6. Eligibility for candidature

- (1) Subject to rules 6(3) and 6(4), all academic staff and general staff appointed by the University as at the final day specified for receipt of nominations for an election will be eligible to stand as candidates in an election.
- (2) Subject to rules 6(3) and 6(4), all undergraduate students and postgraduate students over the age of 18 and enrolled as students on the final day specified for receipt of nominations for an election will be eligible to stand as candidates in an election.
- (3) A University student who is appointed as a staff member either on a permanent basis or under a fixed term contract of more than one year's duration is not be eligible to stand as a student candidate in an election.
- (4) Subject to rule 6(3), a person who is eligible to stand as a candidate in one or more elections must only stand as a candidate in one election.

7. Ineligibility for candidature

- (1) A person is ineligible to stand as a candidate in an election if the person (on the final day specified for receipt of nominations for an election):
 - a) is ineligible to hold the position for which election is being held due to a provision of the Act, or any statute or rule;
 - b) is subject to a psychiatric treatment order or a community treatment order under the *Mental Health (Care and Treatment Act) 1994 (ACT)*; or
 - c) is a person with impaired decision-making ability under the *Guardianship and Management of Property Act 1991 (ACT)*.
- (2) In addition to the provisions of rule 7(1), a student is ineligible to stand as a candidate in an election if the student (on the final day specified for receipt of nominations for an election):
 - a) is suspended or excluded from the University under any statute or rule; or
 - b) has been found to have engaged in serious misconduct.

8. Eligibility of voters

All members of an electoral constituency are eligible to vote for a candidate from that electoral constituency in an election.

TERM OF OFFICE

9. Elected Members

- (1) Subject to rule 28, a staff member elected to Academic Board or Council, holds office for a period of two years with each term commencing on 1 January following their election.
- (2) A student elected as a member of Academic Board or Council holds office for a period of one year with each term commencing on 1 January following their election.
- (3) A staff member or student elected as a member of Academic Board or Council must not hold office in Academic Board or Council for a total period longer than three terms.

10. Members appointed to fill a casual vacancy

A staff member or student appointed by Academic Board or Council under rule 28 to fill a casual vacancy will hold their office for the balance of the term remaining of the elected member who ceased to hold office.

CONDUCT OF ELECTIONS

11. Returning Officer

- (1) All elections to which these Rules apply must be conducted by the Returning Officer.
- (2) The Returning Officer may determine:
 - a) the timetable for the holding of an election including the time to be allowed for receipt of nominations and for declaring the result of the election;
 - b) procedures for verifying the entitlement of persons to vote at the election, for the appointment of scrutineers, for determining the admissibility of ballot papers, for the counting of votes, for making known the result of the election and for dealing with disputed returns; and
- (3) All decisions of the Returning Officer on all matters relating to an election are final.

12. Notice of election and call for nominations

- (1) When an election is necessary, the Returning Officer must provide notice to the relevant electoral constituency:
 - a) stating why the election is necessary;
 - b) inviting nominations from persons eligible to stand as candidates in the election and specifying the form in which nominations must be made; and
 - c) specifying the date and time by which nominations must reach the Returning Officer.
- (2) A notice may be communicated by such means as the Returning Officer considers appropriate.
- (3) The fact that a person did not receive notice under this rule 12 does not invalidate an election.

13. Acceptance of nominations

The Returning Officer must not accept a nomination unless:

- (1) it is in writing in the form specified in the notice provided under rule 12;
- (2) it is signed by two persons who are members of the same electoral constituency for which the person is nominating;
- (3) the person nominated has consented to stand for election by a notice in writing given to the Returning Officer before the time prescribed for the close of nominations or by a notation to that effect on the nomination form; and
- (4) it is received by the Returning Officer before the time prescribed for the close of nominations.

14. No nominations received

If no nominations are received, the procedures for filling of casual vacancies under Rule 28 shall apply.

15. Declaration of result if there is no contest

If, after nominations have closed, the number of nominations does not exceed the number of offices to be filled, the Returning Officer is to declare the persons nominated to have been elected.

16. Ballot required if more candidates than vacancies

- (1) If, after nominations have closed, the number of nominations exceeds the number of offices to be filled, the Returning Officer is to make available to each person in an electoral constituency (voter), by such means as the Returning Officer considers appropriate:

- a) a ballot paper; and
 - b) a notice setting out how the voter's choice of candidate is to be shown and specifying the date and period during which voters are entitled to vote (ballot period).
- (2) Where a person nominated as a candidate at an election withdraws their nomination and the withdrawal reduces the number of candidates to a number not exceeding the number of offices to be filled, the Returning Officer is to abandon the election and declare the remaining candidates to have been elected.
- (3) Where a person nominated as a candidate at an election withdraws their nomination and the withdrawal results in the number of candidates exceeding the number of offices to be filled, the Returning Officer is to proceed with the conduct of the election, disregarding any votes cast for that person.

