

**BURGMANN COLLEGE
INCORPORATED**

ORDERS

(As at 25 May 2023)

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[NOTE: The Burgmann College Incorporated Rules 2004 provide:

49 Orders

49.1 The Board of Management may make Orders, not inconsistent with these Rules, relating to the governance or ordering of the College.

49.2 However, no Order affecting the Principal may be made or amended without the Principal’s concurrence.

49.3 If an Order is made under these Rules, a copy of it must be sent as soon as possible after it is made to the Council and Boards Secretariat of the University.]

PRINCIPAL—DUTIES AND RESPONSIBILITIES

[NOTE: Made as a Regulation under the Burgmann College Incorporated Rules 1971. Continued in force as an Order, pursuant to subrule 58.1 of the Burgmann College Incorporated Rules 2004, from 1 January 2005. Remade, with amendments, on 17 March 2005.]

1. The Principal shall, subject to any express direction by the Council or the Board of Management, be responsible for the order discipline and good government of the College and, in so far as it lies in his or her power and professional competence, the development of the basic objects of Burgmann Council. In particular he or she shall encourage the development of a vital community and regulate the duties of academic and executive staff. He or she shall foster good relations between the College and the University and between the College and appropriate persons from outside the University.
2. The Principal shall have the following express rights:
 - (a) to hire, promote or dismiss any ordinary staff of the College; and
 - (b) to prepare and promulgate administrative procedures; and
 - (c) to regulate the terms and conditions of entry to the College grounds or any parts thereof or buildings erected thereon by the academic and executive staff, ordinary staff, students or members of the public; and
 - (d) to authorise the expenditure of moneys within the approved budget allocations as are necessarily spent in the day to day running of the College, including the payment of ordinary wages and salaries and accounts for the purchase of supplies, services or utilities or for such other matters as shall have been approved by Executive Committee or by the Treasurer. All such payments shall be made by the Bursar who shall keep detailed records thereof.
3. The Principal may form such advisory bodies of the staff, students and Convocation of the College, either in their separate or joint capacity as he or she deems necessary for the good government of the College and the furtherance of the basic objects of Burgmann Council.
4. Subject to the general law and the rules of Burgmann College the Principal may delegate to such body, as specified in Order 3 above or to any member of such body or to any member of the academic and executive staff or ordinary staff any of his or her powers relating to the good government of the College provided that such delegation shall not include power to impose fines or punishments. The Principal shall report to the Board of Management the nature and scope of such delegations and his or her assessment of the effects thereof.

5. The Principal shall endeavour to ensure that the standard of teaching provided within the College tutorial system shall be equivalent to that provided by the University. The Principal shall hold regular conferences with the tutorial staff in order to assess the efficiency of tutorials, the progress of students and the need for developing tutorials of a different style or content. The Principal may co-operate in the establishment of tutorials with the Heads of any other residential establishment within the University.
6. The Principal shall be resident at the College but may provide that the hours in which normal access may be had to him or her may be limited to an extent reasonable to maintain his or her privacy.
7. The Principal may visit other universities and religious, educational or research institutions for the purpose of lecturing, research and maintaining good relations provided, should he or she intend to be absent from the ACT for more than one week, that he or she first obtains the approval of the Chair and provided an Acting Principal is appointed before his or her departure.
8. The Principal shall have the power to make statements in the press, on radio or television on any matter or thing affecting the College upon which the Council or the Board of Management has made a decision; or any decision made by him or her in the areas in which he or she shall have responsibility provided however that he or she shall not divulge or comment on any matter which shall be under consideration by the Council or the Board of Management before it has made a decision.
9. The Principal shall have the power to terminate the appointment of any member of the ordinary staff in the following circumstances:
 - (a) upon the giving of the notice in writing as required by that person's appointment without giving any reason for such termination; and
 - (b) immediately and without notice for any of the following reasons:
 - (i) if the member of the ordinary staff shall become mentally incapacitated; or
 - (ii) if he or she shall misconduct himself in the carrying out of his or her duties or shall do any act in which in the opinion of the Principal shall bring the College into bad repute; or
 - (iii) if he or she shall fail to carry out any specific instruction of the Principal or any person delegated by him or her to give such instruction when such instruction shall relate to the carrying out of his or her duties.
10. In the event that the Principal shall terminate the employment of any member of the ordinary staff without notice such person shall have the right of appeal to the Board of Management.

