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Election of students union in Medical College/Institution/University Regulations, 2009

MEDICAL COUNCIL OF INDIA

NOTIFICATION

New Delhi , the 18th January, 2010

No. MCI-34(1)/2009-Med./66611, In exercise of the powers conferred by Section 33 of the Indian Medical Council Act, 1956 (102 of 1956) the Medical Council of India with the previous sanction of the Central Government hereby makes the following Regulations, namely:-

1. Short title, commencement and applicability

- (i) These Regulations may be called the Medical Council of India (Election of students union in Medical College/Institution/University) Regulations, 2009.
- (ii) They shall come into force on the date of their publication in the Official Gazette.

2. Objective:-

To conduct peaceful and fair election of students union in Medical College/Institution/University.

3. Definitions:- For the purposes of these Regulations:-

3.1 Medical Council of India means a body constituted by an Act of Parliament in terms of Section 3 of Indian Medical Council Act, 1956.

3.2 "University" means a university established or incorporated by or under a Central Act, a Provincial Act or a State Act, an institution deemed to be university under Section 3 of the UGC Act, 1956, or an institution specially empowered by an Act of Parliament to confer or grant degrees.

3.3 "Medical College/Institution" means an institution, whether known as such or by any other name, which provides for a programme, beyond 12 years of schooling, for obtaining recognized MBBS qualification from a university and which, in accordance with the rules and regulations of such university, is recognized as competent to provide for such programmes of study and present students undergoing such programmes of study for the examination for the award of recognized MBBS/PG Degree/Diploma qualifications.

3.4 "Head of the institution" means the Dean/Principal/Director of the concerned medical college/institution.

4. Conduction of Election in Medical College/Institution/University across the Country

4.1. Medical College/Institution/University across the country shall ordinarily conduct elections for the appointment of students to student representative bodies. These elections may be conducted in the manner prescribed.

4.2. Where the atmosphere is adverse to the conduct of peaceful, free and fair elections, the Medical College/Institution/University authorities shall initiate a system of student representation based on nominations. It would be advisable, however, not to base such nomination system on purely academic merit.

4.3. In cases where elections are not being held, or where the nomination model prevails, the nomination model should be allowed to continue for a transitory period.

4.4. Each Medical College/Institution/University shall over a period of 5 years, convert from the nomination model to a structured election model.

4.5. All Medical College/Institution/University shall conduct a review of the student representation mechanism. The first review may be conducted after a period of 2 years of the implementation of the mechanism detailed above, and the second review may be conducted after the 3rd or the 4th year of implementation. The primary objective of these reviews will be to ascertain the success of the representation and election mechanism in each individual institution, so as to decide whether or not to implement a full-fledged election structure. Needless to say these reviews will be based on a consideration of the views and suggestions of all stakeholders, such as students, faculty, administration, student bodies, and parents.

4.6. Each Medical College/Institution/University shall, as a primary objective, subject to the pertinent issue of discipline on campus, seek to

implement a structured system of student elections by conclusion of a period of 5 years from the date of the notification of this Regulation.

4.7. Subject to the autonomy of the universities in respect of the choice of the mode of election, all Medical College/Institution/University shall institute an apex student representative body that represents all students, colleges, and departments coming under the particular university. In the event that the university is geographically widespread, individual colleges may constitute their own representative bodies, which would further elect representatives for the apex universities body.

4.8. The representative body so elected shall only comprise of regular students on the rolls of the institution. No faculty member, nor any member of the administration shall be permitted to hold any post on the executive of such representative body, nor shall be allowed to be a member of any such representative body.

5. Modes of Elections

5.1. A system of direct election of the office bearers of the student body, whereby all students of all the constituent colleges, as well as all students of the Health Sciences university departments vote directly for the office bearers. A graphic representation of this model is annexed herewith at Annexure-A.

In respect of universities with large, widespread campuses and large student bodies, either of the following models may be adopted.

5.2. A system of elections, where colleges and campuses directly elect college and campus office bearers, as well as the university representatives. These university representatives shall form an electoral college, which shall elect the university student union office bearers. A graphic representation of this model is annexed herewith at Annexure-B.

5.3. A system of elections where on one hand, directly elected college and Campus office bearers, as well as the university representatives. These university representatives shall form an electoral college, which shall elect the university student union office bearers. A graphic representation of this model is annexed herewith at Annexure-C.

5.4. A system of election wherein class representatives shall be directly elected in the colleges and universities campus and they in turn shall elect the office bearers for the college unions and the university campus union, they shall also elect their representatives for university student union. These elected representative from colleges and university campus shall form the Electoral College, which shall elect the office bearers of the university student union. This model shall be applicable to large health Science University with large number of affiliated medical colleges / institutions. A graphic representation of this model is annexed herewith at Annexure-D.

