



15 November 2024

Rachael Metcalfe
Branch Secretary
Australian Education Union - Northern Territory Branch
Sent via email: admin@aeunt.org.au

cc: Kevin Bates federalsecretary@aeufederal.org.au

Dear Rachael Metcalfe



IMMEDIATE ACTION REQUIRED:

You must take steps after your recent election E2024/70

An election has recently been completed by the Australian Electoral Commission (AEC) for the Australian Education Union - Northern Territory Branch and a post-election report has been issued by the AEC.

This letter explains the next steps you must take, including what information you need to give to members and what information you need to lodge with the Fair Work Commission (the Commission).

What you must do right now

- Let your members know about the election report issued by the AEC
- Arrange financial training for officers newly elected to an office with financial management duties. (This includes all members of the committee of management).
- Complete the notification of change and email it to the Commission at regorgs@fwc.gov.au
- Respond to the AEC

This letter explains these steps and the tools available to help you.

STEP 1: Notify members

You must put a notice on your website once you receive your post-election report. It must tell your members they can request a copy of the post-election report from you or the AEC (regulation 141). The notice must be on your website for at least three months.



Can we put more information on our website?

Yes! Being transparent is part of good governance. You can publish the whole report or the declaration of results, as well as your notice and leave them up longer than three months. You can always do more than the regulatory minimum.

The Commission will also publish your declaration of results on our [website](#).

STEP 2: Financial training

You may have to arrange financial training for people elected to new roles.

All officers with financial management duties must complete approved financial training (section 293K). For information on when officers must redo training and hints on when to book training for officers taking up multiple offices [please see our fact sheet](#).

There are face-to-face and online [financial training packages on the Commission website](#).

You must act on this now, as affected officers **MUST** complete approved financial training OR receive an [exemption by the Commission](#) **within six months** of beginning to hold office.



Good governance tip:

Organisations should instruct officer holders about their other obligations. This is especially important for committee of management members.

Our podcast covers the [benefits of officer induction](#). Officers have responsibilities under the rules, the *Fair Work (Registered Organisations) Act 2009* (the RO Act), and disclosure requirements around conflicts of interest, remuneration and material personal interests. Officers will benefit from our [officer induction kit](#) and our [podcast](#), such as [episode 17 - conflicts of interest](#).

STEP 3: Notifications of change



A notification of change must be lodged with the Commission within **35 days** of the change occurring.

We have a [template](#) to help you with this, which you can send to regorgs@fwc.gov.au. An officer must sign the completed notification template.

You must lodge a notification of change if:

- any of your officers have not been re-elected;
- officers have changed offices; or
- you have new officers.

Only notify us of changes that have **already occurred**. If people take up office in the future, you must wait until the change happens before lodging the notification within 35 days of the change.

Note: One election may result in many notifications of change.



Penalties apply

Failing to lodge your notifications of change on time can expose your organisation and its officers to significant penalties.

Real-life example of penalties in Court An organisation failed to make a series of notifications of change on time.

The Full Court said ‘The record-keeping obligations imposed under the Registered Organisations Act are treated by the legislature as important and serious, and contravention of those obligations are correspondingly serious.’

The organisation was ordered to pay a penalty. More information is available in our [case summary](#).

STEP 4: Reply to the AEC

The AEC’s post-election report says the AEC had trouble applying some of your election rules. You **MUST** respond to the AEC about the issues in the report (section 198).

Your response to the AEC must be in writing. It must include:

- whether the organisation intends to take action
- (if yes) what action the organisation intends to take

You must send your response to the AEC within **30 days** of receiving the report and provide a copy to the Commission (section 198).



Penalties apply

The requirement to respond to the AEC comes from section 198 of the RO Act. Section 198 of the RO Act is a civil penalty provision.

A failure to take any of these steps, or taking them in the wrong order, can expose your organisation to penalties under the RO Act.

Make the report and your response available to your members

You must make the post-election report about difficult rules available to your members.

You must also make your written response to the AEC available to your members.



Timing is very important

You must make the report about difficult rules available to your members **before or at the same time** as you make your response available.

Your response must be available to members:

- in the next edition of your journal or
- within 30 days of giving it to the AEC (if using a method other than your journal to make it available, e.g. your website)



Penalties apply

The requirement to respond to the AEC comes from section 198 of the RO Act. Section 198 of the RO Act is a civil penalty provision.

