

# Western Sydney University By-law 2005

[2005-569]



New South Wales

## Status Information

### Currency of version

Repealed version for 8 July 2016 to 16 March 2017 (accessed 27 December 2024 at 15:14)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Previously named**  
University of Western Sydney By-law 2005
- **Repeal**  
This By-law was repealed by cl 20 (1) of the [Western Sydney University By-law 2017 \(85\)](#) with effect from 17.3.2017.

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 17 March 2017

# Western Sydney University By-law 2005



New South Wales

## Contents

<b>Part 1 Preliminary</b> .....	5
1 Name of By-law .....	5
2 Definitions .....	5
3 Notes .....	6
<b>Part 2 Chancellor, Vice-Chancellor and other office holders</b> .....	6
4 Term of office .....	6
5 Title of Vice-Chancellor .....	6
6 Membership of committees .....	6
7 (Repealed) .....	6
<b>Part 3 Election of Chancellor and other office holders</b> .....	7
8 Definition .....	7
9 Application of Part .....	7
10 When is an election to be held? .....	7
11 Returning officer .....	7
12 Calling of election .....	7
13 Making of nominations .....	8
14 Dealing with nominations .....	8
15 Distribution of ballot papers .....	9
16 Contents of ballot papers .....	9
17 Method of voting .....	9
18 Informal ballot papers .....	10
19 Counting of votes .....	10

<b>Part 4 Appointed members of Board</b> .....	11
20 Board appointed members .....	11
21 Remuneration and Nominations Committee.....	11
22 Nomination procedures relating to appointed members .....	11
<b>Part 5 Staff, student and graduate members of Board</b> .....	12
<b>Division 1 Preliminary</b> .....	12
23 Definitions .....	12
24 Graduate member of Board.....	13
25 Application of Part .....	13
26 When is an election to be held?.....	13
27 Returning officer .....	13
<b>Division 2 Provisions relating to candidates and voters</b> .....	14
28 Rolls of the University.....	14
29 Graduates of University to be invited to enrol.....	15
30 Qualifications for candidates and voters .....	15
<b>Division 3 Calling of elections and nominations</b> .....	16
31 Calling of election .....	16
32 Making of nominations .....	17
33 Dealing with nominations .....	17
34 Notice of ballot .....	18
<b>Division 4 Manner of conducting ballot</b> .....	18
34A Types of ballot .....	18
<b>Division 5 Non-electronic ballot</b> .....	18
35 Conduct of non-electronic ballot.....	18
36 Material to accompany ballot papers .....	19
37 Contents of ballot paper .....	19
38 Method of voting .....	19
39 Procedure on close of ballot .....	20
40 Informal ballot papers .....	20

41 Counting of votes .....	20
<b>Division 6 Electronic ballot</b> .....	<b>21</b>
41A Conduct of electronic ballot.....	21
41B Material to accompany electronic ballot.....	22
41C Contents of electronic ballot .....	22
41D Method of electronic voting.....	22
41E Procedure on close of electronic ballot.....	22
41F Informal electronic vote.....	22
41G Counting of votes.....	23
<b>Division 7 Miscellaneous</b> .....	<b>23</b>
42 Terms of office of elected members.....	23
43 Filling of casual vacancy .....	24
<b>Part 6 Rules</b> .....	<b>24</b>
44 Rules.....	24
45 Publication of rules .....	25
46 What if rules are inconsistent? .....	25
<b>Part 7 Miscellaneous</b> .....	<b>25</b>
47 Repeal and savings.....	25

# Western Sydney University By-law 2005



New South Wales

## Part 1 Preliminary

### 1 Name of By-law

This By-law is the [Western Sydney University By-law 2005](#).

### 2 Definitions

(1) In this By-law:

**academic staff member** of the Board means the member of the Board referred to in section 12 (1) (d) of the Act.

**general staff member** of the Board means the member of the Board referred to in section 12 (1) (e) of the Act.

**graduate member** of the Board means a member of the Board referred to in section 12 (1) (h) of the Act.

**Office of the Vice-Chancellor** means the Vice-Chancellor, and the other members of staff of the University who assist the Vice-Chancellor to carry out his or her functions.

**postgraduate member** of the Board means the member of the Board referred to in section 12 (1) (g) of the Act.

**Remuneration and Nominations Committee** means the Committee of the Board established under clause 21.

**the Act** means the [Western Sydney University Act 1997](#).

**undergraduate member** of the Board means the member of the Board referred to in section 12 (1) (f) of the Act.

(2) In this By-law, a reference to full-time employment, in relation to any staff position, is a reference to employment on a basis designated by the Board as a half-time or greater basis.

