



# ACODE CONSTITUTION

## November 2010

Amended at the ACODE Annual General Meeting November 2006 Amended  
at the ACODE Annual General Meeting November 2010 Amended at the  
ACODE Business Meeting March 2011

### 1 Name

The title of this organisation is the Australasian Council on Open, Distance and e-learning, hereafter referred to as ACODE.

### 2 Objective

The objective of ACODE shall be to promote, facilitate and support the attainment of excellence in open, distance and e-learning in Australasian universities through the enhancement of teaching and learning policies and practices that are enabled by technologies.

### 3 Functions

In pursuit of ACODE's objective, the functions of ACODE shall be:

- a. To undertake any activities which from time to time are seen by the Executive Committee and membership to further enhance and develop open, distance and e-learning in Australasia.
- b. To advise and make representations as a collective expert body on any matters relevant to open, distance and e-learning in Australasia.
- c. To liaise with the wider educational community, nationally and internationally, on matters pertaining to open, distance and e-learning.
- d. To promote and lead discussion about research, development and innovation in open, distance and e-learning, disseminating the results of relevant research and identifying areas of emergent research and development need.
- e. To organise a regular annual program of events for the discussion of open, distance and e-learning in Australasia.
- f. To disseminate information on open, distance and e-learning.

### 4 Powers

In pursuit of ACODE's objective, the powers of ACODE shall be:

- a. To subscribe to, become a member of and co-operate with any other association, club or organisation whose objectives are altogether or in part similar to those of ACODE.
- b. To buy sell or deal in all kinds of articles, commodities and provisions for members of ACODE.
- c. To purchase, take on lease or in exchange, hire and otherwise acquire land, buildings, easements, or property, real or personal, and any rights or privileges that may be necessary for the purposes of or associated with the objectives of ACODE.
- d. To enter into arrangements with any government agency or authority that are incidental or conducive to attaining the objectives and exercise of the powers of ACODE. In addition, to obtain from any government agency or authority any rights, privileges or concessions that ACODE believes desirable to obtain and to carry out those rights, privileges and concessions.
- e. To appoint, employ, remove or suspend any employees or other persons as may be necessary for the purposes of ACODE.
- f. To remunerate any person or body corporate for services rendered or to be rendered.
- m. In furtherance of ACODE's objectives, to amalgamate with any one or more Associations having objectives altogether or in part similar to those of ACODE.
- n. To invest and deal with money of ACODE not immediately required in such a way as the Executive from time to time approves.
- o. To purchase or acquire or undertake all or any part of the property, assets, liabilities and engagements of any company or body corporate.
- p. To take, acquire or hold any shares, debentures or securities of any company or body corporate.
- q. To lend and advance money or give credit to any person or body corporate, to guarantee or give indemnity for the payment of money or the performance of contracts or obligations by any person or body corporate, and otherwise to assist any person and body corporate in the advancement of the association's objectives.
- r. To transfer all or any part of the property, assets, liabilities and engagements of ACODE to any one or more of the associations with which ACODE is authorised to amalgamate.
- s. To borrow or raise money, either alone or jointly with any other person or body corporate, in such a manner as ACODE approves.
- t. To make donations for charitable or community purposes.
- u. To sell, improve, manage, develop, exchange, lease, dispose of, turn to account or otherwise deal with all or any of the Association's property or rights to further ACODE's objective.
- v. To print and publish occasional papers, periodicals, books, articles and leaflets digitally or in hard copy that ACODE approves to assist in reaching its objectives.

## 5 Definitions

In this Constitution:

**AGM** means the annual general meeting of members convened in accordance with clause 11.2.

**Affiliate Member** means a higher education organisation which has been accepted as a member of ACODE in accordance with clause 6.3.

**Associate Member** means each Australasian association or service agency which has been accepted as a member of ACODE in accordance with clause 6.4.

**Australasian** means the region consisting of Australia, New Zealand, Papua New Guinea and the South West Pacific.

**Executive** means the committee of management of ACODE established in accordance with clause 8.

**Institutional Member** means a publicly funded Australasian university which has been accepted as a member of ACODE in accordance with clause 6.2.

**Officer** means each of the President, Vice President and Treasurer of ACODE appointed in accordance with clauses 8.5 and 9.

## 6 Membership

### 6.1 Membership

There are three categories of membership: Institutional Membership, Affiliate Membership and Associate Membership.

### 6.2 Institutional Membership

Institutional Membership shall be open to publicly funded Australasian universities. Institutional Membership shall not be open to other organisations or to individuals.

#### 6.2.1 Representation

Each Institutional Member shall be represented by a nominee (hereafter referred to as the 'institutional nominee'), chosen by the Institutional Member, but normally the institution's staff member primarily responsible for managing open, distance, and e-learning. In addition, each Institutional Member shall be invited to nominate a suitable alternate.

