



# Election Regulations

As ratified 10/08/2022

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# Division 1 – Elections of the Association

## 1. Purpose

- 1.1 The Student Council has established the regulations contained herein to provide for the conduct of elections and referenda. These regulations must be adhered to by all engaged in elections, including students, staff and election officials. This document, in conjunction with the Constitution and the FUSA Empire Times Regulations, shall be the basis upon which all decisions regarding FUSA elections are made.

## 2. Definitions

- 2.1 Unless otherwise defined in these regulations, the definitions outlined in section 1 of the FUSA Constitution shall apply to these regulations.
- 2.2 In these regulations, unless some other meaning is clearly intended;
- 'Academic Day'** means a day on which university classes are normally scheduled, during a standard university semester, and which is not a Saturday, Sunday or public holiday;
- 'Campaign'** or **'Campaigning'** means assisting with the election of a candidate or group of candidates in an election;
- 'Campaign Assistant'** is an enrolled student who campaigns for a candidate or a group of candidates during the election period;
- 'Constitution'** means the Constitution of the Flinders University Student Association as approved by University Council;
- 'Droop Quota'** means the formula first published in 1868 by mathematician and lawyer, Henry R Droop as used for all single transferable vote (STV) systems in Australia with reference to the method of calculating the quota;
- 'Election Period'** means the period of time from the opening of nominations until the declaration of results;
- 'FUSA Election Tribunal'** is the appointed three (3) person body that adjudicates on disputed decisions of the Returning Officer;
- 'Group of Candidates'** refers to candidates, campaigners and campaign assistants who share approved election material;
- 'Inappropriate'** means behaviour that includes but is not limited to being misleading, offensive, deceptive, discriminatory or defamatory;
- 'Offensive Material'** means defamatory material or material that discriminates on the basis of a person's age, sex, sexuality, race, chose gender or other



personal characteristic under the terms of the *South Australian Equal Opportunity Act*;

'**Polling Booth**' means a private enclave in which to cast a vote which is housed within the area deemed to be a polling place;

'**Polling Period**' means the period of time specified by the Returning Officer between the opening of polling and the closing of polling;

'**Quota**' means the number of votes a candidate needs to be certain of election, calculated using the Droop quota:

$$\frac{\text{total number of formal votes} + 1 \text{ (disregarding any remainder)}}{(\text{number of candidates to be elected} + 1)}$$

For example, if there would be a total of 10,000 formal votes and 4 candidates to be elected, the quota would be:

$$\frac{10,000+1}{(4+1)} = 2001$$

'**Returning Officer**' means a person or organisation engaged by Student Council to conduct an election;

'**Student**' means any student enrolled in a topic for which the date nominations open falls within the teaching dates. Non-award students are not included within this definition;

'**University Staff**' means any staff member employed by Flinders University.

### 3. Notification of the Election

3.1 In accordance with Section 12 of the Constitution, elections must be held between 1 August to 15 October.

3.2 To call an election the Association must:

- a) announce the appointment of an individual to act as the Returning Officer, consistent with section 4 of these regulations;
- b) announce the appointment of an individual(s) to act as the Assistant Returning Officer(s), consistent with section 4 of these regulations;
- c) announce the composition of and, if required, any appointments to the FUSA Election Tribunal, consistent with section 17 of these regulations;
- d) announce the positions up for election;
- e) detail the timeline for the conduct of the election.

3.3 The timeline shall include, but not be limited to:



- a) notification of the election to the electorate consistent with clause 10.4;
- b) closing of the electoral roll consistent with clause 10.2 of these regulations;
- c) opening and closing of nominations consistent with clause 10.4 and clause 10.5 of these regulations;
- d) polling period consistent with clause 10.9 of these regulations; and
- e) polling booth dates, times and locations consistent with clause 11.9 of these regulations.

## **4. Appointment of Returning Officer, Assistant Returning Officers, Poll Clerks and Scrutineers**

4.1 Each election shall be conducted by a Returning Officer. The Returning Officer must:

- a) not be an enrolled student at Flinders University for a period of two (2) years preceding their appointment;
- b) not stand as a candidate for election;
- c) not second a candidate for election;
- d) not vote in the election;
- e) not have been a candidate in a FUSA Student Council election in the last five (5) years;
- f) not be a staff member of the Association or the Manager, Student Engagement; and
- g) have legal qualifications at a minimum of Bachelor level, or be endorsed as a Returning Officer by either the Australian Electoral Commission or the Electoral Commission of South Australia.