### **3 Notes**

The notes in the text of this By-law do not form part of this By-law.

## **Part 2 Chancellor, Vice-Chancellor and other office holders**

### **4 Term of office**

- (1) For the purposes of section 13 (2) of the Act, the prescribed term of office for the Chancellor is as follows:
  - (a) in the case of a person elected to fill a vacancy in the office of Chancellor that arises because of the expiration of the term of office of the previous Chancellor, 4 years commencing on 1 January next following the election of the person,
  - (b) in any other case, the balance of the term of office of the previous Chancellor.
- (2) For the purposes of section 14 (2) of the Act, the prescribed term of office for a Deputy Chancellor is as follows:
  - (a) in the case of a person elected to fill a vacancy in an office of Deputy Chancellor that arises because of the expiration of the term of office of a previous Deputy Chancellor, 4 years commencing on 1 January next following the election of the person,
  - (b) in any other case, the balance of the term of office of the previous Deputy Chancellor.
- (3) The term of office for a Deputy Chancellor is, if a resolution made by the Board so provides, to be reduced from the period provided for in subclause (2) to such shorter period as may be specified in the resolution to ensure that the term corresponds with the term for which the Deputy Chancellor holds office as a member of the Board.

### **5 Title of Vice-Chancellor**

- (1) For the purposes of section 15 (6) of the Act, the position of Vice-Chancellor may be referred to as President of the University in addition to the title of Vice-Chancellor.
- (2) A position of Deputy Vice-Chancellor may be referred to as Deputy President of the University in addition to the title of Deputy Vice-Chancellor.

### **6 Membership of committees**

The Chancellor may, without specific appointment, exercise the right of membership of any committee established by the Board.

### **7 (Repealed)**

## **Part 3 Election of Chancellor and other office holders**

### **8 Definition**

In this Part:

**close of nominations**, in relation to an election under this Part, means the date and time by which nominations must be received by the returning officer for the election (as specified in a notice under clause 12).

### **9 Application of Part**

The following persons are to be elected by the Board in the manner provided for by this Part:

- (a) the Chancellor of the University,
- (b) the Deputy Chancellors of the University.

### **10 When is an election to be held?**

An election to fill a vacancy in the office of Chancellor or Deputy Chancellor is to be held (if practicable):

- (a) in the case of a vacancy that arises because of the expiration of the term of office of the current office holder, before the term of office of the current office holder expires, or
- (b) in any other case, within 3 months after the vacancy arises.

### **11 Returning officer**

- (1) The Vice-Chancellor must from time to time appoint a returning officer to conduct an election.
- (2) The returning officer may, subject to this By-law, decide all matters relating to the procedure for conducting an election under this Part.
- (3) Subject to the Act and this By-law, a decision of the returning officer relating to an election, including a decision relating to the eligibility of a candidate or a voter or the result of an election, is final.
- (4) The returning officer is entitled to attend meetings of the Board for the purpose of conducting an election under this Part.

### **12 Calling of election**

- (1) If an election is required to be held under this Part, the returning officer is to give notice of the election to the members of the Board at least 14 days before the meeting at which the election is to be held.

- (2) The notice must:
- (a) state that an election is to be held for the position or positions concerned, and
  - (b) specify the term of office of the position or positions, and
  - (c) invite members of the Board to nominate candidates for election and specify how nominations are to be made, and
  - (d) specify the date and time by which nominations must reach the returning officer, and
  - (e) provide any other information about the election that the returning officer considers it appropriate to provide.

### **13 Making of nominations**

- (1) A nomination for election to the office of Chancellor or Deputy Chancellor must:
- (a) be made in writing, and
  - (b) be signed by the candidate and 2 members of the Board (other than the candidate), and
  - (c) be received by the returning officer by the close of nominations.
- (2) There must be a separate nomination paper for each candidate and for each position.
- (3) A person may not nominate more than one candidate for each position. If a person nominates more than one candidate, the returning officer is to accept only the first nomination received by the returning officer from that person.
- (4) For the purposes of subclause (3), all of the persons who sign a nomination paper (as provided for by subclause (1) (b)) are taken to have nominated the candidate.
- (5) A candidate nominated for election may not withdraw that nomination after the date and time prescribed under clause 12 (2) (d).

### **14 Dealing with nominations**

If, at the close of nominations for an election:

- (a) there are no valid nominations, the returning officer must report this to the next meeting of the Board and call an election again in the manner provided for by clause 12, or
- (b) there is only one valid nomination, the returning officer is to report this to the next meeting of the Board and the Board may declare the person nominated to be elected, or



- (c) there is more than one valid nomination, the returning officer must:
  - (i) ensure that the name of each person so nominated is on the agenda for the meeting of the Board at which the ballot is to be conducted, and
  - (ii) conduct a ballot at that meeting as provided for by this Part.

