

**UCDSU INDEPENDENT APPEALS AND DISCIPLINARY BOARD**

Reference No. 20/03

**The Returning Officers**

**Applicants**

**and**

**The Executive**

**Notice Party**

**DECISION**

**1. Background**

- 1.1. This matter arises in the context of the unprecedented closure of the University campus by reason of the current COVID-19 virus pandemic. The Executive Elections were conducted electronically in the manner set out in Independent Appeals and Disciplinary Board (“**IADB**”) decision reference 20/01. The Returning Officers have applied to the IADB to hold a by-election for the position of Graduate Officer on a similar basis.
- 1.2. The Returning Officers have indicated that their proposals in that regard are supported by the Executive.
- 1.3. Article 16.15 of the Union Constitution provides as follows:

*“16.15 Should a situation not provided for in this Constitution arise, the IADB shall have the power to formulate and enforce such transitory or alternative provisions as it may consider necessary.”*

1.4. Article 19.4 provides as follows:

*“19.4 Where a position is unfilled, it shall be filled by the holding of a by-election held before the end of the second semester. If the position remains unfilled thereafter, it shall be filled by Council from amongst its membership at the earliest practicable opportunity.”*

1.5. Article 19.8 provides as follows:

*“19.8 The electorate for the position of Graduate Officer shall be defined as all members eligible be nominated for the position of Graduate Officer as set out in Article 19.7 together with members in their final year of study of an undergraduate degree programme of the University.*

*19.8.1 Where it is not reasonably possible for the Returning Officers to ascertain from the electoral list if a specific group of students are in their final year of study of a relevant programme, the phrase ‘final year of study’ shall read ‘final stage’ for the purpose of Article 19.8 in respect of that specific group of students.”*

1.6. Article 18.3.2 provides as follows:

*“18.3.2 Nothing in this Constitution shall prevent the possibility of online or electronic voting. Where the Returning Officers propose to use online or electronic voting in an election or referendum, they may only do so with the consent of both the Executive and Council, each acting by a two-thirds majority. The IADB may overturn a decision to use online or electronic voting at least one week prior to the primary polling date of the relevant election or referendum if the IADB has a significant concern in relation to the security, integrity or accuracy of the proposed online or electronic voting.”*

## **2. Decision**

2.1. The IADB met by way of electronic communication as permitted by Article 16.9 and, having noted the Executive’s agreement with the proposals made by the Returning Officers, decided to put in place the following transitory or alternative provisions pursuant to Article 16.15:

- (a) That the IADB approves the decision of the Returning Officers to hold the Graduate Officer by-election by way of online or electronic voting.
- (b) That the approval of Council required for the implementation of online or electronic voting may be dispensed with in circumstances where the Executive Elections were conducted in that manner.
- (c) That the Returning Officers may dispense with any formal or other requirements of the Constitution where they consider this to be appropriate and necessary for the conduct of the Graduate Officer by-election without further formal approval of the IADB, although the Chair of the IADB should be apprised of any significant instances where this dispensation is invoked. The Returning Officers may dispense with the narrowing of the electorate for this by-election required by Article 19.8.
- (d) That (c) above shall be subject to candidates being required to receive a number of nominations (not less than 2) set by the Returning Officers. These nominations may be made by way of email to the Union Returning Officer. The Union Returning Officer shall inform candidates at regular intervals of the number of nominations they have received and the further number that they require.
- (e) That the Returning Officers may hold voting in the Graduate Officer by-election on such date or dates as they consider appropriate, having consulted with the President, including a date or dates outside of university teaching term.
- (f) In the event that only one person is validly nominated, the Returning Officers may at their discretion deem that candidate elected without holding an election between that person and "Re-open Nominations" as provided for in Article 19.2.
- (g) The opening of nominations for the Graduate Officer by-election shall be notified to members and/or advertised in such manner as the Returning Officers consider appropriate.
- (h) That the holding of the election of Campaign Coordinators and any other elections which had been due to take place be further postponed until after the announcement of the results of the Graduate Officer by-election. The IADB will

then consider this matter further in consultation with the President, President Elect and Returning Officers.

Cllr. Michael D. Clark PhD  
Secretary

Morgan Shelley B.L.  
Chair

**10<sup>th</sup> May 2020**