A failure to take any of these steps, or taking them in the wrong order, can expose your organisation to penalties under the RO Act.

How do I make these documents available to my members?

The RO Act says you will have made the document available if you do all the following things:

- Publish a copy of the relevant section and your response in your next journal, AND
- Send the Commission a copy of the relevant section and your response with a declaration that you'll provide copies to any member who asks for one, AND

- Tell members in your next journal (or an appropriate newspaper) that you'll give the relevant section of the report and your response to any member free of charge if requested, AND
- Put on your website:
 - the relevant section of the report within 14 days of receiving it and
 - your response within 14 days of sending it to the AEC

But you can also make the documents available to your members in other ways as well.



What if we decide to change our rules?

You can! If you think changing your rules will fix or improve the issues raised by the AEC you can change your rules.

Your rules will include a rule altering procedure that you must follow in order to do this.

We provide help changing your rules and advice on rule requirements. Please contact us at regorgs@fwc.gov.au, or ring 1300 341 665. Alternatively you could book an online [Governance to You visit](#) with a Commission staff member to discuss the changes.

Questions?



What if I don't understand the post-election report?

You should contact the AEC immediately to discuss what the report means.

What if we decide not to take action?

You must tell the AEC in writing you do not intend to act.

What if I have already responded to the AEC?

If you have already done the things set out in step 4, please disregard this step.

Remember to make the relevant section of the report and your response available to your members as well.

Why do I need to tell you the results of the election when you've already received them?

The RO Act requires that **you** tell us this information about your officers – it is a legal obligation. The notification of change also contains information that is not in the declaration of results.

What if the officer has already done training?

Check out our [fact sheet](#) for when officers need to redo training, when they can get an exemption and when further training isn't required.

If you have any queries we can be contacted on 1300 341 665 or by email at regorgs@fwc.gov.au.

Yours sincerely

Fair Work Commission



The Commission has an interim [Compliance Policy](#) which explains how we respond to issues of non-compliance. The policy is available on our website if you would like further information on the steps the compliance team may take in response to non-lodgement of a financial report.

14 November 2024

Post-election report

Australian Education Union
Northern Territory Branch
Scheduled Election
E2024/70

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Election(s) Covered in Post-Election Report (PER)

Organisation: Australian Education Union – Northern Territory Branch
Election Decision No: E2024/70
Election: Scheduled

Date ballot closed: 21 August 2024 Uncontested
15 October 2024 Contested

Date results declared: 30 August 2024 Uncontested
16 October 2024 Contested

Date PER due: 14 November 2024

Relevant legal provisions

Fair Work (Registered Organisations) Act 2009 ('the Act')

197 Post-election report by AEC

Requirement for AEC to make report

- (1) After the completion of an election conducted under this Part by the AEC, the AEC must give a written report on the conduct of the election to:
 - (a) the General Manager; and
 - (b) the organisation or branch for whom the election was conducted.

Note: The AEC may be able, in the same report, to report on more than one election it has conducted for an organisation. However, regulations made under paragraph 359(2)(c) may impose requirements about the manner and timing of reports.

- (2) The report must include details of the prescribed matters.

Contents of report—register of members

- (3) If the AEC is of the opinion that the register of members, or the part of the register, made available to the AEC for the purposes of the election contained, at the time of the election:
 - (a) an unusually large proportion of members' addresses that were not current; or
 - (b) in the case of a register kept by an organisation of employees—an unusually large proportion of members' addresses that were workplace addresses;

this fact must be included in the report, together with a reference to any relevant model rules which, in the opinion of the AEC, could assist the organisation or branch to address this matter.

Note: Model rules are relevant only to the conduct of elections for office, not for elections for other positions (see section 147).

Contents of report—difficult rules

- (4) If the report identifies a rule of the organisation or branch that, in the AEC's opinion, was difficult to interpret or apply in relation to the conduct of the election, the report must also refer to any relevant model rules, which in the opinion of the AEC, could assist the organisation or branch to address this matter.

Note: For model rules, see section 147.

Subsection (3) relevant only for postal ballots

- (5) Subsection (3) applies only in relation to elections conducted by postal ballot.