#### 6.2.2 Entitlements

Each Institutional Member shall be entitled to receive all ACODE communications with members of ACODE, have access to all ACODE resources and to send one representative to regular ACODE activities.

#### 6.2.3 Voting Rights

Voting rights shall be vested in Institutional Members who have paid the current membership fee. Each such Institutional Member shall have one vote.

#### **6.2.4 Proxies**

Institutional Members may nominate proxies for voting purposes. Written notice of the appointment of a proxy shall be delivered to the President not less than 48 hours prior to any meeting of members.

#### **6.2.5 Membership Fees**

All Institutional Members shall be levied an annual membership fee to support the activities of ACODE. The fee shall fall due on 1 January each year. The amount of the fee shall be set at the AGM of the preceding year.

An Institutional Member may resign from ACODE at any time by giving notice in writing to the President. There shall be no refund.

#### **6.2.6 Arrears**

Members whose fees or any other subscriptions are in arrears on 30 April shall have their voting rights suspended at the next meeting of the Executive. Suspensions shall be in effect until such time as the fees are paid.

### **6.3 Affiliate Membership**

Affiliate Membership may be available to other higher education organisations in Australasia which are interested in open, distance and e-learning but which are not publicly funded universities. Affiliate Membership shall be granted to such organisations as may be determined from time to time by resolution of the Executive in response to applications from such organisations. Acceptance or refusal is entirely at the sole and absolute discretion of the Executive and cannot be appealed.

#### **6.3.1 Representation**

Each Affiliate Member shall be represented by a nominee (hereafter referred to as the 'affiliate nominee'), chosen by the Affiliate Member, but normally the institution's staff member primarily responsible for managing open, distance and e-learning. In addition, each Affiliate Member shall be invited to nominate a suitable alternate.

#### **6.3.2 Voting Rights**

Affiliate Members shall have no voting rights.

#### **6.3.3 Entitlements**

Affiliate Members are entitled to receive all ACODE communications with members of ACODE and have access to all ACODE resources.

Affiliate Members may attend ACODE events upon payment of any attendance fee for each event as determined by the Executive from time to time.

#### **6.3.4 Fees**

Affiliate Members shall be charged an annual fee for Affiliate Membership which is thirty (30) percent of the annual Institutional Membership fee.

## **6.4 Associate Membership**

Associate Membership may be granted to such other associations and service agencies in Australasia interested in open, distance and e-learning as may be determined from time to time by resolution of the Executive.

The grant of Associate Membership is subject to ACODE and the prospective Associate Member entering into a memorandum of understanding or similar agreement on terms to be negotiated by the Executive.

### **6.4.1 Representation**

Associate Members shall be invited to nominate a suitable representative from their organisation.

### **6.4.2 Voting Rights**

Associate Members shall have no voting rights.

### **6.4.3 Entitlements**

Associate Members are entitled to receive all ACODE communications with members of ACODE.

Associate Members may attend ACODE events upon payment of any attendance fee for each event as determined by the Executive from time to time.

### **6.4.4 Fees**

Associate Members shall not be charged a fee for Associate Membership. However, they may be charged a fee for attendance at ACODE activities, as determined by the Executive from time to time.

## **7 Use of Funds**

### **7.1 Income**

ACODE is a not for profit society. The income and property of ACODE shall be applied solely towards the achievement of the objective as set out in clause 2, and no portion shall be paid or transferred directly or indirectly by way of dividend, bonus or otherwise howsoever by way of profit to or amongst the Members or individuals, except as bona fide compensation for services rendered or expenses incurred on behalf of ACODE.

### **7.2 Expenditure**

All expenditures shall be approved by the Executive, in accord with budgets and other approvals given by ACODE from time to time.

### **7.3 Funds Management**

Funds shall be held in an account set up for that purpose, to be operated on, and in such a manner, as shall be determined by the Executive in accordance with current accounting practices. ACODE may borrow funds or obtain credit only to the limit of the account balance or to the account balance minus

outstanding liabilities and commitments to the end of the current financial year, whichever is the lower amount.

#### **7.4 Audit**

An audited statement of accounts shall be prepared annually for the year ending 31 December and presented for approval at the AGM of ACODE in the succeeding year.

#### **7.5 Budget**

A budget for the following year will be presented for approval to the AGM.

### **8 Executive**

#### **8.1 The Executive**

Members of the Executive shall be elected by Institutional Members.

No paid employees of ACODE or its working parties shall be eligible to hold a position on the Executive or ACODE's sub-committees.

