

## **Deakin University Student Association Incorporated**

**Reg. No. A0040625Y, ABN 95 022 653 791**

# **ELECTION REGULATIONS**

## **1. Definitions and Interpretation**

1.1 Unless otherwise defined by these regulations or the Constitution

(a) “ballot paper” means:

- (i) a physical ballot completed by using a pen or pencil and submitted into ballot box; or
- (ii) an electronic ballot paper, completed using encryption via a personalised email link or a device installed at the polling place for the purpose of casting a ballot electronically.

(b) “before” in reference to an election means before the first day of polling in that election;

(c) “club” or “society” means a club or society formally established at Deakin University;

(d) “Constitution” means the DUSA Constitution as amended from time to time;

(e) “DUSA roll” means the list of members of DUSA;

(f) “DUSA space” means a DUSA controlled space, be that a building, office or safe space such as a queer room, women’s room or mature age room;

(g) “election period” means the period of time between the notice of election being given

until the deadline for a person to appeal the result of an election as set out in these regulations has elapsed;

(h) “electoral roll” means an official list of the people entitled to vote in an election;

(i) “election staff member” means the Returning Officer, Deputy Returning Officer, Poll Clerk or Vote Counter jointly and severally;

(j) “electronic vote” means a vote completed by a member online, as resolved by the Student Council in accordance with regulation 8.1(b);

(k) “General Manager” means the General Manager of DUSA or their delegate’;

(l) “individual candidate” means any candidate not running on a ticket;

(m) “international student” means a student who holds a student visa issued under the regulations made under the Commonwealth Migration Act;

(n) “member” has the same meaning as “student member” in the Constitution;

(o) “poll clerk” means a person appointed by the Returning Officer to staff a polling place, with duties including but not limited to distributing ballot papers to members and marking members on the Electoral Rolls when they have voted;

- (p) “polling period” means period of time that voting is held, as described by clause 35.4 of the Constitution;
- (q) “publicity” means any material or information broadcasted or disseminated that a reasonable person would assume has a purpose of attempting to influence how or whether a member votes in an election;
- (r) “queer” means any person who self-identifies as:
  - i. Lesbian;
  - ii. Gay;
  - iii. Bisexual;
  - iv. Pansexual;
  - v. Transgender;
  - vi. Queer;
  - vii. Questioning;
  - viii. Intersex;
  - ix. Genderqueer;
  - x. asexual; and/or
  - xi. being of any other sexual or gender identity outside of heterosexuality and/or cis-gender.
- (s) “ticket” means a group of candidates who have registered to have their names set out on the ballot paper under a common name in accordance with these regulations;
- (t) “vote counter” means a person appointed by the Returning Officer to assist in the counting of votes;
- (u) “University roll” means a list of all students of the University;
- (v) a reference to a time means that time by the Telstra dial-it time service.
- (w) “Primarily enrolled” means the campus specified in the course the student is enrolled, as determined by the University according to the Deakin University student database.

## **2. Authorising Provisions and Application**

- 2.1 These regulations are made under clauses 26.3, 26.4, 29, 34 and 76.2 of the Constitution.
- 2.2 These regulations apply to:
  - (a) the conduct of annual elections as described by clauses 26.3, 26.4 and 35 of the Constitution; and
  - (b) the filling of vacancies arising during the course of the academic year.
- 2.3 In the event of an inconsistency between these regulations and the Constitution, the latter shall prevail.

## **3. Appointment of Returning Officer**

- 3.1 The Student Council must appoint a person to act as Returning Officer.
- 3.2 The Returning Officer must not:
  - (a) be a student of the University;
  - (b) be a member of staff of DUSA in the preceding 5 calendar years; or
  - (c) have been a candidate in any election of a post-Secondary Student Organisation in the preceding 5 calendar years.
- 3.3 Once appointed, the Returning Officer may only be removed by an absolute majority of the Student council during an election period on the grounds of proven misbehaviour or incapacity.
- 3.4 If the Returning Officer resigns, is removed or dies during an election period, the Student Council must appoint a new Returning Officer as soon as is practical.

#### **4. Responsibilities of Returning Officer**

- 4.1 The Returning Officer:
- (a) is responsible for the conduct of elections;
  - (b) may decide all matters not provided for in the Constitution or these regulations; and
  - (c) is subject only to the Electoral Tribunal.
- 4.2 Any decision of the Returning Officer may be appealed to the Electoral Tribunal in accordance with regulation 33.
- 4.3 The Returning Officer must decide questions of fact on the balance of probabilities.
- 4.4 The Returning Officer must present a written report to the Student Council within 30 days of the declaration of results of the election.
- 4.5 DUSA must provide the facilities, resources and assistance necessary to enable the Returning Officer to carry out the responsibilities under these regulations.