Note: An organisation can obtain an exemption from the requirement to hold elections for office by postal ballot (see section 144).

190 Organisation or branch must not assist one candidate over another

An organisation or branch commits an offence if it uses, or allows to be used, its property or resources to help a candidate against another candidate in an election under this Part for an office or other position.

Penalty: 100 penalty units.

193 Provisions applicable to elections conducted by AEC

- (1) If an electoral official is conducting an election, or taking a step in relation to an election, for an office or other position in an organisation, or branch of an organisation, the electoral official:
- (a) subject to paragraph (b), must comply with the rules of the organisation or branch; and
 - (b) may, in spite of anything in the rules of the organisation or branch, take such action, and give such directions, as the electoral official considers necessary:
 - (i) to ensure that no irregularities occur in or in relation to the election; or
 - (ii) to remedy any procedural defects that appear to the electoral official to exist in the rules; or
 - (iii) to ensure the security of ballot papers and envelopes that are for use, or used, in the election.
- (2) A person commits an offence if the person does not comply with a direction under subsection (1).
- Penalty: 30 penalty units.
- (3) Subsection (2) does not apply so far as the person is not capable of complying.
- Note: A defendant bears an evidential burden in relation to the matter in subsection (3) (see subsection 13.3(3) of the *Criminal Code*).
- (4) Subsection (2) does not apply if the person has a reasonable excuse.
- Note: A defendant bears an evidential burden in relation to the matter mentioned in subsection (4), see subsection 13.3(3) of the *Criminal Code*.
- (5) An offence against subsection (2) is an offence of strict liability.
- Note: For *strict liability*, see section 6.1 of the *Criminal Code*.
- (6) An election for an office or other position conducted by an electoral official, or step taken in relation to such an election, is not invalid merely because of a breach of the rules of the organisation or branch because of:
- (a) action taken under subsection (1); or
 - (b) an act done in compliance with a direction under subsection (1).
- (7) If an electoral official conducting, or taking a step in connection with, an election for an office or other position:
- (a) dies or becomes unable to complete the conduct of the election or the taking of the step; or
 - (b) ceases to be qualified to conduct the election or to take the step;
- the Electoral Commissioner must arrange for the completion of the conduct of the election, or the taking of the step, by another electoral official.

6 Definitions

irregularity, in relation to an election or ballot, includes:

- (a) a breach of the rules of an organisation or branch of an organisation; and
- (b) an act or omission by means of which:

- (i) the full and free recording of votes by all persons entitled to record votes and by no other persons; or
- (ii) a correct ascertainment or declaration of the results of the voting; is, or is attempted to be, prevented or hindered; and
- (c) a contravention of section 190.

Fair Work (Registered Organisations) Regulations 2009 (“the Regulations”)

140 Declaration of result of election (s 193)

- (1) Within 14 days after the closing day of an election, the AEC must issue a declaration stating the following:
 - (a) the total number of persons on the roll of voters;
 - (b) the total number of ballot papers issued (if applicable);
 - (c) the total number of envelopes that were returned undelivered by the closing day of the ballot to the AEC (if applicable);
 - (d) the total number of ballot papers received by the electoral official by the closing day of the ballot (if applicable);
 - (e) the result of the election;
 - (f) the total number of informal ballot papers (if applicable).
- (2) In subregulation (1), ***closing day***, for an election, means:
 - (a) if a ballot is not required—the day on which nominations for the election close; or
 - (b) if a ballot is required—the closing day of the ballot.
- (3) Immediately after issuing a declaration under subregulation (1), the AEC must give a copy of the declaration to:
 - (a) the General Manager; and
 - (b) the organisation or branch for whom the election was conducted.

141 Post-election report by AEC (s 197(2))

- (1) For subsection 197(2) of the Act, the following matters are prescribed for inclusion in the report (the ***post-election report***) given under subsection 197(1) of the Act:
 - (a) the declaration mentioned in regulation 140;
 - (b) any rules of the organisation or branch which because of ambiguity or other reason, were difficult to interpret or apply;
 - (c) any matters in relation to the roll of voters including those matters contained in subsection 197(3) of the Act;
 - (d) the number of written allegations (if any) of irregularities made to the AEC during the election;
 - (e) action taken by the AEC in relation to those allegations;
 - (f) any other irregularities identified by the AEC and action taken by the AEC in relation to those other irregularities.
- (2) The AEC must:
 - (a) give the post-election report within 30 days after the closing day of the election; and
 - (b) publish a notice on its web site advising that a copy of the post-election report can be obtained from the AEC on the request of a member who was eligible to vote in the election.
- (3) The AEC must supply a copy of the post-election report to the member as soon as practicable, but no later than 7 days, after receiving a request under paragraph (2)(b).

