

# Deakin University Student Association Incorporated

Reg. No: A0040625Y | ABN 95 022 653 791

## ELECTORAL COLLEGE 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 a 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) “Constitution” means the DUSA Constitution as amended from time to time;
- (d) “election period” means the period of time between the appointment of a Returning Officer until the deadline for a person to appeal the result of an election as set out in these regulations has elapsed;

- (e) “Electoral Roll” means the list of DUSA Electoral Delegates as elected in annual DUSA elections for the purposes of determining eligibility to vote in the election in accordance with these regulations;
- (f) “election staff member” means the Returning Officer, Deputy Returning Officer, Poll Clerk or Vote Counter jointly and severally;
- (g) “electronic vote” means a vote completed by a member online, as resolved by the Student Council in accordance with regulation 6.1(b).
- (h) “member” has the same meaning as “student member” in the Constitution;
- (i) “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;

- (j) “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 an Electoral Delegate votes in an election.
- (k) “vote counter” a person appointed by the Returning Officer to assist in the counting of votes;
- (l) a reference to a time means that time by the Telstra dial-it time service.

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

- 2.1 These regulations are made under clause 36.5 of the Constitution.
- 2.2 These regulations apply to the conduct of the Electoral College as described by clause 36 of the Constitution.
- 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 for the Electoral College.

3.2 The Returning Officer must not:

- (a) be a student of the University; or
- (b) have contested a DUSA election 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 the Electoral College 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 the Electoral College officer election;
- (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 The Returning Officer must decide questions of fact on the balance of probabilities.

4.3 The Returning Officer must present a written report to the Student Council as soon as practicable after the declaration of results of the Electoral College officer election.

- 4.4 The General Secretary 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 are subject to the direction of and have the responsibilities determined by the Returning Officer.
- 5.3 The Returning Officer may delegate any responsibilities and powers under these regulations to a Deputy Returning Officer.

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

- 6.1 The Student Council must:
- (a) set the dates and times of the polling period; and
  - (b) determine whether the electoral college will conduct their election by way of attendance polling, postal voting or electronic polling.
- 6.2 For Electoral College elections by attendance polling, the Student Council must also specify the location of the polling place.

- 6.3 Elections must be by secret ballot, using the quota-preferential proportional method of election, with optional preferences.
- 6.4 The Returning Officer may only change the dates and times for matters prescribed in regulation 6.1 if:
- (a) not doing so would place the ability for the Returning Officer to properly conduct the election in jeopardy; or
  - (b) it is impossible to abide by them on the basis that the date has already occurred.

#### **7. Nominations**

- 7.1 Unless otherwise provided for in these regulations or the Constitution, nominations completed by participants in the Electoral College officer election must be:
- (i) submitted directly to the Returning Officer in electronic form by email; or
  - (ii) hand-delivered to the Returning Officer.

#### **8. Notice of Election**

- 8.1 The Returning Officer must give notice of the Electoral College officer election by sending an email to the student email account of each Electoral Delegate.
- 8.2 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.

*\*See clause 27.8 of the constitution.*

## 9. Eligibility to Stand

- 9.1 Only Electoral Delegates are eligible to stand for officer positions.
- 9.2 A student may not stand for a role on Student Council if they have been elected an office bearer in that same role at the Annual Elections for 3 terms or more.\*

## 10. Nominations

10.1 Nominations must:

- (a) State the position the Electoral Delegate is nominating for, and include their signature or be sent electronically from their verified student account; and
- (b) contain the full name, student number, and contact details of the candidate.

10.2 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 for the Returning Officer.

10.3 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.

10.4 For the purpose of the elections in clause 20 to be conducted in compliance with clause 26.1(f) of the DUSA Constitution, the positions in which Electoral Delegates may nominate for include:

- (a) Student Councillor 1;
- (b) Student Councillor 2;
- (c) Student Councillor 3;
- (d) Student Councillor 4;
- (e) Student Councillor 5.

10.5 If the Returning Officer rejects the Nomination, they must:

- (a) inform the candidate as soon as practicable; and
- (b) provide the reasons for the rejection.

