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## GOVERNMENT NOTICE

### DEPARTMENT OF EDUCATION

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## HIGHER EDUCATION ACT, 1997

### STATUTE OF THE EASTERN CAPE TECHNIKON

The council of the Eastern Cape Technikon has made this Statute in accordance with section 32 of the Higher Education Act, 1997 (Act No. 101 of 1997), which is, in terms of the provisions of section 33 of the said Act, hereby published with the approval of the Minister of Education and which comes into operation on the date of this publication.

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## DEFINITIONS

### Definitions

1. (1) In this Statute any expression to which a meaning has been assigned by the Higher Education Act, 1997 (Act No. 101 of 1997) has the meaning so assigned to it and, unless the context otherwise indicates -

**"Act"** means the Higher Education Act, 1997 (Act No. 101 of 1997);

**"division"**, without limiting the generality of the term, includes department, satellite, extended campus, faculty, institute or trust of the Technikon;

**"donor"** means any structure or person that donates to the Technikon an amount in cash as may be determined by the council from time to time, or who has undertaken to donate such an amount to the Technikon, in regular instalments over a period of not more than four years and who is not in arrears with the instalments;

**"employee"** means a person employed full-time or part-time in a permanent or temporary capacity at the Technikon, but excludes an independent contractor or any person employed solely by an independent contractor at the Technikon;

**"employee organisation"** means an organisation which consists of employees formally associated together and organised in a staff association or trade union for the purpose of regulating relations between themselves and the Technikon and which is recognised by the council on such conditions as have been negotiated between the council and the employee organisation;

**"institutional forum"** means the structure contemplated in section 31 of the Act and in paragraph 47 of this Statute and includes the broad transformation forum;

**"nominate" and "nomination"** means the act of submitting names for election;

**"permanent employee"** means a person appointed permanently at the Technikon by the council, or who is deemed to have been so appointed, even though he or she may have been appointed -

- (i) on probation;
- (ii) to a post intended for a person of a rank higher or lower than his or her own rank; or
- (iii) to a post additional to the fixed establishment of the Technikon;

**"principal"** means the rector and vice-chancellor of the Technikon;

**"Rules"** means the institutional rules of the Technikon made in terms of section 32 of the Act;

**"senior management"** means the principal and the vice-principals and the deans and the heads of satellite or extended campuses and any employee at the level of director or higher;

**"students' representative council"** means the students' representative council of the Eastern Cape Technikon and is a structure of students' representatives as elected by the students at all the campuses of the Technikon in a general election and by means of secret ballot, and includes the branches of the students' representative council at all the campuses;

**"Technikon"** means the Eastern Cape Technikon and all its divisions; and

**"vice-principal"** means the vice-rector or vice-rectors of the Technikon.

(2) If a quorum or required majority of votes is expressed as a mathematical fraction and it happens that the consequent quorum or majority is not an integral number, the next greater integral number is the quorum or majority of votes.

(3) Due notice is deemed to have been given if written notice is sent to the last known address of the person concerned at the commencement of the required period of notice.

## **CHANCELLOR**

### **Functions**

2. (1) The chancellor is the titular head of the Technikon and confers all diplomas and degrees in the name of the Technikon.
- (2) The chancellor, if requested by the council, officiates at other official functions of the Technikon.

### **Term of office**

3. The chancellor occupies his or her office for a period of four years, but is eligible for re-election.

### **Vacation of office**

4. (1) The chancellor vacates his or her office if he or she, by writing under his or her hand, addressed to the secretary to the council, resigns as chancellor.
- (2) The chancellor may be removed from office by a resolution of at least two-thirds of all members of the council on account of incapacity to carry out his or her official duties or any other reason that the council deems adequate.

### **Election and filling of vacancy**

5. (1) The chairperson of the council determines the date on which a meeting of the council is to be held for the purpose of electing a chancellor whenever the office of the chancellor becomes vacant.
- (2) The secretary to the council gives due notice to every member of the council of such meeting, and invites members of the council to submit nominations for the office of chancellor.
- (3) No person can be elected to the office of the chancellor unless he or she has been nominated, with his or her written consent, by at least two members of the council and such nomination reaches the secretary to the council at least 21 days before the meeting contemplated in subparagraph (1).
- (4) The secretary to the council, as soon as possible after the closing date for nominations, informs every member of the council in writing of such nominations.



- (5) The chancellor must be elected by at least a two-thirds majority of all the members of the council present at the meeting.
- (6) The council elects a chancellor by secret ballot.
- (7) Each member of the council has only one vote during each ballot.
- (8) There is a series of ballots if no candidate gains a two-thirds or more majority in the first ballot.
- (9) In each successive round of balloting the candidate with the least support in the previous ballot is eliminated as candidate.
- (10) After the council has elected a chancellor, the name of such chancellor is announced by the chairperson of the council.

## **PRINCIPAL**

### **Functions**

6. (1) The principal, as chief executive officer of the Technikon exercises general supervision and control over the Technikon and is accountable to the council of the Technikon.
- (2) In the absence of the chancellor, the principal in his or her capacity as vice-chancellor, performs the functions pertaining to the office of chancellor.
- (3) The principal by virtue of his or her office is a member of all committees of the council, the senate and of all joint committees of the council and the senate.
- (4) The principal has powers to make any reasonable decisions concerning the functioning and the protection of the interests of the Technikon, provided that any such decisions as may be outside his or her normal authority are submitted to the council for ratification at its next meeting.
- (5) The principal may approve any capital expenditure that has been included within the budget of the Technikon as approved by the council, provided that the council may from time to time determine the maximum amount of expenditure that may be approved by the principal and rule that expenditure amounting to more than the determined amount requires the specific approval of the council in writing.
- (6) The privileges of the principal are determined by the council.