#### **5. Election Staff**

- 5.1 The Returning Officer may appoint and remove election staff (such as Deputy Returning Officers, Poll Clerks and Vote Counters).
- 5.2 Election Staff must not be appointed if they meet one of the categories set out in regulation 3.2.
- 5.3 Election Staff are subject to the direction of and have the responsibilities determined by the Returning Officer.

- 5.4 The Returning Officer may delegate any responsibilities and powers under these regulations to a Deputy Returning Officer.

#### **6. The Electoral Rolls**

- 6.1 DUSA must provide the Returning Officer an electronic form of the DUSA roll.
- 6.2 The DUSA roll must include all current members at the close of the roll.
- 6.3 The General Manager must provide an electronic form a list of those eligible members registered to vote in elections held for the position of Queer Officer.

*\* See clause 37 of these regulations.*

- 6.4 The Returning Officer must, with the assistance of DUSA if necessary, request the University roll no later than the day that nominations open.

#### **7. Calculation of enrolments**

- 7.1 The Student Council must, either concurrently, or prior to the appointment of the Returning Officer, calculate the number of students enrolled at each campus in accordance with interim enrolment data obtained from the University.

#### **8. Polling Dates, Times and Method**

- 8.1 The Student Council must, either concurrently or prior to the appointment of the Returning Officer:
- (a) set the dates of the polling period which must:

- (i) fall within the academic days of Trimester 2 during September or October, and be over no more than two weeks;
  - (ii) ensure that polling is held for at least 5 hours per day;
  - (iii) ensure that polling is held in at least one place per campus;
  - (iv) ensure that polling is held on at least 2 consecutive academic days for campuses at which at least 10% of students are enrolled;
  - (v) ensure that polling is held for at least 1 academic day for campuses at which less than 10% of students are enrolled;
  - (vi) and ensure that polling is held in an easily accessible and relatively well patronized area.
- (b) for each campus, determine whether that campus will conduct their election by way of attendance polling or electronic polling; and
- (c) for online members, determine whether the election will be conducted by electronic polling or postal voting, as required by clause 35.5 of the Constitution.
- 8.2 For campuses that conduct their election by attendance polling, the Student Council must also:
- (a) set the dates and times that polling will occur at that campus, ensuring that polling is held in at least one place per campus;
  - (b) ensure there are separate polling places at Waurm Ponds and Waterfront in the case of the Geelong campus; and
  - (c) specify the location of the polling places.
- 8.3 For campuses that conduct their election by electronic polling, the Student Council must also set the dates that electronic voting will open and close for that campus.
- 8.4 Elections must be by secret ballot, using the quota-preferential proportional method of election, with optional preferences.
- 9. Election Timeline**
- 9.1 Unless otherwise determined by the Returning Officer:
- (a) the notice of election must be issued on the Monday five weeks before polling;
  - (b) the DUSA roll must be closed by midday on the Wednesday of the week notice of election is given;
  - (c) re-registration of tickets must open at 9am on the Monday four weeks before polling and close at 4pm on the next day;
  - (d) registration of tickets must open at 9am on the Wednesday of the week when re-registration of tickets occurs, and close at 4pm on the Friday of that week;
  - (e) nominations must open at 9am on the Monday three weeks before polling and close at 4pm on the Friday of that week;

- (f) submission of applications to be set out as a ticket must open at 9am on the Monday three weeks before polling and close at 4pm on the Friday of that week;
- (g) statements of distribution of preferences must open at 9am on the Monday two weeks before polling and close at 4pm on the Friday of that week; and
- (h) postal vote applications must open upon the issue of the notice of election and close at 4pm on the Friday 10 academic days before polling.

9.2 The Returning Officer may only change the dates and times for matters prescribed in regulation 8.1 with the agreement of the Electoral Tribunal, if they are both of the view that to not do so would jeopardise the integrity of the election process.

## **10. Forms**

10.1 Unless otherwise provided for in these regulations or the Constitution:

- (a) where a form may be completed by participants in the election, it must be:
  - (i) made available on the DUSA website and at DUSA offices;
  - (ii) available from the Returning Officer upon written request; and
  - (iii) emailed directly to the participant (except in the case of ticket registration and nomination forms)

(b) where a form may be submitted to the Returning Officer, it may be:

- (i) submitted to a DUSA office;
- (ii) submitted directly to the Returning Officer in electronic form by email; or
- (iii) hand-delivered to the Returning Officer.

10.2 For the purposes of regulation 10.1(b) (i), the DUSA office must:

- (a) issue the person a receipt upon the submission of the form; and
- (b) send an electronic copy of the form to the Returning Officer as soon as practicable.

## **11. Notice of Election**

11.1 The Returning Officer must give notice of the election by:

- (a) sending an email to each member eligible to vote in the election;
- (b) causing posters to be placed at each DUSA office;
- (c) publishing a notice in any DUSA publications where possible; and
- (d) publishing a notice on the DUSA website.

