

STUDENT GUILD OF CURTIN UNIVERSITY
STUDENT GUILD (TRIBUNAL) REGULATIONS 2018

The following regulations were made by the Guild Council under section 10(1) of *Statute No.4-Student Guild* and approved by the Council of the University under the same section.

These regulations prior to their approval followed all the procedures outlined in the *Student Guild Rules* and Guild regulations regarding the process for their approval.

We state that in accordance with section 17 of *Statute No.4-Student Guild* that these regulations were duly approved by the Council of the University.

Signed



President of the Student Guild

D. BOTICA



Administrative Secretary of the University

AL DONALD

On the 20th day of July 2023

Made/Amended/ Revoked	Date Effective	Guild Council Resolution No.	University Council Resolution No.	Suggested Amendments Accepted
Made	1 November 2018	GC R#57/2018	C R#152/2018	GC R#80/2018

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STUDENT GUILD OF CURTIN UNIVERSITY

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The following regulations are made by the Guild Council under section 10(1) of *Statute No.4-Student Guild* and approved by the Council of the University in accordance with the *Student Guild Rules*.

Part 1 - Preliminary

1. Citation

These are the *Student Guild (Tribunal) Regulations 2018*.

2. Commencement and Transitional Provisions

(1) These regulations shall commence:

- (a) on 1 November 2018; or
- (b) the day after they are approved by the University Council;

whichever is the later.

(2) Upon the commencement of these regulations Part 6 and Schedule A of the *Guild Regulations – Division One* and Part 10 of the *Guild Regulations – Division Two* are repealed.

(1) Transitional provisions relating to these regulations may be found in the *Student Guild (Transitional Provisions) Regulations 2018*.

3. Terms Used

(1) The terms used in section 4 of *Statute No.4-Student Guild* shall apply to these regulations.

Note: Section 4 of *Statute No.4-Student Guild* states –

In this Statute –

absolute majority, in relation to a meeting of the Guild Council, means a majority of all the members of the Guild Council for the time being holding office, regardless of the number attending the meeting of the Guild Council (and, for the avoidance of doubt, no casting vote is to be counted);

Act means the Curtin University Act 1966;

general meeting of the Guild means an annual general meeting of the Guild or a special general meeting of the Guild;

Guild means the Student Guild established by section 44 of the Act upon the making of the original Statute No. 4 on 14 January 1969;

Guild Council means the governing body of the Guild as described in section 9;

Guild financial year means the year commencing on 1 January;

Guild regulations means regulations made by the Guild under section 10;

Guild by-laws means by-laws made by the Guild under the Guild regulations;

Officer means a person who -

- (a) is a member of the Guild;

(b) is a member of the Guild Council or holds any other Guild position as a result of being elected or appointed to that position in accordance with the Guild regulations; and

(c) is not an employee of the Guild;

President means the president of the Guild;

Previous Statute No. 4 means Statute No. 4 – Student Guild, published in the Government Gazette on 18 December 1981;

rules means rules made under this Statute;

Secretary means the secretary of the Guild;

student society means a club, society or association that -

(a) exists for enrolled students to further their interests; and

(b) is registered with the Guild in accordance with the Guild regulations; and

University Council means the Council of the University under the Act..

(2) For the purposes of these regulations, unless the contrary intention appears:

Academic Registrar means the Academic Registrar of the University ordinarily based at the Bentley Campus.

Annual General Election has the same meaning as in regulation 3 of the *Student Guild (Election and Referenda) Regulations 2018*.

appointment has the same meaning as in regulation 3 of the *Student Guild (Guild Council) Regulations*.

clubs charter refers to the charter approved by the Guild Council relating to the conduct of student societies and their officers.

code of conduct means the Guild code of conduct adopted by the Guild Council in accordance with section 15 of *Statute No.4-Student Guild*.

day means any twenty-four (24) hour period and includes public holidays, University holidays and weekends.

election has the same meaning as in regulation 3 of the *Student Guild (Guild Council) Regulations*.

election misconduct means conduct by an Officer, Officer of a student society, student society or Guild Member that is one (1) or more of the following:

(a) as an Officer and neglects official duty of that office as proscribed in the Statute Book whilst conducting campaign duties in any election;

(b) canvases for votes inside a polling place;

(c) interferes with or infringes the secrecy of the ballot;

(d) takes any action contrary to the *Student Guild (Election and Referenda) Regulations 2018* or a lawful direction of the Returning Officer;

(e) impersonates another person with the intention to defraud;

(f) destroys or defaces a ballot paper, ballot box or election notice with the intention to defraud;

- (g) submits a ballot paper in the ballot box or through the mail with the intention to defraud;
- (h) removes a ballot paper from the polling place or counting centre with the intention to defraud;
- (i) fails to obey the lawful instruction of the Returning Officer within a polling place or counting centre;
- (j) supplies ballot papers without authority;
- (k) votes more than once at the same election;
- (l) defaces, mutilates, destroys or removes any document published or distributed by the Returning Officer;
- (m) makes a false statement in any claim, application, return or declaration or in answer to a question under these regulations;
- (n) distributes any advertisement, handbill or pamphlet which is not authorised under these regulations or otherwise published in contravention of these regulations;
- (o) is a candidate or scrutineer, and wears or displays a badge or emblem of a candidate or Group in a polling place during polling or at a counting centre during counting;
- (p) interferes unduly with freedom of speech;
- (q) hinders, obstructs, interferes with or delays the conduct of an election meeting;
- (r) damages Guild property or fixtures which delay's or interferes with the conduct of the election;
- (s) hinders, obstructs or prevents a candidate from exercising a right, including the right to freedom of political communication;
- (t) defaces or mutilates campaign material;
- (u) induces, directly or indirectly, an electoral official to unlawfully influence the result of the election, including by stuffing ballot boxes, destroying ballot papers, or willingly counting votes incorrectly;
- (v) interferes with, defaces, duplicates, destroys or unlawfully deals with in any way a ballot paper, electoral form, nomination form, official electoral notice, ballot box, nomination receptacle, electoral roll or other object pertaining to the election;
- (w) is intoxicated at a polling place or counting centre;
- (x) engages in disorderly conduct at a polling place or counting centre;
- (y) in the case of a candidate, remains within the polling place after a formal warning;
- (z) distributes or displays campaign material within the polling place following a formal warning;
- (aa) duplicates or conceals a ballot paper;
- (bb) distributes any card or paper which includes how-to-vote instructions or directions in a polling place;