(7) The principal in the execution of his or her functions must ensure compliance with all the relevant laws, the Statute and the Rules.

#### **Term of office**

7. (1) The principal holds office for a period determined by the council which may not extend beyond the normal retirement age of the employees of the Technikon.

(2) Notwithstanding subparagraph (1) the council may extend the appointment of the principal beyond such age limit by not more than five years.

#### **Acting principal**

8. (1) The principal, whenever he or she is to be absent, and after consultation with the chairperson of the council, appoints one of the vice-principals as a substitute to exercise his or her powers and perform his or her functions in an acting capacity for any period during which he or she is to be absent.

(2) If the principal is unable to perform his or her functions and has not appointed a substitute in terms of subparagraph (1), the executive committee of the council appoints one of the vice-principals, or, in their absence, any other fit and proper person who is suitably qualified, to act in his or her stead for any period during which the principal is absent, and such an acting principal has the powers, privileges and functions of the principal, on the understanding that he or she may not change existing policy unless with the approval of the executive committee of the council.

#### **Election and filling of vacancy**

9. (1) The secretary to the council, at least six months before the term of office of the principal expires, or as soon as possible after a vacancy in the office of principal occurs for a reason other than effluxion of time, informs the council of such expiry or vacancy.

(2) At a special meeting of the council, convened for this purpose, the council, while ensuring that the principles of democracy, inclusivity and transparency are complied with and cognisant of the advice received from the institutional forum as

contemplated in section 31(1) of the Act, determines the criteria to be applied for the purpose of identifying a candidate to be recommended to the council.

(3) At the special meeting contemplated in subparagraph (2) the council, for purposes of nominating a candidate and recommending his or her appointment to the council, appoints a special committee.

(4) The special committee must have no more than nine members and no fewer than five members.

(5) Candidates for the vacancy may not be members of the special committee.

(6) The composition of the special committee is as the council may from time to time determine, on advice from the institutional forum as contemplated in section 31(1) of the Act.

(7) The secretary to the council is, by virtue of his or her office, the secretary to the special committee.

(8) The secretary to the council, on instruction of the committee, places an advertisement for the post of principal in national newspapers and must, as soon as possible after the closing date of the advertisement, call a meeting of the special committee to compile a short list of candidates for the office of the principal and arrange for personal interviews with the short-listed candidates.

(9) The special committee, after having held personal interviews with all short-listed candidates, nominates one candidate for recommendation to the council for appointment to the office of the principal.

(10) The names of all applicants must also be submitted with the name of the nominated candidate to the council.

(11) The council votes by secret ballot on the appointment of the recommended candidate to the office of the principal.

(12) A two-thirds majority is necessary to carry the recommendation.

(13) If the recommended candidate does not receive a two-thirds majority vote, the council must vote by secret ballot on all the interviewed short-listed candidates.

(14) If no candidate receives a two-thirds majority vote, successive rounds of voting must be held.

(15) In each successive round of voting, the candidate receiving the least votes is eliminated.

(16) The successful candidate is appointed, in writing, by the chairperson to the council after due compliance with this paragraph.

## **VICE-PRINCIPALS**

### **Functions of vice-principals**

10. (1) A vice-principal exercises general supervision and control over such Technikon divisions as determined by the council.

(2) A vice-principal is accountable to the principal and advises and reports to him or her regarding the management of the divisions under his or her general supervision.

(3) A vice-principal must in the execution of his or her duties ensure compliance with all the relevant laws, the Statute and the Rules.

(4) The privileges of a vice-principal are determined by the council.

### **Term of office**

11. (1) A vice-principal holds office for a period determined by the council which may not extend beyond the normal retirement age of the employees of the Technikon.

(2) Notwithstanding subparagraph (1), the council may extend the appointment of a vice-principal beyond such age limit by not more than five years.

### **Appointment and filling of vacancy**

12. The provisions of paragraph 9 relating to the principal apply with the necessary changes to the appointment of a vice-principal and the filling of a vacancy.

## COUNCIL

### Function of council

13. (1) Subject to the Act and this Statute the Technikon is governed by the council.
- (2) The council must –
- (a) exercise control over all property of the Technikon; and
  - (b) make all appointments as presented to the council by the principal and have general control of the Technikon, its affairs and functions; and
  - (c) exercise such functions as empowered by the Act, and any other Act of Parliament and this Statute.

### Composition of council

14. (1) The council consists of -
- (a) the principal;
  - (b) the vice-principals;
  - (c) five persons appointed by the Minister;
  - (d) two members of the senate elected by the senate;
  - (e) one person representing academic employees, elected by such employees;
  - (f) one person representing employees other than academic employees, elected by such employees;
  - (g) two members of the students' representative council elected by the students' representative council;
  - (h) one person representing the convocation as elected by the convocation;
  - (i) one person representing organised labour designated by the council on the recommendation of organised labour;
  - (j) five persons representing local communities, designated by the council on the recommendation of the Technikon community;

- (k) one person designated by the council who is an expert from any professional field as required by the council from time to time;
- (l) one donor representative, elected by the donors;
- (m) one person representing women's interests designated by the council on the recommendation of a women's group;
- (n) two representatives of organised commerce designated by the council on the recommendation of organised commerce;
- (o) two representatives of organised industry designated by the council on the recommendation of organised industry;
- (p) one representative of the provincial department of education designated by the head of the provincial department of education;
- (q) one representative of the provincial government designated by the provincial government;
- (r) one representative of the institutional forum elected by such forum; and
- (s) such additional persons representing any relevant organisations as determined by the council on the advice of the institutional forum.

