University of Sydney By-law 1999 (as amended)

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University of Sydney By-law 1999 (as amended)

New South Wales

Chapter 1 Preliminary

1 Name of By-law

This By-law is the *University of Sydney By-law 1999*.

2 Commencement

This By-law commences on 6 August 1999.

3 Definitions

(1) In this By-law and in any rule:

Academic Board means the Academic Board established under section 15 of the Act.

Appeals Committee means the Student Disciplinary Appeals Committee constituted under clause 78.

Nominations Committee means the Committee established under clause 46A.

official University notice board means a notice board (including any electronic notice board) designated as such by the Senate.

Registrar means the Registrar of the University or a member of the staff of the University nominated by the Registrar to exercise any of the Registrar's functions under this By-law.

rule means a rule made under section 37 (1) of the Act.

Secretary means the Secretary to Senate of the University or a member of the staff of the University nominated by the Secretary to exercise any of the Secretary's functions under this By-law.

student means a person who is currently admitted to candidature in an award course of the University.

the Act means the *University of Sydney Act 1989*.

(2) In this By-law and in any rule, a reference to:
(a) a board, committee or other body established within the University means the board, committee or other body established by that name within the University, and
(b) an officer of the University means the incumbent of that position from time to time (including any person acting in that capacity), and
(c) a reference to a chair of a board, committee or other body established within the University means the incumbent of that office from time to time, and includes any person acting or deputising in that office.

4 Notes

The explanatory note and table of contents do not form part of this By-law.

Chapter 2 Making rules

5 Who may make rules

(1) The Senate may make rules, not inconsistent with the Act or this By-law, for or with respect to any matter for which by-laws may be made, except those matters referred to in section 37 (1) of the Act.
(2) The Vice-Chancellor may make rules, not inconsistent with the Act or this By-law, for or with respect to the direction and management of the administrative, financial and other business of the University.
(3) The University Librarian may make rules, not inconsistent with the Act or this By-law, for or with respect to any matter concerning the management of any University library, including:
(a) conditions of use or borrowing of library items or facilities, and
(b) the imposition or payment of penalties in connection with library items or facilities, and
(c) determining the category or categories of persons eligible to borrow items or use facilities of a University library.
(4) The Academic Board may make rules, not inconsistent with the Act or this By-law, for or with respect to the meeting procedures of the Academic Board.

6 How rules must be promulgated

(1) A rule must be displayed on all official University notice boards for at least twenty-four hours after it is made.
(2) A rule must also be published in at least one official publication of the University.
(3) Failure to comply with subclause (1) or (2) does not invalidate a rule.

7 Inconsistency between rules

(1) If there is any inconsistency between a rule made by the Senate and a rule made by another person or body empowered to make rules under this By-law, then the rule made by the Senate prevails to the extent of that inconsistency.
(2) If there is any inconsistency between a rule made by the Vice-Chancellor and a rule made by the University Librarian, then the rule made by the Vice-Chancellor prevails to the extent of that inconsistency.

8 Amendment or repeal of rules

(1) A person or body with power to make a rule under this By-law also has power to amend or repeal that rule from time to time.
(2) Any amendment or repeal of a rule must be promulgated in the manner prescribed in clause 6.

Chapter 3 Chancellor and Deputy Chancellor

Division 1 Chancellor

9 Term of office and election procedure

(1) An election to the office of Chancellor must take place at an ordinary meeting of the Senate and be held in accordance with those procedures prescribed by resolution of the Senate for an election to the office of Chancellor.
(2) The Chancellor holds office for a term of 4 years from the date of election and is eligible for re-election.

10 Casual vacancies

(1) If a casual vacancy in the office of Chancellor occurs, the Senate must elect a successor no later than at the second ordinary meeting of the Senate after that vacancy occurs in accordance with any procedures prescribed by resolution of the Senate for an election to the office of Chancellor.
(2) A person elected under this clause holds office for a term of 4 years from the date of election and is eligible for re-election.
(3) The Deputy Chancellor is to act as the Chancellor from the date on which the casual vacancy occurs until the date on which a successor to the Chancellor is elected under this clause.

Division 2 Deputy Chancellor

11 Term of office and election procedure

(1) Subject to section 11 of the Act, an election to the office of Deputy Chancellor must take place at an ordinary meeting of the Senate held:
(a) in February 2000, and
(b) in February of every second year after that year.
(2) The Deputy Chancellor holds office until his or her successor is elected, and is eligible for re-election.

(2A), (2B) (Repealed)
(3) Elections for Deputy Chancellor are to be held in accordance with those procedures prescribed by resolution of the Senate for election to the office of Deputy Chancellor.

12 Casual vacancies

(1) If a casual vacancy in the office of Deputy Chancellor occurs, the Senate must elect a successor in accordance with those procedures prescribed by resolution of the Senate for election to the office of Deputy Chancellor.
(2) A person elected under this section holds office from the date of election and for the balance of the term of office of the preceding Deputy Chancellor.

Division 3 Miscellaneous

13 Chancellor may preside at meetings

(1) The Chancellor may preside at any meeting of:
(a) a committee established by this By-law or by a rule or resolution of the Senate, or
(b) a faculty or board (other than a Student Proctorial Board convened under Chapter 8) within the University,
and, while so presiding, has the powers and duties of the presiding officer of (as the case may be) that committee, faculty or board.
(2) If:
(a) the Chancellor is not present at a meeting, or does not wish or is unable to preside at the meeting, or
(b) the office of Chancellor is vacant,
the Deputy Chancellor may preside at the meeting and has the same powers and duties as the Chancellor has when doing so.

14 (Repealed)

Chapter 4 Election of Fellows of the Senate

Division 1 Preliminary

15 Definitions

In this Chapter:

absolute majority of votes means an amount greater than 50% of valid votes.

closing date of the ballot means:

(a) in the case of a postal ballot, the date and time by which ballot papers must be returned to the returning officer, and
(b) in the case of an electronic ballot, the date and time by which the electronic ballot form must be submitted to the returning officer via the election website.

election means an election held for the purposes of section 9 (1) (d)–(h) of the Act.

election website means a secure internet site approved or managed by the returning officer for the purposes of an electronic ballot.

electronic ballot means a ballot conducted in accordance with Division 5B.

electronic vote means a vote cast in an electronic ballot by means of an electronic ballot form.

exhausted ballot paper means a ballot paper or an electronic vote containing votes which can no longer be allocated according to the procedure in (as the case may be) Division 6 or 7, and which is to be set aside as having been finally dealt with.

notice of ballot means a notice of an election given by the returning officer under clause 27.

postal ballot means a ballot conducted in accordance with Division 5A.

primary votes means:

(a) in the case of elections to fill one position only under Division 6—votes on ballot papers or electronic votes marked "1", and
(b) in the case of elections to fill more than one position under Division 7—votes on a ballot paper or an electronic vote marked "1", "2" and so on up to the number of positions to be filled.

roll means a roll established by the returning officer in accordance with clause 17.

secondary vote means the first preference vote beyond the primary votes.

16 Returning officer

(1) The Secretary is the returning officer for all elections.
(1A) The returning officer is to take all reasonable steps to ensure the fairness and integrity of the election process.
(2) Subject to the Act and this By-law, the returning officer's decision is final in connection with any matter affecting the conduct of an election including, without limitation, eligibility of candidates and the results of any election.
(3) The returning officer may authorise another person to exercise any function of the returning officer under this By-law. Any function exercised by that authorised person is taken to have been exercised by the returning officer.

Division 2 Rolls and provisional voting

16A Definition

In this Division, ***address*** includes both residential address and email address.