11.2 The Notice of Election must list the contact details of the Returning Officer, where to access election regulations, the positions to be elected, the process for nominating, the dates and times for the opening and closing of nominations, eligibility to vote and dates, times and locations of polling.

## **12. Eligibility to Stand**

12.1 Only those persons who are members at the time of the close of the DUSA roll are eligible to stand for student representative positions.

*\*See clauses 13.2 and 27.1 of the Constitution*

12.2 A person is only eligible to stand for the position of International Officer if they are:

- (a) a member; and
- (b) an international student.

12.3 A person is only eligible to stand for the position of Queer Officer if they are:

- (a) a member; and
- (b) queer.

12.4 A person is only eligible to stand for an NUS National Conference delegate position if they are:

- (a) a student of the University at the time of the close of the University roll; and

*See section 3 of the Deakin University Act 2009 (Vic).*

- (b) not a delegate of another NUS member organisation.

*Compare reg. clause 18.3 of the NUS Regulations.*

## **13. Nominations**

13.1 Nominations must:

- (a) state the position the member is nominating for, and include their signature or be sent electronically from their verified student account;

- (b) contain the full name, student number, and contact details of the candidate;

- (c) be seconded by another member (unless the candidate is enrolled at the Cloud campus); and

- (d) be received in the time allotted under the election timeline as stated in clause 9.1(e).

13.2 As soon as practicable after receiving a nomination, the Returning Officer must:

- (a) verify that the person who has nominated is eligible to stand;

- (b) notify that person whether their nomination has been accepted or rejected; and

- (c) send them:

- (i) a copy of these regulations; and

- (ii) the contact details of the Returning Officer.

13.3 The Returning Officer must reject nominations:

- (a) that do not comply with these regulations; or

- (b) where the person nominating is not eligible to stand for that position.

13.4 If the Returning Officer rejects the nomination, they must:

- (a) inform the candidate as soon as practicable; and

- (b) provide the reason(s) for the rejection.

#### **14. Uncontested Positions**

- 14.1 If the number of eligible candidates for any position does not exceed the number to be elected, the Returning Officer must declare, as soon as practicable after the close of nominations, those candidates elected.

#### **15. Ballot Draw**

- 15.1 The Returning Officer must determine the order of candidates on the ballot paper as soon as practicable after nominations have closed and all candidates have been determined eligible to stand in the election.

- 15.2 Any member may observe the draw.

- 15.3 If the Returning Officer must:

- (a) email all candidates; and
- (b) cause a notice to be published on the DUSA website

stating when, where and how the draw will take place.

- 15.4 The ballot draw may be conducted by way of an online broadcast, so long as the details of the draw are communicated in accordance with regulation 15.3.

#### **16. Withdrawal of nomination**

- 16.1 Candidates may withdraw their nomination at any time before the close of polling.

- 16.2 The Returning Officer must be satisfied that a withdrawal is bona fide as being completed by the nominating member before accepting the withdrawal.

- 16.3 The withdrawal takes effect on its acceptance by the Returning Officer.

- 16.4 If a candidate withdraws, the Returning Officer must proceed as if the candidate had never nominated (except any statement of distribution of preferences under regulation 20 lodged by the candidate remains valid).

- 16.5 If a candidate withdraws, the Returning Officer may modify ballot papers as necessary or appropriate.

- 16.6 Any ballot paper showing a preference for a withdrawn candidate must be allocated under regulation 27 as if the candidate had been eliminated.

#### **17. Tickets**

- 17.1 A candidate or group of candidates may apply to have their name or names set out on the ballot paper under the name of the ticket.

- 17.2 Ticket registrations must:

- (a) be in the form of schedule 1.1; and
- (b) contain the full name, student number and contact details of the candidate; and
- (c) be supported by 30 members who have provided their full name and student number and have signed the form.

- 17.3 For the purposes of regulation 17.2:

- (a) a member must not be a signatory for more than one ticket registration; and
- (b) if a member has supported two or more ticket registrations,

their support must not count for any of the ticket registrations.

17.4 A ticket name must not:

- (a) incorporate the name of an organisation (including a club, society or collective) unless the use of the organisations name is:
  - (i) expressly permitted by the Governing document of the Organisation; and
  - (ii) lawfully consented to in writing by the Governing body of the Organisation and provided to the Returning Officer.
- (b) contain the word ‘independent’;
- (c) be so similar to the name ‘DUSA’ or any department or division within DUSA as to be confused with or mistaken for that name;
- (d) be no longer than 4 words;
- (e) be the same as, or similar to, any other ticket name;
- (f) be misleading or deceptive;
- (g) be offensive or derogatory; or
- (h) be contrary to law.

17.5 As soon as practicable after receiving a ticket registration, the Returning Officer must:

- (a) verify that the ticket registration complies with regulations 17.2 17.4; and
- (b) notify the ticket registrant whether their ticket registration has been accepted or rejected.