(2) The number of persons contemplated in subparagraph (1)(h) to (s) may not be more than 20 and may not be employees or students of the Technikon.

#### **Chairperson and vice-chairperson**

15. (1) The members of the council, at the first meeting of the council and thereafter whenever it becomes necessary, elect from among its members who are not employees or students of the Technikon, a chairperson and vice-chairperson who each holds office for a period of two years, or for such shorter period as he or she may be a member of the council.

(2) Nominations for the office of chairperson or vice-chairperson of the council must be given in writing to the secretary to the council.

(3) The principal acts for the duration of the election as acting chairperson.

(4) If more than one candidate for each position is nominated, voting must be by secret ballot.

(5) A candidate may only be elected to the office of chairperson or vice-chairperson by a two-thirds or more majority of the members present at the meeting of the council.

(6) Each member of the council has only one vote during each ballot.

(7) There must be a series of ballots if no candidate gains a two-thirds majority in the first ballot.

(8) In each successive round of balloting the candidate with the least support in the previous ballot shall be eliminated as candidate.

(9) Whenever a vacancy occurs in the office of chairperson or vice-chairperson the provisions of subparagraph (2) to (8) apply to the filling of such vacancy.

(10) The person elected in terms of subparagraph (9) holds office for the unexpired period of office of his or her predecessor.

(11) The chairperson and the vice-chairperson may not serve as such for more than two consecutive terms.

(12) Notwithstanding subparagraph (11), the chairperson or vice-chairperson who has served two consecutive terms as such may only be re-elected as chairperson or vice-chairperson after the expiry of a period of four years from the last day of his or her last term.

### **Secretary**

16. (1) The members of the council, at the first meeting of the council and thereafter whenever it becomes necessary, elect from among its members a secretary who holds office for a period of two years, or for such shorter period as he or she may be a member of the council.

(2) The council may assign any other employee to assist the secretary or to act in his or her place.

(3) The secretary acts as electoral officer at all meetings of the council.

**Committees and joint committees of council and senate**

17. (1) The council may establish such committees as may be necessary to perform any of its functions.

(2) The council and the senate may jointly establish committees to be known as joint committees to perform functions that are common to the council and the senate.

(3) The composition, manner of election, functions, procedure at meetings and dissolution of a committee and a joint committee are determined by the Rules.

**Executive committee of council**

18. (1) The council appoints an executive committee of the council consisting of no fewer than five members -

- (a) the chairperson;
- (b) the vice-chairperson;
- (c) the principal;
- (d) the chairpersons of all permanent committees of the council; and
- (e) any other two members of the council, one of whom must be recommended by the employees of the Technikon and the other must be recommended by the students' representative council.

(2) The secretary to the council is by virtue of his or her office the secretary to the executive committee.

(3) The executive committee of the council has all the powers conferred on it by the council.

(4) The quorum of all meetings of the executive committee of the council is five members.

**Ordinary meetings of council**

19. (1) At least four meetings must be held during a calendar year.

(2) The chairperson convenes meetings of the council on the dates and times as predetermined by the council.



(3) One half of the members of the council plus one constitutes a quorum for a meeting of the council, providing that the majority of such quorum are not employees or students of the Technikon.

(4) Vacancies in the council must not be taken into account in determining the quorum.

(5) The secretary to the council, at least seven days before the date contemplated for a meeting, gives notice in writing to all members of the council, setting forth the business to be dealt with as well as the time and place of such a meeting.

(6) Notice of matters which a member desires to be considered at a meeting must be in writing and lodged with the secretary to the council at least 15 days before the date on which he or she is required to give notice of the meeting.

(7) Notwithstanding subparagraph (5) a member may, with the consent of at least two-thirds of the members present, submit a motion of an urgent matter at the meeting without prior notice.

(8) The council may invite persons who are not members to attend meetings and such persons may take part in the discussions but may not vote.

#### **Extraordinary, special or emergency meetings of council**

20. (1) An extraordinary or special meeting of the council may be called by the chairperson of the council whenever he or she deems it necessary, and must be called by him or her if requested to do so in writing by any five members, the business of the meeting being stated clearly in the request.

(2) No matters other than that for which the extraordinary or special meeting was called, may be dealt with at such meeting, except with the consent of the meeting granted on an unopposed motion.

(3) An emergency meeting may be called by the chairperson at any time, provided that members are given not less than 24 hours' notice of such a meeting.

(4) The notice contemplated in subparagraph (3) may be given in any manner deemed expedient by the chairperson in the circumstances.

(5) Members must be notified of the purpose of an emergency meeting, and no business other than that of which members have been notified may be dealt with at such meeting.

### **Minutes of council meetings**

21. (1) The secretary to the council keeps minutes of each meeting of the council and must include such minutes in the agenda of the next meeting of the council.

(2) The first act at each ordinary meeting of the council is to read and confirm by the signature of the chairperson, the minutes of the last preceding ordinary meeting and of any extraordinary or special meetings held subsequently.

(3) An objection or amendment to the minutes must be raised and dealt with before confirmation of the minutes.

(4) The meeting may consider the minutes as read if a copy thereof has been previously sent to every member of the council.