17 Rolls

(1) The returning officer must, for the purposes of elections, establish and maintain separate Rolls for each of the following categories:
(a) a Roll of academic staff containing the names and addresses of the full-time and part-time members of the academic staff of the University,
(b) a Roll of non-academic staff containing the names and addresses of the full-time and part-time members of the non-academic staff of the University,
(c) a Roll of undergraduate students containing the names and addresses of persons enrolled in an undergraduate award course of the University,
(d) a Roll of postgraduate students containing the names and addresses of persons enrolled in a postgraduate award course of the University,
(e) a Roll of graduates containing the names and addresses of graduates of the University as defined in section 3 (2) of the Act.
(2) For the purposes of subclause (1) (a) and (b), a person who is engaged as a casual member of the academic or non-academic staff is not entitled to have his or her name entered on the relevant Roll.
(2A) A person is not entitled to have his or her name entered on the Roll of undergraduate students or the Roll of postgraduate students unless the person has completed, to the satisfaction of the University, all requirements for enrolment or re-enrolment in the award course concerned.
(3) A copy of the relevant Roll must be available for inspection at the office of the returning officer during the University's usual business hours for at least 14 days before the date on which the election is due to be held.
(4) The returning officer is entitled to alter a Roll at any time by:
(a) correcting any mistake or omission in the details of any eligible voter entered on that Roll, or
(b) altering, on the written application of any eligible voter, the name or address of the person entered on that Roll, or
(c) removing the name of any deceased person, or
(d) removing the superfluous entry where the name of the same eligible voter appears more than once on the Roll, or
(e) reinstating the name of an eligible voter removed from the Roll, where the returning officer is satisfied that such person is still entitled to be entered on the relevant Roll.
(5) Notwithstanding subclause (4), a Roll is not invalid because any one or more of the following events occurs in connection with that Roll:
(a) the Roll contains any mistake or omission in the details of any eligible voter entered on that Roll,
(b) the Roll contains the name of any deceased person,
(c) the Roll contains more than one entry for the same eligible voter,
(d) the Roll does not contain the name of any person entitled to be entered on that Roll.

18 Provisional voting

(1) This clause applies to a person who claims he or she is entitled to vote in an election even though:
(a) the person's name cannot be found on the Roll for the election for which the person is claiming an entitlement to vote, or

(b) the person's name is on the Roll for the relevant election, but his or her address is incorrect, or does not appear on that Roll, or
(c) a mark on the Roll used in that election indicates incorrectly that the person has already voted in that election.
(2) A person to whom this clause applies may cast a provisional vote if:
(a) the person makes a request to the returning officer to do so, and
(b) the person complies with the provisions of clause 36 or 36D, as the case requires.

Division 3 Qualifications for election and terms of office

19 Academic staff Fellow

For the purposes of section 9 (1) (d) of the Act, a person is eligible for election as an academic staff Fellow if that person's name appears on the Roll of academic staff members at the time for close of nominations specified in the notice of ballot.

20 Non-academic staff Fellow

For the purposes of section 9 (1) (e) of the Act, a person is eligible for election as a non-academic staff Fellow if that person's name appears on the Roll of non-academic staff members at the time for close of nominations specified in the notice of ballot.

21 Undergraduate student Fellow

For the purposes of section 9 (1) (f) of the Act, a person is eligible for election as an undergraduate student Fellow if:
(a) the person's name appears on the Roll of undergraduate students, and
(b) the person's name does not appear on the Roll of academic or non-academic staff, at the time for close of nominations specified in the notice of ballot.

22 Postgraduate student Fellow

For the purposes of section 9 (1) (g) of the Act, a person is eligible for election as a postgraduate student Fellow if:
(a) the person's name appears on the Roll of postgraduate students, and
(b) the person's name does not appear on the Roll of academic or non-academic staff, at the time for close of nominations specified in the notice of ballot.

23 Graduate Fellow

For the purposes of section 9 (1) (h) of the Act, a person is eligible for election as a graduate Fellow if:
(a) the person's name appears on the Roll of graduates, and
(b) the person is not a member of the academic or non-academic staff of the University or an undergraduate or a postgraduate student of the University,
at the time for close of nominations specified in the notice of ballot.

24 Terms of office

(1) A Fellow elected pursuant to section 9 (1) (d) of the Act holds office:
(a) in the case of a Fellow elected to hold office on and from 1 December 2005, until and including 31 May 2007, and
(b) in any other case, for a term of 2 years on and from 1 June following election.
(2) A Fellow elected pursuant to section 9 (1) (e) of the Act holds office:
(a) in the case of a Fellow elected to hold office on and from 1 December 2005, until and including 31 May 2007, and
(b) in any other case, for a term of 2 years on and from 1 June following election.
(3) A Fellow elected pursuant to section 9 (1) (f) or (g) of the Act holds office for a term of 2 years on and from 1 December following election.
(4) A Fellow elected pursuant to section 9 (1) (h) of the Act holds office for a term of 4 years on and from 1 December following election.
(5) A Fellow filling a casual vacancy holds office from the time that person is elected or appointed under Division 8 to fill that casual vacancy, until the expiry of the term of that Fellow's predecessor.

Division 4 Commencement of election procedures

25 Time intervals for different stages of the election process

In any election, there must be:
(a) no less than 14 days between the date on which publication of a notice of ballot occurs and the date on which nominations close, and
(b) no more than 28 days between the date on which nominations close and the date of issue of ballot material, being:
(i) in the case of a postal ballot, the date of issue of ballot papers by the returning officer, and
(ii) in the case of an electronic ballot, the date on which instructions on how to access the electronic ballot and complete an electronic ballot form are sent to voters by the returning officer, and
(c) no less than 14 days between the date of issue of ballot material and the closing date of the ballot.

26 Manner of conducting ballot

(1) Each election must be conducted by a postal ballot or an electronic ballot.
(2) The returning officer may decide whether the election is to be conducted by a postal ballot or an electronic ballot.
(3) In the case of an electronic ballot, the returning officer may make alternative arrangements for eligible voters who are unable to take part in an electronic ballot to vote in the election.
(4) If there is any technical malfunction in respect of an electronic ballot, the returning officer may determine that the election is to be held again by a postal ballot or another electronic ballot.

27 Notice of ballot

(1) A notice of ballot for election of a Fellow must be published in the following manner:
(a) by displaying a copy of the notice of ballot on all official University notice boards,
(b) if the election is for a graduate Fellow elected pursuant to section 9 (1) (h) of the Act, by publishing a copy of the notice of ballot in at least 2 daily newspapers published in Sydney.
(2) A notice of ballot must specify the following:
(a) that an election is necessary to a particular office,
(b) the category or categories of persons who are eligible for election,
(c) the number of vacancies to be filled in each category,
(d) the term of office of each category,
(e) an invitation for nominations for election,
(f) the form in which nominations must be made,
(g) the date and time when nominations close,
(h) who is eligible to vote in the election,
(i) whether the election is to be conducted by a postal ballot or an electronic ballot,
(j) the closing date of the ballot,
(k) the method of election,
(l) any other information about the election that the returning officer decides is appropriate to be included,
(m) that the election procedures can be found in this Chapter of the By-law.

28 Nominating candidates

(1) A separate nomination form must be completed for each nominee and for each category in which that person is nominated.
(2) Each person who nominates another for election must be eligible to vote in that election. A person cannot nominate himself or herself for election.
(3) Each nomination form must contain:
(a) a statement to the effect that section 26F of the Act provides that each Fellow has the duties set out in Schedule 2A of the Act and may be removed from office by the Senate in accordance with section 26G of the Act for a breach of such a duty, and
(b) an acknowledgment to be signed by the person nominated that the person has read sections 26F and 26G of, and Schedule 2A to, the Act and understands the effect of those provisions.
(3A) Each nomination form must contain the written consent of the person nominated and an acknowledgment (as referred to in subclause (3) (b)) signed by the person nominated.
(4) A person cannot nominate more than one person in any election. If this occurs, the returning officer is to treat the first signed nomination form received as the valid nomination for that election.
(5) At the time of nomination, the nominee may provide a statement of no more than 100 words containing any of the following information:
(a) the nominee’s name,
(b) current occupation or position,
(c) if a student, the current course and year of enrolment,
(d) academic qualifications,
(e) honours and distinctions,

(f) employment experience,
(g) any other information the nominee thinks relevant.
(6) The returning officer may edit any information provided by a nominee under subclause (5). Edited statements are to be provided to voters.

29 Nominations

Each nomination for the election of a Fellow must be proposed in the nomination form by at least 2 persons who are eligible to vote in the relevant election.

30 Deadline for close of nominations

Nominations for any election close at 12.00 noon on the date specified in the notice of ballot.