- (cc) witnesses an electoral paper which has not been completed with the intent to defraud;
- (dd) witnesses a signature without actually seeing the person signing the required form with the intention to defraud;
- (ee) marks a ballot paper unlawfully (including by identifying themselves by stating their name or address on the ballot paper);
- (ff) acts as a witness on an electoral form unlawfully;
- (gg) uses Guild resources for election purposes beyond that which are entitled to or authorised to use under these regulations;
- (hh) engages in any campaign activity, including any activity relating to a particular candidate or Group, in buildings or premises occupied by the Guild;
 - (ii) exceeds the spending limit for campaign material;
 - (jj) campaigns or canvasses for votes when not an enrolled student; and
- (kk) distributes misleading, false or defamatory statements;
- (ll) commits an act in relation to the election that constitutes gross misconduct.

employee(s) has the same meaning as in regulation 3 of the *Student Guild (Guild Council) Regulations*.

gross misconduct means conduct by an Officer, Officer of a student society, student society or Guild Member that is one (1) or more of the following:

- (a) wilful and/or deliberate behaviour that is in contradiction with the Guild Statute Book, the Guild's code of conduct or Policy;
- (b) conduct that causes serious and/or imminent risk to:
 - (i) the health and safety of a person; or
 - (ii) the reputation, viability or finances of the Guild;
- (c) theft;
- (d) fraud;
- (e) assault;
- (f) in relation to an election, referendum or other poll, or the campaign by a prospective candidate in any election, that comprises conduct which would constitute either Bribery or Undue Influence as those terms are defined in the *Electoral Act 1907 (WA)*;
- (g) having been found to have committed guild misconduct twice previously and being alleged to have committed guild misconduct a third time shall be considered gross misconduct.
- (h) an offence of a sexual nature; and/or

- (i) intoxication within any buildings or premises used or occupied by the Guild.

Guild misconduct means conduct by a respondent that is one or more of the following:

- (a) engaging in, or committing an act or omission that constitutes, gross misconduct;
- (b) a breach of a provision of the Guild Statute Book, code of conduct, policy or procedures where they apply to the person accused of Guild Misconduct;
- (c) engaging in or committing an act or omission that is a contravention of a written law of the Commonwealth of Australia, State or Territory of Australia and where that written law relates to an activity associated with being a member of the Guild or the activities of a Student Society;
- (d) in relation to a student society or Officer of a student society a breach of the clubs charter;
- (e) engaging in behaviour that is unbecoming of an Officer or Officer of a Student Society;
- (f) engaging in conduct or behaving in a manner that brings, or is likely to bring, the Guild and/or its reputation into disrepute; or
- (g) making a false statement or declaration knowing it to be false or not believing it to be true during the course of any disciplinary investigation, complaint, petition, allegation or appeal.

Guild Member has the same meaning as in regulation 3 of the *Student Guild (Administration) Regulations*.

Guild Statute Book has the same meaning as in regulation 3 of the *Student Guild (Administration) Regulations*.

inquiry officer means the person appointed by the Chair of the Discipline Tribunal to conduct an investigation into guild misconduct.

intoxication means for either an Officer, Officer of a student society or a Guild Member, at any time, by reason of their being under the influence of intoxicating liquor or a drug (except a drug administered by, or taken in accordance with the directions of, a person lawfully authorised to administer the drug), the person creates any nuisance, or is involved in any public or private disorder, or is otherwise offensive in behaviour.

notice in writing means the service of a notice by electronic mail to the University provided address if the matter relates to a Guild Member, and for a student society to the address provided by that society in its application for registration with the Guild or any other means by which service can be effected.

Officer of a student society means a person who is an officer of a student society registered or seeking registration with the Guild.

policy has the same meaning as in regulation 3 of the *Student Guild (Administration) Regulations*.

referendum has the same meaning as in regulation 3 of the *Student Guild (Election and Referenda) Regulations 2018*.

respondent means the Officer, Officer of a student society, Guild Member or student society responding to an allegation of Guild misconduct or election misconduct.

Returning Officer has the same meaning as in regulation 3 of the *Student Guild (Election and Referenda) Regulations 2018*. **these regulations** means *Student Guild (Tribunal) Regulations 2018*.

week means any seven (7) day period.

- (3) Further definitions may be found in the Act or *Statute No.2-Interpretation*.
- (4) Where any function is conferred upon a person who is a Guild Member under investigation or is considered to have, perceived to have or has the potential to have a material personal interest in the matter or is otherwise or unable to complete the duties required of them under these regulations, the Academic Registrar shall appoint another person to complete the duties required under these regulations.