### **Discussion of motions**

22. (1) No member of the council may, without the leave of the chairperson, speak more than once to a motion or amendment, but the proposer of a motion or amendment has the right to reply.

(2) A motion or amendment thereto must be seconded and, if so directed by the chairperson, be in writing and no motion or amendment may be withdrawn without the consent of the proposer, the seconder and the meeting.

### **Voting**

23. (1) Subject to other provisions in this Statute, all matters must be resolved by a simple majority of votes of members present and voting.

(2) The chairperson has a deliberative vote and, in the event of a tie of votes, a casting vote as well.

(3) A tie in the votes means that a motion is rejected unless the chairperson declares that he or she will use his or her casting vote.

(4) When a vote is taken on a person or when the chairperson so rules, voting is by a secret ballot.

(5) If members present during any vote on a motion abstain from voting, their abstentions must be noted if requested.

(6) If a meeting so decide, the number of members voting for or against a motion, must be recorded in the minutes, and upon the request of a member, the chairperson must direct that the vote of such member be recorded in the minutes.

(7) If a member of the council is unable to attend a meeting, his or her view on any matter on the agenda concerned may be communicated to the meeting in writing but does not count as a vote by such a member.

(8) No member of the council may participate in the discussion of or vote on a matter in which he himself or she herself, a family member, business associate or employer has a direct or indirect financial or other material interest unless he or she first discloses the nature and extent of his or her interest and obtains the permission of the meeting to participate in the discussion or vote on the matter or both.

(9) If a member of the council participates without the council's permission, in proceedings of the council in connection with a matter in which the member does have a financial or other material interest, voting by the council on such a matter is invalid.

(10) Where no fewer than two-thirds of all the members of the council have reached agreement on a matter referred to them by letter, telefax or any other telecommunication system, by the chairperson without convening a meeting, and have conveyed their resolution by letter or by telefax or any other telecommunication system, such resolution is deemed to be a resolution of the council and must be recorded in the minutes of the next ordinary meeting.

#### **Ruling by chairperson**

**24.** The ruling of the chairperson on a question of order or procedure is binding, unless immediately challenged by a member, in which event it must be submitted without discussion to the meeting, the decision of the meeting being then final.

**Vacancies in council**

25. (1) Whenever a vacancy occurs in the council, the secretary informs the council and the institutional forum, at their next meetings, of such vacancy and the institutional forum may make recommendations to the council regarding the filling of such vacancy.

(2) If a vacancy occurs in the council, such vacancy must be filled in the same manner in which the member who previously held the office was appointed or elected.

(3) A person appointed or elected in terms of subparagraph (2) holds office for the unexpired portion of the term of office of his or her predecessor.

**Vacation of office by council members**

26. A member of the council, other than the principal and the vice-principals, ceases to be a member if -

- (a) he or she resigns in writing from the council;
- (b) the Minister or an organisation or structure that appointed, elected or designated him or her to the council terminates his or her membership in writing at any time before the expiry of his or her term of office;
- (c) he or she is absent from three consecutive meetings without the leave of the chairperson of the council;
- (d) he or she is declared insolvent;
- (e) he or she is removed from an office of trust by a court of law or is convicted of an offence involving dishonesty or an offence for which the sentence is imprisonment without the option of a fine;
- (f) he or she is declared unable to attend to his or her personal affairs by a court of law;
- (g) he or she is a member in terms of paragraph 14(1)(c) and (g) to (s) and is subsequently appointed as an employee of the Technikon; or

- (h) the council deems his or her conduct unbecoming of a member of the council and recommends to the Minister or an organisation or structure that appointed, elected or designated such member to the council to terminate his or her membership.

#### **Term of office of members of council**

27. (1) Members of the council, other than the principal, the vice-principals, and the members referred to in paragraph 14(1)(d) to (g), hold office for a period of four years.

(2) Notwithstanding subparagraph (1), at the first election and appointment of a new member of the council, the council may decide that such new member of the council holds office for an initial period of two years.

(3) Members referred to in paragraph 14(1)(d) to (f) hold office for a period of two years.

(4) Members referred to in paragraph 14(1)(g) hold office for a period of one year.

#### **Election of representatives of senate on council**

28. (1) When it becomes necessary for the senate to elect its representatives to the council as contemplated in paragraph 14(1)(d), such representatives are elected by secret ballot and a majority of the members present at an ordinary meeting of the senate.

(2) Notice of the expiry of a term of office of the members of the council elected by the senate must be given by the secretary to the senate by including an item on the agenda of the ordinary meeting of the senate preceding the last meeting of the council which takes place during the term of office of such members, to allow the senate to elect successors.

(3) Nominations for the filling of the vacancies must be given in writing to the secretary.

(4) A candidate is elected by at least a two-thirds majority of all the members of the senate present.

(5) If a representative for any reason vacates his or her office before the expiry of his or her term of office, the senate must elect a new representative in accordance with the above-mentioned procedure for the unexpired portion of such term of office.

#### **Appointment of representatives of council on senate**

29. (1) The two representatives of the council referred to in paragraph 35(j) of the Statute must be appointed at an ordinary meeting of the council and their term of office as members of the senate is two years.

(2) The council must fill any vacancy that may occur amongst such representatives at the next ordinary meeting of the council following the occurrence of such vacancy and the member so appointed holds office for the unexpired portion of the term of office of his or her predecessor.

