

Governance (Conduct of Elections) Rule 2019 No. 1

Section 1 - Introduction

Name of Rule

(1) This Rule is the Governance (Conduct of Elections) Rule 2019 No. 1.

Commencement

(2) This Rule commences on 5 December 2019 under resolution CNL19/150.

Purpose

(3) This Rule is enacted to establish the method of election of the following members of the Council who are elected under section 8E (1)(a), (b) or (c) of the Act, and the requirements for qualifications of such members:

- a. elected (academic staff) members;
- b. elected (general staff) members; and
- c. elected (student) members.

Authority

(4) This Rule is made pursuant to authority granted to the Council under sections 20, 31 and 32 of the Act.

Notes: Section 20 of the Act provides that the Council may delegate any of its functions and powers, except its power of delegation. Sections 31 and 32 of the Act provides that the Council may make Rules.

Glossary

(5) In this Rule:

- a. Act - means the [Charles Sturt University Act 1989 No 76](#).
- b. Ballot - means a procedure for electing a person to the Council conducted using either paper-based or electronic methods of voting.
- c. Ballot paper - means the form used to register a vote and includes a ballot paper produced in electronic form.
- d. By-law - means the [Charles Sturt University By-law 2005](#).
- e. Candidate - means a person who is eligible to be elected to the Council in accordance with the Act and as stated in the notice of election.
- f. Council - means the University Council established under Part 3 of the Act.
- g. Determined by lot - means determination whereby the name of each eligible candidate is to be written on separate and similar slips of paper, and the slips having been folded so as to prevent identification and mixed and drawn at random.
- h. Eligible voter - means a person whose name is on the relevant electoral roll and is entitled to vote in a specific election in accordance with the Act and as stated in the notice of election.
- i. Notice - means the notice of election published by the returning officer.

- j. Returning officer - means the person appointed as the returning officer under Section 2 of this Rule, and includes a deputy returning officer, poll officer or other person who is authorised or directed by the returning officer to exercise that function.
- k. University Secretary - means the Secretary appointed under the By-law.

(6) In this Rule, unless the contrary intention appears:

- a. a word or term that has not been defined in this Rule has the same meaning attributed to that word or term in the Act or By-law;
- b. a reference to an officer of the University includes any person acting in that position; and
- c. headings and notes do not form part of this Rule.

Section 2 - Returning officer

(7) The University Secretary is the returning officer for all elections conducted under this Rule and may, subject to the Act and By-law, decide all matters relating to the making of appointments concerning:

- a. the eligibility of candidates; and
- b. the election and results of an election.

(8) The University Secretary may appoint deputy returning officers and confer on any such deputy returning officer all or any of the functions of a returning officer. A decision of a deputy returning officer is taken to be a decision of the returning officer.

(9) The returning officer may, subject to the Act and this Rule, decide all matters relating to the procedure for the conduct of an election under this Rule.

(10) The power conferred on a returning officer may be exercised more than once in respect of an election.

Section 3 - Timing of election

(11) An election to fill a vacancy in the office of a member elected to the Council under sections 8E (1) (a), (b) or (c) of the Act is to be made (where practicable):

- a. in the case of a vacancy that arises because of the expiration of the term of office of the current member, at least 3 months before the term of office of the current member expires; or
- b. in the case of a casual vacancy, within 3 months after the vacancy arises.

(12) Where practicable, the election is to be completed, and the result of the election declared, before 1 July in that year.

(13) The returning officer must ensure that:

- a. there are not less than 10 working days and not more than 25 working days between the publication of the notice that an election is to be held and the time for the close of nominations;
- b. there are not more than 20 working days between the close of nominations and the date of voting commencing; and
- c. there are not less than 10 working days and not more than 25 working days between the date of voting commencing and concluding.

(14) The returning officer may postpone the close of nominations for a period not exceeding 10 working days at a time. Notice must be published in the same way as the notice stating that an election is to be held.

Section 4 - Notice of election

(15) The returning officer is to give notice of the election to eligible voters:

- a. by publishing the notice on the University website; and
- b. by any other means that the returning officer considers appropriate.

(16) A notice of election must:

- a. state that an election is necessary;
- b. specify whether it is an election of a member of the Council under sections 8E (1) (a), (b), or (c) of the Act;
- c. specify the number of vacancies to be filled;
- d. invite nominations of candidates who are eligible for election;
- e. specify the form in which nominations must be made;
- f. specify the close of nominations;
- g. specify the close of ballot for the election;
- h. specify the selection criteria to be addressed (as determined by the Nomination and Remuneration Committee);
and
- i. any other information the returning officer deems necessary.

Section 5 - Nomination for election

(17) A person may nominate for election to the Council under section 8E (1) (a), (b) or (c) of the Act only in accordance with this Rule.

(18) A person who has been found to have committed misconduct and penalised under any University rule or policy is not eligible to nominate for election under section 8E (1) (c) of the Act.

(19) A separate nomination form must be completed by each candidate and must be lodged with the returning officer before the close of nominations.