Part 2 – Discipline Tribunal

4. Membership

- (1) A discipline tribunal of the Guild (**Discipline Tribunal**) is established and must at all times consist of:
 - (a) the Chair of the Discipline Tribunal appointed according to regulation 5; and
 - (b) four (4) Guild Members appointed according to regulation 4(2).
- (2) The Guild Members on the Discipline Tribunal shall be appointed by the Academic Registrar from amongst the pool of enrolled students for Student Discipline Panels and Student Discipline Appeals Board as contained with the Rules of *Statute No. 10-Student Discipline* provided that:
 - (a) one (1) of the members appointed shall be a man and one (1) of the members appointed shall be a woman;
 - (b) all the members appointed are Guild Members who are not Officers;
 - (c) the members appointed have no material personal interest with or related to the Guild Member or Student Society under investigation;
 - (d) none of the members can be employees of the Guild or University.
- (3) The Remuneration Tribunal may determine remuneration to be paid to the members of the Discipline Tribunal.

5. Chair of the Discipline Tribunal

- (1) The process for appointment of the Chair of the Discipline Tribunal shall be as follows:
 - (a) The Guild President shall nominate a proposed Chair of the Discipline Tribunal to the Academic Registrar.
 - (b) The Academic Registrar may approve the nomination of the Guild President where they are satisfied the nomination for Chair of the Discipline Tribunal is appropriate, suitably qualified and has no material personal interest in relation to matters that may come before the Discipline Tribunal;

- (c) The appointment of a Chair of the Discipline Tribunal may be for a specific case before the tribunal or for all matters that come before the tribunal provided no appointment may be for a period longer than two (2) years without renewal;
- (2) A person appointed as Chair of the Discipline Tribunal may be reappointed.
- (3) The Chair of the Discipline Tribunal shall chair any meeting or hearing of the Discipline Tribunal.
- (4) The Chair of the Discipline Tribunal may resign their office in writing to the Guild President and Academic Registrar.
- (5) The Remuneration Tribunal may determine remuneration to be paid to the Chair of the Discipline Tribunal.
- (6) Where the Guild President and Academic Registrar cannot agree to the appointment of a Chair of the Discipline Tribunal, the Vice Chancellor shall appoint a Chair of the Discipline Tribunal.
- (7) Where the Chair of the Discipline Tribunal has a material personal interest in relation to a matter before the Discipline Tribunal they must resign in order to allow a new Chair of the Discipline Tribunal to be appointed.

6. Investigation

- (1) An Officer, Officer of a student society or Guild Member shall not commit Guild misconduct.
- (2) A person who suspects that an Officer, Officer of a student society or Guild Member is guilty of Guild misconduct may report the suspected Guild misconduct to any of the following people:
 - (a) President;
 - (b) Secretary;
 - (c) Chair of Guild Council;
 - (d) Managing Director; or
 - (e) Academic Registrar.
- (3) Any person who receives a report pursuant to regulation 6(2) is responsible for ensuring that the allegation of Guild misconduct is forwarded to the Chair of the Discipline Tribunal.
- (4) On receipt of a report pursuant to regulation 6(2), and prior to the commencement of any investigation:
 - (a) the person listed in regulation 6(2) shall notify the Chair of the Discipline Tribunal of the Guild misconduct reported and provide to the Chair of the Discipline Tribunal all evidence relating to the report; and
 - (b) the Chair of the Discipline Tribunal shall consider the report and all evidence and determine if:
 - (i) there are insufficient grounds to warrant further investigation and take no further action under these provisions; or

- (ii) there are sufficient grounds to warrant further investigation and initiate such investigation.
- (5) If the Chair of the Discipline Tribunal determines that an investigation is to be initiated then the inquiry officer shall conduct such investigation.
- (6) The inquiry officer shall serve notice in writing on the respondent suspected of having committed the Guild misconduct. The notice shall:
 - (a) specify the Guild misconduct alleged;
 - (b) inform the Officer, Officer of a student society, Guild Member or student society that the Chair of the Discipline Tribunal has directed the inquiry officer to commence an investigation into the alleged guild misconduct;
 - (c) enclose a copy of these regulations;
 - (d) enclose or provide a comprehensive summary of all evidence or documentation relating to the alleged Guild misconduct and in the possession, custody, or control of the Chair of the Discipline Tribunal; and
 - (e) inform the respondent that they may respond to the alleged guild misconduct, and provide the respondent with at least seven (7) days from the date of receipt of the notice to give such response.
- (7) The inquiry officer must:
 - (a) conclude the investigation as speedily as practicable into the alleged Guild misconduct;
 - (b) as far as practicable follow the process that is undertaken under the investigation of general misconduct under the *General Misconduct Rules 2017*; and
 - (c) provide to the Chair of the Discipline Tribunal and the respondent in respect of the alleged disciplinary matter a report containing all evidence collected. Such report must include any response provided by the respondent pursuant to regulation 6(4)(e).

7. Hearings

- (1) Upon receipt of the inquiry officer's report, the Chair of the Discipline Tribunal must list the Guild misconduct for hearing before the Discipline Tribunal which must determine that:
 - (a) Guild misconduct has occurred;
 - (b) Guild misconduct has not occurred;
 - (c) There is insufficient evidence to determine if Guild misconduct has occurred;
- (2) The Chair of the Discipline Tribunal shall chair any hearing of Guild misconduct.
- (3) Hearings by the Discipline Tribunal of a Guild misconduct shall be held at such times and places as the Chair of the Discipline Tribunal may decide, providing such time and place is reasonably convenient to all people participating in the hearing.
- (4) The quorum for a hearing of the Discipline Tribunal shall be three (3) members and shall include the Chair of the Discipline Tribunal.