#### **Election of representatives of employees on council**

30. (1) Whenever it is necessary for employees of the Technikon to elect persons as members of the council as contemplated in paragraph 14(1)(e) and (f) the secretary to the council, by written notice, invites each of the recognised employee organisations as well as employees who are not members of such employee organisations, to nominate in writing candidates to be elected as members of the council.

(2) A nomination contemplated in subparagraph (1) must be lodged with the secretary to the council on a date determined by him or her.

(3) Each nomination contemplated in subparagraph (1) must be signed by at least five employees and countersigned by the nominee to denote his or her acceptance of the nomination.

(4) If the right number of candidates is nominated in accordance with subparagraph (1), the secretary to the council declares such candidates to be duly elected.

(5) If more candidates are nominated, the secretary to the council determines a date for the election, and posts to all employees of the Technikon ballot



papers containing the names of all such candidates and return envelopes in which to seal the completed ballot papers.

(6) Each employee is entitled to one vote.

(7) A ballot paper sealed in the return envelope must be returned to the secretary to the council.

(8) A ballot paper is invalid if -

(a) it is received after the date determined for the election; or

(b) it is not sealed in the return envelope; or

(c) it is spoilt because it does not clearly indicate the candidate in whose favour the vote has been cast or because more than one vote has been cast.

(9) The secretary to the council must take steps to ensure that employees cast one vote each.

(10) The secretary to the council is the returning officer and may be assisted by two scrutineers nominated by him or her.

(11) The secretary to the council declares the persons obtaining the highest number of votes to have been elected and, in the event of an equality of votes, a further election must be held in accordance with subparagraphs (5) to (10).

### **Election of representatives of students on council**

31. (1) Whenever it is necessary for students to be elected to the council as contemplated in paragraph 14(1)(g), the secretary to the council notifies the president of the students' representative council accordingly.

(2) The students' representative council must elect two of its members to the council by means of a secret ballot and by a majority of the members present at an ordinary meeting of the students' representative council.

(3) The president of the students' representative council submits the names of the members elected to the secretary to the council.

### **Election of representative of convocation on council**

32. Whenever it is necessary for the convocation to elect a member as a member



of the council as contemplated in subparagraph 14(1)(h), such person must be elected by means of a secret ballot and by a majority of the members present at an ordinary meeting of the convocation.

### **Election of representative of donors on council**

33. (1) Whenever it is necessary for donors to elect a person as a member of the council as contemplated in subparagraph 14(1)(l) the secretary to the council, by written notice, posted at least 90 days before the date determined by him or her for the election of members of the council, invites such donors to nominate in writing one candidate to be elected as a member of the council.

(2) A nomination must be lodged with the secretary to the council at least 60 days before the date contemplated in subparagraph (1).

(3) If only one candidate has been nominated in terms of subparagraph (1), the secretary to the council forthwith declares such candidate to be duly elected.

(4) If more than one candidates is nominated, the secretary to the council, at least 30 days before the date contemplated in subparagraph (1), posts to the donors ballot papers containing the names of all such candidates in alphabetical order.

(5) A donor is entitled to one vote plus an additional vote for every completed amount of R5 000 over and above the minimum amount determined by the council from time to time, donated to the Technikon or the donation of which to the Technikon in regular instalments over a period of not more than four years has been undertaken, on condition that such period of four years commences from the date of the receipt of the first instalment of the payment or the donation and the number of votes so gained is limited to 50 per donor and that a donor's number of votes is calculated on only those donations made during the four-year period immediately preceding the election.

(6) A ballot paper must be returned to the secretary to the council by registered post.

(7) A ballot paper, which is received by the secretary to the council after the date contemplated in subparagraph (1), is invalid.

(8) At any election the secretary to the council is the returning officer and may be assisted by two scrutineers nominated by the principal.

(9) The secretary to the council declares the person obtaining the highest number of votes to have been duly elected, and, in the event of an equality of votes, the result is determined by lot by the secretary to the council in the presence of the scrutineers contemplated in subparagraph (8).

## SENATE

### Functions

34. (1) The senate is accountable to the council for the organisation and control of the teaching, curricula, syllabuses, examinations and research of the Technikon.

(2) Notwithstanding paragraph (1) the senate carries out such other functions as the council delegates or assigns to it.

(3) The senate determines the Rules for examinations, which Rules must be made by the council in terms of section 32 of the Act and all examinations are conducted in accordance with such Rules.

(4) The power to make the Rules contemplated in subparagraph (3) may be delegated by the council to the senate in terms of section 68 of the Act.

### Composition

35. The senate consists of-

- (a) the principal;
- (b) the vice-principals;
- (c) the deans of faculties;
- (d) the heads of satellite or extended campuses;
- (e) the heads of academic departments;
- (f) such heads of administration departments or sections as determined by the principal who may not be less than three and not more than seven;
- (g) the Technikon librarian;
- (h) the head of staff and academic development;

- (i) the head of co-operative education;
- (j) two members of the council not in the employ of the Technikon;
- (k) two members of the staff, one of whom shall represent the academic employees and the other shall represent employees other than academic employees elected by such employees;
- (l) two members of the students' representative council as elected by the students' representative council;
- (m) two members of the institutional forum elected by the institutional forum;
- (n) two members of the convocation as elected by the convocation.

### **Committees of senate**

36. (1) The senate may establish committees to perform any of its functions and may appoint persons who are not members of the senate as members of such committees.

(2) The composition, manner of election, functions, procedure at meetings and dissolution of a committee and a joint committee are determined by the Rules.