INDEMNITY

[NOTE: Approved on 16 December 1970. Made as a Regulation under the Burgmann College Incorporated Rules 1971. Continued in force as an Order, pursuant to subrule 58.1 of the Burgmann College Incorporated Rules 2004, from 1 January 2005. Remade, with amendments, on 17 March 2005.]

Every member of the Council and every member of the academic and executive staff and of the ordinary staff shall be indemnified by Burgmann Council against any liability incurred by him or her in defending any proceedings whether civil or criminal in which judgment is given in his or her favour or in which he or she is acquitted or in any application under any ordinance in which he or she is granted relief by the Court provided that such proceedings or application arise from his or her duties on behalf of Burgmann Council.

ORDERS CONCERNING EXPULSION OF MEMBERS OF THE COLLEGE

[NOTE: Made on 25 May 2023.]

[NOTE: The **Burgmann College Incorporated Rules 2004** provide:

19. Expulsion of members of the College

19.1. The Principal may terminate a person's membership of the College for reasonable cause.

19.2. In subrule 19.1, a reference to reasonable cause includes, but is not limited to, a reference to:

- (a) unsatisfactory academic progress; or*
- (b) the failure by a member to pay any fee or charge payable by that member within 30 days after the due date for payment; or*
- (c) behaviour that Burgmann Council or the Board of Management regards as being contrary to the interests of the College.*

19.3. The Orders may set out other reasons, and the method the Principal must adopt, for terminating the membership of a member of the College.

19.4. If a person's membership is terminated, the person ceases to be a member when the person is informed by the Principal accordingly.

19.5. A person whose membership of the College is terminated may not, without the express permission of the Principal, reside at the College or enter or remain on the premises of the College.

19.6. The termination of a person's membership does not affect the person's liability for any fees or charges:

- (a) payable by the person; and*
- (b) falling due before the termination of his or her membership.*

19.7. Orders under subrule 19.3 must set out the right of a person to appeal the decision to terminate the person's membership and must provide for the conduct of the appeal by the Board of Management or a Panel appointed for the purpose by the Board of Management.

19.8. Orders under subrule 19.3 must also provide that notice of an appeal by a resident member must be lodged with the Secretary within a specified number of days, not being fewer than 14, of the decision to terminate the person's membership being notified to that member.

Note: Based on this Rule, the Board makes the following Orders:]

Expulsion Orders

1. Terminating membership

- 1.1. If the Principal decides to terminate a person's membership of the College for reasonable cause, the Principal should inform the Chair of the Board of Management then provide the member by notice in writing. That Expulsion Notice must:
 - 1.1.1. give the reason for the decision; and
 - 1.1.2. specify the date of effect of the decision, or specify that the decision is effective immediately; and
 - 1.1.3. explain that the person may appeal the decision under this Order; and
 - 1.1.4. be accompanied by a copy of this Order; and
 - 1.1.5. be provided to the Chair of the Board of Management.
- 1.2. As general guidance, a reasonable cause for expulsion would relate to behaviour that contravenes, or is in breach of, provisions that relate to behaviour in the College Handbook and/or the College's Policies and Procedures.

2. Appealing a decision to terminate membership

- 2.1. A person who receives notice of a decision under Order 1 may appeal that decision. An appeal must:
 - 2.1.1. be made in writing to the Secretary; and
 - 2.1.2. set out the reasons the person (the Appellant) contends that the decision should be overturned on one or more of the following grounds:
 - a. that a procedural irregularity happened that may have affected the decision by the Principal;
 - b. that the Principal was biased;
 - c. that the decision was manifestly wrong;
 - d. that the decision was made in a mistaken application of the applicable rules;
 - e. that there is substantial relevant evidence that:
 - i. was not taken into account by the Principal; and
 - ii. could not have been known to the Appellant and provided to the Principal before the decision was made;
 - f. that a penalty imposed on the Appellant, or any other action taken in relation to the Appellant, was manifestly excessive. If an appeal includes this ground, the penalty or other action is taken to form part of the decision for this instrument; and
 - 2.1.3. be received by the Secretary within 20 days of the Appellant receiving the Expulsion Notice.
- 2.2. The Secretary may reject an appeal
 - 2.2.1. The Secretary may reject an appeal if it appears that the appeal:
 - (a) does not set out one or more grounds required by this instrument; or
 - (b) that the appeal has not been made within the time required by this instrument.
 - 2.2.2. However, the Secretary may reject the appeal only if the Secretary has given the Appellant an opportunity to make a written submission in relation to the proposed decision to reject.