- (5) The Chair of the Discipline Tribunal may on behalf of the Discipline Tribunal request the attendance of such persons as it deems necessary to assist in its deliberations at the hearing of the guild misconduct.
- (6) Should the Discipline Tribunal request such attendance then the Secretary shall serve such a person a notice in writing at least seven (7) days prior to the hearing of the guild misconduct. Such notice shall state the time and place of the hearing and request the recipient's attendance.
- (7) The Discipline Tribunal may proceed with its deliberations notwithstanding the non-attendance of the persons requested under regulation 7(6) provided that at least seven (7) days' notice was given of the request for their attendance.
- (8) The Discipline Tribunal:
 - (a) is not bound by the rules of evidence;
 - (b) may inform itself as it sees fit and determine its own procedure; and
 - (c) must act informally.
- (9) Hearings of the Discipline Tribunal are private and confidential and are not open to the public.
- (10) As soon as possible after the Discipline Tribunal has made a determination whether Guild Misconduct has occurred and of any penalty, the Chair of the Discipline Tribunal shall serve a notice of the decision, and any order or penalty of the Discipline Tribunal, on the respondent.
- (11) Subject to the procedures of the Discipline Tribunal in regulation 7 and any appeal under regulation 9, if a respondent is determined, on the balance of probabilities, to have committed guild misconduct, the Discipline Tribunal may impose a penalty under regulation 8(1).

8. Penalties

- (1) Pursuant to regulation 7(11), the Discipline Tribunal may impose one (1) or more of the following penalties:
 - (a) a formal warning and admonishment;
 - (b) exclusion from all building and premises occupied by the Guild or part thereof for a period of time as determined by the Discipline Tribunal; or
 - (c) for any Officer or Officer of a student society suspension from their position for up to one (1) month;
 - (d) for any Officer of a student society:
 - (i) removal from their position as an Officer of a student society;
 - (ii) a ban from being an Officer of a student society for a period as determined by the Discipline Tribunal;
 - (e) for any student society:
 - (i) a fine of up to \$1 000;

- (ii) ordering a student society to issue a statement as approved by the Chair of the Discipline Tribunal to all members of that student society regarding the Guild Misconduct of which they have been found guilty following the finalisation of any appeal;
 - (iii) ordering a special general meeting of the student society, to be supervised by persons appointed by the Chair of the Discipline Tribunal to elect a new committee for the Student Society following the finalisation of an appeal;
 - (iv) suspension of the Student Societies registration with the Guild for up to one (1) year;
 - (v) de-registration of the Student Society, and barring the Student Society from applying to reregister for a period of up to one (1) year.
- (f) for any Guild Member:
- (i) a recommendation to Guild Council that it suspend the Guild Membership of that Guild Member.
 - (ii) disqualification from seeking election as an Officer for period no greater than three (3) years;
- (g) for an Officer that has committed gross misconduct, a recommendation to Guild Council for immediate dismissal of that member; and
- (h) such other things as are necessary or incidental to give effect to the penalties applied.
- (2) Any fine imposed under regulation 8(1) must be paid within fourteen (14) days following the finalisation of any appeal.
- (3) The Discipline Tribunal in addition to the penalties under regulation 8(1) may refer a matter to the University or Police.
- (4) The Discipline Tribunal may also make recommendations to the Guild Council in order to provide for the prevention and/or penalisation of Guild misconduct or as are considered necessary by the Discipline Tribunal.

9. Appeals

- (1) An Officer, Officer of a student society, Guild Member or student society found guilty of Guild misconduct or the Guild President may appeal the decision of the Discipline Tribunal to the Appeals Tribunal.
- (2) A notice of appeal shall be in writing, shall specify the grounds of appeal and shall be submitted to the Chair of the Appeals Tribunal by 5pm seven (7) days after service of the notice of the decision of the Discipline Tribunal pursuant to regulation 7(11).

Part 3 – Election Tribunal

10. Membership

- (1) An election tribunal of the Guild is established (**Election Tribunal**) and must at all times consist of:

- (a) the Chair of the Election Tribunal appointed according to regulation 11; and
 - (b) four (4) Guild Members appointed according to regulation 10(2).
- (2) The Guild Members on the Election Tribunal shall be appointed by the Academic Registrar from amongst the pool of enrolled students for Student Discipline Panels and Student Discipline Appeals Board as contained with the Rules of *Statute No.10-Student Discipline* provided that:
- (a) one (1) of the members appointed shall be a man and one (1) of the members appointed shall be a woman;
 - (b) all the members appointed are Guild Members who are not Officers;
 - (c) the members appointed have no material personal interest with the Guild Member or student society under investigation;
 - (d) none of the members can be employees of the Guild or University; and
- (3) The Remuneration Tribunal may determine remuneration to be paid to the members of the Election Tribunal.