### **Executive committee of senate**

37. (1) The executive committee of the senate consists of -

- (a) the chairperson;
- (b) the principal;
- (c) the vice-principals;
- (d) the deans of faculties; and
- (e) the heads of satellite or extended campuses.

(2) The executive committee of the senate has the powers conferred on it by the senate.

### **Chairperson and vice-chairperson of senate**

38. (1) The members of the senate, at the first meeting of the senate and thereafter whenever it becomes necessary, elect from among its members a

chairperson and vice-chairperson who each holds office for a period of two years, or for such shorter period as he or she may be a member of the senate.

(2) If the chairperson is absent from any meeting of the senate the vice-chairperson acts as the chairperson of the senate.

### **Secretary**

39. (1) The members of the senate, at the first meeting of the senate and thereafter whenever it becomes necessary, elect from among its members a secretary who holds office for a period of two years, or for such shorter period as he or she may be a member of the senate.

(2) The council may assign any other employee to assist the secretary or to act in his or her place.

(3) The secretary acts as electoral officer at all meetings of the senate.

### **Ordinary meetings of senate**

40. (1) At least two ordinary meetings of the senate must be held in each semester on such dates and at such places as the senate determines.

(2) The senate may invite persons who are not members of the senate to attend meetings who may take part in discussions but may not vote.

### **Special meetings of senate**

41. (1) A special meeting of the senate may be called by the chairperson at his or her own instance at any time, and he or she must call such a meeting at the request in writing of at least five members.

(2) The purpose of the meeting must be stated in the request, and no other business than that of which notice has been given may be dealt with at the meeting.

### **Quorum and procedure**

42. (1) One half of the members of the senate plus one constitutes a quorum.

(2) The procedure at meetings of the council as prescribed in this Statute applies to the meetings of the senate.

**Term of office of members of senate**

43. (1) Members of the senate who are not members by virtue of their offices hold office for two years.
- (2) Student members of the senate hold office for one year.

**Election of representatives of employees on senate**

44. The provisions of paragraph 30 with the necessary changes apply.

**Election of representatives of students on senate**

45. (1) Whenever it is necessary for members of the students' representative council to be elected to the senate, as contemplated in paragraph 35(1), the secretary to the senate notifies the president of the students' representative council accordingly.
- (2) The students' representative council elects two of its members to the senate by means of a secret ballot and a simple majority of the members present at an ordinary meeting of the students' representative council.
- (3) The president of the students' representative council submits the names of the members elected to the secretary to the senate.

**Vacancies in senate**

46. (1) If a vacancy occurs in the senate such vacancy must be filled in the same manner in which the member who previously held the office was appointed, elected or designated.
- (2) A person appointed, elected or designated in terms of subparagraph (2) holds office for the unexpired portion of the term of office of his or her predecessor.

**INSTITUTIONAL FORUM****Functions and composition of institutional forum**

47. (1) The institutional forum advises and makes recommendations to council on -

- (a) policies regarding race and gender equity, codes of conduct, human resources, mediation and dispute resolution procedures;
- (b) the selection of candidates for senior management positions;
- (c) matters relating to institutional transformation and on measures towards the fostering of an institutional culture which promotes tolerance and respect for fundamental human rights and creates an appropriate environment for teaching, learning and research; and
- (d) the implementation of the Act, this Statute, policies and Rules of the Technikon.

(2) The institutional forum carries out such other functions as may be delegated or assigned to it by the council.

(3) The institutional forum consists of -

- (a) not more than seven members of management composed of -
  - (i) the principal;
  - (ii) the vice-principals;
  - (iii) the dean of students or the head of student affairs;
  - (iv) the head of planning;
  - (v) such additional members of management as appointed by the principal;
- (b) two members of the council not in the employ of the Technikon as elected by the council;
- (c) not more than nine members of the senate as elected by the senate;
- (d) not more than nine members of the employees of the Technikon elected by the academic employees and the employees other than academic employees;
- (e) not more than nine students as elected by the students' representative council;
- (f) two members of the convocation elected by the convocation; and



- (g) such other persons as may be approved by the council after consultation with the institutional forum.

#### **Chairperson and vice-chairperson of institutional forum**

48. (1) The institutional forum must within three months of its constitution elect a chairperson and a vice-chairperson from among its own members who each holds office for a period of two years, but is eligible for re-election.

(2) Nominations for the chairperson and vice-chairperson of the institutional forum must be given in writing to the minuting secretary to the institutional forum.

(3) Each nomination must be signed by at least two members of the institutional forum and countersigned by the nominee to denote his or her acceptance of the nomination.

(4) If more than one person is nominated for one of the offices, voting is by secret ballot.

(5) A candidate may only be elected to the office of chairperson or vice-chairperson by a majority of members present at a meeting of the institutional forum.

(6) If no candidate receives a majority of votes, successive rounds of voting must be held.

(7) In each successive round of voting the candidate receiving the least number of votes in the previous round of voting is eliminated as a candidate.

(8) If a vacancy occurs in the office of chairperson or vice-chairperson for any reason, the provisions of subparagraphs (1) to (7) apply to the filling of such vacancy.

(9) The person elected in terms of subparagraph (8) holds office for the unexpired period of office of his or her predecessor.

(10) The principal, or any of the vice-principals as delegated by the principal, acts for the duration of the election of a chairperson as acting chairperson.

(11) Whenever the chairperson or the vice-chairperson is absent or vacates his or her position, the principal, or any of the vice-principals as delegated by the principal, acts as acting chairperson until a chairperson has been elected.



(12) The chairperson and the vice-chairperson are eligible for re-election for one further term of office.