#### **15 Distribution of ballot papers**

- (1) The returning officer is to ensure that ballot papers are issued to members of the Board:
  - (a) in person at the meeting at which the ballot is conducted, or
  - (b) by post before the meeting is conducted, but only to members of the Board who request the issue of a postal vote before the close of nominations for the election.
- (2) A separate ballot paper is to be issued for each position for which a ballot is to be conducted.
- (3) The returning officer may issue a duplicate ballot paper to a member of the Board, if the returning officer is satisfied that a ballot paper has been lost or destroyed.

#### **16 Contents of ballot papers**

- (1) A ballot paper is to contain the names of the candidates arranged in an order determined by the returning officer by lot.
- (2) A ballot paper is to include or be accompanied by instructions for voting.

#### **17 Method of voting**

- (1) Members of the Board may vote in an election:
  - (a) in person at the meeting at which the ballot is conducted, or
  - (b) by post.
- (2) The ballot is to be conducted as a secret ballot.
- (3) Each member of the Board who wishes to vote is to mark a vote on his or her ballot paper by placing the figure "1" opposite the name of the candidate to whom the member wishes to give his or her first preference.
- (4) If the member of the Board wishes to show his or her order of preference for any or all of the remaining candidates, the member may do so by placing consecutive figures (starting with the figure "2") opposite the names of any of the remaining candidates so as to indicate, in numerical sequence, the member's preference for them.
- (5) The returning officer must collect all completed ballot papers from the members of

the Board who are present at the meeting at which the ballot is conducted.

(6) The returning officer is to determine the procedure for voting by post.

### **18 Informal ballot papers**

(1) A ballot paper is informal if it has any mark or writing that, in the opinion of the returning officer, would enable any person to identify the voter.

(2) A ballot paper is informal if the voter has not indicated a clear preference for at least one candidate.

(3) The returning officer is to reject any informal ballot papers and count the formal ballot papers.

### **19 Counting of votes**

(1) The returning officer must count the number of first preference votes for each candidate.

(2) If the candidate who has the highest number of first preference votes has an absolute majority of votes, the returning officer is to declare that candidate the successful candidate.

(3) If no candidate has an absolute majority of votes, the returning officer must exclude the candidate who has received the fewest number of first preference votes and each of the ballot papers counted to that candidate is to be counted to the continuing candidate next in order of the voter's preference.

(4) If 2 or more candidates have an equal number of votes at the time that it is necessary to exclude one of them, the candidate to be excluded is to be determined by lot.

(5) The process referred to in subclauses (3) and (4) is to be continued until:

(a) one continuing candidate has an absolute majority of votes, in which case that candidate is to be declared the successful candidate, or

(b) there are only 2 continuing candidates who do not have an equal number of votes, in which case the candidate with the larger number of votes is to be declared the successful candidate (even if the number of votes is below an absolute majority of votes), or

(c) there are only 2 continuing candidates who have an equal number of votes, in which case the returning officer is to determine the successful candidate by lot.

(6) The returning officer is to report the name of the successful candidate to the Board and the Board may declare that candidate elected.

(7) In this clause, a reference to a vote is a reference to a formal vote.

## **Part 4 Appointed members of Board**

### **20 Board appointed members**

For the purposes of section 12 (1) (c) of the Act, the Board is to appoint 4 external persons as members of the Board.

### **21 Remuneration and Nominations Committee**

The Board is to establish a Remuneration and Nominations Committee consisting of the following persons:

- (a) the Chancellor,
- (b) the Deputy Chancellors,
- (c) the Vice-Chancellor,
- (d) one or more members of the Board who are external persons (within the meaning of section 12 (10) of the Act).

### **22 Nomination procedures relating to appointed members**

- (1) At least 60 days before the term of office of a member of the Board appointed under section 12 (1) (b) or (c) of the Act expires, the Remuneration and Nominations Committee is to identify persons who may be suitable for appointment as such a member.
- (2) The Committee is:
  - (a) to determine which of those persons are to be recommended to the Board:
    - (i) for nomination for consideration for appointment by the Minister, or
    - (ii) for appointment by the Board,as the case may be, and
  - (b) to recommend the length of appointment for each such person, and
  - (c) to forward its recommendations to the Board not less than 30 days before the term of office of the relevant member of the Board expires.
- (3) In determining the persons to be recommended under subclause (2) (a), the Committee is to have regard to:
  - (a) the skills and experience of the current members of the Board, and
  - (b) the matters referred to in section 12 (5) and (6) of the Act.
- (4) The Board is:

- (a) to consider the recommendations forwarded by the Committee, and
  - (b) to determine which of the recommended persons are to be:
    - (i) nominated for consideration for appointment by the Minister, or
    - (ii) appointed by the Board,as the case may be, and
  - (c) to determine:
    - (i) in the case of the persons referred to in paragraph (b) (i), the recommended length of appointment for each such person, or
    - (ii) in the case of the persons referred to in paragraph (b) (ii), the length of appointment for each such person.
- (5) The Chancellor is to forward the determinations referred to in subclause (4) (b) (i) and (c) (i) to the Minister.