145 Elections conducted by AEC—no unauthorised action

- (1) For any election conducted by the AEC under Part 2 of Chapter 7 of the Act, a person other than the person conducting the election must not do, or purport to do, any act in the conduct of the election other than as directed or authorised by the person conducting the election.

Note: This subregulation is a civil penalty provision (see regulation 168).

- (2) The AEC must advise the General Manager of a possible contravention of subregulation (1) not later than 21 days after the AEC has become aware of the possible contravention.

Declaration of result of election

In accordance with reg 140 of the Regulations, the AEC issued a declaration of the result of election E2024/70 on 30 August 2024 and 16 October 2024 for uncontested and contested offices respectively.

For copies, see **Attachments A** and **B**.

Australian Education Union Rules

Australian Education Union Rules used for the election:

- Election Rules - 284V: Incorporates alterations of 28 March 2024 [R2023/135], [R2023/137] and [R2024/38]

Rules that were difficult to apply and the matters in which I have exercised the authority given to me by s.193 of the Act are:

NT Branch Rule 105A allows for candidate statements but in a form prescribed by guidelines approved by the Branch Executive. In the absence of the guidelines, I set the word limit to 200 words and set a deadline for candidate statements to be delivered no later than 5:00pm AEST 21 August 2024 in line with the close of nominations to allow time to prepare ballot material for the ballot to open.

Roll of Voters

There were no issues in relation to the roll of voters including those matters contained in subsection 197(3) of the Act.

Written allegations of any irregularities

The AEC did not receive any written allegations of irregularities.

Other irregularities

The AEC did not identify any other irregularities during the election.

Signed

Ann Dougan
Returning Officer
Australian Electoral Commission
E: IEBevents@aec.gov.au
P: 03 9285 7111
14 November 2024

Attachments

- A. Declaration of Results for Uncontested Offices
- B. Declaration of Results for Contested Offices

Australian Education Union
Northern Territory Branch
DECLARATION OF RESULTS - E2024/70
Uncontested Offices

Scheduled Election

The results of the election for the following offices conducted in accordance with the provisions of the *Fair Work (Registered Organisations) Act 2009* and the rules of the organisation are:

Northern Territory Branch

Treasurer (1)

Candidates

GRAY Brian

Executive Councillor representing Indigenous teachers and Indigenous education workers in schools and educational institutions (1)

Candidates

VRMOET Amanda

Northern Territory Branch - General Division

Vice President (1)

Candidates

CHANMUGAM Trilokesh

Northern Territory Branch - TAFE Division

Vice President (1)

Candidates

No Nominations Received

As the number of nominations accepted did not exceed the number of positions to be filled, I declare the above candidates elected.

Ann Dougan
Returning Officer
Telephone: 03 9285 7111
Email: IEEvents@aec.gov.au
29/08/2024

Australian Education Union
Northern Territory Branch
DECLARATION OF RESULTS - E2024/70
Contested Offices

Scheduled Election

The results of the election for the following offices conducted in accordance with the provisions of the *Fair Work (Registered Organisations) Act 2009* and the rules of the organisation are:

Northern Territory Branch

VOTING MATERIAL ISSUED	
Total number of people on the roll of voters (a)	1,805
Number of voters issued with voting material	1,805
Total number of voters issued with replacement voting material	2
Total number of voting material packs issued	1,807
VOTING MATERIAL RETURNED	
Total number of envelopes returned for scrutiny by closing date of ballot (b)	171
Number of declaration envelopes rejected at preliminary scrutiny (minus)	3
Number of ballot papers returned outside declaration envelopes (minus)	1
COUNT	
Total ballot papers admitted to the count	167
LATE OR UNRETURNED VOTING MATERIAL	
Voting material returned as unclaimed mail by closing date of ballot	98
Voting material packs not returned by voters by closing date of the ballot	1,538
Percentage of voting material packs returned by voters to number of people on the roll of voters (b/a)	9 %