The President or a nominee approved by the Executive can represent ACODE on any committees or advisory councils as from time to time ACODE may direct or as resolved by the Executive.

#### **8.2 Role**

The role of the Executive shall be to organise the affairs of ACODE, including, but not restricted to the following: arranging meetings; developing and reviewing strategic directions; preparing and overseeing the budget; monitoring working parties; representing and acting for ACODE between meetings as required; canvassing the opinions of members between meetings and disseminating information.

#### **8.3 Composition**

The Executive shall consist of the following elected Officers: President, Vice President, Treasurer and two other elected members.

#### **8.4 Eligibility**

Officers shall be elected from the institutional nominees and alternates of Institutional Members. The institutional nominee and alternate from the same Institutional Member may not serve on the Executive at the same time. If, during his/her term of office, an Officer no longer satisfies these conditions for holding office, the position shall be declared vacant and the casual vacancy filled for the balance of the term using the procedures specified in clause 8.6.

#### **8.5 Term of Office**

Each Officer shall be elected for a two-year term *starting on January 1*. No Officer shall serve more than two consecutive terms in the same position. Terms of office shall be arranged so the President and two Executive members shall be elected in one year and the Vice President and Treasurer shall be elected in the following year.

## **8.6 Casual Vacancies**

If the vacancy occurs less than one year into a term the vacancy shall be filled using the procedures outlined in clause 9. If an Officer resigns or is unable to continue to hold office during his/her term, that Officer shall be replaced for the remainder of the term by secondment of an Institutional nominee or alternate chosen by the Executive, where the term of secondment is only for the remainder of the original term.

## **8.7 Removal from Office**

Officers may be removed from office at a Special General Meeting called for that purpose. At any such meeting the officer shall be given the opportunity to present a case fully, whether orally or in writing. Voting on this issue shall be by secret ballot and by simple majority.

## **9 Election of Officers**

### **9.1 Calling an Election**

The President shall announce the upcoming election, and call for nominations, of Officers *at least five weeks prior to the commencement of* the last AGM before the expiry of the term of office.

### **9.2 Nomination**

Nominations must be in writing bearing the signatures of the candidate, nominator and seconder. Nominations must be received by ACODE within two weeks of the call for nominations. The nominator and seconder shall be drawn from the institutional nominees.

### **9.3 Election**

An election shall be held if there is more than one nomination for any position. The election shall be decided by a simple majority: i.e. the candidate who gets the most votes is declared elected. One ballot paper shall be sent to the institutional nominee of each Institutional Member. Each Institutional Member shall have one vote.

### **9.4 Returning Officer**

The President shall appoint a Returning Officer, who shall be responsible for running the election. The Returning Officer shall prepare and distribute the ballot paper together with written instructions on the completion and return of the ballot paper.

### **9.5 Return of Ballots**

The President shall establish the date by which ballots must be returned to the Returning Officer if they are to be counted as valid.

### **9.6 Determining the Result of an Election**

The ballot papers shall be returned to the Returning Officer, who will count the votes and destroy the ballot papers in the presence of an independent Scrutineer, and then announce the outcome of the election. In the event of a tied vote, a draw shall be made by the Returning Officer, in the presence of the Scrutineer, to decide the outcome.

## **9.7 Announcing the result of an Election**

The outcome of elections will be announced at the first subsequent AGM..

## **10 Responsibilities of Officers**

### **10.1 President**

The President shall be responsible for overseeing the affairs of ACODE, and conducting all meetings, including Executive meetings, and is empowered to represent ACODE as required.

### **10.2 Vice President**

The Vice President shall be responsible for assisting the President in conducting the affairs of ACODE, and for deputising for the President when absent.

### **10.3 Treasurer**

The Treasurer shall be responsible for oversight of all financial matters associated with the operation of ACODE and, in addition, shall be responsible for preparation and presentation of budgets and financial statements as required. The Treasurer will present a report of expenditure against budget to each Business Meeting.

### **10.4 Elected Members**

Other elected members shall be responsible for assisting the President, Vice President and Treasurer, contributing to the activities of the Executive and otherwise furthering the interests of ACODE in ways agreed from time to time by the Executive.

### **10.5 Co-option**

The Executive shall have the power to co-opt additional members to the Executive when required. The term of any co-opted member of the Executive shall be limited to a maximum of two years. At no time will the number of co-opted members exceed the number of elected members of the Executive.

## **11 Meetings**

### **11.1 Deliberative vote at meetings**

The President of ACODE or, in his or her absence, the person presiding at the relevant meeting shall have a deliberative vote in his or her capacity as an institutional nominee and in the event of an equality of votes, a casting vote at any meeting of ACODE.

