

**DURHAM COLLEGE OF APPLIED ARTS AND TECHNOLOGY
BY-LAW NO. 4 (16-001)**

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DURHAM COLLEGE OF APPLIED ARTS AND TECHNOLOGY

BY-LAW NO. 4 (16-001) (the “By-Law”)

A By-law to regulate the election of Internal Governors pursuant to Regulation 34/03 under the Ontario Colleges of Applied Arts and Technology Act, 2002 (the “Act”).

BE IT ENACTED AND IT IS HEREBY ENACTED as a By-law of Durham College of Applied Arts and Technology (hereinafter referred to as the “College”) as follows:

1. GENERAL

Durham College is committed to the principle of free and fair elections conducted in accordance with legislation applicable to community colleges of applied arts and technology, the by-laws of the College, and Durham College Board of Governors (the “Board”) and College policies.

Ontario Regulation 34/03 (“O. Reg. 34/03”) Section 4.1 (c) to the OCAAT Act, establishes that a board of governors of a college shall include one student, one academic staff member, one administrative staff member and one support staff member, each of whom shall be elected by the students or by the relevant staff group. Section 4.5 provides that no person shall be a member of the college board of governors under clause (1) (c) unless the person is duly elected in accordance with procedures established by the board after consultation with the students and with the staff referenced in clause (1) (c) and set out in a by-law of the board.

In keeping with O. Reg 34/03 Section 4.6-4.7, Durham College By-Law No. 1, Section 5 Term of Office provides for elected governors (with the exception of student governor) to serve a term of office determined by the Board, but not to exceed three years, renewable once, for a total service of six consecutive years. The term of office for a student governor shall be one year, subject to re-election for a second year. An elected internal governor other than student governor is eligible for re-election after two years absence from the Board, for successive terms not to exceed six years in total. The term of appointment commences September 1 and concludes August 31 of the relevant years.

2. DEFINITIONS

2.1. Academic Staff Member

A person who is a teacher, counselor or librarian. (O. Reg. 34/03)

2.2. Active Participation in a Program of Instruction

Attending classes and/or submitting assignments.

2.3. Administrative Staff Member

A person who is not an academic staff member, a support staff member, or a student. (O. Reg. 34/03)

2.4. Campaigning

Activities undertaken by the candidate or others to promote a candidate with the intent of winning the election.

2.5. Candidate

An individual who has been informed by the Chief Returning Officer (CRO) that their completed nomination form has been accepted by the CRO.

2.6. Canvassing

Asking individuals to vote for a specific candidate.

2.7. Chief Returning Officer

The individual responsible for administering Board elections.

2.8. Election Dispute Committee

A limited-term committee of the Board tasked with receiving, assessing and ruling on disputes referred to it by the CRO.

2.9. Election Appeal Committee

A limited-term committee of the Board tasked with receiving, assessing and ruling on appeals referred to it by the CRO.

2.10. Employee

Members of the College's Academic, Administrative or Support Staff constituencies.

2.11. Good Academic Standing

A cumulative grade point average (GPA) of 2.00 or higher.

2.12. Internal Governor Election Rules

Rules providing information relevant to Candidates and their constituents in addition to the requirements of this By-Law regarding campaigning and canvassing procedures and practices, as set out by the College from time to time.

2.13. Internal Members

Those governors elected from the Academic Staff, Administrative Staff, Student and Support Staff constituencies and the president of the College. (From Ministry of Training, Colleges and Universities (MTCU) Protocol for Board Nominations and Appointments)

2.14. Nominee

An individual who has completed the nomination form but has not yet been notified of acceptance of the form by the CRO.

2.15. Program of Instruction

A group of related courses leading to a degree, diploma, certificate, or other document awarded by the board of governors (MTCU Framework for Programs of Instruction).

2.16. Student

A person who is enrolled in a course or program of instruction in a college. (O. Reg. 34/03)

2.17. Support Staff Member

A person who is a member of the office, clerical, technical, health care, maintenance, building service, shipping, transportation, cafeteria or nursery staff. (O. Reg. 34/03)

3. PRINCIPLES

3.1. Elections shall be fair, transparent, accessible and provide for freedom of choice; voting shall be confidential.

3.2. Candidates for election within a particular constituency will be held to the same Internal Governor Election Rules for that constituency.