## 11. Uncontested Positions

11.1 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.

## 12. Ballot Order

12.1 The ballot order will be the order in which nominations were received.

### **13. Withdrawal of Nomination**

- 13.1 Candidates may withdraw their nomination at any time before the opening of polling.
- 13.2 The Returning Officer must be satisfied that a withdrawal is bona fide as being completed by the nominating member before accepting the withdrawal.
- 13.3 The withdrawal takes effect on its acceptance by the Returning Officer.
- 13.4 If a candidate withdraws, the Returning Officer must proceed as if the candidate had never nominated.
- 13.5 If a candidate withdraws, the Returning Officer may modify ballot papers as necessary or appropriate.

### **14. Publication of List of Nominations Received**

- 14.1 Within twenty-four hours of the close of nominations the Returning Officer must email the student accounts of Electoral Delegates a notice that lists the nominations received for each respective officer position.

### **15. Publicity**

- 15.1 This regulation applies for all publicity made available to Electoral Delegates before an Electoral College officer election.
- 15.2 All publicity must be authorised by the Returning Officer before

it is made available to Electoral Delegates.

- 15.3 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”.
- 15.4 The Returning Officer must not authorise any publicity that is:
  - (a) offensive or derogatory;
  - (b) misleading or deceptive; or
  - (c) contrary to law.

### **16. Defamation**

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

### **17. Attendance Ballot**

- 17.1 If the Student Council determines that the Electoral College officer election is to be held by attendance ballot, ballot papers may only be issued to Electoral Delegates who:
  - (a) provide photo identification; and
  - (b) are listed on the roll.
- 17.2 The Returning Officer must publicise to all Electoral Delegates a process and criteria for those who have a legitimate and bona fide reason for not being able to attend the ballot in person.

Eligibility will then be determined by the Returning Officer.

17.3 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 Electoral Delegates as having voted.

17.4 Before the commencement of voting, Electoral Delegates may, if ballot boxes are used:

- (a) inspect the ballot boxes to ensure that they are empty; and
- (b) affix reasonable security devices to the ballot boxes to prevent tampering.

17.5 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) an area with the exclusion of all persons except election staff members or Electoral Delegates who are voting.

17.6 Before the commencement of voting, candidates may make a speech of up to:

- (a) 7 minutes for the position of President; or
- (b) 5 minutes for positions other than that of President.

## **18. Electronic Ballot**

18.1 If the Student Council determines that the Electoral College officer election is to be held electronically then the Returning Officer must configure the electronic voting process in a way that ensures, to the extent practicable, that:

- (a) Votes are secure and only able to be made by the Electoral Delegates in line with all applicable restrictions set down;
- (b) the results of the election are suppressed until the close of polling.

18.2 In the case of voting by email, every Electoral Delegate must be sent an email to their student email address before the opening of the poll that contains:

- (a) instructions for completing their online vote; and
- (b) 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 vote.

- 18.3 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.

### **19. Postal Ballot**

- 19.1 If the Student Council determines the Electoral College officer election is to be held by postal ballot then the Returning Officer must send to the postal address of each member eligible to vote:
- (a) voting instructions;
  - (b) ballot papers;
  - (c) an envelope large enough to contain all ballot papers, with a declaration form printed on the outside; and
  - (d) a pre-addressed postage-paid return envelope.
- 19.2 Postal votes must be received in the timeframe set down by the Returning Officer.
- 19.3 The Returning Officer must compare the signature on the completed postal vote with the signature on the Electoral Delegate nomination 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.

### **20. Method of Voting**

- 20.1 Elections must use the optional preferential proportional representation method of election.  
Voters must indicate their order of preference for candidates by 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.
- 20.2 For the purposes of regulation 20:
- (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 voters 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.

## 21. Counting of Votes

21.1 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.

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

21.3 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 20; and
  - (ii) the voter's intention is not clear.



21.4 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.

## 22. Scrutineers

22.1 Any Electoral Delegate may scrutinise the count.

22.2 An Electoral Delegate 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 manner that is disorderly or impedes the proper conduct of the count.

