

Proposed Fundamental Student Constitution Amendments

Sections regarding the Referendum

96 Normal amendment process

- (1) The following provisions are fundamental and may only be amended in a referendum: the preamble, chapter 1, chapter 2, sections 18, 19, 21, 23, 26, 27, 40, 41, 42, part 3.5, chapter 4, chapter 5, section 90, and chapter 12.
- (2) A proposed amendment to the fundamental provisions must be accepted by ten (10) members of the Student Representative Council voting for the proposed amendment during a Student Representative Council meeting before a referendum will be held.
- (3) All provisions not mentioned in subsection (1) can be amended by ten (10) members of the Student Representative Council voting for the proposed amendment during a Student Representative Council meeting.
- (4) The fundamental provisions listed in subsection (1) take precedence over any other provision of this Constitution.

97 Special amendment process

Notwithstanding section 96, any proposed amendment to any part of this Constitution will be put to referendum if –

- (a) the signatures of at least one hundred (100) students have been obtained in favour of the proposed amendment; and
- (b) Student Parliament has voted in favour of the proposed amendment.

98 Referendum

- (1) The fundamental provisions of this Constitution listed in section 96(1), as well as any provision in terms of section 97, can only be amended by acceptance of the proposed amendment by the students in a referendum.
- (2) A referendum takes place during the Student Representative Council election, and is organised by the Election Convenor(s).
- (3) Each student must get a reasonable opportunity to vote in a referendum.

Proposed amendments

(Page 1):

The Afrikaans version of this document will take precedence in case of any interpretation disputes.

The English version of this document will take precedence in case of any interpretation disputes.

11 Assembly, demonstration and petition

Every student has the right, to peacefully and unarmed, assemble and demonstrate on campus, and to present petitions to the Student Representative Council and to the University management, according to the relevant approved procedures of the University and/or Municipality.

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(2) Every student has the right to present petitions to the Student Representative Council and to the University management, according to the relevant approved procedures of the University and/or Municipality.

Part 3.5:

44 Nature and convening of the Evaluation Panel

The Evaluation Panel is convened by the Dean of Students to evaluate how the Student Representative Council members performed their duties and in so doing keeps them accountable.

The Evaluation Panel is convened by the Director of the Centre of Student Structures and Communities or his or her nominated alternate to evaluate how the Student Representative Council members performed their duties and in so doing keeps them accountable.

45 Composition of the Evaluation Panel

(1) The Evaluation Panel consists of the following members:

(a) the Dean of Students who will act as the Chair of the Evaluation Panel;

(a) the Director of the Centre of Student Structures and Communities or his or her nominated alternate who will act as the Chair of the Evaluation Panel;

CHAPTER 5 THE STUDENT COURT AND THE APPEAL COURT[‡]

56 Nomination and appointment of members of the Student Court

- (1) The Chair of the Student Court must request nominations for the members of the Student Court from law students and lecturers at the start of the third term.
- (2) The call for nominations must be advertised clearly to all eligible students, whether by means of electronic communication or otherwise.
- (3) The Chair must submit the nominations to the Faculty Board of the Faculty of Law, who appoints the members of the Court before the end of August each year in consultation with the lecturers of the law students who will in the following year be in their penultimate or final year of study for an LLB, or studying for an LLM.

(1) The Chair of the Student Court must request nominations for the members of the Student Court from law students and lecturers three weeks prior to the last Law Faculty Board Meeting of the year.

(2) The opening of nominations must be advertised clearly to all eligible students, whether by means of electronic communication or otherwise.

(3) Nominations must be open for at least 7 days.

(4) The Chair must submit the nominations to the Faculty Board of the Faculty of Law, which appoints the members of the Court at the last Faculty Board Meeting of the year in consultation with the lecturers of the law students who will be in their penultimate or final year of study for an LLB, or studying for an LLM, in the following year.

57 Composition and membership

- (1) The Student Court consists of five (5) LLB or LLM students, provided that –
 - (a) a minimum of one (1) to a maximum of two (2) LLB students in their penultimate year (in the calendar year following their appointment) serve on the Court;
 - (b) a minimum of two (2) to a maximum of four (4) LLB students in their final year (in the calendar year following their appointment) serve on the Court; and
 - (c) and a maximum of one (1) LLM student (in the calendar year following his or her appointment) serves on the Court.
- (2) No member of the Court may be a Student Representative Council member.