4.2 The Manager, Student Engagement shall suggest a Returning Officer for the election or referendum. Student Council shall authorise, reject or appoint an alternative nomination for the role of Returning Officer.

4.3 The Returning Officer must be appointed no later than the first academic day in the week, ten weeks before the elections, or as soon as practicable before a by-election or referendum not held in conjunction with the elections.

4.4 If a Returning Officer is not appointed by the prescribed date outline in clause 4.3, Student Council Executive will appoint the Returning Officer. All Members of Student Council must be invited to be present for the appointment of the Returning Officer

4.5 The Returning Officer may appoint Assistant Returning Officers to assist with the conduct of the election. Assistant Returning Officers must:



- a) not stand as a candidate for election;
  - b) not second a candidate for election;
  - c) not vote in the election;
  - d) not be a current member of Student Council;
  - e) not be the Manager, Student Engagement; and
  - f) not influence any decision of the Returning Officer.
- 4.6 The Returning Officer may appoint Poll Clerks as they see fit to assist with the running and monitoring of on-campus polling booths. No person can be considered for the position of Poll Clerk if:
- a) they hold or have held within the last three (3) years an election position or office of FUSA;
  - b) a member of their immediate family is a candidate for the election;
  - c) they are determined by the Returning Officer to be involved with a candidate or group of candidates to the extent that their integrity may be impaired.
- 4.7 For each election, the Returning Officer shall appoint at least two (2) observers who are students and not candidates for election. At the close of nominations, candidates must be invited to appoint one scrutineer each, who must be a student. A candidate may replace this scrutineer at any point during the election process by writing to the Returning Officer.

## **5. Responsibilities and Powers of the Returning Officer**

- 5.1 The Returning Officer:
- a) is responsible for the conduct of elections, in accordance with these regulations and the Constitution and the Association's commitment to being a culturally safe environment;
  - b) is responsible from the commencement of the election period until the declaration of results, for interpreting these regulations and the Constitution;
  - c) must act at all times in accordance with these regulations and the Constitution;
  - d) may act and make such determinations with respect to elections as they see fit, where not otherwise provided for in these regulations or in the Constitution, provided they act fairly, with regard for the health and wellbeing of all students participating in the elections, and their actions do not bring the poll into disrepute;
  - e) may apply disciplinary actions to candidates, groups of candidates or campaigning assistants in accordance with these regulations;



- f) may refer issues of a disciplinary nature regarding the behaviour of students to the FUSA Election Tribunal or to the appropriate university bodies;
  - g) must decide questions of fact on the balance of probabilities; and
  - h) must declare any conflicts of interest and act with impartiality.
- 5.2 The Returning Officer may implement disciplinary actions in accordance with these regulations, if satisfied that it is warranted because a person involved in the elections has breached these regulations, engaged in prohibited conduct, or in any other way acted improperly, dishonestly, or unfairly.
- 5.3 The Returning Officer must ensure that any disciplinary actions undertaken under these regulations are applied fairly and equitably.
- 5.4 A written determination of the Returning Officer is conclusive and may only be appealed to the FUSA Election Tribunal. The Returning Officer must circulate the decision via email to all candidates.
- 5.5 Any determination of the Returning Officer may be appealed to the FUSA Election Tribunal in accordance with the timeframe specified in clause 16.5. Such appeals must specify the reasoning for the appeal, including reasoning as to why the determination of the Returning Officer is considered incorrect.

## **6. Election of Office Bearers, Student Council Officers and General Members of the Student Council**

- 6.1 Elections to fill the positions of the Office Bearers of the Association, Student Council Officers and General Members of the Student Council shall be held between 1 August and 15 October of each year.
- 6.2 A person elected at an election shall hold office until the expiry date of their term of office or the vacation of office, as specified in the Constitution.
- 6.3 If at any election one or more positions are unfilled, the Returning Officer shall inform the Student Council and the Student Council shall treat the unfilled positions as vacancies to be filled in accordance with the Constitution.

## **7. Election of National Union of Students (NUS) Delegates**

- 7.1 Election of the NUS Delegates shall be conducted in conjunction with the FUSA elections and in accordance with provisions of the NUS Constitution and regulations and the FUSA Constitution and regulations.



- 7.2 The Returning Officer shall inform the NUS of the election and shall provide an election report to the NUS that complies with the relevant bylaws as detailed in the NUS Constitution.
- 7.3 When a provision of the NUS Constitution or regulations is inconsistent with the FUSA Constitution and regulations, the former shall prevail, and the latter shall, to the extent of the inconsistency, be invalid.
- 7.4 A separate nomination form, as detailed in clause 14.2, must be made available.