- 2.2.3. If the Secretary rejects the appeal under this section, the Secretary must, as soon as is practical:
- (a) tell the Appellant and the Principal in writing about the decision; and
 - (b) give them a written statement of reasons for the decision.

3. Appeal Panel

- 3.1. The Board of Management may appoint a panel of three or more Councillors (the Appeal Panel) to consider appeal made under this Order, provided that at least one member of the Appeal Panel is a Councillor referred to in:
- (a) paragraph (g) [the President of the BRA]; or
 - (b) paragraph (h) [elected from the resident members]; or
 - (c) paragraph (e) [elected from the academic staff] of subrule 7.1 of the Burgmann College Incorporated Rules 2004.
- 3.2. The Board of Management must specify the term of appointment of the Appeal Panel.
- 3.3. The Board may appoint persons to assist the Appeal Panel or Board of Management who are not members of the Council.
- 3.4. When appointing the Appeal Panel, the Board of Management must select one of the members of the Appeal Panel as the convenor of the Appeal Panel. Each Appeal Panel member has one vote when deciding an appeal. However, the convenor of the Appeal Panel has a deliberative as well as a casting vote.
- 3.5. The Secretary must refer an appeal made under this Order to the Appeal Panel or, if no Appeal Panel is currently appointed, to the Board of Management. If no Appeal Panel is currently appointed, the Board of Management may choose to hear the appeal itself or appoint an Appeal Panel within five business days of an appeal being received by the Secretary.

4. Material to be considered – Appeal Panel

- 4.1. The Appeal Panel may decide the appeal on the basis of the material provided by the Appellant under Order 2. The Panel may also receive additional written or oral submissions from the Appellant or the Principal. However, the Appeal Panel must not receive any submission from the Principal unless the Appellant is also given an opportunity to make a submission.
- 4.2. If material is made available to the Panel that was not before the Principal, the Panel may assess the additional material provided in a summary way on the papers without conducting a hearing.
- 4.3. The Secretary to the Appeal Panel must provide the Appellant with a copy of the material on which the Appeal Panel intends to rely no later than 5 working days before the day the appeal is to be heard.

5. Deciding an appeal – Appeal Panel

- 5.1. In deciding the appeal, the Appeal Panel must:
- (a) affirm the Principal's decision; or
 - (b) reverse the Principal's decision; or

- (c) refer the decision to the Principal for his or her further consideration and may make relevant recommendations including the option of seeking an undertaking from the Appellant; or
- (d) refer the appeal to the Board of Management.

6. Material to be considered – Board of Management

- 6.1. If an appeal is referred to the Board of Management by the Secretary under Order 3, the Board of Management may decide the appeal on the basis of the material provided by the Appellant under Order 2.
- 6.2. If material is made available to the Board of Management that was not before the Principal, the Board of Management may assess the additional material provided in a summary way on the papers without conducting a hearing.
- 6.3. The Secretary must provide the Appellant with a copy of the material on which the Board of Management intends to rely no later than 5 working days before the day the appeal is to be heard.
- 6.4. If an appeal is referred to the Board of Management by the Appeal Panel under Order 5.1 (d), the Board of Management may decide the appeal on the basis of the material provided to the Appeal Panel.
- 6.5. If an appeal is referred to the Board of Management, the Board of Management may receive additional written or oral submissions from the Appellant or the Principal. However, the Board of Management must not receive any submission from the Principal unless the Appellant is also given an opportunity to make a submission.