31 Receiving nominations

The returning officer must reject a nomination paper if satisfied that the nomination does not comply with the requirements of any of clauses 28, 29 or 30. If a nomination is rejected, then the returning officer must, within seven days of receiving that nomination, send or deliver a notice to each person who has signed or endorsed that nomination paper that the nomination has been rejected.

32 Dealing with nominations

(1) If the number of nominations received is less than or equal to the number of positions to be filled, the returning officer must declare those nominees elected.
(2) If the number of nominations received is greater than the number of positions to be filled, the returning officer must conduct an election in accordance with Divisions 5 and (as the case may be) 6 or 7.

Division 5 Conduct of ballot—general

33 Death or ineligibility of candidates

If, before the closing date of a ballot, a candidate at the election dies or becomes no longer eligible for election, the election must proceed as if:
(a) the candidate was not nominated for election, and
(b) the candidate's name did not appear on the list of candidates for election, and
(c) any vote for that person was not cast.

34 Secret ballots

(1) An election must be conducted by secret ballot.
(2) A person involved in administering the conduct of an election (including any scrutineer appointed under clause 38) must not disclose or assist another person to disclose any information as to how a person voted at that election.

Division 5A Conduct of postal ballot

34A Application of Division

This Division applies if the returning officer decides to conduct an election by postal ballot.

35 Preparing and sending ballot papers

(1) The returning officer must prepare ballot papers that contain:
(a) instructions for completing the voting paper, and
(b) the names of all candidates for election, arranged in an order determined by drawing lots, and
(c) a box opposite and to the left of the name of each candidate.
(2) The returning officer must send the following to each voter on the relevant Roll, at the voter's address as listed on the Roll:
(a) a ballot paper prepared in accordance with subclause (1),
(b) a notice describing:
(i) how the ballot paper must be completed, and
(ii) the closing date of the ballot, and
(iii) the address where the ballot paper is to be returned to the returning officer,
(c) a summary of information about each candidate, if provided under clause 28 (5),
(d) a declaration form requiring the voter to state his or her name and that he or she is eligible to vote,
(e) 2 envelopes, one marked "Voting Paper" and the other a returning envelope addressed to the returning officer.

36 Marking and returning ballot papers

(1) Voters must vote by marking the ballot paper with the numbers 1, 2, 3 and so on, next to the name of each candidate, in order of preference.
(2) Voters:
(a) must express their order of preference for a number of candidates at least equal to the number of vacancies to be filled, and
(b) may express their order of preference for as many of the other candidates as have been nominated.
(3) Voters must, after completing the ballot paper:
(a) enclose and seal that ballot paper in the envelope marked "Voting Paper", and
(b) enclose and seal that envelope in the returning envelope addressed to the returning officer, together with the signed declaration of eligibility to be given under clause 35 (2) (d), and
(c) send by post or deliver the envelope to the returning officer so that the returning officer receives it no later than the closing date of the ballot.
(4) The returning officer must ensure that all ballot papers received are stored securely until the counting of votes begins in accordance with (as the case may be) Division 6 or 7.

Division 5B Conduct of electronic ballot

36A Application of Division

This Division applies if the returning officer decides to conduct an election by electronic ballot.

36B Providing ballot material to voters

The returning officer must send to each voter on the relevant Roll, at the voter's email or residential address, instructions on how to access the electronic ballot and complete an electronic ballot form, including the internet address of the election website.

36C Election website

(1) An election website is to be established for the purposes of an electronic ballot.
(2) The election website must include the following:
(a) instructions on how to vote, including the closing date of the ballot,
(b) a summary of information about each candidate, if provided under clause 28 (5),
(c) the names of all candidates for election arranged in an order determined by drawing lots.
(3) The election website may require voters to verify their eligibility to vote and their identity.

36D Completing and submitting electronic ballot forms

(1) Voters must vote by completing the electronic ballot form on the election website, in accordance with the instructions on the election website, so as to indicate their preference for the candidates.
(2) Voters:
(a) must express their order of preference for a number of candidates at least equal to the number of vacancies to be filled, and
(b) may express their order of preference for as many of the other candidates as have been nominated.
(3) Voters must, after completing the electronic ballot form, submit it to the returning officer by following the prompts on the election website.
(4) The returning officer must ensure that any electronic database or retrieval system containing electronic votes is kept secure until the counting of votes begins in accordance with Division 6 or 7 (as the case requires).

Division 5C Procedures after election is conducted

37 Election not invalidated because of certain errors

(1) An election is not invalid because of any one or more of the following:
(a) any one or more of the events described in clause 17 (5) occurs,
(b) an eligible voter did not see a notice of ballot,
(b1) in the case of a postal ballot—an eligible voter did not receive a ballot paper,

(b2) in the case of an electronic ballot—an eligible voter could not access the election website,
(c) an eligible voter's vote has not been accepted at the election.
(2) Notwithstanding subclause (1) and without limiting any of the returning officer's other powers, the returning officer may at any time declare an election invalid because, in his or her opinion, one or more of the events described in that subclause has materially affected, or is likely to materially affect, the outcome of that election.

38 Scrutineers

(1) Each candidate for election may appoint one person to be present as that candidate's scrutineer at any counting of votes for that election. Any appointment under this clause must be in writing, signed by the candidate, and given to the returning officer before counting of votes commences.
(2) A candidate for election is not eligible to be a scrutineer.
(3) In the case of a postal ballot, a scrutineer may inspect any ballot paper provided that, in the opinion of the returning officer, that scrutiny does not delay the counting of votes unreasonably.
(4) In the case of an electronic ballot, a scrutineer may inspect any report or record from any electronic database or retrieval system containing electronic votes used in the electronic ballot, provided that, in the opinion of the returning officer, that scrutiny does not delay the counting of votes unreasonably.

39 Informal votes

(1) In the case of a postal ballot, a ballot paper is informal if, and only if that ballot paper:
(a) contains any mark or writing that, in the opinion of the returning officer, enables any person to identify the voter, or
(b) is not validated by the returning officer, or
(c) in the opinion of the returning officer, contains no vote, or does not include a vote for a number of candidates at least equal to the number of vacancies to be filled.
(2) In the case of an electronic ballot, an electronic vote is informal if, and only if, in the opinion of the returning officer, it does not include a vote for a number of candidates at least equal to the number of vacancies to be filled.

40 Tally sheet to be kept

(1) The returning officer must keep a tally sheet (in either electronic or hard copy form) for each ballot containing the following information:
(a) total number of ballot papers or electronic votes,
(b) total number of informal ballot papers or electronic votes,
(c) a list of candidates,
(d) primary votes allocated to each candidate,
(e) secondary votes allocated to each candidate,
(f) exhausted ballot papers,
(g) progressive total votes for each candidate.
(2) At each stage of counting, the total number of votes divided by the number of candidates to be elected must correspond with the total number of formal ballot papers or electronic votes (including exhausted ballot papers).

Division 6 Procedures for election to fill one position only

41 Counting votes

In an election to fill one position only, the returning officer must follow the following procedure for counting votes, in the order specified:

(a) exclude all informal ballot papers or electronic votes,
(b) count the primary votes for each candidate on the formal ballot papers or electronic votes,
(c) enter the total number of primary votes for each candidate next to that candidate's name on the tally sheet,
(d) if a candidate receives an absolute majority of primary votes, declare that candidate elected,
(e) if no candidate receives an absolute majority of primary votes, distribute secondary votes according to paragraphs (f) to (l) inclusive until one candidate receives an absolute majority of votes,
(f) exclude the candidate with the fewest primary votes,
(g) for each ballot paper or electronic vote where the excluded candidate received a primary vote, allocate the next active secondary vote to the remaining candidates,
(h) indicate on the tally sheet the excluded candidate and that the next active secondary vote has been allocated,
(i) add together the primary votes and the allocated secondary votes for each remaining candidate, and exclude the candidate with the lowest number of total votes,
(j) if, after the exclusion of a candidate, the next active secondary vote is to an excluded candidate, disregard that secondary vote and distribute the next active secondary vote,
(k) repeat the process described in paragraphs (f) to (j) inclusive until one candidate receives an absolute majority of votes,
(l) if on any count, 2 or more candidates have an equal number of votes, and that number is the lowest on that count, the returning officer must:
(i) eliminate the candidate with the lowest number of primary votes, or
(ii) if the number of primary votes is equal, in the presence of any scrutineers present, draw lots with the candidate drawn first remaining in the ballot.