## **8. Election of Empire Times Editorial Team**

- 8.1 Election of the Empire Times Editorial Team shall be conducted between 1 August and 15 October, in accordance with provisions of the Empire Times Regulations, and in a manner consistent with the election procedures mandated by the FUSA Constitution and these regulations.
- 8.2 When a provision of the Empire Times Regulations is inconsistent with the FUSA Constitution and/or these regulations, the latter shall prevail, and the former shall, to the extent of the inconsistency, be invalid.
- 8.3 Candidates for the Empire Times Editorial Team must nominate as a team. In order for a nomination to be valid, all team members must have consented to the nomination in writing by the close of nominations.
- 8.4 A separate nomination form, as detailed in clause 14.2, must be available.

## **9. Eligibility**

- 9.1 Any enrolled Flinders Student who is a member of the Association is eligible to be a candidate and/or vote in the election and any subsequent by-elections, except:
  - a) only students who identify as women are eligible to be candidates for the position of Women's Officer;
  - b) only students who identify as Lesbian, Gay, Bisexual, Transgender, Queer, Intersex or Asexual are eligible to be candidates for the position of Queer Officer;
  - c) only Aboriginal and/or Torres Strait Islander students are eligible to be candidates and/or vote for the position of First Nations Students Officer;
  - d) only International Students are eligible to be candidates for the position of International Students Officer;
  - e) only Postgraduate Students are eligible to be candidates for the position of Postgraduate Students Officer;



- f) only students who identify as having a disability are eligible to be candidates for the position of Disabilities Officer;
- g) only students aged twenty-five years of age or older on the date the term of the position begins are eligible to be candidates for the position of Mature Age Officer;
- h) Only students who identify as a Person of Colour are eligible to be candidates for the position of People of Colour Officer.

## **10. Nomination and Election Procedure**

- 10.1 The Returning Officer will determine the eligibility of voters, candidates, nominators and seconders in accordance with the University's official student records.
- 10.2 The Returning Officer will request that an electronic electoral roll for the relevant electorate be generated from the Student Records System, together with an email address for each individual on the electoral roll.
- 10.3 On confirmation of the request for the electoral roll outlined in clause 10.2, no further changes shall be made to the electoral roll unless a technical error can be evidenced as per clause 12.5.
- 10.4 The Returning Officer will, not less than twenty-eight (28) calendar days before any election, notify each student of the election and invite nominations, by way of an email notification to all members of the electorate.
- 10.5 Nominations for election will be lodged with the Returning Officer by a time to be nominated by the Returning Officer on the fourteenth (14) calendar day after the opening of nominations. Each nomination must be from an eligible student giving their signed consent (or online equivalent) to the nomination, and include the signed consent (or online equivalent) of a seconder who must also be a student.
- 10.6 It is mandatory to submit a statement for each position nominated for, which is limited to 300 words for each position. This must be submitted to the Returning Officer with the nomination form.
- 10.7 Upon the closing of nominations, the Returning Officer must:
  - a) declare candidates elected for any position where the number of candidates does not exceed the number of vacancies to be filled; and
  - b) arrange for electronic notification to be sent to each student, and electronic access be given to:
    - i. a ballot form; and
    - ii. instructions concerning the method of voting and the return of the ballot using the electronic voting procedure.



- 10.8 For each selection, the order of the candidate's names appearing on the ballot form shall be determined by random selection, under the supervision of the Returning Officer and the scrutineers and observers, appointed as outlined in clause 4.7.
- 10.9 Voting shall be open for a period of no less than three (3) academic days and no more than four (4) academic days. Voting shall be open for a minimum of six (6) hours per day. The polling period must take place in the same calendar week.

**Note:** *In accordance with section 19 of the Constitution, where a referendum is being conducted at the same time as an election, the Returning Officer must ensure that at least ten (10) academic days' notice of the dates and times of voting for the referendum and the question or questions to be put are given to students.*

## **11. Conduct of the Ballot**

- 11.1 In accordance with section 16 of the Constitution, all elections must be conducted by secret ballot and must use optional preferential voting.
- 11.2 Each valid voter may only lodge their ballot form during the polling period.
- 11.3 Only ballots of valid voters will be included in the count, and each voter will be entitled to vote once only.
- 11.4 Voters must place the number 1 against a candidate's name to cast a formal vote, and may list the other candidates in order of preference.
- 11.5 No postal ballots will be provided for.
- 11.6 The security of the vote counting system and the privacy of each voter in lodging a vote will be protected by appropriate protocols and procedures.
- 11.7 For the purpose of elections, a ballot will normally be conducted electronically using a computer software package used by the University for the conduct of all elections.
- 11.8 The electronic voting system will use a computer program that transfers individual votes into a count or election tally. The characteristics of the electronic system and the methodology to be adopted will be as follows:
  - a) each voter must express a first preference to cast a formal vote;
  - b) duplicate preferences and preferences following interruption in the sequence of a ranking will be deemed informal;
  - c) a quota will be calculated as required for proportional representation using the Droop Quota;
  - d) surplus votes of elected candidates will be transferred according to a voter's optional preferences;
  - e) the value of surplus votes will be calculated with each vote having a fractional value;