7. Deciding an appeal – Board of Management

- 7.1. If an appeal is referred to the Board of Management, the Board of Management must:
 - (a) affirm the Principal's decision; or
 - (b) reverse the Principal's decision; or
 - (c) refer the decision to the Principal for his or her further consideration and may make relevant recommendations including the option of seeking an undertaking from the Appellant.

8. Separate components of an appeal

- 8.1. Where appropriate, the Appeal Panel or the Board of Management may consider components of the Principal's decision separately and decide the appeal as if each component were a separate decision for the purposes of Order 5 or Order 7.

9. Records of appeals

- 9.1. The Secretary must ensure that records are kept of appeals made and decided under this Order, and that copies of relevant records are made available to the Appellant, the Principal, and the Appeal Panel or the Board of Management. The Secretary may remove identifying information from those copies to protect the privacy of individuals.
- 9.2. In deciding an appeal, the Appeal Panel or the Board of Management must have regard to previous appeals under this Order, though neither the Appeal Panel nor the Board of Management is bound by those previous decisions.

10. Notification and reporting of outcome of appeal

10.1. The Secretary must advise the Appellant and the Principal of the outcome of an appeal, and (except where the appeal was decided by the Board of Management) must report on the result of the appeal to the next meeting of the Board of Management.

11. Hearings

11.1. The Chair of the Panel or Board must decide how the review is to be conducted. The appeal may be decided with or without an oral hearing. In deciding whether the appeal is to be determined with or without an oral hearing, the Panel or Board may take into account:

- (a) whether the parties are able to participate in an oral hearing within a reasonable time; and
- (b) whether an oral hearing would unnecessarily subject a party or a witness to stress; and
- (c) any other relevant factor.

11.2. Appeals relating only to penalty or other action taken:

11.2.1. If the appeal relates only to the penalty imposed, or other action taken, the Panel or Board must consider only the question of the penalty or other action.

11.3. Procedure for hearing meeting:

11.3.1. At the hearing of the appeal, the procedure to be followed is at the discretion of the Panel or Board. The Panel or Board:

- (a) may inform itself on any matter in relation to the review in any way it considers appropriate; and
- (b) is bound by the rules of procedural fairness but is not bound by rules of evidence; and
- (c) must take into account any submission made by the Appellant and the Principal.

11.3.2. At an oral hearing of the appeal, the Principal may:

- (a) appear in person or, with the express approval of the Panel or Board, through an advocate; and
- (b) call and question witnesses; and
- (c) make written or oral submissions.

11.3.3. The hearing of evidence by the Panel or Board may be adjourned from time to time and from place to place.

11.3.4. Unless the Panel or Board otherwise directs, a person is not entitled to be present at the hearing of the appeal unless the person is:

- (a) a member of the Panel or Board; or
- (b) the Principal or an advocate for the Principal; or
- (c) the Appellant or the person nominated by the Appellant; or
- (d) the Secretary to the Panel or Board; or
- (e) a person giving evidence before the Panel or
- (f) a person appointed by the Board to assist the Appeal Panel or the Board of Management.

11.3.5. The hearing of the appeal is not ineffective only because of a formal defect or irregularity in the convening or conduct of the Panel or Board.

11.4. Appellant's rights in relation to oral hearing:

11.4.1. At an oral hearing of the appeal, the Appellant may:

- (a) appear in person; and
- (b) call and question witnesses; and
- (c) make oral or written submissions.

11.4.2. At an oral hearing of the appeal, the Appellant may be accompanied by another person nominated by the Appellant who may:

- (a) observe the proceedings; and
- (b) with the express written approval of the Panel or Board, act as a Spokesperson for the student.

11.4.3. Reasons to approve a request by the Appellant per 11.4.2(b) to have a Spokesperson may include:

- (a) the mental or physical health of the Appellant;
- (b) any disability the Appellant may have; or
- (c) any other reasons deemed relevant by the Board or Panel.

11.4.4. If the Appellant's primary language is different from that in which the hearing is being conducted, an interpreter may be present. The presence of an interpreter does not limit an Appellant from having another person present at the hearing.