Branch President (1)

<u>Candidates</u>	<u>First Preference Votes</u>	<u>Final Votes</u>
AYRES, Michelle	123	123
MCCARTHY, Steve	44	44

Total ballot papers admitted for this office	167
Formal Ballot papers	167
Informal Ballot papers	0

I declare the following elected:

- AYRES, Michelle

Women's Officer (1)

<u>Candidates</u>	<u>First Preference Votes</u>	<u>Final Votes</u>
PARKER, Emily	120	120
KENT, Kaylee	45	45

Total ballot papers admitted for this office	167
Formal Ballot papers	165
Informal Ballot papers	2

I declare the following elected:

- PARKER, Emily

Ann Dougan
Returning Officer
Telephone: 03 9285 7111
Email: IEBevents@aec.gov.au
16/10/2024





DECISION

Fair Work (Registered Organisations) Act 2009
s.189—Arrangement for conduct of an election

Australian Education Union
(E2024/70)

MR STEENSON

SYDNEY, 6 JUNE 2024

Arrangement for conduct of election.

[1] On 20 May 2024 the Northern Territory Branch (the **Branch**) of the Australian Education Union (the **AEU**) lodged with the Fair Work Commission prescribed information for an election to fill the following offices for a new term of office:

Branch President	(1)
Vice-President (General)	(1)
Vice-President (TAFE)	(1)
Treasurer	(1)
Women's Officer	(1)
Executive Councillor representing Indigenous teachers and Indigenous education workers in schools and educational institutions	(1)

[2] The prescribed information lodged by the Branch raised a query in relation to the closing date for the roll of voters. I note that rule 105(a) of the AEU rules¹ applicable to the Branch provides as follows in relation to the close of the roll of voters:

- (a) Financial Members only shall be eligible -
- (i) to nominate or be nominated to any position within the Branch and for the position of Federal Delegate;
 - (ii) to vote at any election or any meeting or in any plebiscite; provided that **the roll of voters for any election to be conducted pursuant to these rules is to be closed seven days before the day on which nominations are opened in relation to all elections by a direct voting system for offices in the Branch.**

[Emphasis added]

¹ 'Federal Branch Rules in relation to the Northern Territory Branch', contained in AEU rulebook [R2023/135], [R2023/137] and [R2024/38], certified 28 March 2024 <https://www.fwc.gov.au/documents/organisations/current-rulebooks/current-rb-284v.docx>

[3] I am satisfied that an election for the abovenamed offices is required to be held under the rules of the organisation and, under subsection 189(3) of the *Fair Work (Registered Organisations) Act 2009*, I am making arrangements for the conduct of the election by the Australian Electoral Commission.



DELEGATE OF THE GENERAL MANAGER

Printed by authority of the Commonwealth Government Printer

PR755287

TEST - PRESCRIBED INFORMATION FOR ELECTIONS in accordance with Section 189 *Fair Work (Registered Organisations) Act 2009* and Regulation 138 *Fair Work (Registered Organisations) Regulations 2009*

I, RACHAEL METCALFE, being the BRANCH SECRETARY of the NT BRANCH of the AUSTRALIAN EDUCATION UNION make the following statement:

1. I am authorised to sign this statement containing prescribed information for THE NT BRANCH OF THE AUSTRALIAN EDUCATION UNION.
2. The following information is lodged under subsection 189(1) of the Fair Work (Registered Organisations) Act 2009 (the RO Act).
3. The elections that are required are set out in the table in Annexure A.

[delete as appropriate]

- ~~4. [If there is a Casual Vacancy] The resignation letter or other supporting information is attached for each casual vacancy.~~
- ~~5. [If there is insufficient nominations]: Insufficient nominations were received in an earlier election(s) and the declaration/s of results is/are attached.~~
- ~~6. [If rule alterations are pending that will impact **THIS** election] A brief outline of the proposed rule alterations affecting this election is attached. These rule alterations [HAVE/HAVE NOT] been lodged with the Fair Work Commission. [If lodged] The proposed alterations were lodged on [DATE].~~

or

[If no rule alterations are being considered] No rule alterations are pending that will impact the election.