17. Mode of voting

- (1) Voting must be conducted by secret ballot.
- (2) The Returning Officer must determine whether an election is to be conducted by manual ballot (postal or ballot box) or by electronic ballot.
- (3) The voting system for an election will be optional preferential. Optional preferential voting is a type of preferential voting under which voters indicate the order of their preferences by numbers. Voters may choose to mark a preference for only one or as many candidates as they wish.
- (4) Under preferential voting, the candidate who received the largest number of first preference votes must be elected if that number is an absolute majority of votes.
- (5) If no candidate received an absolute majority of first preference votes:
- a) the candidate who received the fewest first preference votes is excluded, and each ballot paper counted to that candidate must be counted to the candidate next in the order of the voter's preference;
 - b) if a candidate then has an absolute majority of votes, that candidate is elected, but, if no candidate then has an absolute majority of votes, the process of excluding the candidate who has the fewest votes, and counting each of that candidate's ballot papers to the unexcluded candidate next in the order of the voter's preference, must be repeated until a candidate has received an absolute majority of votes;
 - c) the candidate who has received an absolute majority of votes is elected.
- (6) If two or more candidates have an equal number of votes and the declaration of elected candidates cannot be made, whichever of the candidates was lowest on the poll at the last count at which they had an unequal number of votes must be excluded and, if the candidates had an equal number of votes at all previous counts or there was no previous count, the Returning Officer must decide by lot which candidate must be excluded.
- (7) In deciding which candidate is next in the order of the voter's preference, any candidates who have been excluded must not be considered, and the order of the voter's preference must be decided as if the names of those candidates had not been on the ballot paper.
- (8) If on any count there is no candidate next in the order of the voter's preference on any ballot paper, the ballot paper must be set aside as exhausted.

18. Ballot paper

The Returning Officer must determine the order in which the names of candidates are to be set out on a ballot paper by drawing lots.

19. Nomination of scrutineers

Each candidate is entitled to nominate one scrutineer. A candidate who wishes to nominate a scrutineer must notify the Returning Officer by close of business seven days before the close of ballot and provide contact details for the scrutineer. For the avoidance of doubt, a candidate may not be a scrutineer.

20. Manual ballot

- (1) As soon as practicable after the close of ballot, the Returning Officer, in the presence of those scrutineers who choose to be present, is to count the votes and ascertain the result of the ballot in the manner set out in rule 17.
- (2) The Returning Officer is to reject any informal ballot papers and count the formal ballot papers.
- (3) A ballot paper shall be informal if:
 - a) marked other than in accordance with the voting instructions accompanying the ballot paper;
 - b) no vote for any candidate on the ballot paper has been indicated; or
 - c) votes for more candidates than are to be elected are indicated on the ballot paper.

21. Electronic ballot

- (1) The University Secretary may approve an electronic voting system for use where they are satisfied that the system:
 - a) will provide a voter with appropriate instructions on how to vote;
 - b) will allow a voter to indicate their choice of candidate(s);
 - c) gives a voter an opportunity to correct any mistakes before submitting their vote;
 - d) will not allow a person to find out how an individual voter cast their vote;
 - e) will not allow a voter to vote more than once for any candidate;
 - f) will only allow a voter to vote in an election for which they are eligible to vote; and
 - g) is designed to give the same result as would be obtained if the election were conducted by post or by personal voting.
- (2) An electronic voting system may be managed either internally by the University or outsourced, in full or in part.
- (3) On or before the date prescribed for the commencement of electronic voting, the Returning Officer must ensure that each eligible voter has been provided with access to a notice detailing the nature of the election, a list of the candidates, and setting out instructions on how to access the electronic voting program, and the closing date and time by which a vote can be submitted.
- (4) Any candidate statement, and a copy of any approved photograph supplied, are to be published online and accessible by way of a link included in the email sent to each voter.
- (5) A voter is to submit their vote in accordance with the instructions provided in the electronic voting program.
- (6) The Returning Officer may, at their discretion, allow the opportunity for postal voting by an eligible voter who, due to special circumstances peculiar to that individual, is unable to access the electronic voting system and who makes a timely request for a postal vote. Any postal vote allowed under this rule must be received before the close of the election.