11.4.5. A Spokesperson for an Appellant may only deliver remarks on behalf of the Appellant to the Panel and answer questions on behalf of the Appellant by the Panel.

11.4.6. A Spokesperson for an Appellant may not:

- (a) call a witness; and
- (b) question any witness; and
- (c) request documents not already available to the Appellant.

[NOTE: On 20 January 2005, the Board of Management adopted the Burgmann College Grievance Policy and Procedures, which includes provisions for the internal review of decisions in certain circumstances. This would occur prior to the final expulsion decision of the Principal and therefore prior to the expulsion review process outlined above]

FILLING CASUAL VACANCIES ON THE BOARD OF MANAGEMENT

[NOTE: Made on 17 March 2005.]

[NOTE: The Burgmann College Incorporated Rules 2004 provide:

21 Constitution of the Board of Management

21.1 The Board of Management is to consist of:

...

(b) 1 of the Burgmann Councillors appointed by the University;

...

(d) 2 Councillors, being representatives of the resident members of the College, at least one of whom is to be a representative of the academic staff;

...

48 Filling casual vacancies

...

48.3 If a casual vacancy occurs in the office of an ordinary Board of Management member, Burgmann Council or the Board of Management may appoint a Councillor to the vacant office.]

Interpretation

1. In this Order, unless the contrary intention appears:

academic representative means a member of the Board of Management referred to in paragraph (d) of subrule 21.1 of the Rules who is a representative of the academic staff;

nominating person means:

- (a) in relation to an academic representative—the Deputy Principal, or the person regarded as the Deputy Principal under subrule 10.1 of the Rules;
- (b) in relation to a resident representative—the president of the Burgmann Residents Association Incorporated;
- (b) in relation to a University representative—either of the two Councillors mentioned in paragraph 7(1)(b) of the Rules;

resident representative means a member of the Board of Management referred to in paragraph (d) of subrule 21.1 of the Rules who is not a representative of the academic staff;

rules means the Burgmann College Incorporated Rules 2004;

University representative means the member of the Board of Management referred to in paragraph (b) of subrule 21.1 of the Rules; and

vacant office means the casual vacancy referred to in Order 2.

Application of this Order

2. This Order applies only if a casual vacancy occurs in an office of:
 - (a) a University representative; or
 - (b) a resident representative; or
 - (c) an academic representative.

Filling a vacant office

3. If
 - (a) by notice in writing to the Secretary, the nominating person:
 - (i) nominates a Councillor to be elected to the vacant office; and
 - (ii) advises that that Councillor has consented to being elected to the vacant office; and
 - (b) the nominated person is eligible to be elected to the vacant officethen
 - (c) the vacant office shall be deemed to be filled as if that Councillor had been elected to fill the vacant office under subrule 48.3 of the Rules; and
 - (d) the filling of that vacant office shall have effect from the time that the Secretary receives the notice.

Reporting on the filling of a vacant office

4. The Secretary must report, to the next occurring meeting of the Board of Management, the filling of a vacant office under this Order.

GUIDELINES FOR THE NOMINATION, AWARDING AND PRESENTATION OF AN HONORARY FELLOWSHIP

As adopted by Council 23 September 2010

1. Purpose of the Award:

The award of Honorary Fellow is Burgmann College's most prestigious award. Accordingly, it is conferred upon individuals who by achievement or service inspire the respect and admiration of the Burgmann community, who stand as role models for current and future generations of Burgmann residents and who by word and by deed have brought lasting honour to the College.

2. Eligibility for an Honorary Fellowship of Burgmann College:

2.1 Honorary Fellows will be selected on the basis of significant continued involvement over and above what might be reasonably expected in one or more of:

- (a) Support of the interests and welfare of Burgmann College or of a particular aspect of the College's activities;
- (b) Fostering greater links between the College community and persons, institutions and communities within and without Australia;
- (c) Promotion of the aims, principles and objectives of Burgmann College;
- (d) Distinguished service to the Australian community or to humanity at large in any field.

2.2 To be eligible for the award, a nominee must have had a long-standing association with the College, except in special circumstance defined as fifteen years.