17.6 A previously registered ticket will be considered to be registered until:

- (a) the authorised officer requests that the ticket name be deregistered or;
- (b) the ticket is not re-registered during the re-registration period.

17.7 A ticket that is already registered must not be registered by another person unless:

- (a) the period for ticket re-registration has lapsed and the ticket was not re-registered; or
- (b) the ticket has been registered by a new authorised officer, with the consent of the most recent authorised officer of that ticket.

17.8 A member cannot be an authorised officer for more than one ticket.

## **18. Publication of List of Nominations Received and Tickets Registered**

18.1 Within twenty-four hours of the close of:

- (a) ticket re-registrations;
- (b) ticket registrations; and
- (c) nominations;

the Returning Officer must make available a notice that lists the submissions received for each respective period.

18.2 The list of submissions must include any unsuccessful submissions, and the reason for the unsuccessful submission.

18.3 For the purpose of regulation 18.1, make available must include:

- (a) emailing the notice to ticket registrants and/or candidates;
- (b) causing the notice to be published on the DUSA website; and
- (c) causing the notice to be displayed at DUSA offices.

### **19. Application To Be Set Out As a Ticket**

19.1 A group of candidates may apply to be set out as a ticket by completing and submitting an application in the form prescribed by the Returning Officer.

19.2 If an application is not submitted, the candidates must appear on the ballot paper in the same way as individual candidates.

### **20. Statement of Distribution of Preferences**

20.1 An authorised officer may submit a statement of distribution of preferences by submitting a statement in the form prescribed by the Returning Officer.

20.2 The Returning Officer must display the statements:

- (a) on the DUSA website as soon as is reasonably possible before the annual election; and
- (b) in a clear and accessible location at the polling place during polling hours for attendance polling.

## **21. Publicity**

21.1 This regulation applies for all publicity made available during the election period.

21.2 All publicity must be authorised by the Returning Officer before it is made available to members.

21.3 All publicity authorised by the Returning Officer must:

- (a) state the name and student ID of the member authorising the publicity in a legible fashion; and
- (b) include the words “Authorised by the Returning Officer”.

21.4 A club or society cannot endorse candidates unless such a power is expressly provided for in their constitution.

21.5 The Returning Officer must not authorise any publicity that is:

- (a) offensive or derogatory;
- (b) misleading or deceptive; or
- (c) contrary to law.

21.6 If a Returning Officer becomes aware that they have authorised publicity in breach of regulation 21.5:

- (a) they must revoke the authorisation by contacting the member and/or ticket who requested authorisation for the publicity; and

- (b) the member and/or ticket must immediately cease making that publicity available.

21.7 This regulation does not apply to the Returning Officer.

## **22. Defamation**

22.1 DUSA does not indemnify any person against liability for defamation in an election.

## **23. Attendance Polling**

23.1 These regulations apply to any campuses that the Student Council has resolved to have conducted by attendance polling, in accordance with regulation 8.2

23.2 Ballot papers may only be issued to students who:

- (a) provide photo identification; and
- (b) are listed on the roll.

23.3 Before the ballot paper is given to the voter, the election staff member must:

- (a) sign the paper, marking it as valid; and
- (b) mark the member as having voted.

23.4 If a voter does not appear on the roll:

- (a) they may be issued with a provisional vote, which must be enveloped with details clearly stated on the outside to be later included in the count if found to be eligible;

- (b) the Returning Officer will check the eligibility of the voter with the University in the case of the University roll; and

- (c) the voter will have until the close of polling to provide sufficient proof to the Returning Officer that they are a DUSA member.

23.5 For the purpose of regulation 23.4(b), proof may include, but not be limited to:

- (a) a copy of a tax invoice issued by DUSA showing the name of the voter and that they have purchased a membership;
- (b) any form of membership confirmation issued by DUSA; or
- (c) a copy of a bank statement showing an amount equal to a membership fee being deducted from the voter's banking facility from DUSA.

23.6 If the voter does not provide proof that they are a DUSA member prior to the close of polls, they will be assumed to not be a DUSA member.

23.7 Before the commencement of voting on each day, scrutineers may, if ballot boxes are used, inspect the ballot boxes to ensure that they are empty.

23.8 The polling place must provide for reasonable security for the conduct of a ballot, including:

- (a) the security of ballot boxes (if used);

(b) the provision of spaces for private voting; and

(c) the exclusion of all persons except election staff members or members who are voting.

23.9 Campaigning must not take place within six metres of the polling place, as designated by the Returning Officer. The Returning Officer will make reasonable efforts to define the limit of this exclusion for the benefit of those campaigning.

23.10 The Returning Officer must provide, or delegate the providing of stickers that demonstrate students who have voted.

## **24. Electronic Polling**

24.1 These regulations apply to any poll that the Student Council has resolved to have conducted by electronic polling, in accordance with regulation 8.