Division 7 Procedures for election to fill more than one position

42 Counting votes

In an election to fill more than one position, the returning officer must follow the following procedure for counting votes, in the order specified:

(a) exclude all informal ballot papers or electronic votes,
(b) count the primary votes for each candidate on the formal ballot papers or electronic votes,
(c) enter the total number of primary votes for each candidate next to that candidate's name on the tally sheet,
(d) exclude the candidate with the fewest primary votes,
(e) for each ballot paper or electronic vote where the excluded candidate received a number 1 vote, allocate the next active secondary vote to the remaining candidates,
(f) indicate on the tally sheet the excluded candidate and that the next active secondary vote has been allocated,

(g) add together the primary votes and the allocated secondary votes for each remaining candidate and exclude the candidate with the lowest number of total votes,
(h) if, after the exclusion of a candidate, the next active secondary vote indicates an excluded candidate, disregard that preference and allocate the next active secondary vote,
(i) repeat the process described in paragraphs (d) to (h) inclusive until only the number of candidates required to fill the vacancies remain,
(j) if on any count, 2 or more candidates have an equal number of votes and that number is the lowest on that count, the returning officer must:
(i) eliminate the candidate with the lowest number of primary votes, or
(ii) if the number of primary votes is equal, in the presence of any scrutineers present, draw lots with the candidate first drawn remaining in the ballot,
(k) in order to determine which candidate is next in order of preference:
(i) the votes counted for any excluded candidate must not be considered further, and
(ii) the order of voters' preferences must be determined on the next available preference indicated on the ballot papers or electronic votes.

Division 8 Casual vacancies for elected Fellows

43 Academic or non-academic staff Fellows

(1) If a casual vacancy in the office of a Fellow elected pursuant to section 9 (1) (d) or (e) of the Act occurs on or before the last 6 months of the end of that Fellow's term of office:
(a) that vacancy must be filled by the candidate at the immediately preceding election who, in the vote counting process at the election, was the last remaining candidate for election aside from the person who was declared elected, and who remains eligible to be elected, or
(b) if there is no eligible candidate, an election must be held.
(2) If a casual vacancy in the office of a Fellow elected pursuant to section 9 (1) (d) or (e) of the Act occurs within the last 6 months of that Fellow's term, the Senate must fill the vacancy by appointing a person qualified to hold that office.

44 Undergraduate or postgraduate student Fellows

(1) If a casual vacancy in the office of a Fellow elected pursuant to section 9 (1) (f) or (g) of the Act occurs within the first year of that Fellow's term, an election must be held.
(2) If a casual vacancy in the office of a Fellow elected pursuant to section 9 (1) (f) or (g) of the Act occurs within the last year of that Fellow's term, the Senate must fill the vacancy, by no later than the date of the second meeting of the Senate after that casual vacancy occurs, by appointing a person qualified to hold that office, and only after first consulting the relevant student body or bodies recognised by the Senate.

45 Graduate Fellows

(1) If a casual vacancy in the office of a Fellow elected pursuant to section 9 (1) (h) of the Act occurs and that vacancy is the first or second vacancy occurring during the term of office for which that Fellow was elected, that vacancy must be filled by the candidate at the immediately preceding election who was the last candidate to be excluded, and who remains eligible to be elected.

(2) If a casual vacancy in the office of a Fellow elected pursuant to section 9 (1) (h) of the Act occurs and that vacancy:
(a) is the third or subsequent vacancy occurring during the term of office for which that Fellow was elected, and
(b) occurs more than 6 months before the end of that Fellow's term of office,
an election must be held.
(3) If a casual vacancy in the office of a Fellow elected pursuant to section 9 (1) (h) of the Act occurs and that vacancy:
(a) is the third or subsequent vacancy occurring during the term of office for which that Fellow was elected, and
(b) occurs 6 months or less before the end of that Fellow's term of office,
the vacancy is to remain unfilled until that term of office for which that Fellow was elected expires.

Division 9

46(Repealed)

Chapter 4A Appointed Fellows of the Senate

46A Nominations Committee

(1) The Senate is to establish a Nominations Committee consisting of the following persons:
(a) the Chancellor,
(b) the Deputy Chancellor,
(c) the Vice-Chancellor,
(d) the Chair of the Academic Board,
(e) 3 Fellows who are external persons (within the meaning of section 9 (9) of the Act), appointed to the Committee by the Senate.
(2) Despite subclause (1), the Nominations Committee may be constituted in accordance with a resolution of the Senate passed by a majority of the number of Fellows present and voting at a meeting of the Senate of which at least 7 days' notice has been given.

46B Nominations procedure relating to appointed Fellows

(1) If the Senate is required to make a nomination as referred to in section 9 (1) (b) of the Act or intends to make a nomination as referred to in section 9 (2) of the Act, the Senate is to request the Nominations Committee to identify persons who may be suitable for nomination.
(2) If the Senate is required to appoint a person under section 9 (1) (c) of the Act, the Senate is to request the Nominations Committee to identify persons who may be suitable for appointment.
(3) The Committee is:
(a) to determine which of the persons identified under subclause (1) or (2) are to be recommended to the Senate:
(i) for nomination for consideration for appointment by the Minister, or
(ii) for appointment by the Senate,
as the case may be, and
(b) to recommend the length of appointment for each such person, and

(c) to forward those recommendations to the Senate.
(4) In determining the persons to be recommended under subclause (3) (a), the Committee is to have regard to:
(a) the skills and experience of the continuing Fellows, and
(b) the matters referred to in section 9 (3) and (4) of the Act.
(5) The Senate:
(a) is to consider the recommendations forwarded by the Nominations Committee, and
(b) is to determine which of the recommended persons are to be nominated for appointment and may select one or more other persons for nomination in place of one or more of the recommended persons, and
(c) is to determine which of the persons referred to in paragraph (b) are to be:
(i) nominated for consideration for appointment by the Minister, or
(ii) appointed by the Senate,
as the case may be, and
(d) is to determine:
(i) in the case of the persons referred to in paragraph (c) (i), the recommended length of appointment for each such person, or
(ii) in the case of the persons referred to in paragraph (c) (ii), the length of appointment for each such person.
(6) The Senate is, when selecting a person for nomination other than a person recommended by the Nominations Committee, to have regard to the matters referred to in subclause (4) (a) and (b).
(7) The Chancellor is to forward the determinations referred to in subclause (5) (c) (i) and (d) (i) to the Minister.

46BA Procedure for proposing Fellows to Minister for appointment

(1) The Senate may propose to the Minister the names of persons (other than those nominated by the Senate in accordance with clause 46B) to be considered for appointment to the Senate by the Minister under section 9 (1) (b) of the Act.
(2) For the purposes of making any such proposal, the Senate may request the Nominations Committee to recommend to the Senate:
(a) persons the Committee considers suitable for appointment, and
(b) the length of appointment for each such person.
(3) In determining the persons to be recommended to the Senate, the Nominations Committee is to have regard to:
(a) the skills and experience of the continuing Fellows, and
(b) the matters referred to in section 9 (3) and (4) of the Act.
(4) The Senate may, after considering the Nominations Committee's recommendations, propose to the Minister the names of persons to be considered for appointment and the length of appointment for each such person.
(5) If the Senate is considering proposing to the Minister a person other than a person recommended by the Nominations Committee, the Senate is to have regard to:
(a) the skills and experience of the continuing Fellows,
(b) the matters referred to in section 9 (3) and (4) of the Act.
(6) The Chancellor is to forward any proposal by the Senate under this clause to the Minister.

46C Casual vacancy in office of appointed Fellow

(1) If a casual vacancy occurs in the office of a Fellow appointed under section 9 (1) (b) of the Act, the Chancellor is to forward to the Minister for consideration for appointment the name of a person nominated in accordance with the procedures set out in clause 46B in respect of such an office.
(2) If a casual vacancy occurs in the office of a Fellow appointed under section 9 (1) (c) of the Act, the vacancy is to be filled in accordance with the procedures set out in clause 46B in respect of such an office.

