

UNIVERSITY OF WESTERN SYDNEY LAW STUDENTS' ASSOCIATION

ELECTORAL BY-LAW

*Proclaimed on 17 March 2007 pursuant to the University of Western Sydney
Law Students' Association Constitution*

A By-Law to govern the elections of the University of Western Sydney Law Students' Association

Authorised by:

Jonathan Adamopoulos (President)
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PART I: Preliminary

Section 1: Definitions

For the purposes of this By-Law:

“Association” shall refer to the University of Western Sydney Law Students’ Association;

“candidate” shall refer to a person contesting a position at the election;

“Constitution” shall refer to the Constitution of the University of Western Sydney Law Students’ Association;

“Electoral Legal Arbiter” shall have the same meaning as Clause 13.2 of the Constitution;

“Electoral Offence” shall refer to misconduct outlined in Part II of the By-Law;

“Electoral Officer” shall have the same meaning as Clause 13.1 of the Constitution;

“Executive” shall refer to the committee of members made up of the President, Vice Presidents, Treasurer and Secretary of the Association;

“Presidency” shall refer to the portfolio and office of the President.

Section 2: Alterations to the By-Law and Commencement:

In amending this By-Law, the proposed amendment must have the support of at least of the four out of the five members of the Executive Committee where all five of those members are currently active; or where there are less than five such members, a majority.

This By-Law shall have taken to have commenced from 1 March 2007.

Section 3: Appointment of the Electoral Officer at an Annual General Meeting:

- (1) The Appointment of the Electoral Officer shall be made by the Executive in accordance with a vote after considering the credentials of each contender to that position.
- (2) Further to subsection (1), the Executive must exercise consider the interests of the Association and its members when making its decision.
- (3) The Electoral Officer must not be an Executive Member unless that Executive Member is not contesting a position in the election.
- (4) The Electoral Officer must not be contesting a position at the election.

Section 4: Appointment of the Electoral Officer at a Special General Meeting:

- (1) The President, by default shall be the Electoral Officer.

- (2) Where the Presidency is being contested, then the procedure in Section 3 must be followed.

Section 5: Appointment of Electoral Legal Arbiter

- (1) *[Restatement of Constitution]*
13.2) At the same time that the Executive appoints an Electoral Officer, it shall appoint an Electoral Legal Arbiter who shall be a barrister or a solicitor of the Supreme Court of New South Wales of at least three years standing or an academic of the Faculty of Law of at least six years standing.
- (2) Failure to appoint an Electoral Legal Arbiter shall not have adverse effect on the election, its validity or result. It shall suffice that the Electoral Legal Arbiter be appointed at time of a dispute on a needs basis.

PART II: Electoral Offences

Section 6: Procedure:

- (1) Electoral Offences shall be heard by the Electoral Officer and dealt with by the same in accordance with this By-Law;
- (2) An alleged Electoral Offence may be brought to the attention of the Electoral Officer by the observations or inquiries of the Electoral Officer or by another person whether that person is a member of the Association or not.
- (3) This Part of the By-Law shall be taken to have commenced from 26 February 2007.
- (4) Where a complaint is made of a person with respect to an Electoral Offence, that complaint should be made in writing, signed by the person forwarding the complaint and forwarded to the Electoral Officer.
- (5) On receiving a complaint, the Electoral Officer shall notify the alleged offender and seek a reply within a reasonable amount of time.
- (6) The Electoral Officer, after considering the complaint and reply and any supporting evidence, shall make a decision with respect to this By-Law.

Section 7: Using threats, etc... for discouraging contest

- (1) Any person who uses a threat against a candidate or a person considering to become a candidate for the purposes of discouraging the latter's contesting of a position in the election shall be held to have committed an Electoral Offence.
- (2) A threat, for this section, includes but is not limited to:
 - a. a threat to use physical force, whether that is on the threatened person or not;

- b. blackmail; and
- c. a threat to unreasonably alter course of future elections;

Section 8: Threatening or Encouraging an Electoral Official:

- (1) An electoral official shall refer to the Electoral Officer, the Electoral Legal Arbiter or any person assigned or assisting those persons in the execution of their duty.
- (2) A person must not threaten or encourage an Electoral Official to perform their duties in a particular way unless it is a persistence of compliance with the By-Law or where that encouragement is made in accordance with the By-Law.
- (3) A threat, for this section, includes but is not limited:
 - a. a threat to use physical force, whether that is on the threatened person or not;
 - b. a threat to effect, in any way, shape or form, the election of that Electoral Official or their associate(s) where they would be contesting a position.
 - c. blackmail; and
 - d. a threat to unreasonably alter course of future elections;

Section 9: Using Defamatory material, etc... to influence votes

- (1) A person must not defame any other candidate or currently serving member of the Executive for the purposes of influencing members to vote in a particular way.
- (2) For the purposes of this Section, to defame, the member must have been making statements (either written or orally) that that person knows are false or is reckless as to their truth.

Section 10: Tampering with Ballot Papers

- (1) A person must not tamper with a Ballot Paper prior to its submission.
- (2) For the purposes of this section, tampering shall refer to:
 - a. making inclusions or additions on the ballot paper without the consent of the voter;
 - b. removing or crossing out parts of the ballot paper; and
 - c. purposely withholding a ballot paper from inclusion.
- (3) For the purposes of this section, tampering shall not include adjusting spelling errors.

Section 11: Abetting by a non-member

A member shall be held to have committed an Electoral Offence where they have sought to the assistance of a non-member for conduct contrary to this Part of the By-Law.

Section 12: Effect of Charge

- (1) Where a member has been found to have committed an Electoral Offence, they shall be banned from running in any election for a period of up to 2 years from the date of decision by the Electoral Officer, depending on the circumstances and severity of the matter.

- (2) Where a candidate has been found to have committed an Electoral Offence, it shall be deemed that their election was void *ab initio*.
- (3) Where a person, who is not a member of the Association, has committed an Electoral Offence, that person shall be ineligible to apply for membership to the Association for a period of two years.

PART III: Voting Process:

Section 13: Nomination

- (1) A candidate must be nominated in accordance with the Constitution in order to contest a position at the election.
- (2) A member cannot contest a position, at a By-Election, where that position is occupied.

Section 14: Use of Ballot

Votes must be expressed by way of an authorised ballot paper in order to be included as a valid vote.

Section 15: Nomination must precede vote

- (1) In order to be a valid vote, the persons expressed on the ballot paper must, at the time of making the vote, be persons who have agreed to contest a position and have been nominated prior or at least agreed to contest and will endeavour to contest a position.

Section 16: Time of Making the Vote:

For the purposes of this By-Law, a vote shall have taken place when the ballot paper is completed correctly.

Section 17: Valid Votes:

An Electoral Officer can only include valid votes when counting ballot papers.

Section 18: Assignment of Duties:

The Electoral Officer may assign duties of his or her position to a current Vice President who is not contesting a position in the Election.