

FAIR WORK COMMISSION

Commission Matter No.:
AM2015/6

4 yearly review of modern awards – Education group
Higher Education Industry - Academic Staff - Award 2010

THIRD STATEMENT OF JOSEPH CROWLEY

I, Joseph Crowley, care of Bond University, 14 University Drive, Robina in the State of Queensland, Senior Teaching Fellow, state as follows:

1. I have made two previous statements in these proceedings dated, respectively, 10 March 2016 (**my First Statement**) and 9 August 2016 (**my Second Statement**).
2. I have reviewed the statement of Professor Nickolas John James dated 30 August 2016 and filed in these proceedings (**the James statement**).
3. I have never been told of any “general rule” at Bond University that staff will not be employed on an ongoing basis unless they have a PhD or SJD, as claimed in paragraph 3 of the James statement. On the contrary, there are many academic staff in the Faculty of Law on continuing contracts and do not have PHDs or SJDs, for example:

- a. [REDACTED];
- b. [REDACTED];
- c. [REDACTED];
- d. [REDACTED];
- e. [REDACTED];
- f. [REDACTED];
- g. [REDACTED];
- h. [REDACTED];
- i. [REDACTED].

4. I am enrolled in an SJD on a part time basis. I am not required to complete this degree until 2019.
5. Several of my colleagues are Assistant Professors have not completed their doctorates and have been working on them for as long or longer than I have including [REDACTED]
[REDACTED].
6. My current position of Senior Teaching Fellow does not require me to have a doctorate. Further, Bond University allows me to teach both undergraduate and post graduate students even though I only hold an undergraduate degree. I have been told by either [REDACTED] or [REDACTED]
[REDACTED] (I cannot recall which) that that is because of my professional experience; which has included practice as a barrister running trials in the Supreme Courts of Queensland and New South Wales, the Queensland District Court and the New South Wales District Court, the Queensland and New South Wales Magistrates Courts, and appearing as junior counsel in the Queensland Court of Appeal.
7. Thus, the scope of my duties at Bond University takes into account more than just whether or not I have a PhD or SJD. As noted in paragraph 3 above, Bond University is capable of offering continuous employment to experienced teachers without PHDs or SJDs.



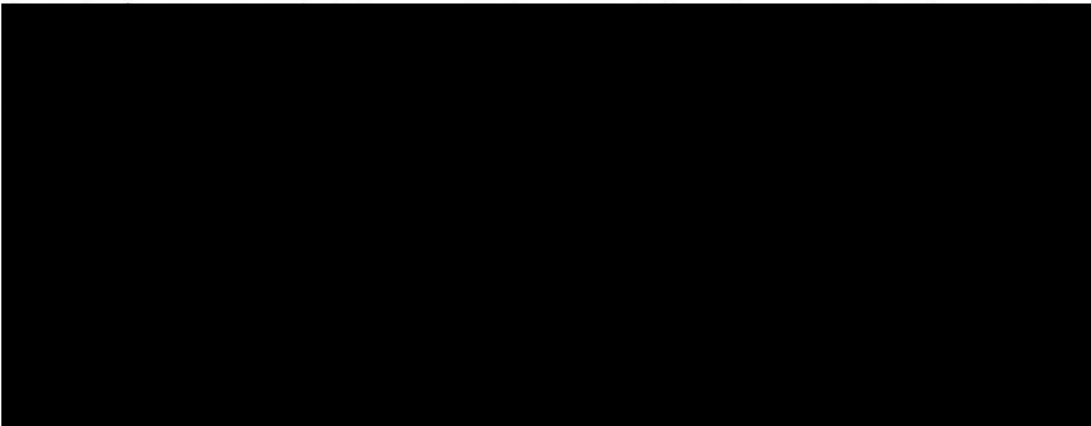
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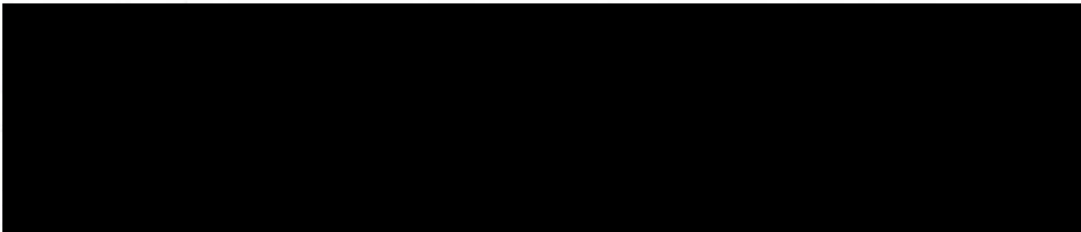
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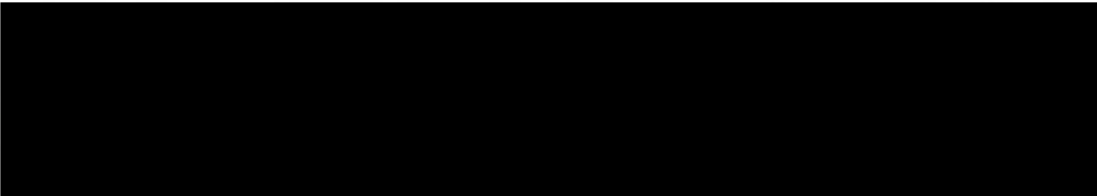
10.