11. Chair of the Election Tribunal

- (1) The process for appointment of the Chair of the Election Tribunal shall be as follows:
- (a) The Managing Director shall nominate a proposed Chair of the Election Tribunal to the Vice Chancellor.
 - (b) The Vice Chancellor may approve the nomination of the Managing Director where they are satisfied that the nomination for Chair of the Election Tribunal is appropriate, suitably qualified and has no material personal interest in relation to matters that may come before the Election Tribunal;
 - (c) The appointment of the Chair of the Election Tribunal shall be for a period of one (1) year and may be renewed and should be appointed at the same time as the Returning Officer for an Annual General Election;
- (2) The Chair of the Election Tribunal must hold a Bachelor of Laws (or equivalent);
- (3) A person appointed as Chair of the Election Tribunal may be reappointed.
- (4) The Chair of the Election Tribunal shall chair any meeting or hearing of the Election Tribunal.
- (5) The Chair of the Election Tribunal may resign their office in writing to the Managing Director.
- (6) The Remuneration Tribunal may determine remuneration to be paid to the Chair of the Election Tribunal.
- (7) Should no appointment have been made to the position of Chair of the Election Tribunal, the Academic Registrar shall be Chair of the Election Tribunal.
- (8) Where the Chair of the Election Tribunal has a material personal interest in relation to a matter before the Election Tribunal they must resign in order to allow a new Chair of the Election Tribunal to be appointed.

12. Complaints and Petitions

- (1) An Officer, Officer of a student society or Guild Member must not commit election misconduct.
- (2) A person who suspects that a person is guilty of election misconduct may lodge a complaint addressed to the Chair of the Election Tribunal and the Returning Officer (**complaint**).
- (3) A complaint must specify the election misconduct committed (with reference to the definition of election misconduct as contained in regulation 3) and provide the details of the election misconduct.
- (4) A disputed election result shall be lodged in the form of a petition addressed to the Chair of the Election Tribunal and the Returning Officer (**petition**).
- (5) A petition disputing an election result shall:
 - (a) set out the facts relied on to invalidate the election;
 - (b) be signed by a candidate in the election in dispute; and
 - (c) be attested by two (2) eligible electors to vote in the election under dispute who were not candidates.
- (6) A security deposit of \$100.00 shall be lodged with each individual complaint or petition.
- (7) A complaint or petition may be submitted at any time following the opening of nominations but must be lodged no later than 5:00pm seven (7) days following the declaration of the poll unless extended by the Chair of the Election Tribunal.

13. Hearings

- (1) Upon receipt of a complaint or petition, after consulting the Returning Officer, the Chair of the Election Tribunal must:
 - (a) determine if based upon the information provided in the complaint or petition:
 - (i) there is insufficient evidence; or
 - (ii) the complaint is vexatious or frivolous;that the complaint be dismissed and the security deposit is forfeited; or
 - (b) return the security deposit and list the for hearing before the Election Tribunal on a date no sooner than fourteen (14) days after the date on which the complaint or petition was received.
- (2) Where the Returning Officer refers a matter under regulation 10(2) of the *Student Guild (Election and Referenda) Regulation 2018* the Election Tribunal shall meet as soon as possible to consider the matter.
- (3) Prior to making a determination under Regulation 13(1) the Chair of the Election Tribunal may request further written details from the complainant or petitioner.
- (4) The Chair of the Election Tribunal shall chair any hearing of election misconduct.

- (5) Hearings by the Election Tribunal of election misconduct shall be held at such times and places as the Chair of the Election Tribunal may decide, providing such time and place is reasonably convenient to all people participating in the hearing.
- (6) The Chair of the Election Tribunal is to give seven (7) days notice of a hearing to all parties who the Chair of the Election Tribunal consider relevant to the proceedings.
- (7) The quorum of a hearing of the Election Tribunal shall consist of three (3) members and shall include the Chair of the Election Tribunal.
- (8) The Chair of the Election Tribunal may on behalf of the Election Tribunal request the attendance of such persons as it deems necessary to assist in its deliberations at the hearing of the guild misconduct.
- (9) Should the Election Tribunal request such attendance then the Chair of the Election Tribunal shall serve such a person a notice in writing at least seven (7) days prior to the hearing of the election misconduct. Such notice shall state the time and place of the hearing and request the recipient's attendance.
- (10) The Election Tribunal may proceed with its deliberations notwithstanding the non-attendance of the persons requested under regulation 13(9) provided that at least seven (7) days' notice was given of the request for their attendance.
- (11) Respondents may be represented at Election Tribunal hearings only by the Group Agent (as defined in regulation 3(2) of the Student Guild (Election and Referenda) Regulations 2018) in the absence of the respondent.
- (12) The respondents to a complaint or petition shall be given a copy of the complaint or petition and may present whatever evidence they deem necessary to respond to the complaint or petition at the meeting of the Election Tribunal.
- (13) Evidence may be taken in absence of the respondent, provided the Election Tribunal is satisfied that the parties have been duly notified.
- (14) The Election Tribunal:
 - (a) is not bound by the rules of evidence;
 - (b) may inform itself as it sees fit and determine its own procedure; and
 - (c) must act informally.
- (15) Hearings of the Election Tribunal are private and confidential and are not open to the public.
- (16) When considering a petition for a disputed election result, the Election Tribunal shall inquire whether or not the formalities of the petition have been observed.
- (17) If a question involving voting is concerned, the Election Tribunal may inquire into the identity of persons as to whether their votes were improperly admitted or rejected and whether the result of the polling was correctly ascertained, but the Election Tribunal shall deem the roll conclusive evidence that the persons enrolled were, at the date of the completion of the roll, entitled to be

enrolled.