## **Part 5 Staff, student and graduate members of Board**

### **Division 1 Preliminary**

#### **23 Definitions**

- (1) In this Part:

**close of nominations**, in relation to an election, means the date and time by which nominations must be received by the returning officer for the election (as specified in a notice under clause 31 (4)).

**close of the ballot**, in relation to an election, means the date and time by which ballot papers must be received by the returning officer for the election (as specified in a notice under clause 34 (3)).

**electronic vote**, in relation to an election, means a vote cast in the election by means of an electronic ballot form.

**voting site**, in relation to an election, means a secure internet site approved or managed by the returning officer for the purposes of enabling eligible voters to cast an electronic vote in the election.

- (2) For the purposes of this Part, the Board may determine the members of staff who are to be designated as academic staff and the members of staff who are to be designated as general staff.

## **24 Graduate member of Board**

For the purposes of section 12 (1) (h) of the Act, there is to be one graduate member of the Board who is to be an elected member.

## **25 Application of Part**

The elected members of the Board are to be elected in accordance with this Part.

### **Note—**

The elected members of the Board are as follows:

- (a) the academic staff member,
- (b) the general staff member,
- (c) the undergraduate member,
- (d) the postgraduate member,
- (e) the graduate member.

## **26 When is an election to be held?**

- (1) An election to fill a vacancy in the office of an elected member of the Board is to be held, if practicable, as follows:
  - (a) in the case of an election for an academic staff member of the Board—no earlier than 4 months before the end of the current member's term of office and before that term of office ends,
  - (b) in the case of an election for a general staff member of the Board—no earlier than 4 months before the end of the current member's term of office and before that term of office ends,
  - (c) in the case of an election for an undergraduate member of the Board—in the month of October in the year in which the current member's term of office expires,
  - (d) in the case of an election for a postgraduate member of the Board—in the month of March in the year in which the current member's term of office expires,
  - (e) in the case of an election for a graduate member of the Board—in the month of March in the year in which the current member's term of office expires.
- (2) In the case of an election that is required because of a casual vacancy in the office of an elected member (see clause 43), the election is to be held as soon as practicable after the vacancy occurs.

## **27 Returning officer**

- (1) The Vice-Chancellor must from time to time appoint a returning officer to conduct

elections for the elected members of the Board.

- (2) The returning officer may, subject to this By-law, decide all matters relating to the procedure for conducting an election under this Part.
- (3) The election is to be conducted by the returning officer, with the assistance of such persons as the returning officer may appoint to assist in the conduct of the election.
- (4) A candidate for election may not act as a returning officer in the election.
- (5) A candidate for election may nominate a scrutineer to assist in ascertaining the result of the election. However, a candidate for election may not act as a scrutineer.
- (6) Subject to the Act and this By-law, a decision of the returning officer relating to an election, including a decision relating to the eligibility of a candidate or a voter or the result of the election, is final.

## **Division 2 Provisions relating to candidates and voters**

### **28 Rolls of the University**

- (1) The Director of Human Resources for the University is to keep the following rolls:
  - (a) a Roll of Academic Staff containing the names of the members of the full-time academic staff employed at the University and who have accepted and started duty in a position with tenure of one year or more,
  - (b) a Roll of General Staff containing the names of the members of the full-time general staff employed at the University and who have accepted and started duty in a position with tenure of one year or more, but whose names are not entered on the Roll of Academic Staff.
- (2) The Academic Registrar for the University is to keep the following rolls:
  - (a) a Roll of Undergraduate Students containing the names of the students who are enrolled at the University as candidates proceeding to an undergraduate degree, diploma or certificate, but whose names are not entered on the Roll of Academic Staff or the Roll of General Staff,
  - (b) a Roll of Postgraduate Students containing the names of the students who are enrolled at the University as candidates proceeding to a postgraduate degree, diploma or certificate, but whose names are not entered on the Roll of Academic Staff or the Roll of General Staff,
  - (c) a Roll of Graduates containing the names of graduates of the University, but whose names are not entered on the Roll of Academic Staff or the Roll of General Staff.