(13) The chairperson and the vice-chairperson cease to hold their respective offices when the incumbent is removed from that office by a majority decision of the institutional forum or when the incumbent ceases to be a member of the institutional forum.

### **Term of office**

49. Elected or appointed members of the institutional forum must hold office for a period of two years, provided that the student representatives as so elected by the students' representative council hold office for only one year.

### **Executive committee**

50. (1) The executive committee of the institutional forum is elected by the institutional forum and must include at least one member from each of the represented groups in the institutional forum.

(2) The powers of the executive committee are determined by the institutional forum.

### **Filling of vacancies**

51. Whenever a vacancy arises the chairperson of the institutional forum informs the relevant group of such vacancy and requests them to appoint or elect a substitute.

### **Meeting procedures and quorum**

52. The meeting procedures and the quorum of the institutional forum are determined by the institutional forum.

## **STUDENTS' REPRESENTATIVE COUNCIL**

### **Composition of students' representative council**

53. (1) The Technikon has one students' representative council.

(2) The students' representative council is composed of the following two tiers of student representation -

- (a) a central executive committee of the students' representative council; and
- (b) the branches of the students' representative council.

#### **Branches of students' representative council**

54. (1) The students' representative council has branches at the various campuses of the Technikon.

(2) Each branch of the students' representative council has no more than twelve members elected by all the students of such campus.

(3) Each branch of the students' representative council is presided over by a chairperson.

#### **Functions and accountability of branch of students' representative council**

55. (1) The functions of a branch of the students' representative council are limited to the matters of student representation relevant to the campus of that branch only.

(2) A branch of the students' representative council is accountable to -

- (a) the students of the relevant campus; and
- (b) the central executive committee of the students' representative council.

#### **Central executive committee of students' representative council**

56. The central executive committee of the students' representative council consists of no more than 12 members who are -

- (a) the chairpersons of the various branches;
- (b) no more than two members elected from each branch of the students' representative council by the members of such branch of the students' representative council.

**Functions of central executive committee of students' representative council**

**57.** The functions of the central executive committee entail -

- (a) control and co-ordination of all students' representative council matters;
- (b) representing the students of the Technikon in all committees of the Technikon for which student representation is provided;
- (c) representing the student community in all issues and matters of the students' representative council that are of national concern;
- (d) being accountable to the students' representative council and to all the students of the Technikon, irrespective of political or other affiliation; and
- (e) being accountable to the Technikon management and to the students' representative council for the use of the students' representative council funds or the use of any other funds that may be under its control.

**Term of office, nominations and voting for members of students' representative council**

**58.** (1) The term of office of the students' representative council is one year.

(2) Notwithstanding subparagraph (1) the members of the students' representative council may be re-elected.

(3) The nomination of each candidate must be in writing and must indicate the full names and student number of the candidate as well as the signature of the proposer and the seconder.

(4) The nominee, proposer and seconder contemplated in subparagraph (3) must be registered students of the Technikon.

(5) A student has the right to vote if he or she has been registered at the Technikon for at least two Technikon terms or was previously registered at the Technikon for at least two Technikon terms and has newly re-registered as a student.

(6) The election takes place by means of a secret ballot during the second semester each year.

(7) The electoral officer is designated by the principal and is responsible for controlling and supervising the election of the students' representative council.

(8) All the members of the students' representative council, under the chairmanship of the electoral officer, elects by secret ballot, from among the members of the central executive committee, the president and the secretary-general of the students' representative council.

(9) The students' representative council must in all respects preserve and promote the interests of the Technikon and of the student community at all campuses and strive to uphold and extend unity, justice, and orderliness and discipline among the student community.

(10) The students' representative council is the highest structure of authority among the student community.

## **CONVOCATION**

### **Composition of convocation**

59. (1) The convocation of the Technikon is known as the convocation of the Eastern Cape Technikon.

(2) The convocation consists of -

- (a) the principal, the vice-principal and the Technikon librarian;
- (b) persons to whom the Technikon has awarded a diploma or a degree unless they state in writing that they do not want to be members;
- (c) members of the academic staff permanently appointed to posts on the establishment of the Technikon, provided that they have registered their names on the roll of the convocation;
- (d) members of staff referred to in subparagraph (a) and (c) who are no longer employees of the Technikon, provided they served the Technikon for a period of not less than ten years, unless they resign from the convocation in writing; and
- (e) such other persons and employees of the Technikon as the council may determine.

**Secretary to convocation**

60. (1) The secretary to the convocation must be elected from among the members of the convocation.

(2) The council may appoint any other employee to assist the secretary or to act in his or her place.

**Roll of convocation**

61. (1) The secretary keeps the roll of the convocation, and it is incumbent upon every member to register his or her name and address with the secretary and to notify him or her of any change of address.

(2) The roll is conclusive evidence that any person whose name appears thereon at the time of claiming to vote as a member of the convocation, is entitled so to vote, and that any person whose name does not appear thereon is not so entitled.

**Functions of convocation**

62. (1) The convocation may discuss, state its opinion and make recommendations to the council on any matter relating to the Technikon, including matters which may be referred to it by the council.

(2) The convocation is regarded as one of the stakeholders of the Technikon.

**Election of president of convocation**

63. (1) The president or chairperson of the convocation, who is elected by the convocation from among its own members, holds office for a period of four years.

(2) The president is elected at a meeting of the convocation by secret ballot and a majority of the members present.

(3) The secretary acts for the duration of the election of a president as acting president.