Chapter 5 Vice-Chancellor

47 Functions

(1) The Vice-Chancellor is responsible for promoting the interests and furthering the development of the University.
(2) The Vice-Chancellor is, under the Senate and subject to this By-law or any rule or resolution of the Senate, to:
(a) manage and supervise the administrative, financial and other business of the University, and
(b) collect and prepare for the Senate and Finance Committee of the Senate all information required by those bodies about the administration, finance and other business of the University, and
(c) consult with and advise the Senate and its committees, the Academic Board, and all other University boards, faculties, committees, professors and heads of department, and
(d) exercise general supervision over the staff and students of the University, and
(e) subject to any delegations of authority approved by the Senate, apportion administrative authority throughout the University, and
(f) exercise supervision over the discipline of the University, in accordance with and subject to any law or rule dealing with discipline or misconduct of staff or students, and
(g) give effect to this By-law, any rules, or any resolutions made, or reports adopted, by the Senate, and
(h) have such functions of the Senate as the Senate may, from time to time, delegate to the Vice-Chancellor.
(3) The Vice-Chancellor:
(a) is, ex officio, a member of every board, faculty or committee, except a Student Proctorial Board convened under Chapter 8, and
(b) may preside at any meeting of such board, faculty or committee.
(4) Nothing in this Chapter affects the precedence or authority of the Chancellor or the Deputy Chancellor.
(5) In this clause, ***student*** includes a person registered in a unit of study or course conducted by the University who is not admitted to candidature in an award course of the University.

48 Acting Vice-Chancellor

The Vice-Chancellor may appoint:
(a) a Deputy Vice-Chancellor, or
(b) in the absence of a Deputy Vice-Chancellor, a Pro-Vice-Chancellor,
as Acting Vice-Chancellor, when the Vice-Chancellor is absent from the University.

Chapter 6 Academic governance

49 Academic Board

(1) The Academic Board:
(a) is to comprise at least 18 members and (subject to this clause) to consist of the membership prescribed by rules made by the Senate, and
(b) is to have the functions prescribed by rules made by the Senate, and
(c) is to report directly to the Senate.
(2) Of the members of the Academic Board:
(a) one is to be Chair and one is to be Deputy Chair, and
(b) at least 9 are to be academic staff members, of whom at least 4 are to be professors, and at least 4 are not to be professors, and
(c) at least 9 are to be enrolled students.
(3) For the purposes of section 17 of the Act, the Academic Board is prescribed as a body to which the Senate may delegate its functions.

50 Definitions

(1) In this Chapter:

academic staff member means a person who is employed as a member (other than a casual member) of the academic staff of the University.

enrolled student means a person (other than a person who is an academic staff member) who is enrolled as a student in an award course at the University.

(2) Expressions used in any rule relating to election procedures for the Academic Board have the same meaning as they have in this Chapter.
(3) In any election for the Academic Board, the question of whether a person is an academic staff member or an enrolled student is to be determined at the time of the close of nominations for the election concerned, as specified in the notice of ballot for the election.
(4) A person is not considered to be enrolled as a student in an award course unless the person has completed, to the satisfaction of the University, all requirements for enrolment or re-enrolment in the award course concerned.

51 (Repealed)

Chapter 7 Convocation

52 Standing Committee of Convocation

There is to be a Standing Committee of Convocation which:
(a) consists of the membership, and
(b) has those functions, powers and procedures,
prescribed by rules made by the Senate.

53 (Repealed)

Chapter 8 Student discipline

Division 1 Preliminary

54 Definitions

In this Chapter:

academic staff member means a member of the academic staff of the University.

Appeals Committee means the Student Disciplinary Appeals Committee established pursuant to clause 78 (1).

Board means a Student Proctorial Board established pursuant to clause 66 (1).

Chair of the Panel means the member of the Panel referred to in clause 64 (1) (a).

misconduct includes:

(a) conduct on the part of a student which is prejudicial to the good order and government of the University or impairs the reasonable freedom of other persons to pursue their studies or research in the University or to participate in the life of the University, and
(b) refusal by a student to give satisfactory particulars of the student's identity in response to a direction to do so by a prescribed officer and any other form of wilful disobedience to a reasonable direction of a prescribed officer.

Panel means a Student Proctorial Panel established pursuant to clause 64 (1).

prescribed officer means a member of the staff of the University who is designated as a prescribed officer by a resolution of the Senate.

University grounds includes all land, buildings and other property owned, leased or otherwise used by the University.

55 Miscellaneous provisions

(1) A prescribed officer must, before giving a direction to a student, state to the student the officer's name and official position or rank.

(2) A document or notice which is required to be given to any person under this Chapter may be:
(a) delivered to or left for the person at the address of the person as last known to the Registrar, or
(b) posted by prepaid registered mail to the person at the address of the person as last known to the Registrar,
and is to be taken to have been given to the person when it has been so delivered or left or at the expiration of 2 days after it has been so posted.
(3) If, in the opinion of the Vice-Chancellor, the Vice-Chancellor is required to:
(a) exercise any power or discretion, or
(b) perform any duty in relation to any matter in which the Vice-Chancellor has been, is or may be personally involved,
the Vice-Chancellor may appoint a Deputy Vice-Chancellor to exercise those powers or discretions and to perform those duties and the Deputy Vice-Chancellor has the power and authority to so act.

Division 2 Suspension of students

56 By senior officers

If, in the opinion of the Vice-Chancellor, a Deputy Vice-Chancellor, a Pro-Vice-Chancellor or a Deputy Principal:
(a) the behaviour of a student amounts to misconduct, or
(b) there is an imminent threat of misconduct by a student,
that officer may, for the purpose of halting or preventing misconduct, suspend the student from entering the University grounds or any part of those grounds for a period not exceeding 7 days.

57 By academic staff

(1) If, in the opinion of a member of the academic staff:
(a) the behaviour of a student in the member's class or during other work supervised by the member amounts to misconduct, or
(b) there is an imminent threat of misconduct by a student in the member's class or during other work supervised by the member,
the member may, for the purpose of halting or preventing misconduct, suspend the student from attending the member's classes or other supervised work for a period not exceeding 7 days.
(2) A member of the academic staff who has imposed a period of suspension under subclause (1) exceeding 24 hours must immediately report the suspension and circumstances of the suspension to:
(a) the Registrar, and
(b) unless the suspension was imposed by the Head of a Department or School, to the Head of the member's Department or School.

58 By University Librarian or nominee

(1) If, in the opinion of the University Librarian or a member of the Library staff nominated by the University Librarian for the purpose of this subclause:

(a) the behaviour of a student in a library of the University or in relation to any property of the Library amounts to misconduct, or
(b) there is an imminent threat of misconduct by a student in a library of the University or in relation to any property of the Library,
the University Librarian or nominated member of the Library staff may, for the purpose of halting or preventing misconduct, suspend the student from the use of or entry to all or any of the libraries of the University for a period not exceeding 7 days.
(2) The University Librarian or a nominated member of the Library staff who has imposed a period of suspension under subclause (1) exceeding 24 hours must immediately report the suspension and circumstances of the suspension to:
(a) the Registrar, and
(b) unless the suspension was imposed by the University Librarian, to the University Librarian.

59 By Registrar

(1) If, in the opinion of the Registrar or a member of the academic staff:
(a) the behaviour of a student in, or in respect of, an examination or other test amounts to misconduct, or
(b) there is an imminent threat of misconduct by a student in, or in respect of, an examination or other test,
the Registrar or the member of the academic staff may, for the purpose of halting or preventing misconduct, suspend the student from sitting for the examination or test.
(2) A person who has imposed a suspension under subclause (1) must immediately report the suspension and circumstances of the suspension:
(a) unless the suspension was imposed by the Head of the Department or School within which the examination or test was held, to the Head of that Department or School, and
(b) unless the suspension was imposed by the Registrar, to the Registrar.

60 Suspension does not prevent subsequent action

A suspension imposed under clause 56, 57 (1), 58 (1) or 59 (1) in respect of conduct alleged to be misconduct does not prevent any subsequent action against the student in respect of the conduct.