3.3. Actions contrary to this By-Law and the Internal Governor Election Rules, shall be dealt with promptly and fairly.

4. ELECTION GOVERNANCE

4.1. In accordance with O. Reg. 34/03, the Board will consult with the Student and Employee constituencies eligible for election as Internal Governors regarding the establishment of this By-Law.

4.1.1. This consultation will take place with College Council.

4.2. The Nominating Committee of the Board oversees the implementation of the procedures set out in this By-Law.

- 4.3. As provided for in By-Law No. 1 and in advance of the Notice of Election, the Board appoints an Election Dispute Committee and an Election Appeal Committee for the duration of the nomination, campaign, election, disputes and appeals periods plus ten (10) business days.
- 4.3.1. These committees shall meet in-camera.
- 4.4. The voting membership of the Nominating Committee, excluding the chair of the Board and any governors who are in a conflict of interest caused by the election(s), shall comprise the Election Dispute Committee. This committee is chaired by the chair of the Nominating Committee. Should membership fall below four (4) voting members, a governor who is not a member of the Governance Review Committee will be appointed. An employee of the college other than the Board secretary shall serve as a non-voting member of the Committee for administrative purposes.
- 4.5. The voting membership of the Governance Review Committee, excluding the president and any governors who are in a conflict of interest caused by the election(s), shall comprise the Election Appeal Committee. This Committee is chaired by the chair of the Board. Should membership fall below four (4) voting members, a governor who is at arm's length to the election(s) under dispute will be appointed. An employee of the college other than the Board secretary shall serve as a non-voting member of the Committee for administrative purposes.
- 4.6. The Board of Governors delegates authority to administer internal governor elections in accordance with this By-Law to the board secretary, who shall serve as CRO.
- 4.6.1. The CRO may delegate some or all of this authority to one or more administrative staff members in the President's Office or in the offices of senior members of the Durham College Leadership Team.
- 4.7. In accordance with this By-Law the College shall from time to time establish rules relevant to Candidates and their constituents in addition to the requirements of this By-Law.

5. NOTICE OF ELECTION

- 5.1. The CRO shall issue a Notice of Election (the "Notice") at least fifteen (15) business days prior to commencement of the election period. Such notice shall be posted on the College's website.
- 5.2. The Notice shall:
- identify the constituency group, candidate eligibility requirements, dates of the nomination period, the campaigning and canvassing period and the election period;

- include a brief profile of the desired characteristics of an elected governor based on Board policies; and,
- be communicated to the relevant constituency group using College communication channels appropriate for that group.

6. ELIGIBILITY FOR NOMINATION

- 6.1. Only full-time Employees and full-time Students enrolled in a Program of Instruction may be nominated from their respective constituent group for internal governor.
- 6.1.1. Student nominees must be in Good Academic Standing, Actively Participating in a Program of Instruction and have paid fees as at the close of the nomination period to qualify as a Candidate.
- 6.2. A Candidate shall be eligible to stand for election in one constituent group only, and must be nominated by five members of the same constituent group who are members of that group on the date the Notice of Election is issued.

7. ELIGIBILITY TO VOTE AND VOTERS LIST

- 7.1. A full-time Employee is eligible to vote as long as he/she remains an Employee of the College under the terms of the Collective Agreement for their constituent group or the Administrative Terms and Conditions of Employment during the election period.
- 7.2. Full-time Students and part-time Students enrolled in a Program of Instruction are eligible to vote. Eligibility of Students to participate in the election shall be determined from the records of the Office of Strategic Enrolment Services.
- 7.3. The voters list shall be prepared for each constituent group at the direction of the CRO within three (3) business days prior to the Notice of Election.
- 7.4. The CRO shall make the voters list available only for perusal by members of the relevant constituency at the Oshawa and Whitby campuses and the Pickering Learning Site during normal business hours (8:30 a.m. to 4:30 p.m.) upon issuance of the Notice of Election until the close of the Election Period.
- 7.4.1. The purpose of this list is to allow voters and potential nominees to confirm that they are included on the list and for use by the CRO to verify eligibility of nominees and voters. Use of the list and/or the information it contains for other purposes is prohibited.