(4) Should the president for any reason vacate his or her office prior to the expiry of his or her term of office, the convocation elects a successor for the

unexpired portion of such term of office in accordance with the provisions of subparagraphs (2) and (3).

(5) If at least 15 members of the convocation sign a petition addressed to the secretary expressing a vote of no confidence in the president, the secretary must call a special meeting of the convocation and if two-thirds of the members present at such meeting pass a vote of no confidence in the president, the president must vacate his or her office and a new president must be elected.

(6) If the office of the president is vacant, the principal must act as president until a new president is elected.

(7) Whenever at least 15 members of the convocation sign a petition addressed to the secretary expressing a vote of no confidence in the member of the convocation elected to the council, then the provisions of subparagraph (5) apply with the necessary changes.

#### **Meetings of convocation**

64. (1) The president chairs all meetings of the convocation but, in his or her absence, the members present elect one of their number to act as chairperson of that meeting, provided that during the election of the acting chairperson, the secretary acts as chairperson.

(2) All meetings of the convocation must be held at the seat of the Technikon or such other place as determined by the president after consultation with the secretary.

(3) The convocation meets at least once a year.

(4) A meeting of the convocation may be convened by the president at any time he or she deems it necessary, and must be convened by him or her upon a written request signed by at least 15 members and stating in the form of specific motions the proposed subjects for discussions at such meeting.

(5) Notice of a meeting of the convocation together with the agenda must be sent to each member of the convocation at least 21 days before the meeting, and the notice of such meeting must be placed in the national news media at least once before the date of the meeting.

(6) The minutes of meetings of the convocation, duly certified by the chairperson and the secretary, must be submitted by the secretary to the senate and the council.

#### **Quorum and meeting procedures of convocation**

65. (1) Fifteen members of the convocation constitute a quorum.  
(2) The convocation determines its own meeting procedures.

### **DISCIPLINARY MEASURES**

#### **Disciplinary measures relating to principal**

66. If the principal is accused of misconduct or inefficiency, the council may if it deems such accusation well-founded, cause an inquiry to be held as it may deem necessary, subject to applicable labour laws.

#### **Disciplinary measures and procedures relating to employees**

67. Subject to applicable labour laws every employee of the Technikon is subject to such disciplinary measures and disciplinary procedures as determined by the standard conditions of employment applicable at the Technikon.

#### **Disciplinary measures and procedures relating to students**

68. Every student of the Technikon is subject to such disciplinary measures and disciplinary procedures as determined by the Rules.

### **CONFERRING OF HONORARY DOCTORATES**

#### **Honorary doctorates**

69. (1) The Technikon may, without examination, confer an honorary doctorate.  
(2) The criteria and procedures for conferring an honorary doctorate are as determined by the council.



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**DRAFTING, AMENDING OR REPEALING OF STATUTE OR RULE****Drafting, amending or repealing of Statute or Rule**

70. (1) The council may from time to time amend the Statute or a Rule, provided that a resolution to draft, amend or repeal the Statute or a Rule be taken by a majority of two-thirds of the members present at the meeting.

(2) The drafting, amending or repealing of the Statute or a Rule is subject to the provisions of sections 32(2) and 33 of the Act.

**REPEAL OF PREVIOUS STATUTE****Repeal of previous Statute**

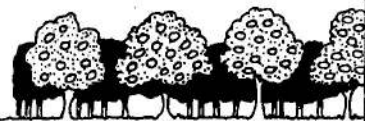
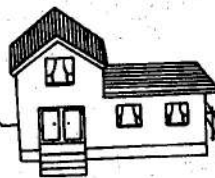
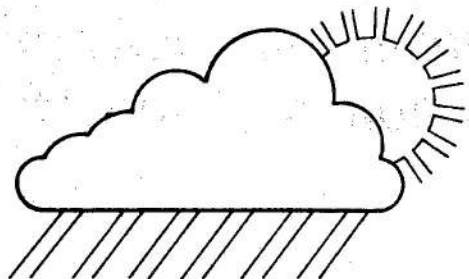
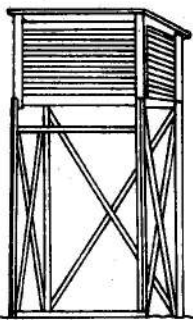
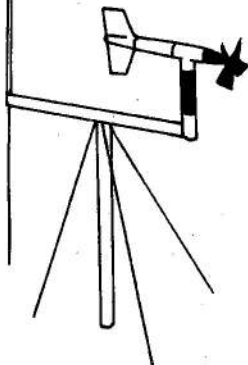
71. (1) The Statute applicable to the Eastern Cape Technikon, published by Government Notice No. 833 of 17 May 1996, is hereby repealed with effect from the date on which this Statute comes into operation.

(2) Anything done, any structure established and any person appointed to an office under a provision of the Statute repealed by subparagraph (1) is deemed to have been done, established or appointed under the corresponding provision of this Statute, provided that such provisions are not inconsistent with any provision of this Statute or the Act.

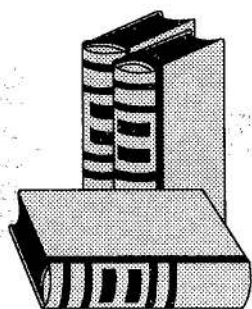
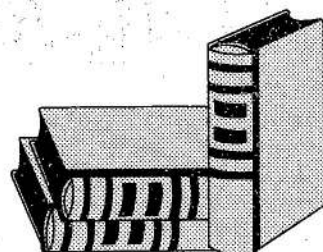
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