11.



12.



13. As to my recent contract renewal referred to in paragraph 15 of the James statement, and further to my Second Statement in paragraphs 57 to 71, on or about 9 August 2016 I was provided with a new three year fixed term contract which began on 1 September 2016 ('the 2016 Contract'). Marked and annexed as "**JC8**" is a copy of the 2016 Contract.

14. Professor James responded to my email at annexure JC7 referred to in paragraph 70 of my Second Statement by stating:

"None of the contracts issued in the last few years specify teaching hours. Certainly none of the contracts created or renewed in my time do so. To my knowledge there is only one

A handwritten signature in blue ink, located at the bottom left of the page.

A handwritten signature in blue ink, located at the bottom right of the page.

person in the Faculty who still has a contract with teaching hours locked in. Everyone else has a contract that simply states that they are allocated teaching hours in accordance with Faculty policy."

Annexed and marked "JC9" is a copy of Professor James' email.

15. My earlier contract is annexure JC2 to my Second Statement and contained the following clause:

Position

1. Your position will be that of a Senior Teaching Fellow or such other position agreed between you and the University from time to time. Teaching hours per week are:

- *8 if coordinating*
- *10 if tutoring*

16. The 2016 contract does not provide for teaching load. The position description for a Senior Teaching Fellow provides:

"Teaching Load" - "The normal teaching load for a Senior Teaching Fellow is determined by the Dean according to current faculty policy."

Annexed and marked "JC10" is a copy of this position description.

17. The amended letter of offer I received dated 11 August 2016 provided:

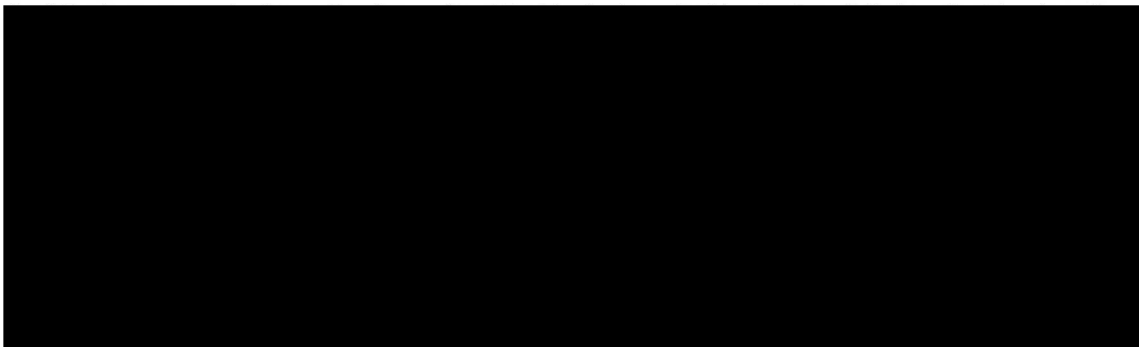
"As per the attached position description, an academic's teaching workload will be determined in accordance with the Faculty workload allocation. That policy presently provides that an academic employed on a teaching-only contract will be allocated 10 hours of classes per week..."

Annexed and marked "JC11" is a copy of this letter.