61 Suspension pending inquiry or disciplinary proceedings

(1) The Vice-Chancellor may:
(a) suspend a student, or
(b) extend a suspension of a student, from entering the University grounds or any part of those grounds,
for the purpose of halting or preventing misconduct by the student pending an inquiry into, or disciplinary proceedings in respect of, alleged misconduct by the student but no such suspension is to be imposed, extended or continued unless, in the opinion of the Vice-Chancellor, it is reasonably necessary to do so.
(2) If, in respect of certain conduct, a student is suspended under this Chapter for a period exceeding 24 hours and:
(a) no subsequent proceedings in respect of the conduct are taken against the student within a reasonable time after the suspension, or

(b) the student is, in relation to the conduct, found by a Student Proctorial Board or the Vice-Chancellor or on appeal to be not guilty of misconduct,
reasonable allowance must be made by the University for any academic disadvantage incurred by the student as a result of the suspension.

Division 3 Complaints, investigations and summary proceedings

62 Procedure for investigating complaints

(1) Any member of the University staff or any student may, by written complaint, inform the Registrar of any conduct by a student which the member or student considers to be misconduct.
(2) The Registrar:
(a) must, upon receipt of a complaint referred to in subclause (1), make a recommendation to the Vice-Chancellor as to whether, in the Registrar's opinion, the conduct which is the subject of the complaint warrants investigation, and
(b) may, without having received any such complaint, make a recommendation to the Vice-Chancellor that conduct by a student which the Registrar alleges to be misconduct warrants investigation.
(3) Upon receipt of a recommendation referred to in subclause (2) in respect of conduct by a student, the Vice-Chancellor may, whether or not the Registrar has recommended an investigation of the conduct:
(a) determine that no investigation is to be made, or
(b) direct the Registrar to cause a full investigation of the conduct to be made.
(4) In making the investigation referred to in subclause (3) (b), the Registrar has power to require any member of the University staff or any student to appear before the Registrar with a view to assisting the investigation, but no person appearing is obliged to answer any question.
(5) Upon completion of an investigation in relation to an allegation of misconduct by a student, the Registrar is to make a recommendation to the Vice-Chancellor:
(a) that no further action should be taken, or
(b) that the student be given a notice in the form specified in clause 63 (1), or
(c) that the allegation of misconduct be heard and determined by the Vice-Chancellor or a Student Proctorial Board.
(6) Upon receipt of a recommendation referred to in subclause (5) in relation to action to be taken in respect of an allegation of misconduct by a student, the Vice-Chancellor may, whether or not it is in accordance with the recommendation:
(a) decide that no further action should be taken, or
(b) cause the student to be given a notice in the form specified in clause 63 (1), or
(c) refer the allegation of misconduct to the Chair of the Panel or, unless the Registrar recommended that no action should be taken with respect to the allegation, hear and determine the allegation in person.

63 Notifying students of allegations of misconduct

(1) A notice given under clause 62 (5) (b) is to inform the student to whom it is addressed of the allegation of misconduct made against that student and that:
(a) if, within the period of 14 days immediately following the date upon which the notice is given, the student notifies the Vice-Chancellor that the allegation of misconduct

specified in the notice is denied—the allegation of misconduct will be formally heard and determined, and

(b) if, within the period of 14 days immediately following the date upon which the notice is given, the student does not notify the Vice-Chancellor that the allegation of misconduct is denied—the Vice-Chancellor will, at the expiration of that period, impose on the student a specified penalty unless:

(i) the student has given to the Vice-Chancellor an explanation concerning the alleged misconduct which the Vice-Chancellor considers adequate, in which case no penalty is to be imposed on the student, or

(ii) the student has satisfied the Vice-Chancellor that, for any reason, a lesser or different penalty from that specified should be imposed, in which case the Vice-Chancellor will impose the lesser or different penalty on the student.

(2) If a student to whom a notice is given under subclause (1) does not, within the period of 14 days immediately following the date upon which the notice is given, notify the Vice-Chancellor that the allegation of misconduct specified in the notice is denied, the Vice-Chancellor must, at the expiration of that period, impose on the student the penalty in the notice unless:

(a) the student has given to the Vice-Chancellor an explanation concerning the alleged misconduct which the Vice-Chancellor considers adequate, in which case no penalty is to be imposed on the student in relation to the alleged misconduct, or

(b) the student has satisfied the Vice-Chancellor that, for any reason, a lesser or different penalty from that specified should be imposed, in which case the Vice-Chancellor is to impose that lesser or different penalty on the student,

and must lay a report of any penalty so imposed upon the table of the Senate and of the Academic Board.

(3) Clause 76 (4) applies to a report referred to in subclause (2) in the same way as it applies to a report referred to in clause 76 (3).

(4) If a student to whom a notice is given under subclause (1) denies the allegation of misconduct specified in the notice, the Vice-Chancellor is to refer the allegation to the Chair of the Panel or, unless the Registrar recommended that no action should be taken with respect to the allegation, hear and determine the allegation in person.

Division 4 Student Proctorial Panels and Student Proctorial Boards

64 Student Proctorial Panel

(1) There is to be a Student Proctorial Panel consisting of:

(a) the Chair of the Academic Board, and

(b) 9 members of the academic staff (of whom at least 4 are to be professors and at least 4 are not to be professors) appointed by and from the members of the Academic Board, and

(c) 9 student members of the Academic Board appointed by and from the student members of the Academic Board.

(2) The members of the Panel referred to in subclause (1) (b) and (c) are to be appointed at the first meeting of the Academic Board held in each calendar year, or at another time determined by resolution of the Senate.

(3) If the office of any member of the Panel referred to in subclause (1) (b) or (c):

(a) falls vacant for any reason, or

(b) is not filled at the meeting referred to in subclause (2),

that office may be filled by a person appointed in accordance with the relevant paragraph of subclause (1) which is applicable to that office.

(4) A member of the Panel (other than the member referred to in subclause (1) (a)) is to assume office from the date of appointment by the Academic Board and, subject to subclause (5) and clause 67, is to hold office until a successor is appointed.

(5) The Senate may, at any time, extend the term of office of any member of the Panel and the successor to that member is not to assume office until the expiration of that term as so extended.

(6) The member of the Panel referred to in subclause (1) (a) is to be the Chair of the Panel.

(7) In the case of the illness or absence of the Chair of the Panel, the Deputy Chair of the Academic Board may act as deputy for the Chair during the Chair's illness or absence and, during the time the Deputy Chair acts as deputy, the Deputy Chair has all the powers and authority of the Chair.

65 Convening meetings of the Student Proctorial Panel

(1) The Chair of the Panel must convene a meeting of the Panel as soon as practicable after the Vice-Chancellor has referred an allegation of misconduct against a student to the Chair.

(2) The Panel is to establish, in accordance with this clause and clause 66, a Board to hear and determine the allegation of misconduct.

(3) At a meeting of the Panel the Chair must inform the Panel of the allegation of misconduct in respect of which the meeting was convened and the name of the student against whom the allegation is made and any member of the Panel may, with the consent of Chair of the Panel, be disqualified at the member's own request from membership of a Board to be constituted to hear an allegation against a student on the ground that the member may appear to be biased in relation to any matter concerning the allegation.

(4) When all disqualifications from membership of a Board to be constituted to hear an allegation of misconduct have been made under subclause (3), each of the remaining members of the Panel must disclose to the Panel:

(a) whether the member has been or is involved in or associated with any matter concerning the allegation and, if the member has been or is so involved or associated, the nature or extent of the involvement or association, and

(b) whether the member has or has had any attitude towards or association with any person known to be involved in or associated with any matter concerning the allegation.

(5) If, in the opinion of the Chair of the Panel, a disclosure made by a member of the Panel under subclause (4) gives rise to a reasonable apprehension that the member would be biased in deciding any matter concerning an allegation of misconduct against a student, the Chair may disqualify that member from membership of the Board to be constituted to hear the allegation.

(6) If the Chair of the Panel seeks to be disqualified under subclause (3) or where the Chair makes a disclosure under subclause (4), the senior member of the members of the Panel referred to in clause 64 (1) (b) who has not been disqualified has the power to consent to the Chair being disqualified under subclause (3) or to disqualify the Chair under subclause (5).