6 Disassociation of Student Elections and Student Representation from Political Parties.

6.1. During the period of the elections no person, who is not a student on the rolls of the Medical College/Institution/University, shall be permitted to take part in the election process in any capacity. Any person, candidate, or member of the student organization, violating this rule shall be subject to the disciplinary proceedings.

7. Frequency and Duration of Election Process

7.1. The entire process of elections, commencing from the date of filing of nomination papers to the date of declaration of results, including the campaign period, shall not exceed 10 days.

7.2. The elections shall be held on a yearly basis between 6 to 8 weeks from the date of commencement of the academic session.

8. Eligibility Criteria for Candidates

8.1. Under graduate students between the ages of 16 and 26 shall be eligible to contest elections. For Post Graduate Students the maximum age limit to legitimately contest for election shall be between the ages of 22-30 years.

8.2. The candidate shall in no event have any academic arrears in the year of contesting the election.

8.3. The candidate shall have attained the minimum percentage of attendance as prescribed by the university or 75% attendance, whichever is higher.

8.4. The candidate shall have one opportunity to contest for the post of office bearer, and two opportunities to contest for the post of an executive member.

8.5. The candidate shall not have a previous criminal record, that is to say he/she shall not have been tried and/or convicted of any criminal offence or misdemeanor. The candidate shall also not have been subjected to any disciplinary action by Medical College/Institution/University authorities.

8.6. The candidate shall be a regular, full time student of the Medical College/Institution/University. That is to say that all eligible candidates shall be enrolled in a full time course.

9. Election – Related Expenditure and Financial Accountability.

9.1. The maximum permitted expenditure per candidate shall be Rs.5000/-

9.2. Each candidate shall, within two weeks of the declaration of the result, submit complete and audited accounts to the Medical College/Institution/University. The Medical College/Institution/University shall publish such audited accounts within 2 days of submission of such accounts, through a suitable medium so that any member of the student body may freely examine the same.

9.3. The election of the candidate shall be nullified in the event of any non-compliance or in the event of any excessive expenditure.

9.4. The candidates shall be barred from utilizing funds from any political party or any other sources other than voluntary contributions from the student body.

10. Code of conduct for Candidates and Elections Administrators.

10.1. No candidate shall indulge in, nor shall abet, any activity, which may aggravate existing differences or create mutual hatred or cause tension between different castes and communities, religious or linguistic, or between any group(s) of students.

10.2. Candidates shall refrain from criticism of all aspects of private life, not connected with the public activities of the other candidates or supporters of such other candidates. Criticism of other candidates, or their supporters based on unverified allegations or distortion shall be avoided. Criticism shall be confined to policies, programmes, past record and work.

10.3. There shall be no appeal to caste or communal feelings for securing votes. Places of worship, within or without the campus shall not be used for election propaganda.

10.4. All candidates shall be prohibited from indulging or abetting, all activities which are considered to be "corrupt practices" and offences, such as, bribing of voters, intimidation of voters, impersonation of voters canvassing or the use of propaganda within 100 meters of polling stations, holding public meetings during the period of 24 hours ending with the hour fixed for the close of the poll, and the transport and conveyance of voters to and from polling station.

10.5. No candidate shall be permitted to make use of printed posters, printed pamphlets or any other printed material for the purpose of canvassing, candidates may only utilize hand-made posters for the purpose of canvassing, provided that such hand-made posters are procured within the expenditure limit set out herein above.

10.6. Candidates shall only utilize hand-made posters at certain places in the campus, which shall be notified in advance by the election commission/ Medical College/Institution/University authority.

10.7. No candidate shall be permitted to carry out processions, or public meetings, or in any way canvass or distribute propaganda outside the Medical College/Institution/University campus.

10.8. No candidate shall, nor shall his/her supporters, deface or cause any destruction to any property of the Medical College/Institution/University campus, for any purpose whatsoever, without the prior written permission of the college/university authorities. All candidates shall be held jointly and severally liable for any destruction/defacing of any Medical College/Institution/University property.

10.9. During the election period the candidates may hold processions and /or public meetings, provided that such processions and/or public meetings do not, in any manner, disturb the classes and other academic and co-curricular activities of the Medical College/Institution/University. Further, such procession/public meeting may not be held without the prior written permission of the Medical College/Institution/University authorities.