8. NOMINATIONS AND NOMINATIONS PERIOD

- 8.1. The Nomination Period shall be five (5) business days in duration. Nomination Forms shall be available on-line on the Durham College public website and on paper in the Board of Governors Office and may be available on or at other locations appropriate to the relevant constituency as of the opening of the nomination period.
- 8.2. To be valid, completed Nomination Forms shall include:
- the names, employee or student identification numbers and signatures of five nominators from the same constituency group as the nominee;
 - the name, identification number and signature of the nominee;
 - attestation that the nominee has reviewed, at a minimum:
 - By-Law No. 1, Sections 10 Powers of the Board, 19 Removal of a Board Member, 20 Remuneration of Governors, 23 Frequency and Location of Meetings and 25 Conflict of Interest;
 - all Sections of this By-Law;
 - the Board policies on Principles of Governance, Board Job Description, and Board Members' Code of Conduct; and,
 - is willing to serve as and fulfil the duties of a governor.
 - authorization of the Board to verify name, employee/student number and employment status (of employee group nominees) or academic standing (of student nominees) and, for Student nominees, Active Participation in a Program of Instruction.
- 8.3. The CRO shall ensure each Candidate has access to the documents referenced in 8.2 above.
- 8.4. Complete Nomination Forms shall be delivered to the CRO in person by the nominee, who shall also present their identification card for verification.
- 8.5. Misrepresentation of any information or attestation provided by the nominee or nominators on a Nomination Form shall disqualify the nomination and any subsequent candidacy and/or election as governor during the election in which the misrepresentation took place.

- 8.6. The CRO shall communicate acceptance or rejection of the nomination to the nominee upon receipt of the completed nomination form and no later than two (2) business days after the close of the nomination period. Accepted nominees shall be Candidates for election. The CRO shall facilitate posting of the names of all Candidates within three (3) business days after the close of the nomination period.
- 8.7. Prior to the close of nominations, the CRO shall treat all nominations in confidence. In the event that a Candidate advises the CRO of their desire to withdraw their nomination at least twenty-four (24) hours before the start of the election period, the CRO will advise all other Candidates of the withdrawal. If time permits the Candidate's name will be removed from the ballot.

9. CAMPAIGNING, CANVASSING AND THE CAMPAIGN PERIOD

- 9.1. All Candidates within their respective constituent group will be informed of the Internal Governor Election Rules. Each constituent group shall abide by these Rules. These Rules shall be posted on the public Durham College website at least from the date the Notice of Election is issued until the announcement of the election results.
- 9.2. The Campaign Period shall commence no later than the third (3rd) business day after the close of the Nomination Period, be five (5) and no more than ten (10) business days in duration and may coincide in whole or in part with the Election Period.
- 9.3. No form of Campaigning or Canvassing shall take place prior to commencement of the Campaign Period.
- 9.4. Candidates shall adhere to College policies and procedures, including (but not exclusively) the policies and procedures relating to employee and student conduct, discrimination and harassment, and postering.
- 9.5. All campaign costs shall be at the expense of the Candidate. Campaign expenditures shall not exceed \$250.00 per Employee Candidate or \$100.00 per Student Candidate.
- 9.5.1. Proof of expenses (itemized receipts) must be retained by candidates and made available to the CRO upon request until five (5) business days following the announcement of election results or, if subject to a dispute or appeal, until ten (10) business days following the communication of a dispute or appeal ruling, whichever is later.
- 9.6. Physical Campaigning is restricted to on-campus only, including the Pickering Learning Site. There shall be no Campaigning of any form in the President's Office, in a classroom, lab, meeting room, or study room on campus.
- 9.7. Use of social media is acceptable.