2.3 An Honorary Fellowship may be awarded posthumously.

2.4 The Award of Honorary Fellow may only be made by an 80% majority secret ballot vote of College Council based on a recommendation from a Nominations Committee appointed by the Board of Management.

3. Procedures and guidelines for processing a Nomination:

The strictly confidential process will operate under "**Procedures and Guidelines**" as set out in Sections 4 to 13 below.

4. Nomination process:

4.1 Any member of the convocation may nominate or second the nomination of a candidate for the award of an Honorary Fellowship.

4.2 A nomination must be:

- (a) made in writing;
- (b) addressed to the Secretary of Council; and

(c) bear the signature of a nominator and seconder

4.3 The nomination must:

(a) specify the criterion/criteria from section 2.1 on which the nomination is based;

(b) address that criterion/criteria, providing sufficient information to identify the person and the case for the award in terms of the criterion/criteria;

(c) address the nature and length of the nominee's association with the College; and

(d) include a statement confirming:

i. that the nominee has not solicited this nomination;

ii. that the nominee has not been made aware of the possibility of a nomination.

4.4 The Secretary upon receipt of the nomination shall, in consultation with the Chair of Council, present the nomination to the Board of Management.

4.5 However, if the Chair and Secretary deem that the nomination does not conform to the nomination requirements the Secretary should advise the nominator and or the seconder and allow for re-submission prior to an advised processing schedule.

5. Honorary fellowship sub-committee:

5.1 Upon receipt of a nomination the Chair of Council will establish an Honorary Fellowship Sub-Committee (hereinafter, 'the Committee') consisting of the members of the Board of Management.

5.2 Any meetings of the Committee will preferably be held at least four weeks prior to a meeting of the College Council.

5.3 All nominations and supporting documents will be finalised and distributed to the Committee not later than one week prior to the meeting.

6. Meeting procedure:

6.1 The Committee shall elect from its number a chairperson who must not be the nominator or seconder of the nomination.

6.2 The Committee shall normally invite the nominator and seconder to address the meeting and answer questions prior to deliberations.

6.3 Where the nominator and/or seconder are Committee members they may elect to withdraw from the meeting prior to a vote. This shall not render the meeting in-quorate under Procedures section 8 but shall affect the number present for the purpose of the voting.

7. Deliberations:

In considering the merits of a nomination the members of the Committee may seek information from any source, provided that in doing so they do not disclose the fact that a nomination for a particular individual has been made.

8. Voting:

The quorum of the Committee shall be 65% and a nomination will be deemed to be successful at this stage of the process if it receives an affirmative vote by secret ballot of 80% of those present.

9. Voting outcome:

9.1 If the Committee does not support the nomination, the Chair will inform the proposers.

9.2 If the Committee supports the nomination a recommendation to award the Honorary Fellowship will be submitted to the College Council for consideration together with a summary of reasons for the decision.

10. Approval by council:

10.1 A recommendation for the award of an Honorary Fellowship shall be considered at the next scheduled meeting of Council.

10.2 Upon Council's approval of the nomination the Chair shall approach the nominee to determine whether she/he is inclined to accept the award and the Chair shall.

- i) inform Councillors of the nominee's decision
- ii) notify Council of the date and nature of the public announcement and the subsequent removal of any embargo.

11. Confidentiality:

A nomination for the award of an Honorary Fellowship and all deliberations and recommendations must remain strictly confidential and any public comment will be embargoed until the College Council has approved the award consistent with these Procedures and Guidelines.

12. The announcement and presentation of awards:

12.1 A public announcement of the award will be made at such time as is agreed to by the Chair in consultation with the recipient, having in mind that the presentation of an award is seen as a major College event and shall be bestowed on a suitable occasion for the College to celebrate the contribution of the awardee to the life of the College.

12.2 An Honorary Fellowship will normally be conferred by the Chair of Council or his/her delegate.

13. Rescission of award:

Should a recipient of an Honorary Fellowship bring dishonour to the award through proven fault or activities unacceptable to the general community, the award of the Honorary Fellowship may be rescinded by the College Council:

- i) upon receiving a recommendation from the Board of Management or
- ii) upon the advice and recommendation of both the Chair and Principal.