24.2 The Returning Officer must ensure to the extent practicable that:

(a) software is configured in such a way to ensure that:

- (i) votes are secure and only able to be made by the person eligible in line with all applicable restrictions set down;
- (ii) only they are able to access administrative functions beyond those necessary to verify a voter on the DUSA roll is able to access their online vote; and
- (iii) that the results of the election are suppressed to anybody (including themselves) until the close of polling.

24.3 When an election is conducted by electronic ballot, the Returning Officer must provide each candidate with an opportunity to submit:

- (a) a 200 word policy statement; and
- (b) a photo

for inclusion in an email sent to all email addresses included in the relevant electoral roll as “undisclosed recipients” prior to the commencement of voting;

24.4 In the case of voting by email link, every eligible voter in that poll must be sent an email to their student email address before the opening of the poll that contains:

- (a) a link to complete their online vote which is only active after polls are open;
- (b) instructions for completing their online vote; and
- (c) a message that provides the contact details of the Returning Officer and states that they should be contacted if a member is unable to cast their online vote.

24.5 The Returning Officer must, to the extent practicable, liaise with staff of the University to ensure that the software is able to distribute emails to student email accounts without any interference from University’s anti-spam software.

## **25. Postal Votes**

- 25.1 Any member eligible to vote may apply for a postal vote.
- 25.2 Applications must be:
- (a) in the form as prescribed by the Returning Officer;
  - (b) signed by the member requesting the postal vote; and
  - (c) submitted directly by the member to the Returning Officer and not via another person.
- 25.3 The Returning Officer must verify that each person who has applied is eligible to vote.
- 25.4 As soon as possible after the close of postal vote applications, the Returning Officer must send to the postal address of each member eligible to vote:
- (a) voting instructions;
  - (b) ballot papers;
  - (c) policy statements;
  - (d) an envelope large enough to contain all ballot papers, with a declaration form printed on the outside; and
  - (e) a pre-addressed postage-paid return envelope.
- 25.5 The Returning Officer must keep a list of members to whom postal votes have been sent.
- 25.6 Postal votes must be received by the Returning Officer before the close of polling.
- 25.7 The Returning Officer must compare the signature on the application form

with the signature on the voter declaration to verify that the person who has voted is the member who made the application. If the signatures do not match, the envelope and its contents must be destroyed.

- 25.8 Before postal votes are included in the count the Returning Officer must verify that the member has not already voted in that election.
- 25.9 If the member has both voted in the election and returned a postal vote, their postal vote must be destroyed.

## **26. Method of Voting**

- 26.1 Elections must use the quota - preferential proportional representation method of election, with optional preferencing and be by secret ballot.
- 26.2 Voters must indicate their order of preference for candidates by either:
- (a) placing the number 1 against the name of the candidate of first preference and consecutively higher numbers against the names of as many other candidates of lower preference in order as they wish; or
  - (b) placing the number 1 against the name of a ticket
- 26.3 In the case of a voter who indicates a preference for both the name of a candidate and a preference for the name of a ticket, the preference for the candidate will stand and the preference for the ticket must be treated as if it were left blank.
- 26.4 For the purposes of regulation 26.2(a):
- (a) a number against the name of a candidate indicates a preference for that candidate ahead of all

candidates with higher numbers or no number against their name;

- (b) a vote is formal even if:
  - (i) the lowest number is not 1;
  - (ii) the numbers are not consecutive or;
  - (iii) numbers are repeated.
- (c) a vote is deemed formal until the voter's intention becomes unclear;
- (d) a cross against the name of a candidate where there is no number 1 or tick against the name of another candidate is to be taken to be the number 1;
- (e) a tick against the name of a candidate where there is no number 1 against the name of another candidate is to be taken to be the number 1; and
- (f) a letter against the name of a candidate indicates a preference for that candidate ahead of all candidates with alphabetically subsequent letters or no letter against their name.

26.5 For the purposes of regulation 26.2(b):

- (a) the number 1 against the name of a ticket; or
- (b) a cross against the name of a ticket where there is no number 1 or tick against the name of another candidate is to be taken to be the number 1;
- (c) a tick against the name of a candidate where there is no number 1 against the name of another candidate is to be taken to be the number 1; and

- (d) a indicates a preference for that ticket ahead of all other tickets.

26.6 A voter who has voted for a ticket in accordance with regulation 26.2(b) is deemed to have voted as if they had placed the number 1 against the name of the candidate on the ticket and consecutive higher numbers against the names of any other candidates on the ticket in order.

26.7 If a group of candidates have lodged a statement under regulation 20, voters who have voted for that ticket are deemed to have voted for other candidates in that election in accordance with the statement.

26.8 A voter who has voted in accordance with both regulations 26.2(a) and 26.2(b) is deemed to have voted in accordance with regulation 26.2(a) and not regulation 26.2(b), such as consistent with regulation 26.3.