10.10. The use of loudspeakers, vehicles and animals for the purpose of canvassing shall be prohibited.

10.11. On the day of polling, student organizations and candidates shall (i) Co-operate with the officers on election duty to ensure peaceful and orderly polling and complete freedom to the voters to exercise their franchise without being subjected to any annoyance or obstruction: (ii) not serve or distribute any eatables, or other solid and liquid consumables, except water on polling day; (iii) not hand out any propaganda on the polling day. Excepting the voters, no one without a valid pass/letters of authority from the Medical College/Institution/University authorities shall enter the polling booths.

10.12. The Medical College/Institution/University authorities shall appoint impartial observers. In the case of deemed universities and self-financed institutions, government servants shall be appointed as observers. If the candidates have any specific complaint or problem regarding the conduct of the elections they may bring the same to the notice of the observer. Observers shall also be appointed to oversee the process of nomination of students in institutions that are following the nominations model of student representation.

10.13. All candidates shall be jointly responsible for ensuring the cleaning up of the polling area within 48 hours of the conclusion of polling.

10.14. Any contravention of any of the above recommendations may make the candidate liable to be stripped of his candidature, or his elected post, as the case may be. The Election Commission/ Medical College/Institution/University authorities may also take appropriate disciplinary action against such a violator.

10.15. In addition to the above-mentioned code of conduct, certain provisions of the Indian Penal Code, 1860 (Section 153-A and Chapter IX-A – "Offences Relating to Election"), will be applicable to the student elections.

11. Grievances Redressal Mechanism.

11.1. A Grievances Redressal Cell shall be constituted with the Dean (Student Welfare) /teacher in charge of student affairs as its chairman, one senior faculty member, one senior administrative officer and two final year students – one boy and one girl (till the election results declared, students can be nominated on the basis of merit and/or participation in the co-curricular activities in the previous year). The grievance cell shall be mandated with the redressal of election-related grievance, including, but not limited to breaches of the code of conduct of elections and complaints relating to election-related expenditure. This cell would be the regular unit of the institution.

11.2. In pursuit of its duties, the grievance cell shall prosecute violators of any aspect of the code of conduct or the rulings of the grievance cell. The grievance cell shall serve as the court of original jurisdiction. The institutional head shall have appellate jurisdiction over issues of law and fact in all cases or controversies arising out of the conduct of the elections in which the grievance cell has issued a final decision. Upon review, the institutional head may revoke or modify the sanctions imposed by the grievance cell.

11.3. In carrying out the duties of the office, the Grievance cell shall conduct proceedings and hearing necessary to fulfill those duties. In executing those duties they shall have the authority: (i) to issue a writ of subpoena to compel candidates, agents, and workers and to request students to appear and give testimony, as well as produce necessary records; and (ii) to inspect the financial reports of any candidate and make these records available for public scrutiny upon request.

11.4. Members of the Grievance cell are prohibited from filing complaints. Any other student may file a complaint with the Grievance cell, within a period of 3 weeks from the date of declaration of results. All complaints shall be filed under the name of the student filing the complaint. The Grievance cell shall act on all complaints within 24 hours after they are received by either dismissing them or calling a hearing.

11.5. The Grievance cell may dismiss a complaint if (i) The complaint was not filed within the time frame prescribed; (ii) the complaint fails to state a cause of action for which relief may be granted. (iii) the complainant has not and/or likely will not suffer injury or damage.

11.6. If a complaint is not dismissed, then a hearing shall be held. The Grievance cell shall inform, in writing, or via e-mail, the complaining party and individuals or groups named in the complaint of the time and place of the hearing. The parties are not considered notified until they have received a copy of the complaint.

11.7. The hearing shall be held at the earliest possible time, but not within twenty-four (24) hours after receipt of the notice described above, unless all parties agree to waive the 24 hour time constraint.

11.8. At the time, notice of hearing is issued, the Grievance Cell, by majority vote, may issue a temporary restraining order, if it determines that such action is necessary to prevent undue or adverse effects on any individual or entity. Any restraining order, once issued, will remain in effect until a decision of the Grievance Cell is announced after the hearing or until rescinded by the Grievance Cell.

11.9. All Grievance Cell hearing, proceedings, and meetings shall be open to the public.

11.10 All parties of the Grievance Cell hearing shall present themselves at the hearing, may be accompanied by any other student from which they can receive counsel, and have the option to be represented by that counsel.

11.11. For any hearing, a majority of sitting Grievance Cell members shall be in attendance with the Chair of the Grievance Cell presiding. In the absence of the Chair, the responsibility to preside shall fall to an Grievance Cell member designated by the Chair.