- (18) The eligibility of any person enrolled to vote shall not be questioned and no election shall be declared void on the ground that any person whose name shown as eligible to vote in an election was not qualified to be enrolled or to continue enrolled as an elector for that election.
- (19) If the Election Tribunal finds that a candidate has committed or has attempted to bribe or exert undue influence, the election of that candidate, should they have been elected, shall be declared void.
- (20) The Election Tribunal shall not declare that any person elected was not duly elected, or declare any election void:
 - (a) on the ground of any illegal practice committed by any person other than the candidate and without their knowledge or authority; or
 - (b) on the ground of any illegal practice, other than bribery or corruption or attempted bribery or corruption, unless the Election Tribunal is satisfied that the result of the election was intended to be and was actually affected thereby, and that it is just that the candidate should be declared not to be duly elected, or that the election should be declared void.
- (21) The failure of a person to sign an undertaking prescribed by the *Student Guild (Election and Referenda) Regulations 2018* is not a ground for setting aside the result of an election or referendum.
- (22) As soon as possible after the Election Tribunal has made a decision, the Chair of the Election Tribunal shall serve a notice of the decision, and any order or penalty of the Election Tribunal, on the respondent.
- (23) Subject to the procedures of the Election Tribunal in regulation 13 and any appeal under regulation 15 if a respondent is found:
 - (a) “beyond reasonable doubt” for complaints or charges that affect the validity of an election of a candidate, guilty of election misconduct; and
 - (b) In all other matters on the “balance of probabilities”, guilty of election misconduct;the Election Tribunal may impose a penalty under regulation 14(1).
- (24) The parties concerned shall be notified in writing of the Election Tribunal’s findings and decision, and a report shall be submitted to Guild Council and the Vice Chancellor.
- (25) The determination of the Tribunal shall be made within five (5) weeks of the declaration of the poll.

14. Penalties

- (1) Pursuant to regulation 13(21) the Election Tribunal may impose one (1) or more of the following penalties:
 - (a) order that a fresh count of votes occur for a position.
 - (b) declare that a candidate that was declared elected to be not elected;

- (c) declare that a candidate that was declared as not elected to be elected;
 - (d) dismiss or uphold a complaint in whole or part;
 - (e) issue orders to rectify a proven complaint;
 - (f) declare an entire election or part of an election invalid, where the electoral offence is deemed by the election tribunal to have seriously affected the result of the election;
 - (g) disqualify a candidate;
 - (h) disqualify an entire Group;
 - (i) refer a matter to the Discipline Tribunal, University or Police; and
 - (j) such other things as are necessary incidental to give effect to the penalties applied.
- (2) Where the election tribunal declares an entire election or part of an election invalid under regulation 14(1)(f) then a fresh election must be held. Should a fresh election be unable to be held prior to the expiry of the term of office of the Guild Council then the Vice Chancellor shall appoint an administrator to manage the affairs of the Guild until a new Guild Council can take office.
- (3) The Election Tribunal may also make recommendations to the Guild Council, Discipline Tribunal or University in order to provide for the prevention and/or penalisation of Election misconduct or as are considered necessary by the Election Tribunal.
- (4) Where an election of a candidate is invalidated, the previous count is to be disregarded and a fresh count shall be conducted.
- (5) In the case of a readmitted candidate, the previous count is to be disregarded and a fresh count shall be conducted.

15. Appeals

- (1) An Officer, Officer of a student society, Guild Member or student society found guilty of election misconduct may appeal the decision of the Election Tribunal to the Appeals Tribunal.
- (2) A notice of appeal shall be in writing, shall specify the grounds of appeal and shall be submitted to the Chair of the Appeals Tribunal by 5pm seven (7) days after service of the notice of the decision of the Election Tribunal pursuant to regulation 13(24).

Part 4 – Remuneration Tribunal

16. Membership

- (1) The Remuneration Tribunal of the Guild (**Remuneration Tribunal**) is established and must at all times consist of:
- (a) The Chair of the Remuneration Tribunal;
 - (b) an employee of the Guild appointed by the Managing Director; and
 - (c) an employee of the University appointed by the Vice Chancellor.

- (2) The members of the Remuneration Tribunal shall hold office for one (1) year from the date of their appointment and may be reappointed.

17. Chair of the Remuneration Tribunal

- (1) The Chair of the Remuneration Tribunal shall be a member of Guild Council appointed by the Guild Council.
- (2) The Chair of the Remuneration Tribunal shall be disqualified from seeking election or appointment in the next term of office as an Officer. This does not however disqualify them from their current position or any ex-officio position they may hold in the coming term.
- (3) Guild Councillors completing the first year of their two year term shall not be eligible to be appointed as Chair of the Remuneration Tribunal.
- (4) For the purposes of regulation 17(3) **Guild Councillors** refers to those persons holding office as a Guild Councillor under regulation 32 of the *Student Guild (Guild Council) Regulations 2018*.

18. Inquiry

- (1) The Remuneration Tribunal shall annually initiate an inquiry into the remuneration of Officers and such other positions prescribed by the Guild Council or Guild regulations to have remuneration determined by the Remuneration Tribunal.
- (2) A special inquiry may be undertaken by the Remuneration Tribunal:
 - (a) when a new position to which the Remuneration Tribunal must determine the remuneration of is created; and
 - (b) when the Guild Council by resolution passed by a special majority requests an inquiry.
- (3) Upon the initiation of an inquiry the Chair of the Remuneration Tribunal shall give notice to the members of the Guild Council, Representation Board, all Officers, the Managing Director and the Vice Chancellor of the inquiry and advise them that they have fourteen (14) days to provide a submission to the Remuneration Tribunal relating to its inquiry.
- (4) Following the deadline for submissions under regulation 18(3) the Remuneration Tribunal shall meet and prepare a draft determination.
- (5) Following the preparation of the draft determination under regulation 18(4) the Chair of the Remuneration Tribunal shall provide the draft determination to the Guild Council, Representation Board, all Officers, the Managing Director and the Vice Chancellor and advise them that they have fourteen (14) days to provide an objection to the Remuneration Tribunal relating to its draft determination.
- (6) Following the deadline for objections to the draft determination under regulation 18(5) the Remuneration Tribunal shall meet and issue a final determination.
- (7) The Remuneration Tribunal must provide its annual determination of remuneration prior to the opening of nominations for the Annual General Election each year.