66 Student Proctorial Board

(1) A Student Proctorial Board is to consist of 3 persons of whom:
(a) one is to be a member elected by and from the Panel, being an academic staff member who is not disqualified from membership of that Board, and
(b) one is to be a member elected by and from the Panel, being a student member who is not disqualified from membership of that Board, and
(c) one is to be a person appointed by the Senate under subclause (4).
(2) The member of a Board referred to in subclause (1) (c) is the Chair of that Board.
(3) If the Chair of the Panel considers it to be desirable, 2 Boards may be constituted and may hear different allegations of misconduct simultaneously.
(4) The Senate must appoint one or more Chairs of Boards annually, or at such other times as appears to it desirable, from among persons who:
(a) have been admitted to practise as barristers or solicitors of the Supreme Court of New South Wales for at least five years, or
(b) hold or have held office as judge or stipendiary magistrate in any State or federal court in Australia.
(5) If the Senate has appointed more than one person as Chair of the Boards under subclause (4), the Chair of the Panel is to determine which person is to be Chair of a particular Board.

67 Death of or expiry of term of member of Student Proctorial Panel or Student Proctorial Board

(1) If the term of office of a member of the Panel expires while the member is a member of a Board constituted to hear an allegation of misconduct, the member is to continue to be a member of the Board until the hearing of the allegation is completed.
(2) If:
(a) a member of the Panel dies or otherwise ceases to be a member of the Panel while the member is a member of a Board constituted to hear an allegation of misconduct, or
(b) a member of a Board is, for any reason unable to attend a meeting of the Board,
the remaining 2 members of that Board may, with the written approval of the Chair of the Panel, but subject to clause 75, continue the hearing of the allegation and make a determination in relation to the allegation.
(3) If, in the opinion of the Chair of the Panel, it is not possible for a hearing of an allegation of misconduct to be concluded within a reasonable time then a new Board must be constituted and the allegation heard by it *de novo*.
(4) A Board must not hear any allegation of misconduct or make any decision in relation to such an allegation (other than a decision to adjourn a hearing) in the absence of the Chair of the Board.

Division 5 Hearing and determining allegations of misconduct

68 Who hears and determines allegations of misconduct

An allegation of misconduct against a student must be heard and determined:
(a) if the Vice-Chancellor has decided to do so in person—as soon as practicable after the Vice-Chancellor so decides, or

(b) if the Vice-Chancellor has referred the allegation to the Chair of the Panel—as soon as practicable after the Board is constituted for that purpose.

69 Preliminary matters to be dealt with by Vice-Chancellor or Student Proctorial Board

(1) In the hearing of an allegation of misconduct against a student, the Vice-Chancellor or a Board has power:
(a) to summon any member of the University staff or any student to appear to give evidence in relation to the allegation, and
(b) to obtain information as to the facts concerning the allegation in any way the Vice-Chancellor or the Board sees fit and may at any stage seek further information in any manner reasonably possible, and
(c) to determine the procedure of the hearing.
(2) The Vice-Chancellor or Board must:
(a) ensure that the student and any witnesses have been correctly identified and that the allegations of misconduct against the student have been made known to the student, and
(b) if satisfied that there is insufficient evidence to establish the allegation of misconduct, dismiss the allegation without calling on the student to answer it, and
(c) if satisfied that there is a case to answer with respect to the allegation, give the student an opportunity to answer the allegation.

70 Dealing with more than one allegation of misconduct

(1) One or more different allegations of misconduct may be heard against one or more students at the same hearing.
(2) If at any time before a final determination has been made in relation to an allegation of misconduct against a student, a fresh allegation is made against the student, being an allegation which arises out of or relates to the same conduct which is the subject of the previous allegation, the Vice-Chancellor or, as the case may be, a Board may hear the fresh allegation together with the allegation previously made against the student but the student must be given an opportunity to prepare a response to that fresh allegation.

71 Failure to appear

If a student fails to appear at the time and place appointed by the Vice-Chancellor or a Board, for the hearing of an allegation of misconduct against the student, the Vice-Chancellor or the Board, as the case may be, may, if satisfied that reasonable and proper steps have been taken to give to the student notice of the hearing:
(a) proceed in the absence of the student, or
(b) adjourn the hearing to a later date and cause the student to be given a notice stating that the hearing is so adjourned and informing the student that the hearing will proceed on the later date notwithstanding any further absence of the student.

72 Objections to questions

(1) A person to whom a question is put at a hearing may object to the question and the Vice-Chancellor or, subject to subclause (2), the Board is to decide whether the objection should be upheld.
(2) A decision in respect of any matter at a hearing of a Board:
(a) if the matter raises a point of law, must be made by the Chair of the Board, and
(b) in any other case, must be made by the agreement of at least 2 members of the Board.

73 Presenting evidence on behalf of the University

The Registrar must designate a person to present evidence in relation to an allegation of misconduct at a hearing of the allegation and that person must attend the hearing and may:
(a) question any witness giving evidence at the hearing, and
(b) present witnesses and other evidence, and
(c) address the Vice-Chancellor or the Board on any issue.

74 Student's rights in respect of hearing

Any student against whom an allegation of misconduct has been made, being an allegation which the Vice-Chancellor has referred to the Chair of the Panel or decided to hear and determine in person must:
(a) be informed of the allegation and of all relevant particulars relating to the allegation, and
(b) subject to clause 75 (2) (c), has the right to be present at any hearing in which any evidence or submission is given or made in relation to the allegation, and
(c) be afforded a reasonable opportunity of bringing to the knowledge of the Vice-Chancellor or the Board any factual material relevant to the allegation and of bringing before the Vice-Chancellor or Board any person who can provide that material, and
(d) be afforded a reasonable opportunity of questioning either in person or by a representative any person who has furnished information at the hearing of the allegation, and
(e) is entitled to inspect any documentary or other physical evidence placed before the Vice-Chancellor or Board, and
(f) is entitled to address the Vice-Chancellor or Board on any issue relating to the allegation whether in relation to the allegation or the penalty which may be imposed, and
(g) is entitled to be represented at the hearing of the allegation or to be accompanied at the hearing by a friend.

75 Conduct at hearing

(1) All persons appearing before or present at a hearing of an allegation of misconduct against a student must conduct themselves in a proper manner.
(2) If a person fails to comply with subclause (1):
(a) at a hearing by a Board, the Board must, if the person is a member of staff of the University, inform the Vice-Chancellor of the failure, and

(b) at a hearing by the Vice-Chancellor or a Board, the Vice-Chancellor or, as the case may be, the Board must, if the person is a student, inform the person that disciplinary action may be taken in respect of the person's behaviour, and
(c) at a hearing by the Vice-Chancellor or a Board, the Vice-Chancellor or, as the case may be, the Board may require the person to leave the hearing.
(3) If a person who is required under subclause (2) (c) to leave a hearing is the student who is the subject of the hearing, the hearing may only continue in the absence of the student if the student was required to leave the hearing by reason of conduct which was so improper as to unreasonably disrupt the hearing.

76 Making a determination

(1) The Vice-Chancellor or a Board may, after hearing an allegation of misconduct against a student:
(a) make a finding that the student is guilty of misconduct but impose no penalty, or
(b) impose one or more penalties on the student if satisfied that the student is guilty of misconduct.
(2) The Vice-Chancellor or a Board may, instead of or in addition to a penalty imposed under subclause (1):
(a) if a student is found to have damaged or destroyed any property of the University, order the student to pay to the University such amount as may be determined by the Vice-Chancellor or Board as compensation for the damage or destruction of the property, or
(b) if a student is found to have taken or removed any property of the University:
(i) order the student to return the property to the University, or
(ii) order the student to pay to the University such amount as may be determined by the Vice-Chancellor or Board as compensation for the taking or removal of the property, or both, or
(c) if a student is found to have taken or removed and damaged or destroyed any property of the University, make orders in respect of the property under subclause (2) (a) and (b).
(3) The Vice-Chancellor and any Board must, as soon as practicable after making a determination under subclause (1) (b) to impose a penalty on any student for misconduct or an order under subclause (2), lay a report of that determination or order upon the table of the Senate and of the Academic Board.
(4) Unless the Senate otherwise determines, only one report referred to in subclause (3) is required to be tabled at a meeting of the Senate or the Academic Board but the Vice-Chancellor or the person who is presiding at the meeting of the Senate or the Academic Board at which the report is tabled must state at the meeting the number of persons mentioned in the report, the nature of the misconduct alleged and the penalties imposed or order made.