- f) the remaining candidate with the lowest number of votes will be eliminated and the votes will be re-distributed according to voter preferences; and
  - g) when there is a tie:
    - i. regard shall be had to the total number of votes credited to those candidates at the end of the most recently preceding stage of the count at which they had an unequal number of votes and the candidate with the lowest number of votes at that stage shall be excluded;
    - ii. where the number of votes credited to those candidates was equal at all stages, the Returning Officer shall decide, by lot, which of those candidates is to be excluded.
- 11.9 One (1) polling place will be set-up on the main Bedford Park campus. The polling place must:
- a) provide electronic voting only;
  - b) consist of a minimum of four polling booths with functioning computer terminals or electronic devices that support online voting; and
  - c) must be open for each day of the election and for a period of no less than four (4) hours. Opening hours must fall between 8am and 6pm.
- 11.10 On the recommendation of the Manager, Student Engagement, Student Council may approve the setting up of additional polling places, specifying opening hours and number of polling booths, on the main Bedford Park campus or on any other Flinders University campus.
- 11.11 A polling place will be an area around the polling booths of no less than six (6) metres from the polling booths. An area defining the polling place will be allocated at the Returning Officer's discretion, and whenever practicable the Returning Officer must make a line defining the polling place.
- 11.12 All campaigning inclusive of displaying election material is prohibited within a polling place.
- 11.13 A minimum of one (1) Poll Clerk shall staff polling places at all times.
- 11.14 If it is not practicable to conduct an electronic election for any given election, for that election the ballot will be conducted with a manual election process consistent with clause 11.8.
- 11.15 In the case of a by-election there is no requirement to establish a polling place unless the by-election is to fill the position of Student President.

## **12. Electronic Vote Counting**



- 12.1 At each election, votes shall be counted electronically. The scrutineers as appointed under clause 14.7 shall be invited to observe the count, be provided with information about the electronic counting process and will be informed of the outcome of the count.
- 12.2 Only the ballots of valid voters will be included in the count. Voter validation will be achieved by using at least one personal identifier (e.g. their allocated student number and email address) to log into the voting site.
- 12.3 Once a voter submits their ballot, their ballot is permanently cast and cannot be altered.
- 12.4 The electronic software package must anonymously record all valid votes made in the election. The election software package must be able to reproduce a copy of all ballots cast without voter information to ensure that the vote can be recounted for the purpose of an audit.
- 12.5 Prior to the poll closing, the Returning Officer may authorise the addition to the electoral roll of the name of an eligible voter if they have been excluded on technical or other grounds.
- 12.6 After the poll closes, the ballot file will be subjected to the tally program, under the supervision of a responsible officer from the Information Technology Services or approved external provider. There will be no manual entry of data from one file to another.
- 12.7 In the event that polling is interrupted by a temporary breakdown or temporary unavailability of the server, there will be no extension of the polling period, unless the interruption occurs on the final day of the polling period. In the latter event, the polling period will be extended to 6:00pm and the Returning Officer may seek approval from Student Council to arrange for the whole or part of the election process to be run again either electronically or manually.
- 12.8 The system will be auditable and will be subject to appropriate scrutiny by the Returning Officer and scrutineers.
- 12.9 At the request of the Returning Officer, hard copy reports will be produced at each step in the electronic voting process to enable the Returning Officer and scrutineers to monitor the accuracy of the roll, the balloting data and the count, and to enable the reports to be reconciled to ensure that all ballots are accounted for.

## **13. Election Results**

- 13.1 At the completion of the tally, the tally reports will be forwarded to the Returning Officer, who will review the reports in the presence of the scrutineers appointed under clause 4.7 and then declare the result of the election. This must



occur by close of business on the day the polls close, or by 12pm the following business day if polls close after 4pm.