- (3) The Director of Human Resources and the Academic Registrar for the University:
  - (a) are to give to the returning officer, one week before the close of nominations for an election, a current copy of the rolls required to be kept by this clause, and
  - (b) are to ensure that the returning officer is notified of any changes to those rolls occurring after the copy is given to the returning officer and before the close of nominations.
- (4) The returning officer must ensure that copies of the rolls are available for the University by the close of nominations for an election.

### **29 Graduates of University to be invited to enrol**

- (1) At least 2 months before the conduct of an election for a graduate member, the returning officer for the election is to publish a notice inviting graduates of the University or its predecessor institutions to register to vote in the election.
- (2) The notice is to be published in such newspapers or other publications as the returning officer considers appropriate.
- (3) The notice is to include information on how to register to vote.

### **30 Qualifications for candidates and voters**

- (1) The qualifications for election for a position as a member of the Board and voting at an election are as follows:

- (a) **Academic staff member**

The qualifications for election as an academic staff member of the Board, and the qualifications for voting at such an election, are that the candidate or voter, as the case may be, must have his or her name entered on the Roll of Academic Staff at the close of nominations for the relevant election.

- (b) **General staff member**

The qualifications for election as a general staff member of the Board, and the qualifications for voting at such an election, are that the candidate or voter, as the case may be, must have his or her name entered on the Roll of General Staff at the close of nominations for the relevant election.

- (c) **Undergraduate member**

The qualifications for election as an undergraduate member of the Board, and the qualifications for voting at such an election, are that the candidate or voter, as the case may be, must have his or her name entered on the Roll of Undergraduate Students at the close of nominations for the relevant election.

**(d) Postgraduate member**

The qualifications for election as a postgraduate member of the Board, and the qualifications for voting at such an election, are that the candidate or voter, as the case may be, must have his or her name entered on the Roll of Postgraduate Students at the close of nominations for the relevant election.

**(e) Graduate member**

The qualifications for election as a graduate member of the Board, and the qualifications for voting at such an election, are that the candidate or voter, as the case may be, must have his or her name entered on the Roll of Graduates at the close of nominations for the relevant election and must not be eligible to have his or her name entered on the Roll of Academic Staff, General Staff, Undergraduate Students or Postgraduate Students at the close of nominations for the relevant election.

- (2) A person may not stand for election for more than one position as a member of the Board, even if his or her name is entered on more than one Roll kept under this By-law.
- (3) An election is not invalid merely because of the failure or refusal of a returning officer or other person assisting a returning officer to issue voting papers to, or to accept a vote from, a person who is included in the relevant Roll.

## **Division 3 Calling of elections and nominations**

### **31 Calling of election**

- (1) If an election for an elected member of the Board is required to be held, the returning officer:
  - (a) is to publish a notice referred to in subclause (4) on the Internet by means of the website of the University, and
  - (b) may publish the notice in such other places or in such other manner as the returning officer considers appropriate (including, for example, by electronic or ordinary mail, the University's internal mail system or the University's notice boards).
- (2) The notice is to be published, as referred to in subclause (1) (a), no less than 7 days before the day nominations close in the election.
- (3) If practicable, the election is to be completed, and the result of the election declared, no later than 8 weeks after publication of the notice.
- (4) The notice must:



- (a) state that an election is to be held for the position or positions concerned, and
- (b) specify the term of office of the position or positions, and
- (c) invite people to stand for election to the position or positions, and
- (d) specify how nominations for election are to be made, and
- (e) specify the date and time by which nominations must reach the returning officer, and
- (f) specify the qualifications for election and for voting in the election, and
- (g) provide any other information about the election that the returning officer considers it appropriate to provide.

### **32 Making of nominations**

- (1) A nomination of a candidate for an election of a member of the Board must:
  - (a) be made in writing, and
  - (b) be signed by the candidate and 2 other people who are eligible to vote in the election, and
  - (c) be received by the returning officer by the close of nominations.
- (2) There must be a separate nomination paper for each candidate and for each position.
- (3) A person may not nominate more than one candidate for the same position on the Board. If a person nominates more than one candidate, the returning officer is to accept only the first nomination received by the returning officer from that person.
- (4) For the purposes of subclause (3), all of the persons who sign a nomination paper (as provided for by subclause (1) (b)), are taken to have nominated the candidate.
- (5) A candidate nominated for election may not withdraw that nomination after the date and time prescribed under clause 31 (4) (e).

### **33 Dealing with nominations**

- (1) If 2 or more nominations of persons for election to the same position on the Board are accepted by the returning officer, there must be a ballot for the position concerned.
- (2) If only one nomination of a person for election to a position on the Board is accepted by the returning officer, the returning officer is to declare the person nominated to be elected.
- (3) If there are no valid nominations for election to a position on the Board, the returning officer is to call an election again in accordance with clause 31.