(20) A nomination must include:

- a. a signed nomination form by the candidate, which must be endorsed and signed by at least two other persons who are eligible voters in the election concerned; and
- b. a written statement addressing the selection criteria as published on the notice of election.

(21) A candidate may provide a written statement of not more than 150 words to support their nomination which may be edited and distributed, as deemed appropriate, by the returning officer. The statement may specify:

- a. the candidate's full name;
- b. the candidate's qualifications and experience; and
- c. any positions or offices that the candidate has held at any time in public bodies, clubs or other organisations, together with dates of tenure in relation to those positions or offices.

(22) The returning officer will review nominations within five working days of receipt and must reject a nomination that

does not comply with this Rule or if the person is not eligible for election, and will advise the person that their nomination has been rejected. If the date and time for nominations to be received has not closed, the returning officer will invite the person to resubmit a new nomination, provided that person is eligible for election.

Section 6 - Procedure after close of nominations

(23) The returning officer will submit all eligible nominations received to the Nomination and Remuneration Committee. The Nomination and Remuneration Committee will review the nominations and agree on a shortlist of candidates for interview.

(24) The Chair, Nomination and Remuneration Committee will recommend the interview panel for approval by the Nomination and Remuneration Committee.

(25) The interview panel will interview the shortlist of candidates and provide their recommendations to the Nomination and Remuneration Committee.

(26) The Nomination and Remuneration Committee will recommend suitable candidates for approval by the Council.

(27) The Council will approve and vet the list of candidates for election.

(28) The approved and vetted shortlist of candidates will be presented to the eligible voter group for the relevant member category.

(29) If the number of approved and vetted candidates for election is not more than the number of vacancies to be filled, the returning officer must declare the candidate or candidates to be elected.

(30) If the number of approved and vetted candidates for election is more than the number of vacancies to be filled, the returning officer must conduct a vote to fill the vacancies. The vote is to be conducted by secret ballot as prescribed by Section 7 of this Rule.

(31) If there are no suitable candidates for election to a position on the Council, the returning officer is to report the matter to the next meeting of the Council. The Council may request the returning officer to conduct a new election under this Rule, or deem that a casual vacancy has occurred and appoint a person in accordance with Section 9 of this Rule.

Section 7 - Voting and conduct of ballot

(32) The ballot will be conducted using a compulsory preferential system of voting or by using a different voting system as determined by the returning officer.

(33) In a compulsory preferential ballot, an eligible voter must place the number '1' against the name of their preferred candidate. The voter must then give contingent votes to the remaining candidates by placing the numbers '2', '3', '4' and so on as required, against the names of the other candidates to indicate unambiguously by numerical sequence the order of the voters' preference for those other candidates.

(34) The ballot must be a secret ballot and may be conducted electronically or by an alternative method as determined by the returning officer.

(35) The returning officer will recommend to the Council an electronic voting system to be used in accordance with the requirements of this Rule.

(36) The returning officer must provide eligible voters with a link and log in details to cast an anonymous vote using

the electronic voting system.

(37) A person eligible to vote but unable to access the electronic voting system may apply to the returning officer in writing to lodge a postal vote.

(38) The returning officer will determine the process of voting should there be any interruptions due to a technical issue.

(39) Each ballot paper is to contain the names of the candidates in an order determined by lot.

(40) The names of any candidates who are currently elected members of the Council are to be indicated as such.

(41) In the case of a postal vote, each ballot paper is to be accompanied by a form of declaration or other means of verification that the person voting is an eligible voter at the election.

(42) Each ballot paper is to be accompanied by a notice which:

- a. specifies the date and time of close of voting;
- b. contains instructions on how to vote;
- c. states when the votes will be counted; and
- d. states that an eligible voter can only vote once in an election and that once a vote is cast, it is final.

(43) The returning officer must reject a returned ballot paper if satisfied that:

- a. it has been received after the close of voting; or
- b. it has been cast by a person who is not entitled to vote at the election or who has already voted at the election;
or
- c. it does not comply with the requirements of this Rule.

(44) In the case of a postal vote, if a ballot paper has been lost or destroyed, a duplicate may be issued by the returning officer upon receipt of a written declaration that the ballot paper has been lost or destroyed.

(45) The returning officer, any persons appointed by the returning officer, and each scrutineer, must not in any way disclose or aid in disclosing in what manner any voter has voted in the election.

Appointment of a scrutineer

(46) Each candidate is entitled to nominate one scrutineer to be present at any counting of votes.

(47) A person is qualified to be appointed as a scrutineer at an election only if the person is eligible to vote in that election.

(48) A candidate for election is not eligible to be appointed as a scrutineer at the election.

Counting of Votes

(49) The results will be produced automatically by the electronic voting system, or for votes cast by postal ballot paper, the ballot papers will be examined by the returning officer, in the presence of the appointed scrutineers. Result sheets will be produced as soon as practicable following the time scheduled for the close of voting.

(50) The candidate who has received the largest number of first preference votes will be declared elected. Where more than one candidate in an election is required to be elected, the candidate who has received the second-largest number of first preference votes will also be declared elected. This procedure will be followed until the number of

candidates declared elected equals the number of vacancies required to be filled, as provided for in Section 8C of the Act.