- 9.8. A candidate shall not physically provide an electronic device on which an individual can cast a vote.
- 9.9. The CRO will post candidates' photographs and brief campaign and/or biographical statements (maximum word count of 100 words) on the College intranet and the public College website.
- 9.10. Campaigning via College e-mail, employee intranet (ICE) and student intranet (MyCampus) shall be controlled by the CRO. The CRO will facilitate the distribution of two messages on behalf of each candidate, each on a specific date (maximum word count of 100 words per message). The candidate must provide the message by the pre-determined deadline. Content will be reviewed and approved by the CRO. Such messages will be sent in a group format only to the appropriate distribution list. Candidates shall not be given access to internal distribution lists.
- 9.11. Internal Governor Election Rules will identify the availability and acceptability of other Durham College communication channels appropriate for specific constituencies.
- 9.12. Physical campaign posters are permitted only on College campuses and the Pickering Learning Site.
- 9.13. The use of the Durham College logo on campaign materials is strictly prohibited.
- 9.14. All campaign materials shall be removed from College property by the Candidate within forty-eight (48) hours of the close of the election.
- 9.15. Candidates are responsible for monitoring their own campaign materials to ensure compliance with this By-Law and Internal Governor Election Rules.
- 9.16. Notwithstanding subsection 3.1., Candidates are permitted to Canvass and to provide the link to the voting site, but are not permitted to physically assist, watch, or in any way direct a voter to vote.
- 9.17. Candidates who violate the By-Law or Internal Governor Election Rules will be notified by the CRO of the violation in writing and shall cease/undo the violation immediately, where possible. A second violation of the same rule by the Candidate constitutes grounds for revocation of candidacy.
- 9.18. Intentional violation of the By-Law or Internal Governor Election Rules shall result in revocation of candidacy.

10. ELECTIONS AND VOTING

- 10.1. In the event that only one acceptable nomination is received by the CRO, the Candidate will be acclaimed as that constituency's Internal Governor. No election will be held. The CRO shall notify the Nominating Committee within one (1) business day following the close of the Nomination Period. The name of the acclaimed Internal Governor will be communicated to the relevant constituency within four (4) business days.
- 10.2. The Election Period shall be five (5) business days in duration and commence within ten (10) business days of close of nominations, and may coincide with the Campaign Period in whole or in part. The CRO shall facilitate communication of a reminder message to the relevant constituency group using college communication channels appropriate for that group upon commencement.
- 10.3. Elections will be conducted electronically via a secure and confidential voting application. Each eligible voter will have one vote.
- 10.4. The CRO shall ensure voting procedures are compliant with the customer service regulations of the Accessibility for Ontarians Act (AODA).
- 10.5. In the event that any two candidates receive an equal number of votes, the result shall be determined by the toss of a coin conducted by the CRO.
- 10.6. Results of elections shall be communicated to the Nominating Committee within one (1) business day of the close of the Election Period.
- 10.7. The CRO shall facilitate the posting of the names of the two Candidates receiving the greatest number of votes, the number of votes and the per cent of the total number of votes received by each of these two Candidates on the public College website, and the communication of the name of the successful Candidate to the relevant constituency within four (4) business days following the close of the election.

11. MID-TERM VACANCIES

- 11.1. If any elected Board member is unable to finish his/her term of office, within three (3) months of the Board being notified:
 - 11.1.1. First, if eligible and willing, the Candidate with the second-most votes will be acclaimed as governor.
 - 11.1.2. If the Candidate in 11.1.1 is either no longer eligible or not willing to serve as governor, a new election for a Board member representing that constituent group shall be held.

- 11.1.3. If there is less than three (3) months until the end of the resigning governor's term, the position shall remain vacant until the term expires.
- 11.2. With the exception of Student governors, an elected Board member must remain within their own constituent group for the duration of the elected term. Regulation 34/04 Section 7.5 to the OCAAT Act, provides for Student governors who graduate prior to completion of their term of office to remain a member of the Board until August 31 in the year of their graduation.
- 11.2.1. Subject to 11.2, Student governors must remain in Good Academic Standing and be Actively Participating in a Program of Instruction. Student governors not in Good Academic Standing or no longer Actively Participating in a Program of Instruction may be removed from the Board of Governors by the Board.