### **34 Notice of ballot**

- (1) If a ballot is required, the returning officer:
  - (a) is to publish a notice referred to in subclause (3) on the Internet by means of the website of the University, and
  - (b) may publish the notice in such other places or in such other manner as the returning officer considers appropriate (including, for example, by electronic or ordinary mail, the University's internal mail system or the University's notice boards).
- (2) The notice is to be published, as referred to in subclause (1) (a), not less than 14 days before the day the ballot closes.
- (3) A notice of ballot must:
  - (a) state that there will be a ballot for the position or positions concerned, and
  - (b) specify how people may vote in the ballot (including how ballot papers will be distributed to eligible voters), and
  - (c) specify the date and time by which votes in the ballot must reach the returning officer, and
  - (d) provide any other information about the ballot that the returning officer considers it appropriate to provide.

## **Division 4 Manner of conducting ballot**

### **34A Types of ballot**

A ballot may be conducted by:

- (a) distributing ballot papers by post or by requiring eligible voters to attend a specified place or places managed or controlled by the University, at a specified date and time, in order to receive a ballot paper and vote in the election, or
- (b) by requiring eligible voters to access a voting site, between specified dates and times, in order to vote in the election.

## **Division 5 Non-electronic ballot**

### **35 Conduct of non-electronic ballot**

- (1) (Repealed)
- (2) In the case of a ballot that is conducted by requiring eligible voters to attend a place:
  - (a) the returning officer is to ensure that each eligible voter who attends the specified

place at the specified date and time receives a ballot paper, and

- (b) the returning officer is to ensure that each eligible voter who applied for a postal vote before the close of nominations is posted a ballot paper.
- (3) In the case of a ballot conducted by post, the returning officer is to ensure that a ballot paper is posted to each eligible voter no less than 14 days before the close of the ballot.
- (4) The returning officer may, on receipt of a written application, issue a duplicate ballot paper to an eligible voter, if the returning officer is satisfied that a ballot paper has been lost or destroyed.
- (5) The fact that a person whose name is on the relevant Roll of the University did not receive a ballot paper does not invalidate the election.
- (6) In this clause, a reference to an eligible voter is a reference to a person whose name is on the relevant Roll of the University at the date of the close of nominations for the election.

### **36 Material to accompany ballot papers**

Each ballot paper is to be accompanied by:

- (a) instructions for voting, and
- (b) a form of declaration of identity and entitlement to vote, and
- (c) 2 envelopes, one marked "Voting paper" and the other addressed to the returning officer.

### **37 Contents of ballot paper**

- (1) Each ballot paper is to contain the names of the candidates in the order determined by the returning officer.
- (2) The returning officer is to determine the order of the candidates on the ballot paper by lot.

### **38 Method of voting**

- (1) Each voter who wishes to vote is to mark a vote on the ballot paper by placing the figure "1" opposite the name of the candidate to whom the voter wishes to give his or her first preference.
- (2) If the voter wishes to show his or her order of preference for any or all of the remaining candidates, the voter may do so by placing consecutive figures (starting with the figure "2") opposite the names of any of the remaining candidates so as to indicate, in numerical sequence, the voter's preference for them.

- (3) The voter must then:
  - (a) place his or her ballot paper, without anything else, in the envelope marked "Voting paper", and
  - (b) place that envelope, and the declaration of identity and entitlement to vote, in the envelope that is addressed to the returning officer, and
  - (c) send or deliver the envelopes to the returning officer by the close of the ballot.

### **39 Procedure on close of ballot**

When the ballot is closed, and not before, the returning officer must, in the presence of those scrutineers who choose to be present:

- (a) open all the envelopes addressed to the returning officer, and
- (b) confirm that each declaration of identity and entitlement to vote has been signed by an eligible voter, and
- (c) separate those declarations from the envelopes containing the ballot papers, and
- (d) open all the envelopes containing ballot papers and take out the ballot papers, and
- (e) count the votes, and determine the result of the ballot, in the manner referred to in clause 41.

### **40 Informal ballot papers**

- (1) A ballot paper is informal if it has any mark or writing that, in the opinion of the returning officer, would enable any person to identify the voter.
- (2) A ballot paper is informal if it has not been initialled by the returning officer.
- (3) A ballot paper is informal if the voter has not indicated a clear preference for at least one candidate.
- (4) The returning officer is to reject any informal ballot papers and count the formal ballot papers.