(51) In the case of two or more candidates receiving the same number of first preference votes and a result cannot be declared under the provisions of clause 50, the returning officer will, in the presence of scrutineers, exclude the candidate with the fewest number of first preference votes and reallocate each ballot paper allocated to the excluded candidate to the elector's next preference vote. This procedure will be followed until the number of candidates declared elected equals the number of vacancies required to be filled.

(52) If after the final count, two or more candidates have an equal number of votes and a result cannot be declared under the provisions of clause 50, the returning officer will, in the presence of scrutineers, determine by lot which of the candidates is to be declared elected. This procedure will be followed until the number of candidates declared elected equals the number of vacancies required to be filled.

(53) The returning officer may approve alternate procedures for counting votes where they have approved a different voting system under clause 32 or a different method under clause 34.

Election not invalidated because of certain errors

(54) An election is not invalid only because:

- a. at the time when nominations for the elections close, the name of a person who is entitled to have their name entered on an electoral roll is omitted from that roll;
- b. a vote of a person entitled to vote in the election was not accepted in the election;
- c. a person whose name is on the relevant roll did not see a notice of election or receive a ballot paper;
- d. an omission in the distribution of ballot papers occurred;
- e. the returning officer did not comply with this Rule in any respect;
- f. a person who met the criteria for appointment was not appointed; or
- g. a procedural irregularity that does not prejudice the fairness of the election process.

(55) If, before the determination of result, a candidate dies, becomes no longer eligible for election, or withdraws their nomination, the election is to proceed as if:

- a. the candidate had not been nominated for election;
- b. that candidate's name had not been included on the ballot papers; and
- c. any vote for that candidate had not been cast.

Section 8 - Determination of result

(56) At the conclusion of the counting of votes, the returning officer will declare the successful candidate or candidates. The returning officer may disclose the number of votes recorded for each candidate, at their discretion.

(57) The decision of the returning officer on all matters affecting the eligibility of candidates and the conduct and results of an election is final.

Section 9 - Filling of casual vacancy

(58) If there is a casual vacancy in the office of an elected academic staff member, elected general staff member or elected student member of the Council, the Council must, if that person consents, appoint the runner up in the most

recent election for that position to hold the office of that member for the remainder of the term of office.

Notes: Runner up in an election means the person who, in the vote-counting process at the election, was the last remaining candidate for election aside from the person who was declared elected.

(59) If the office cannot be filled in accordance with clause 58 the Council must appoint a person who is qualified to hold that office to hold the office of that member for the remainder of the term, if that person consents.

Section 10 - Custody of rolls, voting forms and records

(60) The returning officer must keep electoral rolls in the following categories:

- a. Academic Staff Roll – a person who is entitled to have their name entered on the Roll of Academic Staff is someone who holds a position, on a full-time basis, of or above the rank of associate lecturer of the University.
- b. General Staff Roll – a person who is entitled to have their name entered on the Roll of General Staff is someone who holds a professional/general staff position, on a full-time basis, at the University.
- c. Student Roll – a person who is entitled to have their name entered on the Roll of Students is someone who is enrolled in a course of studies of at least 2 years duration, leading to an undergraduate or postgraduate award.

(61) The Rolls of Academic Staff and General Staff are to be provided to the returning officer, by the Executive Director, People and Culture, at least one week before the close of nominations for an election. The Executive Director, People and Culture must notify the returning officer of any changes to the Rolls of Academic Staff and General Staff occurring after the copy is given to the returning officer and before the close of nominations.

(62) The Rolls of Students are to be provided to the returning officer, by the Executive Director, Division of Student Administration, at least one week before the close of nominations for an election. The Executive Director, Division of Student Administration must notify the returning officer of any changes to the Roll of Students occurring after the copy is given to the returning officer and before the close of nominations.

(63) A person is not entitled to have their name and address entered on more than one electoral roll at the same time.

(64) A person who meets the criteria to have their name and address entered on more than one roll is eligible to have their name and address entered only on the most senior of those rolls, where the levels of seniority of those rolls are in the following descending order:

- a. the Roll of Academic Staff;
- b. the Roll of General Staff;
- c. the Roll of Students.

(65) The returning officer must remove from an electoral roll the name and address of a person on being satisfied that the person is no longer eligible to have their name and address entered on that roll.

(66) Nothing in this Rule prevents the returning officer transferring a person's name and address from one roll of electors to another if the returning officer is satisfied that the person is eligible to have their name and address entered on that other roll.

(67) A person must have their name on the relevant roll at the close of nominations to be deemed eligible to nominate.

(68) A person must have their name on the relevant roll at the close of nominations for election in order to be an

eligible voter.

(69) Records for an election are to be kept in safe custody by the returning officer for a period of two years after the election, and may be destroyed at any time after that period, except when any objection has been received within that period, in which case the records for the election may only be destroyed by resolution of the Council.

Status and Details

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Glossary Terms and Definitions

"Act" - means the Charles Sturt University Act 1989.