12. DISPUTES AND APPEALS

- 12.1. In the event of a dispute of Nomination, Campaigning and Canvassing procedures, Internal Governor Election Rules or any election procedures, the disputant shall provide the rationale for the dispute in writing to the CRO immediately and no later than the second (2nd) business day after the close of the Nomination, Campaign, or Election periods, respectively. The CRO shall immediately upon receipt of the rationale, and if relevant, forward the dispute rationale to the accused Nominee or Candidate and request a written rebuttal. This written rebuttal shall be provided immediately and no later than the second (2nd) business day after forwarding of the rationale.
- 12.2. Disputes received under clause 12.1 are resolved by the CRO where possible within four (4) business days of receipt or receipt of rebuttal, whichever is latest. Resolution by the CRO may include (but not exclusively) disqualification of a Candidate and/or mediation. Rulings involving changes to the election timetable, process and/or outcome shall be the responsibility of the EDC. When deemed necessary by the CRO, disputes and any associated rebuttals may be forwarded within four (4) business days of receipt of the rational or rebuttal (whichever is latest) to the EDC, which shall make a ruling within four (4) business days of receipt.
- 12.3. Disputes resolved by the CRO or the EDC may be appealed to the EAC within two (2) business days of communication of the EDC's decision. At its discretion, the EAC may invite the appellant, and where relevant the accused, to attend a meeting of the EAC to respond to questions from the EAC. The appellant and the accused each may be accompanied by an advisor of their choice, at their expense. The EAC shall make a ruling within five (5) business days of receipt of the appeal. This ruling shall be final and binding.

- 12.4. Notwithstanding the timeframes stated for Nomination, Campaign and Election periods in this By-Law, resolution by the EDC of disputes and by the EAC of appeals regarding:
- Campaigning and Canvassing procedures may include (but not exclusively) postponement of the election;
 - Election procedures may include (but not exclusively) disqualification of the election and a re-election.
- 12.5. Rulings relating to disputes or appeals shall be communicated to the disputant or appellant within four (4) business days using the contact information provided by the disputant or appellant on their Nomination Form.
- 12.6. Candidates whose nomination is the subject of a dispute or an appeal may Campaign and Canvass during the Campaign Period and stand for election during the Election Period. Should resolution of the dispute result in disqualification and the deadline for appeal pass, or upon receipt of notice of disqualification resulting from an appeal, the Candidate shall immediately cease all Campaigning and Canvassing and remove campaign materials from College property.
- 12.6.1. The CRO will post a notice of disqualification on the public Durham College website and remove the Candidate's photograph and campaign statement. Time permitting, the disqualified Candidate's name will be removed from the ballot. Any votes received for a disqualified Candidate will be declared invalid. Individuals who voted for the disqualified Candidate shall not have an opportunity to make an alternate choice. Presence of a disqualified Candidate's name on the election site shall not invalidate the election or the election process.

13. REPORTING

The CRO shall provide a post-election report identifying all the Candidates, the number of votes received for each Candidate, the number of invalid votes and the total number of votes to the Governance Review Committee of the College's Board of Governors.

14. RETENTION OF RECORDS

All nomination forms shall be securely destroyed no sooner than five (5) business days after announcement of the Election results or the resolution of appeals, whichever is later.

15. PUBLICATION OF BY-LAW

This By-law shall be open to examination by the public during the normal office hours of the college and shall be available to the public on the college's website.

16. FORCE AND EFFECT

This By-Law shall come in to force and take effect on the date it is finally passed by the Board of Governors.

Enacted by the Board of Governors and sealed with the Corporate Seal this 10th day of February, 2016.

A handwritten signature in dark ink, appearing to read 'P. Tremblay', with a stylized, cursive script.

Pierre Tremblay
Board Chair

A handwritten signature in dark ink, appearing to read 'Jennifer A. Clark', with a cursive script.

Jennifer Clark
Board Secretary