18. I am concerned that the number of hours that I am contractually obliged to teach could be unilaterally changed by altering the faculty policy. I consider that Bond University has changed a fundamental term of my previous contract, and that I was placed in a position where I was required to agree to the 2016 Contract if I was to be offered further work.

19. The type of scenario envisaged in paragraph 17 of the James statement (where the University asserts a right to not renew my fixed term contract on the same basis, or at all, in the event of any restrictions placed on the use of fixed term contracts) already exists. It is in the nature of my fixed term contracts that I have already lived with that insecurity.

20.



[REDACTED]

[REDACTED]

21. [REDACTED]

22. On 22 August 2016, I received an email regarding nominations for the Bond University Academic Senate in the following terms:

"...nominees [for the Bond University Academic Senate] must be members of academic staff on continuing appointments or term appointments with more than three years to run at the close of nomination".

Annexed and marked "JC13" is a copy of this email.

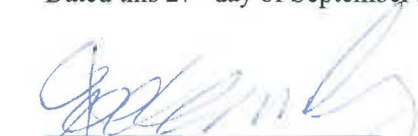
23. The requirement excludes a large number of academics on rolling fixed-term contracts regardless of their length of service with Bond University, including myself.

24. [REDACTED]

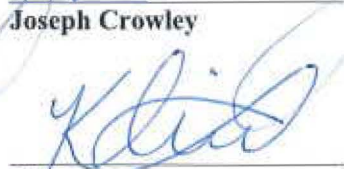
- a. [REDACTED]
- b. [REDACTED]
- c. [REDACTED]
- d. [REDACTED]

25. This statement is to the best of my knowledge true and correct.

Dated this 27th day of September 2016.



Joseph Crowley



Witness

Bond Employment Contract (BEC)

THIS IS AN INDIVIDUAL CONTRACT OF EMPLOYMENT

BETWEEN

BOND UNIVERSITY LTD (ACN 010 694 121)

(the '**University**')

AND

Joseph Crowley

In accordance with the University's employment framework
dated 6 August 2012

Preamble: Principles of Employment

The following principles of employment constitute a statement of aspiration for Bond University and its academic staff and are relevant in interpreting the substantive provisions of this agreement.

1. Bond University strives to be a world-class, private and independent University, attracting the best students, setting the highest standards of learning and research and developing graduates who have the intellectual and practical skills to meet the challenges of the 21st Century.
2. Bond University aims to be an employer of choice for academic staff.
3. Bond University supports academic freedom, which means the freedom of staff and students, within the law, to question received wisdom, put forward new ideas and state informed and scholarly opinions even if they are controversial or unpopular.
4. Every employee is committed to being part of a single unified Bond team delivering a unique student experience.
5. Bond University believes in a professional trust-based relationship that is built on respect, transparency and fairness, and encourages dedication, corporate spirit and hard work.
6. Bond University recognises the importance of the devolution of professional responsibility and accountability to the Faculties; and strives for an effective balance between centralisation and decentralisation.
7. Bond University adopts a framework for decision making that is consultative and, where practical, involves those most affected.
8. Bond University's employment relationship with staff is built around an individual contract that is based on a standard set of accepted provisions which allows a degree of flexibility where appropriate.
9. Bond University prefers the use of continuing contracts for academic staff, but recognises the need to maintain flexibility in its employment profile to ensure the University's viability.
10. Bond University fosters a supportive environment with respect and good humour. The University encourages the appointment, retention and promotion of staff who contribute to that environment.
11. Bond University appraises performance fairly and consistently and rewards good performance. It aims to create an environment that enables staff to productively deliver outstanding performance.

Agreement

The University agrees to employ you on the following terms:

Definitions

Agreed Policy has the meaning assigned in clause 18.

Base Salary, Total Salary and **Market Loading** have the meanings assigned in clause 8.

Position

1. Your position will be that of a full-time Senior Teaching Fellow or such other position agreed between you and the University from time to time.
2. You will be engaged for a fixed term commencing on 1 September 2016 until 31 August 2019 (the **Term**).
3. The University may but is not obliged to reappoint you for a further term. Except to the extent that you and the University agree otherwise, such reappointment will be on the same terms as this Agreement.

Probation – not applicable

4. Your probationary period will be as determined under the Academic Staff Probation Policy (an **Agreed Policy**). If you are not successful under probation, your notice period will be two months, or payment in lieu of notice.