7. [In relation to scheduled elections, if lodged 2 months prior to nominations opening] This statement **IS** lodged at least 2 months before nominations open for the election(s) in Annexure A.

or

~~[In relation to scheduled elections, if lodged less than 2 months before nominations open] This statement **IS NOT** lodged at least 2 months before nominations open for the election(s) in Annexure A. The reason it is lodged after the prescribed time is:~~

NOTE: Extensions of time should be requested at least two months before nominations open.

A failure to lodge Prescribed Information on time can lead to civil penalties under the RO Act.

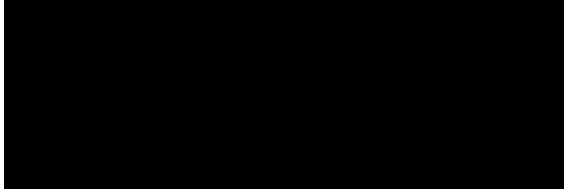
- ~~8. [If the number of elected representatives is calculated on a formula(s) defined in the rules]:~~
 - ~~a. The rule number(s) which specify(s) the formula(s) is/are 18 a) (vi)~~
 - ~~b. The formula(s) is 1 : 200~~

~~c. The information for calculating the formula(s) is 'Executive Councillors from each Region, elected on a basis of one member for every 200 members or part thereof'~~

~~d. The relevant date for this information is [INSERT DATE(S)]~~

~~e. [If the relevant information for calculating the formula(s) is not provided above under c] The relevant information for calculating the information has not been provided because [INSERT REASON, e.g. the relevant date is in the future];~~

Signed:



Dated: 20 May 2024

NOTE: This statement should be lodged with the Fair Work Commission at least 2 months prior to nominations opening. It can be submitted to regorgs@fwc.gov.au.

Annexure A - page 1

- Elections that are required

Branch	Name of Office	Number required	Voting System Direct voting system; Collegiate electoral system	Reason for Election Scheduled; Casual vacancy; New office created; Insufficient nominations	Electorate
NT Branch of the Australian Education Union	President	1	Direct Voting System	Scheduled	NT Branch, Rule 108 a)
NT Branch of the Australian Education Union	Vice-President, General Division	1	Collegiate electoral system	Scheduled	General Division, Rule 108 b)
NT Branch of the Australian Education Union	Vice-President, TAFE Division	1	Collegiate electoral system	Scheduled	TAFE Division, Rule 108 b)

- Important dates:

	Direct Voting System	Collegiate Electoral System
Nominations OPEN	22 July 2024, Rule 109 a)	22 July 2024, Rule 109 a)
Nominations CLOSE	5.00pm 21 August, 2024	5.00pm 21 August 2023, Rule 109 a)
Roll of Voters cut off date	To be determined by Returning Officer	To be determined by Returning Officer

NOTES: For insufficient nominations and casual vacancies, the date nominations open and close, unless specified in the rules, should be listed as ‘To be determined by the returning officer’. This also applies where rules are silent as to the nominated dates.

If the nomination dates are ‘To be Determined by the Returning Officer’, but your organisation has a preference, please state ‘To be Determined by Returning Officer’ and clearly indicate that your nominated date is a preference.

If the P.I. includes a position that is not an office, please refer to our template *Prescribed information for the election of officer and non-officer positions.*

Annexure A – page 2

- Elections that are required:

Branch	Name of Office	Number required	Voting System Direct voting system; Collegiate electoral system	Reason for Election Scheduled; Casual vacancy; New office created; Insufficient nominations	Electorate
NT Branch of the Australian Education Union	Treasurer	1	Direct Voting System	Scheduled	NT Branch, Rule 108 b)
NT Branch of the Australian Education Union	Woman's Officer	1	Direct Voting System	Scheduled	NT Branch, Rule 108 b)
NT Branch of the Australian Education Union	Council member representing Indigenous teachers and Indigenous education workers	1	Direct Voting System	Scheduled	NT Branch, Rule 108 e)

- Important dates:

	Direct Voting System	Collegiate Electoral System
Nominations OPEN	22 July 2024, Rule 109 a)	NA
Nominations CLOSE	5pm 21 August 2024 Rule 109 a)	NA
Roll of Voters cut off date	To be determined by Returning Officer	NA