- (8) In determining the remuneration of Officers and other persons for whom the Remuneration Tribunal determines remuneration, the Remuneration Tribunal shall consider:
- (a) the current financial situation of the Guild;
 - (b) the funding available in the Guild budget for the remuneration;
 - (c) any submissions made to it in accordance with regulations 18(3) and 18(5);
 - (d) the work that needs to be completed by each individual on a weekly basis;
 - (e) the overall responsibility of that individual;
 - (f) key meetings to be attended by that individual;
 - (g) the persons that individual may be responsible for supervising;
 - (h) the travel allowances available to that individual (if any);
 - (i) the best interests of the Guild; and
 - (j) what Guild Members would perceive as appropriate remuneration.

19. Hearings

- (1) The Chair of the Remuneration Tribunal shall chair any hearing of the Remuneration Tribunal.
- (2) Hearings by the Remuneration Tribunal shall be held at such times and places as the Chair of the Remuneration Tribunal may decide, providing such time and place is reasonably convenient to all people participating in the hearing.
- (3) The Chair of the Remuneration Tribunal is to give seven (7) days notice of a hearing to all parties who the Chair of the Remuneration Tribunal consider relevant to the proceedings.
- (4) The quorum of a hearing of the Remuneration Tribunal shall be all three (3) members.
- (5) The Chair of the Remuneration Tribunal may on behalf of the Remuneration Tribunal request the attendance of such persons as it deems necessary to assist in its deliberations.
- (6) Should the Remuneration Tribunal request such attendance then the Secretary shall serve such a person a notice in writing at least seven (7) days prior to the hearing of the Remuneration Tribunal. Such notice shall state the time and place of the hearing and request the recipient's attendance.
- (7) The Remuneration Tribunal may proceed with its deliberations notwithstanding the non-attendance of the persons requested under regulation 19(5) provided that at least seven (7) days' notice was given of the request for their attendance.
- (8) The Remuneration Tribunal:
 - (a) may inform itself as it sees fit and determine its own procedure; and
 - (b) must act informally.

- (9) Hearings of the Remuneration Tribunal are private and confidential and are not open to the public.
- (10) The Secretary shall ensure that a record of the decision of the Remuneration Tribunal is submitted to Guild Council for noting and is published on the Guild website.

20. Powers

- (1) The Remuneration Tribunal shall determine all matters relating to the remuneration of Officers and other persons for whom the Remuneration Tribunal determines remuneration including but not limited to:
 - (a) amount of payment if any;
 - (b) frequency of payment;
 - (c) terms of payment;
 - (d) any hours to be worked associated with payment;
 - (e) any reasonable key performance indicators associated with payment;
 - (f) any entitlements to any form of leave;
 - (g) any superannuation entitlements;
 - (h) any public holiday entitlements;
 - (i) any requirements relating to paperwork, deeds or agreements that must be completed to receive remuneration; and
 - (j) all other matters incidental to the remuneration.
- (2) The Remuneration Tribunal shall not:
 - (a) allow for any form of termination or redundancy payments for any individual;
 - (b) allow for the total remuneration cost for any Officer to exceed on an annual basis the total remuneration cost for a person employed at full time at level 2.1 of the *Public Service and Government Officers CSA General Agreement 2017* (or equivalent);
- (3) On any question regarding the interpretation of the decision of the Remuneration Tribunal, the Chair of the Remuneration Tribunal shall provide an interpretation of its decision.
- (4) No change may be made to the remuneration of any Officer or other persons for whom the Remuneration Tribunal determines remuneration can take effect until the conclusion of their current term except where:
 - (a) it is as a result of an interpretation under regulation 20(3);
 - (b) the position for which remuneration is to be determined is a new position and no remuneration has been determined for that position;
 - (c) as a result of a special inquiry requested by the Guild Council under regulation 18(2)(b)

21. Appeals

- (1) A person may appeal a decision of the Remuneration Tribunal to the Appeals Tribunal.
- (2) A notice of appeal shall be in writing, shall specify the grounds of appeal and shall be submitted to the Chair of the Appeals Tribunal by 5pm seven (7) days after the publication of the decision of the Remuneration Tribunal pursuant to regulation 18(10).
- (3) An appeal of the decision of the Remuneration Tribunal must be on the basis of a procedural failure.

Part 5 – Appeals Tribunal

22. Membership

- (1) The Appeals Tribunal of the Guild (**Appeals Tribunal**) is established and must at all times consist of:
 - (a) The Chair of the Appeals Tribunal;
 - (b) a person appointed by the Managing Director; and
 - (c) a person appointed by the Vice Chancellor.
- (2) The appointment of a member of the Appeals Tribunal may be for a specific case before the tribunal or for all matters that come before the tribunal provided no appointment may be for a period longer than two (2) years without renewal;
- (3) The members of the Appeals Tribunal including the Chair of the Appeals Tribunal must:
 - (a) have no material personal interest associated with the appeal;
 - (b) not be a current Officer; and
 - (c) not have been a member of the tribunal that considered the matter under appeal.
- (4) A member of the Appeals Tribunal may resign their office in writing to the Guild President and Vice Chancellor.
- (5) The Remuneration Tribunal may determine remuneration to be paid to the members of the Appeals Tribunal.