Add:

(3) *The membership of a Student Court member terminates when*

(a) *the member's term of office expires;*

(b) *the member dies;*

(c) *the member presents a written resignation to the Chair of the Student Court or the Dean of the Law Faculty.*

(d) *the member ceases to be a registered student;*

(e) *the member was removed*

Add:

58 Removal

(1) *A member may be removed by the Dean of the Law Faculty should they*

(a) *contravene a rule or code set out in the Disciplinary Code of Stellenbosch University.*

(b) *fail to perform their duties as member of the Student Court on more than two occasions and are unable to provide a valid excuse for such failure.*

Add:

59 Appointment of a new member

(1) *Should a member's membership terminate before the end of their term, the Chair of the Student Court must request nominations for a replacement within 5 university days after receiving the resignation.*

(2) *The nominations must be open for at least 7 days.*

(3) *The Chair must submit the nominations to the Dean of the Law Faculty who will present it to the Faculty Board, which will appoint a new member within 7 days.*

(4) *Should the chairperson resign, the Dean of the Law Faculty will appoint an interim chair until a new chair is elected.*

(5) *The interim chair will then open nominations for a new member and the procedure in terms of subsections (1) – (3) of this section shall apply.*

(6) *The Chair of the Student Court is elected within ten (10) days after the appointment of the new member of the Student Court at a meeting which is convened by the interim Chair of the Student Court.*

****Adjust the numbering from here for the rest of the Constitution***

60 Chair

The Chair of the Student Court is elected within ten (10) days after the appointment of the members of the Student Court at a meeting which is convened by the former Chair of the Student Court.

61 Term of office

The term of office of the Student Court coincides with that of the Student Representative Council, except in extraordinary circumstances where practical considerations require other measures.

62 Jurisdiction of the Student Court

The Student Court has the power to –

- (a) give an interpretation, or to confirm the interpretation of a party before the Court, regarding –
 - (i) this Constitution; or
 - (ii) any empowering provision in terms of which a student body or a member of a student body exercises power;
- (b) decide on the constitutionality of any action or omission of a student body or a member thereof;
- (c) review any decision of a student body or a member thereof whereby the rights or legitimate expectations of a student or group of students are materially and adversely affected;
- (d) make a final decision regarding any matter where the parties consent to the jurisdiction of the Court; and
- (e) decide on all other matters which this Constitution places under the jurisdiction of the Student Court.

63 Remedies

The Student Court can –

- (a) grant an interdict or any other interim relief if material injustice would otherwise result;
- (b) grant a declaratory order;
- (c) set aside any decision or action that is inconsistent with this Constitution, or a constitution, policy, regulation or any empowering provision of a student body, in so far as it is inconsistent with it, provided that in case of setting aside –
 - (i) the retroactive effect of the order must be limited as far as possible; and
 - (ii) the order can be suspended for a fixed time or on any conditions so as to allow the person or body in question to rectify the fault; or
- (d) grant any order, including a combination of the abovementioned remedies, that is fair and

equitable.

64 Applications to and standing before the Student Court

- (1) All students and student bodies can bring cases before the Student Court, and only students and student bodies can bring cases, unless –
 - (a) this Constitution gives standing to another person or body; or
 - (b) all the parties before the Court consent to giving another person or body standing.
- (2) The procedure according to which cases are brought before the Court is set out in the rules of the Student Court.

65 Procedure of the Student Court

- (1) The Student Court determines its own procedure, with due consideration of –
 - (a) the rules of natural justice; and
 - (b) the need for the Student Court to be accessible.
- (2) The Student Court must, after consultation with the Student Representative Council and subject to approval by the Appeal Court, adopt rules that set out its procedure, which must at least provide that –
 - (a) after the Court receives an application, the Chair of the Court must ensure that any person who may have a material interest in the proceedings is notified;
 - (b) the time when and the place where an application will be heard be advertised timeously in the Ou Hoofgebou and at the Student Representative Council office, as well as electronically.
- (3) The rules contemplated in subsection (2), and the identity and contact details of the Chair of the Student Court, must be readily available electronically and in hard copy to all students.

66 Representation at the Student Court

- (1) Any party before the Student Court may appear before the Court with or without representation.
- (2) Only students may act as representatives before the Student Court.

67 Decisions of the Student Court

- (1) The decisions of the Student Court are binding.
- (2) The Court must provide, in writing, reasons for its decisions, which must be signed by all the members of the Court
- (3) Where a minority of members of the Court do not concur with the majority, the minority must in

writing provide reasons for their deviation.