### **11.2 Annual General Meeting**

An AGM shall be held every year, normally in the last quarter of the calendar year.

### **11.3 Business Meetings**

In addition to the AGM, there shall be at least one Business Meeting each year.

#### **11.4 Special general meetings**

The President shall convene a special general meeting:

- when directed to do so by the Executive; or
- by the requisition in writing signed by not less than one-third of the members presently on the Executive or not less than the number of Institutional Members of ACODE that equals double the number of members presently on the Executive plus one. Such requisition shall clearly state the reasons why such special general meeting is being convened and the nature of business to be conducted thereat.

#### **11.5 Notice of Meetings**

Notice of AGMs, Business Meetings and special general meetings shall be provided electronically to institutional nominees and alternates at least fourteen (14) days before the date of the meeting, unless otherwise specified in the Constitution.

#### **11.6 Executive Meetings**

The Executive shall meet (electronically or face-to-face) at least twice per year to review and plan the affairs and activities of ACODE. A record of such meetings shall be prepared and distributed to all Members in a timely fashion. A member of the Executive shall not vote in respect of any contract or proposed contract with the Association in which that person is interested, or any matter arising thereat, and if the person does vote, the vote shall not be counted.

#### **11.7 Quorum**

The quorum for the AGM, special general meetings and Business Meetings shall be fifty (50) per cent of Institutional Members. The quorum for a meeting of the Executive shall be three (3) members of the Executive.

#### **11.8 Invited Attendees**

The President may invite any person to attend any ACODE meeting under such conditions and circumstances as determined by the President. Representatives of Affiliate Members and Associate Members shall be invited to attend Business Meetings and participate in discussions at the discretion of the President.

### **12 Voting**

#### **12.1 Voting Rights**

On any question arising at a meeting of ACODE an Institutional Member shall have one vote only.

#### **12.2 Result of Voting**

Unless otherwise required in this Constitution, votes shall be determined by a simple majority of members voting at a meeting, in person or by proxy.

#### **12.3 Voting Outside Scheduled Meetings**

Unless specified elsewhere in this Constitution, voting may be conducted in person, by postal ballot or by electronic mail to decide any matter which comes before ACODE.

## **12.4 Authorities**

All acts done by any meeting of the Executive or of a working party or by any person acting as a member of the Executive shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any such member of the Executive or person acting aforesaid, or that members of the Executive or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a member of the Executive.

## **12.5 Written Resolutions**

A resolution in writing signed by all the members of the Executive for the time being entitled to receive notice of a meeting of the Executive shall be as valid and effectual as if it had been passed at a meeting of the Executive duly convened and held. Any such resolution may consist of several documents in like form, each signed by one or more members of the Executive. Signing delivered by electronic mail or similar mechanism should include clear instructions to that effect and be capable of being stored.

## **13 Working Parties**

ACODE or the Executive may appoint Working Parties of one or more individuals, with power to co-opt, to address specific issues, and may nominate one or more institutional nominees or alternates to represent ACODE on joint Working Parties with, or at meetings with, other bodies. ACODE or the Executive will determine the rules under which the working party operates. A working party so formed shall report progress in writing to the Executive as required and to the regular business meeting of ACODE and if authorised to raise or expend funds shall present a statement of receipts and payments at each general meeting of ACODE. Upon completion of the task for which it was formed, a working party shall submit a final report and financial statement upon the work done. The President of the Association, or a nominee, is an ex-officio member of all working parties.

## **14 Secretariat**

The day to day administrative matters of ACODE will be carried out by the Secretariat under the direction of the Officers of ACODE. Duties shall include: recording and maintaining membership details, dealing with correspondence, sending notifications of meetings and other matters as required by the Constitution and By-Laws. Duties also include the taking and distribution of minutes and general office duties as required by the Executive. The Secretariat shall receive dues and other payments and keep accounts.

## **15 Amending the Constitution**

This Constitution may be amended by a two-thirds majority of Institutional Members present and voting at a meeting either in person or by proxy, provided that notice of the proposed amendment has been given at least thirty (30) days before the meeting.

## **16 Winding Up or amalgamation**

A motion to wind up ACODE or for amalgamation with some other association shall be considered only at a Special Meeting, called for the purpose with at least thirty (30) days written notice, and must be approved by not less than two-thirds of Members with voting rights present in person and by proxy. Upon winding up, if there remain, after satisfaction of all ACODE's debts and liabilities, any property whatsoever, the same shall not be paid to or distributed among the Members, but shall be divided on a pro-rata basis between Universities Australia, and the equivalent committee of Vice-Chancellors of universities in New Zealand, or, in the event that such committees have

ceased to exist, or ceased to be not for profit societies, to another not for profit society with an interest in higher education.