26.9 If the voters intention is clear, the vote ought to be counted in that way.

## **27. Counting of Votes**

27.1 Votes must be counted in accordance with the following procedure:

- (a) each ballot paper must first be given the value of 1;
- (b) the value of each ballot paper must be allocated to the continuing candidate against whose name appears the lowest number on the ballot paper;
- (c) a ballot paper which does not show a valid preference for at least one continuing candidate is exhausted and may not be allocated further;

- (d) a quota must be calculated at each stage of counting by dividing the total value of ballot papers allocated to continuing candidates by one more than the number of positions remaining to be filled and rounding up the answer so obtained in the sixth decimal place;
- (e) if at any stage of counting a continuing candidate is allocated a value in excess of the quota; that candidate must be declared elected and each ballot paper allocated to that candidate must be given a new value obtained by multiplying its current value by the candidate's transfer value; and
- (f) if at any stage of counting no continuing candidate is allocated a value in excess of the quota, the candidate with the lowest value must be eliminated. If there are two or more candidates with an equal value and no candidate has a lower value at an earlier stage of counting, the Returning Officer must determine by lot which of these candidates is to be eliminated.

27.2 The procedure in this regulation must be repeated in order until the number of positions to be filled is filled.

27.3 Informal votes:

- (a) may only be ruled informal by the Returning Officer; and
- (b) must only be ruled informal if:
  - (i) it does not comply with regulation 26.3; and

- (ii) the voter's intention is not clear.

27.4 In this regulation:

- (a) "continuing candidate" means a candidate who has neither been elected nor eliminated;
- (b) "stage of counting" means when all ballot papers which have not been exhausted have been allocated to continuing candidates; and
- (c) "candidate's transfer value" is the elected candidate's value, less the quota at that stage of counting, all divided by the elected candidate's value.

## **28. Scrutineers**

28.1 Each candidate may appoint a person as scrutineer for each position for which they stand by notice to the Returning Officer in the form as prescribed by the Returning Officer.

28.2 A candidate may not be appointed as a scrutineer for an election which that member is a candidate for.

28.3 A scrutineer must not:

- (a) touch or interfere with ballot papers, electoral rolls or any other election equipment; or
- (b) disobey the instructions of election staff or act in a manner that is disorderly or impedes the proper conduct of the count.

## **29. Declaration of Election and Notification of Results**

29.1 The Returning Officer must provisionally declare the result of the election immediately after counting.

29.2 As soon as is practicable after the results are provisionally declared, the Returning Officer must:

- (a) cause a notice of results to be posted on the DUSA website; and
- (b) email all candidates the notice of results.

29.3 The result of the election shall be automatically formally declared in accordance with the provisional declaration (or a subsequent declaration following a recount, if applicable) if:

- (a) the deadline for appeals against the result in accordance with regulation 34 passes and no appeal is submitted; or
- (b) any appeals against the result of the election in accordance with regulation 34 are dismissed by the Electoral Tribunal.

### **30. Recounts**

30.1 A member may lodge a written request with the Returning Officer for a recount of an election they are a candidate in within 12 hours after the election has been provisionally declared.

30.2 If the Returning Officer receives a written request for a recount in accordance with regulation 30.1, they must hold a recount as soon as practicable if:

- (a) in the Returning Officer's view, the member has raised legitimate grounds for requesting a recount.

30.3 The Returning Officer must give at least 24 hours written notice of a recount to all of the candidates involved in that election.

30.4 Once a recount has been held and the election is declared, no candidate can call for any further recounts of that election.

### **31. Prohibited Conduct**

31.1 All dishonest conduct in an election is prohibited.

31.2 All conduct in an election that is misleading or deceptive, or that is likely to mislead or deceive a voter is prohibited;

31.3 Without limiting regulations 31.1 – 31.2, the following are specifically prohibited:

- (a) providing false information in or interfering with any form lodged with the Returning Officer;
- (b) voting or attempting to vote except in accordance with this Part;
- (c) interfering with ballot papers, votes or the electoral roll;
- (d) interfering with any document, record or equipment used to conduct the election;
- (e) violating the secrecy of the ballot;
- (f) making any publicity available that is not authorised in accordance with regulation 21.2;
- (g) interfering with other candidates' election publicity;
- (h) campaigning within the area described by regulation 23.9;

- (i) campaigning by persons who are not members;
- (j) campaigning by persons within a recognised DUSA space;
- (k) paying a person to campaign;
- (l) offering gifts;
- (m) selling or exchanging goods;
- (n) soliciting postal vote applications from members;
- (o) using DUSA facilities not generally available to members;
- (p) using the resources of a club or society that does not provide for such use expressly in their constitution;
- (q) damaging DUSA or University property;
- (r) failing to comply with a direction of the Returning Officer, or a decision of the Electoral Tribunal;
- (s) campaigning in a University library;
- (t) impeding the conduct of the election; and
- (u) in the case of electronic polling:
  - (i) campaigning in a University computer laboratory;
  - (ii) being within six metres of a member casting their vote after having campaigned to them; or
  - (iii) campaigning with a computer, tablet or other like device for the purpose of allowing other members to use the device to cast their vote.