23. Chair of the Appeals Tribunal

- (1) The process for appointment of the Chair of the Appeals Tribunal shall be as follows:
 - (a) The Guild President shall nominate a proposed Chair of the Appeals Tribunal to the Academic Registrar.
 - (b) The Academic Registrar may approve the nomination of the Guild President where they are satisfied the nomination for Chair of the Appeals Tribunal is appropriate, suitably qualified and has no material personal interest in relation to matters that may come before the Appeals Tribunal;

- (c) The appointment of a Chair of the Appeals Tribunal may be for a specific case before the tribunal or for all matters that come before the tribunal provided no appointment may be for a period longer than two (2) years without renewal.
- (2) The Chair of the Appeals Tribunal must hold a Bachelor of Laws (or equivalent).
- (3) The Chair of the Appeals Tribunal must not be the Chair of any other tribunal.
- (4) A person appointed as Chair of the Appeals Tribunal may be reappointed.
- (5) Where the Chair of the Appeals Tribunal has a material personal interest in relation to a matter before the Appeals Tribunal they must resign in order to allow a new Chair of the Appeals Tribunal to be appointed.
- (6) The Chair of the Appeals Tribunal may resign their office in writing to the Guild President and Academic Registrar.
- (7) The Remuneration Tribunal may determine remuneration to be paid to the Chair of the Appeals Tribunal.
- (8) Where the Guild President and Academic Registrar cannot agree to the appointment of a Chair of the Appeals Tribunal, the Vice Chancellor shall appoint a Chair of the Appeals Tribunal.

24. Procedure

- (1) The Appeals Tribunal shall hear appeals:
 - (a) from the Discipline Tribunal under regulation 9;
 - (b) from the Election Tribunal under regulation 15;
 - (c) from the Remuneration Tribunal under regulation 21; and
 - (d) on such other matters that it is prescribed that the Appeals Tribunal shall hear the appeals of.
- (2) A security deposit of \$100.00 shall be lodged with each individual appeal.
- (3) Upon receipt of an appeal, the Chair of the Appeal Tribunal must:
 - (a) determine if based upon the information provided in the appeal:
 - (i) there is insufficient grounds for the appeal to proceed to the Appeals Tribunal; or
 - (ii) the appeal is vexatious or frivolous;
 that the complaint be dismissed and the security deposit is forfeited; or
 - (b) refund the security deposit and list the for hearing before the Appeals Tribunal on a date no sooner than fourteen (14) days after the date on which the complaint or petition was received.

25. Hearings

- (1) The Chair of the Appeals Tribunal shall chair any hearing of an appeal.

- (2) Hearings by the Appeals Tribunal of an appeal shall be held at such times and places as the Chair of the Appeals Tribunal may decide, providing such time and place is reasonably convenient to all people participating in the hearing.
- (3) The quorum for a hearing of the Appeals Tribunal shall be all three (3) members.
- (4) The Chair of the Appeals Tribunal may on behalf of the Appeals Tribunal request the attendance of such persons as it deems necessary to assist in its deliberations at the hearing of the appeal.
- (5) Should the Appeals Tribunal request such attendance then the Chair of the Appeals Tribunal shall serve such a person a notice in writing at least seven (7) days prior to the hearing of the appeal. Such notice shall state the time and place of the hearing and request the recipient's attendance.
- (6) The Appeal Tribunal may proceed with its deliberations notwithstanding the non-attendance of the persons requested under regulation 24(6) provided that at least seven (7) days' notice was given of the request for their attendance.
- (7) The hearing of an appeal by the Appeals Tribunal is a hearing de novo to be conducted privately and confidentially.
- (8) The Appeals Tribunal may, after hearing an appeal, ratify, reverse or vary the decision, order or penalty appealed from or substitute its own decision, order or penalty, and in doing so must act in accordance with the Guild regulations governing the conduct of the body from which the appeal is received.
- (9) The decision of the Appeals Tribunal on any appeal shall be final and binding and shall not be subject to any further appeal or review within the Guild.
- (10) As soon as the Appeals Tribunal has made a decision the Chair of the Appeals Tribunal shall serve notice of the decision as well as notice of any order or penalty on the person that brought the matter to appeal.

26. Powers

- (1) The Appeals Tribunal shall have all the powers granted to the body from which the appeals is received, the including but not limited to the power to apply penalties.
- (2) In relation to an appeal of a decision of the Remuneration Tribunal the Appeals Tribunal may only void the decision made by the Remuneration Tribunal and order a new inquiry be conducted.

Part 6 – Miscellaneous

27. Interpretation of Guild Statute Book

Where it required that an interpretation of the provisions of the Guild Statute Book be made those interpretations shall be made as follows:

- (a) in a meeting of the Guild Council or a Guild Committee, by the Chair of that meeting, subject to any appeal process outlined in the Standing Orders;
- (b) by a tribunal, by the Chair of that tribunal, subject to any appeal process for that tribunal;

- (c) in an election, by the Returning Officer, subject to the appeal processes for that election;
- (d) in all other cases the Secretary, subject:
 - (i) in all cases to a right of appeal within seven (7) days to the Chair of the Appeals Tribunal by any person affected by any such interpretation. and
 - (ii) to the power of the Chair of the Appeals Tribunal to ratify, reverse or vary a decision of the Secretary on a matter of interpretation;
- (e) In the case of an interpretation of any Statute or University Rules, the right of appeal may extend to the University Council at the University Council's discretion.