- (4) All decisions of the Student Court must be made available to all students as soon as possible after they have been handed down, both –
 - (a) electronically; and
 - (b) in hard copy at –
 - (i) the Student Representative Council office; and
 - (ii) the Secretary of the Dean of the Law Faculty.
- (5) The Chair of the Student Court must ensure that all decisions of the Student Court are stored both in hard copy at the Student Representative Council office and on an electronic database, and that all students can readily access the previous decisions of the Student Court.

68 Composition of the Appeal Court

The Appeal Court consists of two (2) lecturers of the Faculty of Law, who are appointed by the Dean of the Faculty of Law.

69 Jurisdiction of the Appeal Court

- (1) The Appeal Court hears appeals against the decisions of the Student Court.
- (2) The Appeal Court can review any decision or omission of the Student Court.
- (3) The Appeal court can review decisions of the Evaluation Panel.
- (4) The Appeal Court can decide on any other matters that are placed under its jurisdiction by this Constitution.

70 Lodging appeals or applications for review by the Appeal Court

- (1) An appeal or an application for review at the Appeal Court is lodged with the Dean of the Faculty of Law, who will appoint an Appeal Court.
- (2) The appeal must be lodged within thirty (30) days after the decision against which is being appealed or which is reviewed was taken, unless this Constitution provides otherwise.

71 Procedure of the Appeal Court

The procedure of the Appeal Court is the same as that of the Student Court, with the necessary adjustment.

90 Student Representative Council general election[‡]

- (1) The nine (9) Student Representative Council members referred to in section 19(a) elected once every calendar year in a free and fair general election in which all students may vote, with due observance of the provisions of Schedule 1.
- (2) Each student may cast his or her vote only once in a particular election and each student's vote carries the same weight.
- (3) The Student Representative Council election must –
 - (a) take place during the third academic term;
 - (b) must be held over a maximum of one (1) week.
- (4) The following elections may not overlap with the Student Representative Council election:
 - (a) the election of the members of the Academic Affairs Council, Prim Committee and Societies Council, and the representatives of these bodies on the Student Representative Council; and
 - (b) the election of any of the direct or indirect constituent bodies of the student bodies mentioned in paragraph (a), including the election of Faculty Student Committees, House Committees and Society Committees.
- (5) The Executive Committee of the Student Representative Council must in consultation with the Office of the Dean of Students –
 - (a) advertise the position(s) of Election Convenor(s) for at least two (2) weeks on Stellenbosch campus;
 - (b) appoint, every year before the end of March, one or more independent, autonomous, neutral and competent Election Convenor(s), who at no time is or was a member of the Student Representative Council in office at the time, to run the election; and
 - (c) determine the election dates in consultation with the Election Convenor(s) and the Office of the Dean of Students, before the end of June every year, with due consideration of subsection (3).
- (6) The format of the election, who qualifies to run for the Student Representative Council, the duties and powers of the Election Convenor(s), the election complaints procedure and the announcement of results are determined in Schedule 1 to this Constitution, and this section must be implemented in accordance with Schedule 1.

92 Student Representative Council general election[‡]

- (1) *The nine (9) Student Representative Council members referred to in section 19(a) are elected once every calendar year in a free and fair general election in which all students may vote, with due observance of the provisions of Schedule 1.*

- (2) *Each student may cast his or her vote only once in a particular election and each student's vote carries the same weight.*
- (3) *The Student Representative Council election must –*
 - (a) *take place during the third academic term;*
 - (b) *must be held over a maximum of one (1) week.*
- (4) *The election of the representatives of the Academic Affairs Council, Prim Committee and Societies Council on the Student Representative Council must precede the Student Representative Council election; and*
- (5) *The election of any of the direct or indirect constituent bodies and members of the Academic Affairs Council, Prim Committee, Societies Council, Faculty Student Committees, House Committees and Society Committees must take place after the Student Representative Council election.*
- (6) *The Executive Committee of the Student Representative Council must in consultation with the Office of the Director of the Centre of Student Structures and Communities –*
 - (a) *advertise the position(s) of Election Convenor(s) for at least two (2) weeks on Stellenbosch campus;*
 - (b) *appoint, every year before the end of March, one or more independent, autonomous, neutral and competent Election Convenor(s), who at no time is or was a member of the Student Representative Council in office at the time, to run the election; and*
 - (c) *determine the election dates in consultation with the Election Convenor(s) and the Office of the Dean of Students, before the end of June every year, with due consideration of subsection (3).*
- (7) *The format of the election, who qualifies to run for the Student Representative Council, the duties and powers of the Election Convenor(s), the election complaints procedure and the announcement of results are determined in Schedule 1 to this Constitution, and this section must be implemented in accordance with Schedule 1.*