Hours of work

5. You must be available at the University campus for teaching and other duties at such times as are reasonably required to carry out your role as set within your Faculty.

Non-teaching semester

6. You are allowed one non-teaching semester every six semesters in accordance with the Non-teaching Semester Policy (an **Agreed Policy**).
7. Apart from periods of approved leave, you must use your non-teaching semester for academic and professional development, research or other service to the University. Your activities must be proposed and approved in accordance with the Non-teaching Semester Policy as part of your annual review process. Provided your proposed activities are approved, you may be absent from the University campus during your non-teaching semester.

Salary

8. Your **Total Salary** will be ██████████0 per annum.
9. With the University's approval, you may salary package in accordance with relevant taxation legislation and University policy.

Superannuation

10. The University will make superannuation contributions amounting to ██████████% of your **Total**

Salary.

11. You may nominate a superannuation fund to receive the University's superannuation contributions. If you do not nominate a superannuation fund, you will be deemed to have nominated the University's default fund.
12. You may elect to receive, as ordinary income instead of contributions to superannuation, amounts which exceed the minimum required to be paid under the Superannuation Guarantee (Administration) Act 1992, as amended from time to time.

Leave

13. You will accrue annual leave at the rate of four weeks per annum. For any period of employment when you are working part time, your leave (both accruals and deductions) will be dealt with on a pro-rata basis in accordance with the National Employment Standards (NES).
14. Once your accrued annual leave entitlement exceeds the equivalent of 7 weeks, you will be required to take annual leave.
15. You will also be entitled to leave in the following categories in accordance with the Leave Policies (which are **Agreed Policies**):
 - Parental leave
 - Personal leave
 - Compassionate leave
 - Long service leave

For any period of employment when you are working part time, your leave (both accruals and deductions) will be dealt with on a pro-rata basis in accordance with the NES and the Leave Policies.

Public holidays

16. You may be required to teach on public holidays because of the three semester academic calendar. If this is required, you will be entitled to time off in lieu for any public holidays worked.

Policies

17. The University has detailed policies and procedures as determined from time to time which operate in addition to this Agreement. These policies and procedures deal with a variety of matters, including standards of behaviour, workplace processes and additional benefits.
18. Policies and procedures that deal with academic conditions of employment are known as **Agreed Policies**. **Agreed Policies** are developed and reviewed collaboratively by Management and the Academic Staff Association.
19. You are expected to comply with the University's policies and procedures, and a failure to do so may be taken into account in assessing your performance and conduct as an employee.
20. The University is also expected to act consistently with its policies and procedures.

Performance development review

21. An annual performance development review will be carried out by your supervisor in accordance with the Performance Development Review Policy (an **Agreed Policy**).
22. The main aims of the performance development review will be to achieve a consensus on a set of measurable objectives for the next twelve months and appraise the achievements of the last twelve months against previously agreed objectives.

Dispute resolution

23. Grievances, disputes and allegations of misconduct will be handled sensitively and without unnecessary escalation according to the Investigation and Dispute Resolution Policy (an **Agreed Policy**).

Termination

24. You may terminate your employment at any time by giving notice up until the end of your fixed term period, or six months notice, whichever is the lesser period.
25. Subject to clause 3, your employment will terminate at the expiry of the Term if it has not been terminated earlier.
26. The University may terminate your appointment by giving six months notice prior to the expiry of the Term, or giving notice of the remainder of the term if that is a period of less than six months, if:
 - a. The Vice-Chancellor or delegate, having taken account of efforts you and your Faculty have made to improve performance, reasonably concludes that your performance fails to meet the standards reasonably required by the University; or
 - b. The Vice-Chancellor or delegate, after due consideration of all relevant information, reasonably concludes that you will not be able to return to productive work owing to illness or injury.
27. The University may elect to pay you in lieu of any notice given pursuant to clause 26.
28. The University may terminate your appointment summarily for serious misconduct.
29. A staff member's role is redundant if the University does not have a continuing requirement for that role under the Redundancy Policy (**an Agreed Policy**). Without limiting the circumstances where this may arise, it will usually be limited to circumstances where decreases in funds occur beyond flexibilities built into the budgeting process or where there has been a shift in demand for courses.