### **41 Counting of votes**

- (1) Votes must be counted by the returning officer in accordance with this clause.
- (2) The returning officer must count the number of first preference votes for each candidate.
- (3) If the candidate who has the highest number of first preference votes has an absolute majority of votes, the returning officer is to declare that candidate elected.

- (4) If no candidate has an absolute majority of votes, the returning officer must exclude the candidate who has received the fewest number of first preference votes and each of the ballot papers counted to that candidate is to be counted to the continuing candidate next in order of the voter's preference.
- (5) If 2 or more candidates have an equal number of votes at the time that it is necessary to exclude one of them, the candidate to be excluded is to be determined by lot.
- (6) The process referred to in subclauses (4) and (5) is to be continued until:
  - (a) one continuing candidate has an absolute majority of votes, in which case that candidate is to be declared elected, or
  - (b) there are only 2 continuing candidates who do not have an equal number of votes, in which case the candidate with the larger number of votes is to be declared elected (even if the number of votes is below an absolute majority of votes), or
  - (c) there are only 2 continuing candidates who have an equal number of votes, in which case the candidate to be elected is to be determined by lot and the successful candidate is to be declared elected.
- (7) In this clause, a reference to a vote is a reference to a formal vote.

## **Division 6 Electronic ballot**

### **41A Conduct of electronic ballot**

- (1) In the case of a ballot that is conducted by requiring eligible voters to access a voting site, the returning officer is to ensure that each eligible voter is provided with all necessary information required in order to vote in the election including:
  - (a) the internet address of the voting site, and
  - (b) the passwords (if any) required to access the voting site,not less than 14 days before the close of the electronic ballot.
- (2) The returning officer is to ensure that computer and internet facilities are made available free of charge at each of the University's campuses in order to provide each eligible voter with an opportunity to access the voting site.
- (3) The returning officer may make additional arrangements to ensure that each eligible voter has an opportunity to access the voting site.
- (4) In this clause, a reference to an eligible voter is a reference to a person whose name is on a relevant Roll of the University at the date of the close of nominations for the election.

#### **41B Material to accompany electronic ballot**

The voting site must provide:

- (a) instructions for voting, and
- (b) a method of declaration of identity and entitlement to vote, and
- (c) any other information which the returning officer considers appropriate to include.

#### **41C Contents of electronic ballot**

- (1) The voting site is to contain the names of the candidates in the order determined by the returning officer.
- (2) The order of the candidates on the voting site must be determined randomly.

#### **41D Method of electronic voting**

- (1) Each voter who wishes to vote is to mark the electronic ballot form by typing a "1" opposite the name of the candidate to whom the voter wishes to give his or her first preference.
- (2) If the voter wishes to show his or her first preference for any or all of the remaining candidates, the voter may do so by typing consecutive figures (starting with the figure "2") opposite the names of any of the remaining candidates so as to indicate, in numerical sequence, the voter's preference for them.
- (3) The voter must then send the electronic ballot form to the returning officer in the manner described in the instructions for voting detailed on the voting site.

#### **41E Procedure on close of electronic ballot**

When the electronic ballot is closed, and not before, the returning officer must, in the presence of those scrutineers who choose to be present:

- (a) review all information and reports about the electronic ballot, and
- (b) determine the result of the electronic ballot.

#### **41F Informal electronic vote**

- (1) An electronic vote is informal if the voter has not indicated a clear preference for at least one candidate.
- (2) The voting site is to provide a warning message to any person casting an informal electronic vote that their proposed vote is informal prior to that person sending their electronic vote to the returning officer.
- (3) Each informal electronic vote is to be recorded by the voting site as an informal vote

and the voting site is to count the formal electronic votes.

#### **41G Counting of votes**

- (1) Votes must be counted by the voting site in accordance with this clause.
- (2) The voting site must count the number of first preference votes for each candidate.
- (3) If the candidate who has the highest number of first preference votes has an absolute majority of votes, the returning officer is to declare that candidate elected.
- (4) If no candidate has an absolute majority of votes, the returning officer must exclude the candidate who has received the fewest number of first preference votes and each of the electronic votes counted to that candidate is to be counted to the continuing candidate next in order of the voter's preference.
- (5) If 2 or more candidates have an equal number of votes at the time that it is necessary to exclude one of them, the candidate to be excluded is to be determined by the returning officer by lot.
- (6) The process referred to in subclauses (4) and (5) is to be continued until:
  - (a) one continuing candidate has an absolute majority of votes, in which case that candidate is to be declared elected, or
  - (b) there are only 2 continuing candidates who do not have an equal number of votes, in which case the candidate with the larger number of votes is to be declared elected (even if the number of votes is below an absolute majority of votes), or
  - (c) there are only 2 continuing candidates who have an equal number of votes, in which case the candidate to be elected is to be determined by the returning officer by lot and the successful candidate is to be declared elected.
- (7) In this clause, a reference to a vote is a reference to a formal vote.