- a) In the event of outstanding disputes before the Returning Officer or the FUSA Election Tribunal as of the close of polls, the Returning Officer and the Election Tribunal must meet within one (1) hour of the close of polls to determine whether or not outstanding complaints or appeals are prima facie likely to impact the outcome of the election if upheld.
- b) The review of results by the Returning Officer, in the presence of scrutineers, can only be delayed if all Election Tribunal members, and the Returning Officer, agree unanimously that outstanding complaints or appeals are likely to impact the outcome of the election if upheld.
- c) A finding under clause 13.1(b) that a complaint or appeal is likely or unlikely to impact the outcome of the election, shall in no way preclude the Returning Officer or Election Tribunal from following the processes set out by these regulations, or through their exercise of any powers granted to them by these regulations.

13.2 As soon as possible after the counting of votes has been completed, the Returning Officer shall declare and notify students of the result of the election.

13.3 The Returning Officer shall also inform the candidates of the result of the election.

13.4 The Returning Officer shall, on request of a student, inform that student of the number of votes cast for each candidate in the election.

## **14. Election Material and Website**

14.1 Under the supervision of the Returning Officer, an election website will be constructed and managed to provide information to voters and provide access to the electronic election system.

14.2 The election website will provide voters with access to nomination forms, candidate statements, electronic ballot forms and instructions on how to cast a vote. This will include separate nomination forms for the NUS Delegate Election and for the Empire Times Editorial Team Election.

14.3 The Returning Officer will be responsible for authorising all information relating to the election that is to be posted on the website or emailed to voters, including the nomination form, the closing date for nominations, the names of candidates, the statements of candidates, hours of opening and the location of polling places, and voting instructions.



- 14.4 All election material, including but not limited to leaflets, posters, t-shirts, websites (including social media pages) to be utilised by candidates or groups of candidates must be submitted to the Returning Officer for authorisation.
- 14.5 Election Material must be submitted to the Returning Officer at least forty-eight (48) hours before the opening of the election. After forty-eight (48) hours, only alterations of previously approved material are allowed to be re-submitted. Any materials submitted prior forty-eight (48) hours before the opening of polls must be considered by the Returning Officer.
- 14.6 The display of Election Material, whether online (including social media posts) or on campus (such as banners and posters), is not permitted until after 3pm the day before the election begins. All election material must be removed from campus forty-eight (48) hours after the close of the election.
- 14.7 Where websites (including social media accounts) are to be used to publicise campaign material, the candidate publishing the material must submit the URL of the website to the Returning Officer as per clauses 14.4 and 14.5 of these regulations. The Returning Officer must have necessary access to be able to view all content published on that page for the duration of the polling period. Websites authorised by the Returning Officer must contain the statement "Page authorised by the Returning Officer". Provided the page is approved, it is not necessary to submit every piece of social media material to the Returning Officer for approval. However, the Returning Officer may require removal of any material on an approved website which breaches these rules, following the process in section 15.
- 14.8 Only Flinders University Students are allowed to campaign in student elections on Flinders University campuses.
- 14.9 While campaigning, all candidates, groups of candidates and campaign assistants must wear their Flinders University Student Card in a manner that is clearly visible.  

Where an individual is unable to locate or does not wish to use their student identification the Association can provide temporary identification that must be checked against the electoral roll and, where relevant, the Association's membership list.
- 14.10 On the request of the Returning Officer, Assistant Returning Officers, Poll Clerks, the Manager, Student Engagement or Flinders University Security Officers all candidates, groups of candidates and campaign assistants must produce their Flinders University Student Card or Association temporary identification.
- 14.11 If approached by candidates, groups of candidates or campaign assistants in the act of campaigning, all eligible voters are entitled to ask candidates, groups of



candidates and campaign assistants to produce their Flinders University Student Card or Association temporary identification.

## **15. Prohibited Conduct**

15.1 If the Returning Officer reasonably believes that a candidate, group of candidates, or campaign assistant has engaged in prohibited conduct, or intends to engage in conduct prohibited under s15 of these Regulations, they may institute one or any of the following disciplinary actions, provided that the action is proportionate to the nature and seriousness of the breach, after they have notified the candidate, group of candidates, or campaign assistant in question and provided an opportunity for them to state their case :

- a) Issuing a warning
- b) Overseeing an informal grievance resolution process
- c) Requiring the removal of any prohibited materials
- d) Requiring the retraction of prohibited materials by any means deemed appropriate by the Returning Officer
- e) Requiring a person or persons to suspend campaigning (in person and/or online) for a period of time
- f) Requiring a person or persons to remove themselves from campus during polling place opening hours
- g) Disqualifying a person from the election in question
- h) Declaring the election in question void
- i) Ordering a new election
- j) Referring the matter to the Election Tribunal

15.2 It is prohibited for any candidate, group of candidates or campaign assistants to campaign within the defined areas of a polling place.