11.12. The Grievance cell shall determine the format for the hearing, but shall require that both the complaining and responding parties appear physically before the board to discuss the issues through a complaint, answered, rebuttal, and rejoinder format. The purpose of the hearing is to gather the information necessary to make a decision, order, or ruling that will resolve an election dispute. To effectuate this purpose, the following rules shall prevail at all hearings:

- Complaining parties shall be allowed no more than two witnesses, however, the Grievance cell shall call witnesses as required. If said witnesses are unable to appear at the hearing, signed affidavits may be submitted to the Grievance Cell Chair for the purpose of testifying by proxy.
- All questions and discussions by the parties in dispute shall be directed to the Grievance Cell.
- There shall be no direct or cross-examination of any party or witness by complaining or responding parties during hearings.
- Reasonable time limits shall be set by the Grievance Cell provided they give fair and equal treatment to both sides.
- The complaining party shall bear the burden of proof
- Decisions, orders and rulings of the Grievance Cell shall be concurred to by a majority of the Grievance Cell present and shall be announced as soon as possible after the hearing. The Grievance cell shall issue a written opinion of the ruling within 12 hours of announcement of the decision. The written opinion shall set forth the findings of fact by the Grievance Cell and the conclusions of law in support of it. Written opinions shall set a precedent for a time period of three election cycles for Grievance Cell ruling, and shall guide the Grievance Cell in its proceedings. Upon consideration of prior written opinions, the grievance cell may negate the decision, but shall provide written documentation of reasons for doing so.
- If the decision of the Grievance Cell is appealed to the institutional head, the Grievance Cell shall immediately submit its ruling to the commission
- The Grievance Cell shall select the remedy or sanction most appropriate to both the type and severity of the infraction, as well as the stand of mind or intent of the violator as determined by the Grievance Cell. Possible remedies and sanctions include, but are not limited to, fines, suspension of campaigning privileges, and disqualification from the election.
- Any fine or total account of fines against a candidate in an election cycle may not exceed the spending limit as defined herein above.
- If, after a hearing, the Grievance Cell finds that provisions of this Code were violated by a candidate, or a candidate's agent or workers, the Grievance Cell may restrict the candidate, or the candidates agents or workers, from engaging in some or all campaign activities for some or all of the remainder of the campaign. If an order is issued covering only part of the remaining period, it shall take effect immediately so that after its termination, the candidate will have an opportunity to resume campaigning during the days immediately prior to and including the election days.
- If, after a hearing, the Grievance Cell finds that provisions of either this Code or decisions, opinions, orders, or ruling of the Grievance

Cell have been willfully and blatantly violated by a candidate, or a candidate's agents or workers, the Grievance Cell may disqualify the candidate.

- Any party adversely affected by a decision of the Grievance Cell may file an appeal with the institutional head within twenty four (24) hours after the adverse decision is announced. The institutional head shall have discretionary appellate jurisdiction over the Grievance Cell in all cases in which error on the part of the Grievance Cell is changed.
- The decision of the Grievance cell shall stand and shall have full effect until the appeal is heard and decided by the institutional head.
- The institutional head shall hear appeals of Grievance Cell rulings as soon as possible, but not within twenty four (24) hours after the Grievance cell delivers to the Appellant and the institutional head a copy of its written opinion in the case. Appeal may be heard prior to this time, but only if the Appellant waives the right to a written opinion and the institutional head agrees to accept the waiver.
- The institutional head can issue suitable orders to suspend or halt the operation of the ruling issued by the Grievance Cell until the appeals are decided.
- The institutional head shall review findings of the Grievance cell when appealed. The institutional head may affirm or overturn the decision of the Grievance cell, or modify the sanctions imposed.

12. Maintaining Law and Order on the Campus during the Election Process.

12.1. Any instance of acute lawlessness or the commission of a criminal offence shall be reported to the police by the Medical College/Institution/University authorities as soon as possible, but not later than 12 hours after the alleged commission of the offence.

13. Miscellaneous Recommendations

13.1. Student representation is essential to the overall development of students, and, therefore, it is recommended that university statutes should expressly provide for student representation.

13.2. The Medical College/Institution/University should organize leadership-training programs with the help of professional organizations so as to groom and instill in students leadership qualities.

13.3. In the event of the office of any major post of office bearers falling vacant within two months of elections, re-elections should be conducted; otherwise the Vice President may be promoted to the post of President and Joint Secretary to the post of Secretary, as the case may be.

Annexure (A)

Modes of Elections

Chart – 1: Direct Election in University Campus

Annexure (B)

Chart – 2: Direct/ Indirect Elections in College/Campus/University (Larger Universities)

Annexure (C)

Chart – 3: Direct/ Indirect Elections in College/Campus/University (Larger Universities)

Annexure (D)

Chart – 4: Indirect Elections in College/Campus/University (Larger Universities)

ASHOK KUMAR HARIT, Dy. Secy. (Admn).
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