- 31.4 The Returning Officer may direct any person breaching regulations 31.1 – 31.3, to cease doing so.
- 31.5 Any student may report a breach to the Returning Officer, and this must be done in writing.
- 31.6 The student who has reported the breach must be given an opportunity to present their case.
- 31.7 Any person who has been reported must be given an opportunity to respond.
- 31.8 The Returning Officer may hear submissions from any other interested person.
- 31.9 The Returning Officer may, whether they find that there has been a breach or not, give such directions as it thinks appropriate.
- 31.10 If the Returning Officer finds that there has been a breach it may formally reprimand the student reported.
- 31.11 If the Returning Officer finds that there has been a serious breach, they may disqualify the person or ticket reported from:
  - (a) campaigning or;
  - (b) standing in:
    - (i) that election; or
    - (ii) all future elections.

### **32. Electoral Tribunal**

- 32.1 The General Secretary shall provide the Student Council a list (which may contain only one name) of persons who may be appointed as Electoral Tribunal.
- 32.2 The Electoral Tribunal must be a registered Australian Legal Practitioner for at least five (5) years.
- 32.3 The Electoral Tribunal must not, in the year of the annual elections or the five (5) calendar years prior to that year, have been:
- (a) a student of Deakin or a member of staff of DUSA or the University;
  - (b) a candidate in any election of a post-secondary student organisation; or
  - (c) have any conflict of interest in any capacity.
- 32.4 Once appointed, the Electoral Tribunal may only be removed by an absolute majority of the Student Council during an election period on the grounds of proven misbehaviour or incapacity.
- 32.5 If the Election Tribunal resigns, is removed or dies during an election period, the Student Council must appoint a new Electoral Tribunal as soon as is practical.
- 32.6 The Electoral Tribunal:
- (a) must only hear matters that have been considered by the Returning Officer;
  - (b) must only hear matters that are brought within the requisite period of time prescribed;
  - (c) must only consider matters that have grounds as prescribed in 32.7;
  - (d) may conduct hearings by telephone;
  - (e) must conduct its proceedings as expeditiously as practicable;
  - (f) must hold its deliberations in camera;
  - (g) must decide questions of fact on the balance of probabilities;
  - (h) must issue a written record of its decisions to any parties to a hearing (including the Returning Officer) and DUSA; and
  - (i) must not allow parties to be represented.
- 32.7 An appeal to the Electoral Tribunal may only be made on one or more of the following grounds:
- (a) there is new evidence which was not available or not known to the Returning Officer at the time the allegation was initially investigated;
  - (b) the penalty imposed was too severe;
  - (c) there was a misapplication of election procedures or regulations either resulting in severe disadvantage to the subject of the decision, or where the decision was reaffirmed after request to reconsider the misapplication;
  - (d) the decision is unreasonable in all the circumstances or cannot be supported by the evidence that was available at the time the decision was made;

- (e) relevant evidence was not considered or irrelevant evidence was relied on in reaching the decision.
- 32.8 The procedure of the Election Tribunal shall be that:
- (a) the appellant submits an appeal to the Tribunal within the requisite period of time prescribed by the regulations;
  - (b) the appellant must be given an opportunity to present their case;
  - (c) if the Electoral Tribunal considers that the Returning Officer's decision should be reviewed, they must convene a hearing of the Electoral Tribunal;
  - (d) the Returning Officer must be then given an opportunity to respond;
  - (e) the Electoral Tribunal may hear submissions from any other interested person; and
  - (f) the Electoral Tribunal must then rule on the matter.
- 32.9 Any appeal made to the Electoral Tribunal:
- (a) must be in writing;
  - (b) state the specific grounds on which the appeal is based as per 32.7;
  - (c) set out a concise statement of the facts;
  - (d) include copies of all relevant documents; and
  - (e) be accompanied by a bond of \$50.00 to be lodged at any DUSA Reception.

32.10 If the appeal is upheld by the Electoral Tribunal, the appellant is entitled to be refunded the bond required to be paid by regulation 32.9(e).

32.11 Regulation 32.9(e) does not apply to appeals submitted by the Returning Officer.

32.12 Decisions of the Electoral Tribunal are final, subject only to the Act.

### **33. Appeals Against Decisions of Returning Officer**

33.1 A member may appeal a decision of the Returning Officer within twenty-four hours of that decision being communicated to all parties.

33.2 The Returning Officer may appeal under this regulation against their own decision if subsequently satisfied it was wrong and if the decision is not otherwise able to be reversed.

33.3 In this regulation "decision" includes omission and failure to act.

### **34. Appeals Against Result of Election**

34.1 A member may appeal the result of an election within forty-eight hours of the provisional result of the election being declared.

34.2 If the Returning Officer is satisfied that there has been a defect in the conduct of the election that has materially affected the result they may order a new election.