15.3 Without limiting the generality of section 15, a candidate, group of candidates, or campaign assistant shall not;

- a) engage in coercion or intimidation of voters;
- b) engage in any dishonest practice in relation to an election;
- c) in relation to an election, print publish, verbalise or distribute, or cause, permit or authorise to be printed, published or distributed, any matter or thing containing a statement;
  - i. that is untrue;
  - ii. that is, or is likely to be, misleading or deceptive; or
  - iii. that is discriminatory, sexist, racist or homophobic;
- d) knowingly and without due care make or publish any false statement in relation to the conduct of a candidate;
- e) pay for a person to campaign with currency, goods or services;



- f) impersonate another person;
  - g) deface, mutilate, destroy or remove any notice, list or other document affixed or posted by the Returning Officer;
  - h) deface, mutilate, destroy or remove any election material without the authority of the publisher of that material;
  - i) engage in behaviour that is intimidatory, aggressive, threatening or harassing towards any other person(s);
  - j) engage in disruptive conduct at a polling place;
  - k) hinder the Returning Officer, Assistant Returning Officer, Poll Clerk or any other person appointed to assist the Returning Officer in the execution of their duties;
  - l) hinder the FUSA Election Tribunal in the execution of their duties;
  - m) record a vote for which they are not entitled; or
  - n) contravene clause 16.2 of the Association's Constitution that upholds the principle that all elections must be by secret ballot.
- 15.4 Display of materials, excluding banners, are not permitted unless they are on the concrete bollards on the plaza or on general notice boards.
- 15.5 Campaigning and display or distribution of election material is not allowed in Yungkurinthe Truku or the Student Centre, nor in computer labs, tutorial rooms, lecture theatres, designated teaching spaces, polling places, the library or any eating or drinking areas.
- 15.6 A Candidate, group of candidates, or campaign assistant cannot offer food, beverage or other items outside of approved promotional material to students as part of their campaign.
- 15.7 A candidate, group of candidates, or campaign assistant cannot use the Association's resources, including but not limited to photocopiers and stationery, for electoral campaigning.
- 15.8 A candidate, group of candidates, or campaign assistant may not distribute election material through
- a) mailing lists obtained through the Association, Clubs or Collectives or Academic Associations; or
  - b) the University Global Directory, University mailing lists, or any other University platform unless it is a personal communication to a recipient personally known to the sender.
- 15.9 Any FUSA Election, including the Casual Vacancy Selection Process, shall be free from interference from University Staff.
- a) Interference may take the form of endorsement, encouragement, criticising decisions of students or student representatives, expressing opposition or approval of certain student representatives or student political groups (e.g. factions, parties, clubs, collectives or



associations), offering unsolicited opinions or advice, endorsements or disendorsements of certain candidates or groups of candidates.

- b) University Staff who are also concurrently students may participate in any FUSA Election without falling afoul of sub-clause 15.9(a), provided they do not engage in any form of interference in the course of their duties as University Staff.
- c) Sub-clause 15.9(a) does not prevent University Staff from promoting and encouraging the casting of votes at a polling booth during the period of an election, or providing information to candidates, groups of candidates or candidate assistants. Such information must be strictly limited to procedural, logistical and regulatory matters under these regulations. Staff cannot advise on techniques and/or strategies, or provide observations or any other matter relating to the running of a campaign.

**For example:** Clause 15.9 allows University Staff to advise candidates about what is permitted to be posted on social media under these regulations, however, at no point can a member of University Staff advise about what might be posted on social media to maximise chances of electoral success.

15.10 Where the Returning Officer has observed conduct not in breach of the Election Regulations that they reasonably believe may constitute a breach of University by-laws or policies, the Returning Officer will refer the matter to the Manager, Student Engagement to determine if further action, such as a referral to an appropriate support service, is required.