Division 6 Penalties

77 Penalties that may be imposed

(1) One or more of the following penalties may be imposed under this Chapter in respect of misconduct by a student:
(a) expulsion from the University,

(b) suspension from admission to or from the use of University grounds or any part of those grounds, either permanently or for a specified period,
(c) suspension from a University course either permanently or for a specified period,
(d) a fine,
(e) a reprimand or a severe reprimand,
(f) a penalty in accordance with academic usage.
(2) The Vice-Chancellor or a Board, when imposing a penalty, may suspend the operation of that penalty on such terms as may be determined by the Vice-Chancellor or Board.

Division 7 Appeals

78 Student Disciplinary Appeals Committee

(1) There is to be a Student Disciplinary Appeals Committee that consists of:
(a) a person who holds, or has held, office as a judge or magistrate in any State or Federal Court in Australia, and
(b) a Fellow, and
(c) a person admitted and enrolled as a legal practitioner under the *Legal Profession Act 1987* for at least 5 years.
(2) The members of the Appeals Committee are to be appointed by the Senate, on the nomination of the Chancellor, for a period of not more than 2 years.
(3) The member of the Appeals Committee referred to in subclause (1) (a) or, where applicable, that member's substitute, is the Chairperson of the Committee.
(4) Members of the Appeals Committee hold office for the period of their appointment or, in the case of the Fellow, until he or she ceases to be a Fellow, whichever is the earlier.
(5) If a member of the Appeals Committee is unwilling or unable for any reason to hear a particular appeal by a student, or the Chancellor (or, in the Chancellor's absence, the Deputy Chancellor) determines after consultation with the Vice-Chancellor that in the particular circumstances of the appeal it would be inappropriate for a member to sit, then the Chancellor (or Deputy Chancellor) must appoint a substitute member qualified under subclause (1) (a), (b) or (c) to hear the appeal.
(6) Subject to subclause (5), any casual vacancy in the office of a member of the Appeals Committee must be filled by the Senate, on the nomination of the Chancellor, as soon as practicable after the casual vacancy arises.
(7) If, before the commencement of this clause, the Student Disciplinary Appeals Committee has commenced the hearing of an appeal by a student but has not made a determination in respect of the appeal, that Committee is to continue to hear and determine the appeal under this Chapter unless that Committee directs that it be heard afresh by the Appeals Committee constituted under subclause (1).

79 Student may appeal against determination

(1) A student may, in accordance with subclause (2), appeal to the Appeals Committee against a determination being:
(a) a finding by the Vice-Chancellor or a Board that the student is guilty of misconduct, or
(b) the imposition of a penalty upon the student by the Vice-Chancellor under clause 63 (2) or by the Vice-Chancellor or a Board under clause 76 (1) (b), or

(c) an order made by the Vice-Chancellor or a Board under clause 76 (2).
(2) An appeal by a student against a determination made by the Vice-Chancellor or a Board:
(a) must be filed with the Registrar within the period of 14 days (or such longer period not exceeding one month as the Vice-Chancellor may allow) immediately following the date upon which the student was given notice of the determination, and
(b) must be in writing giving full particulars of the grounds of appeal, and
(c) may be made only on one or more of the following grounds:
(i) that the determination is unreasonable or cannot be supported, having regard to the evidence,
(ii) that the determination was made in breach of the rules of natural justice,
(iii) that particular evidence should not have been admitted or rejected,
(iv) that fresh relevant evidence has become available to the student, being evidence that was not available or not known to the student at the time of the hearing,
(v) that a provision of this Chapter was not complied with,
(vi) that the meaning or effect of any provision of this Chapter was misinterpreted,
(vii) that in any way whatever there was a miscarriage of justice,
(viii) that the penalty imposed on the student or order made against the student was excessive or inappropriate.

80 Hearing and determining appeals

(1) (Repealed)
(2) A Fellow must not participate in or be present at the hearing of an appeal by the Appeals Committee against a determination made by a Board of which the Fellow was a member or, if the Fellow is the Vice-Chancellor, against any determination.
(3) The Appeals Committee must, on the hearing of an appeal by a student:
(a) allow the appeal if it is of the opinion that the determination of the Vice-Chancellor or Board should be set aside on any of the grounds of appeal referred to in clause 79 (2) (c), or
(b) dismiss the appeal if it is of the opinion that:
(i) the determination of the Vice-Chancellor or Board should not be set aside on any of the grounds of appeal referred to in clause 79 (2) (c), or
(ii) notwithstanding that the determination may be set aside on any 1 or more of the grounds referred to in clause 79 (2) (c) (ii) to (vii) (both inclusive), no substantial miscarriage of justice has actually occurred.
(4) In allowing an appeal by a student, the Appeals Committee may:
(a) quash a determination made by the Vice-Chancellor or a Board, or
(b) quash a determination made by the Vice-Chancellor or a Board and direct that all or any of the allegations the subject of the appeal be reheard by:
(i) if the determination was made by the Vice-Chancellor—a Board, or
(ii) if the determination was made by a Board—another Board, or
(c) if the appeal was made on the ground specified in clause 79 (2) (c) (viii), substitute a different penalty for the one imposed or a different order for the one made, or
(d) if an appeal is made on the ground specified in clause 79 (2) (c) (iv), consider any fresh evidence offered by the student and determine the matter itself without directing a rehearing.
(5) In relation to the hearing of an appeal by a student, the student, any representative of the student and the person designated for that purpose by the Registrar may make

written submissions or, with the consent of the Appeals Committee, may make oral submissions.

(6) The Appeals Committee must, except in the case of an appeal made on the ground specified in clause 79 (2) (c) (iv), determine an appeal on the basis of such official record of evidence as may have been taken at the hearing of the allegation in respect of which the determination was made.

(7) The provisions of clauses 69, 71, 72 (1), 73, 74 and 75 apply to the Appeals Committee in the same way as they apply to and in respect of the hearing of an allegation by the Vice-Chancellor or a Board.

(8) If a student has filed an appeal in accordance with clause 79 (2) against a determination of the Vice-Chancellor or a Board to impose a penalty for misconduct or against an order made by the Vice-Chancellor or a Board under clause 76 (2), the penalty or order is not to be enforceable against the student until the appeal is withdrawn or the Appeals Committee has determined the appeal.

(9) Subject to clause 81, the determination of the Appeals Committee on an appeal is final and conclusive.

Division 8 Miscellaneous

81 Request to quash determination

The Senate may at any time, on the recommendation of the Vice-Chancellor, quash a determination made by the Vice-Chancellor, a Board or the Appeals Committee, whether or not an appeal has been made against that determination.

82 All hearings to be conducted in camera

All disciplinary hearings in the University under this By-law are limited to those persons who in accordance with this Chapter are required or entitled to be present.

83 (Repealed)

Chapter 9 Miscellaneous

84 Repeal

(1) The *By-laws of the University of Sydney* are repealed.

(2) Any act, matter or thing that immediately before the repeal of the *By-laws of the University of Sydney* had effect under the *By-laws of the University of Sydney* is taken to have effect under this By-law.

85 Transitional provision relating to terms of office of undergraduate or postgraduate student Fellows

(1) In this clause, ***2012 By-law*** means the *University of Sydney Amendment (Terms of Office) By-law 2012*.

(2) The amendment of clause 24 (3) by the 2012 By-law does not apply to persons elected before the commencement of that amendment.

(3) The amendment of clause 44 by the 2012 By-law does not apply to a casual vacancy in the office of a Fellow who was elected before the commencement of that amendment.

86 Transitional provision relating to casual vacancies in office of Chancellor

Clause 10 as amended by the *University of Sydney Amendment (Chancellor) By-law 2012* applies to a casual vacancy in the office of Chancellor that occurs on or after the commencement of that amendment.