- (7) On the day prescribed for the recording of votes stored electronically and in the presence of those scrutineers who choose to be present, the Returning Officer must examine summary reports of the votes cast, undertake whatever audit checks may be necessary to validate the vote and record the total number of votes cast for each candidate.

22. Declaration of result after ballot

- (1) The result of the count must remain confidential until the declaration of the election by the Returning Officer.
- (2) Where the Returning Officer declares persons to have been elected as members of the Academic Board or Council, the Returning Officer must, as soon as practicable, communicate the election result to the electoral constituency in a manner determined by the Returning Officer.
- (3) The Returning Officer, any person appointed by the Returning Officer and any scrutineers must not in any way disclose or aid in disclosing how an individual voter cast his or her vote.

23. Recount

- (1) The Returning Officer may recount the votes received in an election at the request of a candidate or if they otherwise believe there is a valid reason to do so.
- (2) A request for a recount from a candidate must be in writing and set out reasons in support of the request.

24. Declaration that election void

- (1) If, before the result is declared in an election, the Returning Officer is satisfied that that election is, or will be, void because of an irregularity in the course or conduct of that election, the Returning Officer may, in writing, declare that election is void from:
 - a) the commencement of that election; or
 - b) a specified point in the proceedings of that election that is after the notification of the fact that the election was necessary but before the irregularity happened.
- (2) If the Returning Officer declares an election is void from the commencement of that election, the Returning Officer must, as soon as practicable after making the declaration, conduct a fresh election in accordance with these Rules.
- (3) If the Returning Officer declares an election is void from a point in the proceedings of that election, the Returning Officer must, in writing, determine what proceedings in that election are necessary to ensure that election will be regularly conducted and must conduct those proceedings in accordance with these Rules.

25. Election not necessarily invalid due to breach

An election conducted under these Rules is not invalidated only because of a breach of these Rules unless the Returning Officer is satisfied that, except for such breach, a candidate elected at that election might not have been so elected.

CASUAL VACANCIES DURING TERM

26. Cessation of membership of Academic Board or Council

Subject to the Act, a person appointed or elected under these Rules ceases to be a member of the Academic Board or Council, as applicable, if the member:

- (1) dies;
- (2) resigns from the Academic Board or Council, as applicable;

- (3) becomes ineligible to hold a position to which the person is appointed or elected due to a provision in the Act, or any statute;
- (4) is absent without leave from the Academic Board or Council, as applicable, for three consecutive meetings;
- (5) is subject to a psychiatric treatment order or a community treatment order under the *Mental Health (Care and Treatment Act) 1994 (ACT)*;
- (6) is found to have impaired decision-making ability under the *Guardianship and Management of Property Act 1991 (ACT)*;
- (7) in the case of an academic staff or general staff member of the Academic Board or Council, is no longer appointed by the University in the relevant electoral constituency; or
- (8) in the case of a student member of the Academic Board or Council:
 - a) is no longer enrolled to be a student in the relevant electoral constituency; or
 - b) is suspended or excluded under any statute, for the period of that suspension or exclusion; or
 - c) is found to have engaged in serious misconduct.

27. Cessation of enrolment of a Student Member

A student member of the Academic Board or Council ceases to be enrolled:

- (1) on the date their withdrawal from their enrolled course of study becomes effective (provided they do not immediately enrol in another degree within the same electoral constituency for which they were elected);
- (2) on the date their application for intermission becomes effective;
- (3) on the date they cease to be enrolled in the University teaching periods which coincide with the term for which they have been elected;
- (4) on the date they are suspended or excluded by the University under the authority of any statute; or
- (5) on the completion date of their course of study, being the date recorded within the University student information system and on their academic transcript indicating that they have satisfied all requirements for the award of a degree, certificate or diploma.

28. Filling of casual vacancies

- (1) In the event of a casual vacancy in the office of an elected student or staff member, the Academic Board or Council, as applicable, may, by resolution:
 - a) appoint to that office a person who would be eligible as a candidate to that office; or
 - b) determine that an election be held to fill the vacant office.
- (2) Where the Academic Board or Council, as applicable, determines that an election be held to fill a vacant office, the Returning Officer is to follow the procedures for nominations and elections in accordance with the procedures set out in these Rules.

In making these Rules the University had regard to the provisions of section 40B(1)(b) of the *Human Rights Act 2004*.

Given under the seal of the University of Canberra on 30 August 2019, Council Meeting No. 201.