### **Division 7 Miscellaneous**

#### **42 Terms of office of elected members**

- (1) For the purposes of clause 1 (1) (c) of Schedule 1 to the Act:
  - (a) the term of office of a person elected as an academic staff member, a general staff member or an undergraduate member of the Board is 2 years commencing on 1 January next following his or her election, and
  - (b) the term of office of a person elected as a postgraduate member of the Board is 2 years commencing on 1 July next following his or her election.
- (2) For the purposes of clause 1 (1) (d) of Schedule 1 to the Act, the term of office of a

person elected as a graduate member of the Board is 4 years commencing on 1 July next following his or her election.

- (3) If the office of an elected member of the Board becomes vacant otherwise than because of the expiration of the term of office of the office holder, and a person is appointed or elected to fill the vacancy, the term of office of that person is the residue of that term.

#### **43 Filling of casual vacancy**

- (1) Subclauses (2) and (3) apply for the purposes of clause 3 (3) of Schedule 1 to the Act.
- (2) If there is a casual vacancy in the office of academic staff member, general staff member, undergraduate member or postgraduate member of the Board, the following provisions apply:
  - (a) if the vacancy occurs within the first 12 months of the term of that office, a person is to be elected in accordance with this By-law to hold the office for the residue of the term,
  - (b) in any other case, the Board must appoint a person who is qualified to hold that office to hold the office of that member for the residue of the term.
- (3) If there is a casual vacancy in the office of graduate member of the Board, the Board must appoint the runner up in the most recent election for that position to hold the office of that member for the residue of the term. However, if the office cannot be filled in that way, the following provisions apply:
  - (a) if the casual vacancy occurs within the first 24 months of the term of office of the graduate member, a person is to be elected in accordance with this By-law to hold the office for the residue of the term,
  - (b) in any other case, the Board must appoint a person who is qualified to hold that office to hold the office of that member for the residue of the term.
- (4) In this clause:

***casual vacancy*** in an office means a vacancy that occurs in that office otherwise than because of the expiration of the term of office.

***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.

## **Part 6 Rules**

### **44 Rules**

- (1) The Board may make rules for or with respect to any or all of the matters for or with



respect to which rules may be made under the Act.

- (2) The Vice-Chancellor may make rules (not inconsistent with the rules of the Board) for the good conduct of the University.

**Note—**

Section 41 (1) of the Act provides that the by-laws may empower any authority (including the Board) or an officer of the University to make rules (not inconsistent with the Act or the by-laws) for or with respect to matters for which by-laws may be made, except the matters referred to in sections 3 (2), 12 (1) (c)-(h) and (8), 13 (2), 14 (2), 22 (1) (e) and (f) and 40 (1) (b) of the Act and clauses 1 (1) (c) and (d) and 3 of Schedule 1 to the Act.

#### **45 Publication of rules**

- (1) If the Board makes a rule, the Board:
  - (a) must ensure that the rule is published on the Internet by means of the website of the University and may publish the rule by any other method (including, for example, by electronic or ordinary mail), and
  - (b) must ensure that copies of the rule are made available for inspection at the Office of the Vice-Chancellor.
- (2) If the Vice-Chancellor makes a rule, the Vice-Chancellor:
  - (a) must ensure that the rule is published on the Internet by means of the website of the University and may publish the rule by any other method (including, for example, by electronic or ordinary mail), and
  - (b) must ensure that copies of the rule are made available for inspection at the Office of the Vice-Chancellor.

#### **46 What if rules are inconsistent?**

If the Vice-Chancellor makes a rule that is inconsistent with a rule made by the Board, the rule made by the Board prevails to the extent of the inconsistency.

**Note—**

Section 41 (3) of the Act provides that in the event of any inconsistency between a by-law and a rule, the by-law prevails to the extent of the inconsistency.

### **Part 7 Miscellaneous**

#### **47 Repeal and savings**

- (1) The *University of Western Sydney By-law 2002* is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the *University of Western Sydney By-law 2002*, had effect under that By-law continues to have effect under this By-law (but only to the extent that it relates to this By-law and is not inconsistent with this By-law and the acts, matters or things done under this By-law).

- (3) In particular, any rule made pursuant to a provision of the repealed By-law is taken to have been made pursuant to the corresponding provision of this By-law (subject to clause 19 of Schedule 4 to the Act).

**Note—**

Clauses 18 and 19 of Schedule 4 to the Act continue in force the by-laws and rules made under the *University of Western Sydney Act 1988*.