## 16. Disputes

- 16.1 Any claim of a breach of the Election Regulations can be made in the period from the notification of the election until no later than five (5) business days after the declaration of the poll.
- 16.2 Any claim of a breach of the Election Regulations must be presented to the Returning Officer in writing and must be supported by one additional student.
- 16.3 Upon receipt of a claim, the Returning Officer must:
  - a) dismiss the matter;
  - b) uphold the complaint; or
  - c) convene a meeting of the FUSA Election Tribunal to hear the appeal.
- 16.4 If the Returning Officer or Election Tribunal have found that a claim of breach does not breach the Election Regulations but may constitute a breach of University by-laws or policies, the Returning Officer will forward the complaint



- to the Manager, Student Engagement to determine if further action, such as a referral to an appropriate support service, is required.
- 16.5 In the event of a complaint that sub-clause 15.3(c) has been breached, the complainant shall have the burden of proof to establish that a statement was made, and by whom. The person alleged to have made the statement subject of the complaint shall then have the burden of proof to establish that it was not a breach of sub-clause 15.3(c)
- 16.6 If the Returning Officer finds that a candidate has committed any offence against, or has disregarded or not complied with any Election Regulation or procedure, the Returning Officer may institute one or any of the following disciplinary actions after they have notified the candidate in question and provided an opportunity for them to state their case;
- a) issue a warning to the candidate;
  - b) suspend the candidate from campaigning for a period of time;
  - c) suspend other campaigners or campaign assistants who have campaigned for the candidate in question or as a part of their group of candidates from campaigning for a period of time;
  - d) disqualify the candidate from the election in question;
  - e) declare the election void;
  - f) order a new election; or
  - g) refer the matter to the FUSA Election Tribunal.
- 16.7 In the case of any dispute regarding Election Regulations, procedures or conduct of candidates or campaigners, the Returning Officer shall be the arbiter. Further appeal may be made to the FUSA Election Tribunal.
- 16.8 An appeal to the FUSA Election Tribunal must be presented to the Returning Officer within forty-eight (48) hours of the Returning Officer's determination; the appeal must be in writing and must be supported by at least two (2) eligible students.
- 16.9 In the event that a candidate lodges an appeal against a decision of the Returning Officer, the Returning Officer must call a meeting of the FUSA Election Tribunal as soon as practically possible and no later than close of business the following business day or twenty-four (24) hours, whichever is met first, after the receipt of the application to appeal, excluding weekends and Public Holidays.

## **Division 2 – FUSA Election Tribunal**



## **17. Membership and Appointment**

- 17.1 There shall be a FUSA Election Tribunal.
- 17.2 The FUSA Election Tribunal shall be comprised of three (3) persons suggested by the Manager, Student Engagement and approved by the Student Council.
- 17.3 At least one (1) of the members of the FUSA Election Tribunal shall have legal qualifications at a minimum of Bachelor level.
- 17.4 Tribunal members are prohibited from having been an enrolled student at Flinders University for a period of two (2) years preceding their appointment. Tribunal members may also not have been a candidate in a FUSA Student Council election in the last five (5) years.
- 17.5 The FUSA Election Tribunal shall be reconfirmed or appointed for the following year by the Manager, Student Engagement and approved by the Student Council once the notification of Election has occurred. In the event of a vacancy subsequent to this the Student Council shall fill any vacancy by appointment. Each member remains a member of the FUSA Election Tribunal until they:
  - a) resign;
  - b) are unable to fulfil their duties; or
  - c) are removed by Student Council by two-thirds majority vote.
- 17.6 Members of the FUSA Election Tribunal may not be removed during the election period.

## **18. Powers and Duties**

- 18.1 Any candidate may make an appeal to the FUSA Election Tribunal, subject to section 16 of these regulations.
- 18.2 The FUSA Election Tribunal shall hear appeals and determine disputes under the Regulations and Constitution of the Association. Subject to the Association's Constitution and Regulations, the FUSA Election Tribunal may regulate proceedings as they see fit.
- 18.3 If the FUSA Election Tribunal finds that a successful candidate has committed a severe breach of these regulations, the election of a successful candidate may be declared void.
- 18.4 The FUSA Election Tribunal shall not declare that any person returned as elected was not duly elected, or declare any election void;
  - a) on the grounds that any illegal or improper offence against or noncompliance with these regulations were committed by any person other than the candidate and without their knowledge or authority;
  - or



- b) on the grounds permitted by sub-clause 18.4(a) unless the FUSA Election Tribunal is satisfied that the result of the election was likely to be affected, and that it is just and equitable either than the candidate should be declared not to be duly elected or that the election should be declared void.
- 18.5 If the FUSA Election Tribunal finds that the Returning Officer has not acted with impartiality, manifestly ill-judgement, or conduct otherwise bringing the poll or the Returning Officer's competence into disrepute, then the Election Tribunal may remove the Returning Officer.
- a) If the Returning Officer is removed then the Manager, Student Engagement must appoint a new Returning Officer as soon as practically possible, within twenty-four (24) hours.