34.3 The Returning Officer must decide the timetable for any new election under regulation 34.2.

### **35. Vacancies**

35.1 If a Student Representative or Officer elected at the Annual Student Elections resigns, or the position becomes otherwise vacant, the position can only be filled by co-option after November 1 of the year following their election.

*\*See clause 29 of the Constitution*

### **36. Election of the International Officer**

36.1 A person is only eligible to vote in elections held for the position of International Officer if they are:

- (a) a member; and
- (b) an international student.

36.2 A separate ballot paper must be used for direct elections held for the position of International Officer.

36.3 Ballot papers may only be distributed to those persons who are eligible to vote.

36.4 The Returning Officer may collate data from the DUSA and University rolls for the purpose of conducting elections held for the position of International Officer.

36.5 When another regulation is inconsistent with regulation clause 36, the former shall, to the extent of the inconsistency, not apply to elections held for the position of International Officer.

### **37. Election of the Queer Officer**

37.1 Elections held for the position of Queer Officer must be conducted electronically.

37.2 A separate, securely stored register of voters (“electoral roll”) must be kept and used for elections held for position of Queer Officer.

37.3 The electoral roll referred to in clause 37.2 must list the names, student numbers and email addresses of all those persons who are:

- (a) members;
- (b) queer; and
- (c) registered to vote in elections held for the position of Queer Officer prior to the close of the roll.

37.4 A person may register to vote:

- (a) online via DUSA’s website; or
- (b) by lodging a hard copy application in the form prescribed by the General Manager; and
- (c) must do so in person.

37.5 A person may only vote in annual elections held for the position of queer officer if they are:

- (a) a member;
- (b) queer; and
- (c) listed on the electoral roll created and maintained pursuant to this regulation.

37.6 A person must not access, use or disclose information about another person obtained from the electoral roll.

37.7 Clause 37.6 does not apply to use by:

- (a) the General Manager;
- (b) the Returning Officer; or
- (c) the Election Tribunal

in good faith and for the proper purpose of conducting an election in accordance with the regulations.

37.8 The electoral roll must be managed in accordance with the provisions of the:

- (a) Victorian Equal Opportunity Act; and
- (b) Australian Privacy Principles (APPs).

37.9 All candidates for election to the position of queer officer must run as individual candidates.

37.10 When another regulation is inconsistent with regulation clause 37, the former shall, to the extent of the inconsistency, not apply to elections held for the position of Queer Officer.

### **38. Election of Delegates to the National Union of Students**

38.1 All provisions relating to the conduct of elections shall apply equally to the annual election of delegates to the National Union of Students.

38.2 Any provision relating to the election of delegates to the National Union of Students that refers to members should be read as referring to members and students, unless otherwise provided for in this regulation.

38.3 The Returning Officer may adapt the regulations as reasonably necessary to regulate the conduct of the election of delegate to the National Union of Students, except to ensure that:

- (a) delegate to the National Union of Students are elected by a separate ballot paper to any other positions;
- (b) only members may nominate the position of delegate to the National Union of Students; and
- (c) any student is eligible to vote in the election of delegates to the National Union of Students;

38.4 To the extent of any inconsistency between these regulations and the NUS Constitution, Regulations or By-Laws relating to the manner in which elections for delegate to the National Union of Students are conducted, the latter shall prevail.

### **39. Co-option**

39.1 Subject to clause 35.1, positions that become vacant may be filled by co-option during an academic period of the University year.

39.2 When the position of International Officer or Queer Officer is vacant, it must be filled by co-option within 28 days.

39.3 Applications for co-option must be received by the General Secretary.

39.4 The following clauses 39.5-39.9 are applicable to co-option of the International Officer, Queer Officer and student representatives only, and do not apply to the co-option of other Office Bearer positions.

39.5 Co-option applications must be received by the general secretary at least 5 business days before the monthly meeting of the applicant's relevant DUSA body, where:

- (a) if there are more or equal vacancies than co-option applications, all applicants are admitted into that DUSA body after a motion of approval by the DUSA body.
- (b) If applications exceed vacancies, they are taken to a meeting of that DUSA body to be reviewed and approved via a 'score vote'.

39.6 A score vote is where all candidates considered are given a score between 0 and 5 by DUSA body members. The scores are totalled and the vacancies are filled in order of which candidate scored the highest collective score, then the second highest and so on until all vacancies have been filled.

39.7 Should there be a tie for candidates for the last vacancy remaining, voting members of that DUSA body will vote between those tied candidates once more, then leave the vacancy open should another tie occur until the following meeting.

39.8 If a member of that DUSA body should attend a meeting by use of technology, they may contact the chair with their list of candidates with respective scores and this may be considered the same as a physical score vote.

#### **40. Validation**

40.1 No act, decision or election is invalid only by virtue of a technical breach that did not affect the material outcome of the election.