## 23. Declaration of Election and Notification of Results

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

23.2 As soon as is practicable after the results are 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.

23.3 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 27 passes and no appeal is submitted; or
- (b) any appeals against the result of the election in accordance with regulation 27 are dismissed by the Electoral Tribunal.

## 24. Recounts

24.1 An Electoral Delegate may request a recount of an Electoral College officer election they are a candidate in.

24.2 The Returning Officer must hold a recount as soon as practicable and once a recount has been held and the election is declared, no candidate can call for any further recounts of that election.

## 25. Prohibited Conduct

25.1 All dishonest conduct in an Electoral College officer election is prohibited.

25.2 Without limiting regulation 25.1, the following are specifically prohibited:

- (a) providing false information in or interfering with any form lodged with the Returning Officer;
- (b) interfering with ballot papers, votes or the electoral roll;
- (c) interfering with any document, record or equipment used to conduct the election;
- (d) violating the secrecy of the ballot;
- (e) making any publicity available that is not authorised in accordance with regulation 15.2;
- (f) interfering with other candidates' election publicity;
- (g) offering gifts;
- (h) selling or exchanging goods;

- (i) using DUSA facilities not generally available to members;
- (j) using the resources of a club or society that does not provide for such use expressly in their constitution;
- (k) damaging DUSA or University property;
- (l) failing to comply with a direction of the Returning Officer, or a decision of the Electoral Tribunal;
- (m) impeding the conduct of the election; and

25.3 The Returning Officer may direct any person breaching regulations 25.1 – 25.2, to cease doing so.

25.4 Any Electoral Delegate may report a breach to the Returning Officer, and this must be done in writing.

25.5 The Electoral Delegate who has reported the breach must be given an opportunity to present their case.

25.6 Any person who has been reported must be given an opportunity to respond.

25.7 The Returning Officer may hear submissions from any other interested person.

25.8 The Returning Officer may, whether they find that there has been a breach or not, give such directions as it thinks appropriate.

25.9 If the Returning Officer finds that there has been a breach it may formally reprimand the person reported.

25.10 If the Returning Officer finds that there has been a serious breach, they may disqualify the Electoral Delegate reported from:

- (a) voting; or
- (b) standing in:
  - (i) that Electoral College officer election; or
  - (ii) all future Electoral College officer elections.

## 26. Electoral Tribunal

26.1 The same Electoral Tribunal shall be in place for the Electoral College officer election as was in place for the DUSA annual election.

26.2 If the Electoral Tribunal resigns, is removed or dies during an Electoral College officer election period, the Student Council must appoint a new Electoral Tribunal as soon as is practical.

26.3 The Electoral Tribunal:

- (a) must only hear matters that relate to either the material outcome of the Electoral College officer election result or the disqualification of a candidate under clause 25;

- (b) must only hear matters that have been considered by the Returning Officer;
- (c) must only hear matters that are brought within the requisite period of time prescribed;
- (d) must only consider matters that have grounds as prescribed in 26.4;
- (e) may conduct hearings by telephone;
- (f) must conduct its proceedings as expeditiously as practicable;
- (g) must hold its deliberations in camera;
- (h) must decide questions of fact on the balance of probabilities;
- (i) must issue a written record of its decisions to any parties to a hearing (including the Returning Officer) and DUSA; and
- (j) must not allow parties to be represented.

26.4 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 resulting in either 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.

26.5 The procedure of the Electoral 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.

26.6 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 26.4;
- (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;

26.7 If the appeal is upheld by the Electoral Tribunal, the appellant is entitled to be refunded the bond required to be paid by regulation 26.6(e).

26.8 Regulation 26.6(e) does not apply to appeals submitted by the Returning Officer.

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

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

- 27.1 An Electoral Delegate may appeal the result of an election within 24 hours of the election being declared.
- 27.2 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.
- 27.3 The Returning Officer must decide the timetable for any new Electoral College officer election under regulation 27.2.

## **28. Validation**

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