Work Rights and Visa

30. If you're not an Australian Citizen your appointment is subject to the receipt of a valid working visa issued from the Department of Immigration & Border Protection (DIBP). Should the relevant visa from the Department of Immigration & Border Protection be refused/cancelled your employment can be terminated by Bond University Ltd without liability.

At any time when your right to reside in Australia is dependent upon your possession of a Visa issued by the Australian Government, if such visa is cancelled, revoked or withdrawn

your employment may be terminated at Bond University's absolute discretion, and you understand and agree that you will have no claim whatsoever against Bond University for any costs or damages that may be suffered by you or a third party.

Signed by Bond University Limited of
University Drive, Robina, Queensland
Australia, 4229 by an authorised
officer in the presence of

_____	Signature of officer
_____	Dr Chris Andrews
Signature of witness	_____
Diane Gulson	Name of officer
_____	Director of Human Resources
Full name of witness	_____
Bond University	Office held
_____	Bond University
Address of witness	_____
	Address

Signed by Joseph Crowley in the presence of

_____	_____
Signature of witness	Joseph Crowley
_____	_____
Full name of witness (print)	_____
_____	Address
Address of witness (print)	_____
_____	Dated:
Dated	

Attachment: Position Description for signature.

“JC9”

From: Nick James <njames@bond.edu.au>
Date: 18 August 2016 at 3:04:24 PM AEST
To: Joseph Crowley <jcrowley@bond.edu.au>
Subject: RE: Contract Renewal

Hi Joe

None of the contracts issued in the last few years specify teaching hours. Certainly none of the contracts created or renewed in my time do so. To my knowledge there is only one person in the Faculty who still has a contract with teaching hours locked in. Everyone else has a contract that simply states that they are allocated teaching hours in accordance with Faculty policy.

I know this probably doesn't carry much weight in your view but the Faculty workload allocation policy is unlikely to change any time soon. We spent a lot of time in Faculty Council last year and this year reviewing the policy, and the collective view was to leave the basic allocation model in place with a few tweaks: see attached. I certainly have no appetite to reopen those discussions. Yes, there is always the possibility that another Dean will come along and change everything, or even that the University itself will introduce a standardised model (although I am not aware of any plans to do so). But if that did happen, and you were the only person with specific teaching hours in their employment contract, the changes would be applied to everyone else but not to you. That, to me, just doesn't seem equitable.

So I'm afraid I agree with HR's position on this: we shouldn't be specifying teaching hours in the contract.

Cheers

Nick

Professor Nick James
Executive Dean
Faculty of Law



Position Description

Senior Teaching Fellow (Law)

INTRODUCTION

A Senior Teaching Fellow is expected to make a significant contribution to the teaching activities of the Faculty and University and to engage in activities that develop the scholarly and professional expertise that they bring to their teaching under the guidance and support from more senior academic staff.

DUTIES AND RESPONSIBILITIES

Duties and responsibilities of a Senior Teaching Fellow include, but are not limited to:

TEACHING AND LEARNING

- Conducting lectures and tutorials and other appropriate learning activities as required
- Ensuring that the quality of teaching delivery and subject content is of the highest standard
- Teach in accordance with faculty and university policies and procedures, as amended from time to time
- Providing academic and administrative support to the Faculty and University as required
- Being available for consultation for students and staff
- Preparing and marking assignments and exams
- Preparing and submitting final grades within the relevant deadlines
- Act as a subject coordinator when required, including the supervision of tutors and related planning and coordination responsibilities
- Preparing high quality subject delivery and learning support materials and ensuring that these are available to students
- Ensuring that students are adequately informed of the requirements and conduct of learning activities

Other Duties as Directed

The staff member may seek and/or the Dean may allocate additional duties within a staff member's skill, competence and training.

Teaching Load

An academic's teaching workload will be determined in accordance with the Faculty workload allocation policy. That policy presently provides that an academic employed on a teaching-only contract will be allocated 10 hours of classes per week, with a non-teaching semester granted once in every two years.

The actual distribution of hours can be negotiated with the academic's supervisor; an academic may, for example, be permitted to increase their weekly teaching allocation in order to be entitled to a non-teaching semester once in every three semesters. An academic may also be entitled to a partial reduction in their teaching allocation in return for the academic assuming additional service responsibilities.

