

# **1. UNISA SRC ELECTORAL GUIDELINES FOR LODGING ELECTORAL DISPUTE**

## **1.1. INDEPENDENT ELECTION TRIBUNAL<sup>1</sup>**

### **AD SECTION 11<sup>2</sup>**

1.1.1 *The independent election tribunal is responsible for:*

- a) *processing disputes referred to it by the IEC<sup>3</sup> which could not be resolved by the Electoral Liaison Committee.*
- b) *receiving and processing election result disputes submitted by the participants in the elections.*

1.1.2 *The independent election tribunal is constituted of no more than four internal employees who possess a collective skill in law, public policy and political sciences. These members are appointed by the Management Committee on recommendation of the Dean of Students.*

1.1.3 *Appointed members of the election tribunal elect amongst themselves a chairperson who presides over all meetings and hearings conducted by the Tribunal.*

1.1.4 *Disputes are referred to the independent election tribunal in a manner described in **paragraph 12<sup>4</sup>** of this policy.*

## **1.2. ELECTION DISPUTE RESOLUTION**

### **AD SECTION 12<sup>5</sup>.**

1.2.1 *Any dispute arising from any aspect of the elections can be submitted for consideration to an independent election tribunal, constituted in line with paragraph 11.2<sup>6</sup> above.*

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<sup>1</sup> The Tribunal - A "tribunal" is a body, regardless of its denomination, that is established by law, is independent of the executive and legislative branches of government or enjoys in specific cases judicial independence in deciding legal matters in proceedings that are judicial in nature.<sup>46</sup> The right to competence, impartiality and independence of the Tribunal is absolute

<sup>2</sup> SEE THE ELECTORAL POLICY FOR THE STUDENT REPRESENTATIVE COUNCIL

<sup>3</sup> Herein referred to as the INDEPENDENT ELECTORAL COMMITTEE

<sup>4</sup> See 1 above

<sup>5</sup> SEE THE ELECTORAL POLICY FOR THE STUDENT REPRESENTATIVE COUNCIL

<sup>6</sup> Either through the chairperson or the Deputy Chairperson . Follow the link for the details of the members of the Tribunal <https://www.unisa.ac.za/sites/myunisa/default/Student-Affairs-&-SRC/SRC-Elections-2021/Independent-Electoral-Commision-and-the-Independent-Election-Tribunal>

- 1.2.2 *A dispute must be presented in writing in the prescribed complaint form (SEE Form Marked ANNEXURE A). Where necessary, it must be accompanied by supporting documentation.*
- 1.2.3 *Any dispute must be submitted to the independent election tribunal no later than five working days after the IEC's dispute or incident arose.*
- 1.2.4 *The independent election tribunal will determine the procedure for hearing the disputes.*
- 1.2.5 *To protect its independence, the IEC cannot take responsibility for formal election dispute resolution.*

## **2. PROCEDURE TO LODGE AN ELECTORAL DISPUTE**

### **2.1 PURPOSE**

- 2.1.1 The Purpose of the Complaints Procedure and the purpose of the complaints process is to provide an alternative dispute resolution procedure.
- 2.2.2 The aim of complaining is to resolve a particular issue or set of issues to the joint satisfaction of the complainant and or parties to the dispute.
- 2.2.3 The Tribunal will/can make recommendations to the student's structures/organisation or any complainant who has vested interest in the electoral process.
- 2.2.4 The Tribunal will take a decision on the matters under consideration and make a final ruling.

### **2.2 GUIDELINES**

- 2.2.1 The sitting of the Tribunal over a lodged dispute does not involve arguing legal points but for the purpose of deciding, on the evidence presented, by the complainant after having complied with the provisions of **Sec 12<sup>7</sup>**

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<sup>7</sup> THE ELECTORAL POLICY FOR THE STUDENT REPRESENTATIVE COUNCIL

- 2.2.2 No legal representatives (acting in that capacity) are allowed at the Tribunal is representing either the complainant or parties to the dispute.
- 2.2.3 The representatives of the complainant or disputing parties, subject to prior notification will be allowed in the proceedings.
- 2.2.4 No observers or other parties involved in the dispute and their representatives shall be present, except with the Tribunal's permission.
- 2.2.5 Those interested parties invited to attend the Tribunal must not less than 3 working days before the hearing (after that date admission is only by permission of the Tribunal): confirm that they intend to attend confirm any representatives they intend to submit any additional written submissions for consideration by the Tribunal.
- 2.2.6 At the Tribunal Meeting All members present will be reminded to turn off any mobile phones or other electronic communications equipment that may disturb the hearing or influence the process. Members of the Tribunal will be identified to the parties at the commencement of proceedings.
- 2.2.7 Additional supporting documents at the hearing can only be allowed with the consent of the Tribunal.
- 2.2.8 The Chair will then invite any parties to the complaint that are present to make submissions, within a time-frame decided upon by the Chair.
- 2.2.9 The parties to the complaint shall address the Tribunal only;
- 2.2.10 The members of the Tribunal will then ask any questions.
- 2.2.11 Upon hearing all the matters relating to the complaint, the Chair shall summarise the issues.
- 2.2.12 After submission by all the parties, the Tribunal shall undertake its deliberations in confidence at the end of the hearings.
- 2.2.13 The Tribunal can decide whether to announce its decision after its deliberations to the parties concerned at that time or decide to give its decision in writing later.
- 2.2.14 A written decision/report from the Tribunal containing details of the dispute, the outcome, and any recommendations shall be made available within five days from date of hearing.

### **3 DECISION OF THE TRIBUNAL**

3.1 The decision must comply with the following administrative justice principles.

3.1.1 Fairness to the parties

3.1.2 Impartiality;

3.1.3 The Tribunal must give reasonable decision and reasons for the decision.

### **4. COMPLAINANT/PARTIES NOT AGREEING WITH THE DECISION**

The ruling by the independent election tribunal is final and binding<sup>8</sup>.

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<sup>8</sup> In terms of section 11.5 see 1 above