## 19. Process

- 19.1 Upon the receipt of an application for an appeal from the Returning Officer, the FUSA Election Tribunal must convene a meeting as soon as practically possible within forty-eight (48) hours of the complaint being lodged. However, a meeting that occurs after this time may still rule on a complaint.
- 19.2 The FUSA Election Tribunal may meet by telephone or video conference if necessary.
- 19.3 Meetings of the FUSA Election Tribunal shall be private and confidential.
- 19.4 Decisions of the FUSA Election Tribunal must be made by at least two members of the Tribunal.
- 19.5 Candidates shall be entitled to appear before the FUSA Election Tribunal to present their case, and are entitled to be assisted by one other Flinders University Student. No further representation or assistance shall be allowed unless the Election Tribunal decides that without representation the candidate will be unable to fairly put their case.
- 19.6 The FUSA Election Tribunal must decide questions of fact on the balance of probabilities.
- 19.7 Proceedings of the FUSA Election Tribunal, other than its formal decisions, are confidential and may not be reported. Decisions of the FUSA Election Tribunal shall be written and posted by the Returning Officer in the form of official publicity within twenty-four (24) hours of a decision being made. Such decisions shall set out the facts.
- 19.8 Decisions of the FUSA Election Tribunal are final and binding. Refusal to obey or implement a decision of the Tribunal may result in further disciplinary action.



## **Division 3 – Casual Vacancies**

### **20. Casual Vacancies**

- 20.1 In the event of a Casual Vacancy the Student Council may decide to:
- a) convene a selection panel and appoint a Returning Officer to oversee a selection process as outlined in these Regulations;
  - b) appoint a member of Student Council to fill the position, if there is less than six months until the end of the term of office; or
  - c) If there is less than 42 calendar days before elections are due to take place, leave the position vacant until after the election process and offer the incoming member an early start.

### **21. Casual Vacancy Nominations**

- 21.1 The Returning Officer cannot;
- a) be an enrolled student at Flinders University for a period of two (2) years preceding their appointment;
  - b) stand as a candidate for appointment; or
  - c) have been a candidate in a FUSA Student Council election in the last five (5) years.
- 21.2 The Returning Officer will determine the eligibility of candidates, nominators and seconders in accordance with the University's official student records.
- 21.3 The Returning Officer will, not less than fourteen (14) calendar days before any appointment, notify students of the appointment process and invite nominations, normally by way of an email notification to all students eligible for the position.
- 21.4 Nominations for appointment will be lodged with the Returning Officer by a time to be nominated by the Returning Officer on the seventh calendar day after the opening of nominations. Each nomination must be from an eligible student giving their signed consent to the nomination, and bearing the signature of a seconder who must also be a student.
- 21.5 Upon the closing of nominations the Returning Officer must pass on the nominations to the Casual Vacancy Selection Panel.
- 21.6 Each candidate must submit a candidate statement of no more than 500 words before the close of nominations.



## **22. Casual Vacancy Selection Panel**

- 22.1 A Casual Vacancy Selection Panel is formed for each Casual Vacancy, provided that concurrent casual vacancies may be overseen by the same Selection Panel at the discretion of Student Council.
- 22.2 The voting members of a Casual Vacancy Selection Panel will be:
- a) the Student President, who will Chair the Panel;
  - b) Two (2) members of the Student Council Executive chosen by the Student President; and
  - c) Two (2) other members of Student Council appointed by Student Council
- Except that Student Council may approve a different composition for the Casual Vacancy Selection Panel so that a majority are individuals who are eligible to nominate for the vacant position under s.9 of these regulations, provided that the Student President remains Chair of the Panel. The Student President may appoint a delegate to Chair the Selection Panel in their place.
- 22.3 The Casual Vacancy Selection Panel must contain as least three (3) Student Council Members who identify as women.
- 22.4 The Manager, Student Engagement or delegate will sit on the Casual Vacancy Selection Panel as a non-voting member.

## **23. Casual Vacancy Selection Panel Process**

- 23.1 The Casual Vacancy Selection Panel must consider all valid nominations.
- 23.2 The Casual Vacancy Selection Panel must interview a shortlist of candidates.
- 23.3 The Casual Vacancy Selection Panel must after interviewing the candidates will make a decision as to who they think would be the best candidate and make this recommendation to the Student Council.
- 23.4 Student Council must vote to either appoint the recommended candidate, appoint a different candidate who was interviewed, to restart the Casual Vacancy Process or, to refer the vacancy to be filled via a by-election.

## **24. Transitional Provisions**

- 24.1 Where a Student Council Officer has been created by an amendment to the Constitution, Student Council shall treat the position as a casual vacancy or, if election period is due within 4 months, fill the position in the election period.