Relevant Educational Qualifications

A Senior Teaching Fellow is expected to have completed four years of tertiary study or equivalent.

Understanding of Quality Assurance

Staff should demonstrate an understanding of the principles of quality assurance and continuous improvement as they apply at Bond University.

Staff are expected to demonstrate an ongoing commitment to the Bond University Strategic Plan, university policy and to our quality assurance processes

Understanding of Cultural Sensitivity

Staff will come into contact with staff and students from a variety of cultural backgrounds. It is expected that mutual respect, cultural awareness and cultural sensitivity will form the basis of a professional working relationship.

Staff are encouraged to attend a cultural sensitivity workshop to further enhance and develop cultural awareness and cultural sensitivity skills.

Position held by : _____

Signed : _____

Date : _____



"JC11"

Our Ref: LB

11 August 2016

Joseph Crowley
149 Stanley Terrace
TARINGA QLD 4068

HUMAN RESOURCES

Bond University
Gold Coast, Queensland 4229
Australia

Phone: +61 7 5595 5643
Fax: +61 7 5595 1708

ABN 88 009 694 121
CRICOS Provider Code 00019B

Dear Joseph,

Senior Teaching Fellow

Bond University is pleased to offer you the role of Senior Teaching Fellow located in Faculty of Law.

Your appointment is a FULL TIME, FIXED TERM position that will commence from 1 September 2016 and end on 31 August 2019.

As per the attached position description, an academic's teaching workload will be determined in accordance with the Faculty workload allocation policy. That policy presently provides that an academic employed on a teaching-only contract will be allocated 10 hours of classes per week, with a non-teaching semester granted once in every two years.

The actual distribution of hours can be negotiated with the academic's supervisor; an academic may, for example, be permitted to increase their weekly teaching allocation in order to be entitled to a non-teaching semester once in every three semesters. An academic may also be entitled to a partial reduction in their teaching allocation in return for the academic assuming additional service responsibilities.

The terms and conditions of employment are governed by the attached Bond Employment Contract (BEC). However, if there are items in this BEC that you are unsure about we would appreciate if you would contact Human Resources to discuss these issues.

Your appointment is subject to and conditional upon you accepting and Bond University receiving from you the signed and witnessed BEC within 10 working days of this offer letter, together with the signed position description. This offer of employment will lapse after 10 working days.

We look forward to your acceptance of this offer.

Yours faithfully

Dr Chris Andrews
Director of Human Resources
Enc

"JC12"

From: [REDACTED]

Date: [REDACTED]

To: [REDACTED]

Cc: [REDACTED]

Subject: [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

"JC13"

From: [REDACTED]
Sent: Monday, August 22, 2016 8:52 AM
To: all_academic_staff_mod; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]
Cc: [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]
Subject: Call for Nominations for Election of Deputy Chair of Academic Senate

To: All Academic Staff and Members of Academic Senate,

The term of office of [REDACTED] as Deputy Chair of Academic Senate will conclude on 31 October 2016.

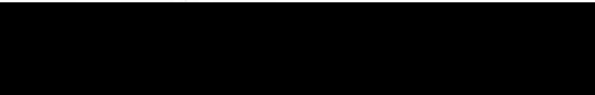
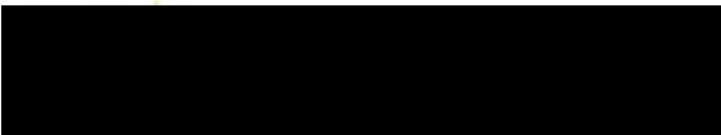
Nominations are, therefore, called for election to the position of Deputy Chair of Academic Senate and the nomination form is accordingly attached.

The Deputy Chair of Academic Senate will serve a two year term commencing 1 November 2016.

Nominees must be members of academic staff on continuing appointments or term appointments with more than 3 years to run at the close of nomination. Nominees are not required to be current members of Academic Senate, although the proposers and seconders of any nomination must be current members of Academic Senate.

If more than one nomination is received a ballot will be conducted. Eligibility to vote is restricted to members of Academic Senate.

Nominations should be lodged using the attached nomination form and returned to the Manager, Academic Secretariat, to be received no later than 4:00pm on Wednesday 31 August 2016.



CRICOS Provider: 00017B

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