



Ms Christine Hibberd
Registered Organisations Commission

Via Email: regorgs@roc.gov.au

13 December 2017

Dear Ms Hibberd,

Re: Post-Election Report for the Australian Education Union Northern Territory Branch: E2017/103 and E2017/158

I refer to your letter dated 3 December 2017 in relation to a post-election report dated 29 November 2017 in respect of elections conducted by the AEC numbered E2017/103 and E2107/158.

The Report contained a part dealing with rules that the AEC considered to cause 'confusion'. (**Relevant Extracts**). The report is enclosed with this letter and includes the Relevant Extract. The AEU NT's response to the report dated 13 December 2017 is also enclosed with this letter.

Steps taken to make the Relevant Extracts and responses available to members

I declare that the AEU will provide the Relevant Extracts and the AEU NT's responses to the AEC to members, upon request, free of charge.

I confirm that both the Relevant Extract and the AEU NT's response provided to the AEC are set out on the Branch's website: see, <https://aeunt.org.au/news/branch-executive-2017-post-election-report/>

The documents will remain available on the AEU NT's website for a period of at least 60 days.

If you consider that additional steps should be taken to make the Relevant Extracts and the AEU NT's responses available to members, please let me know.

Yours sincerely,

A handwritten signature in black ink that reads 'A. Lampe'.

Adam Lampe
Branch Secretary



Naomi Stubbs
Returning Officer
Australian Electoral Commission
Brisbane Metro North/QLD Divisions

Via Email: industrial.elections@aec.gov.au

13 December 2017

Dear Naomi,

**Re: Post-Election Report for the Australian Education Union Northern Territory Branch
E2017/103 and E2107/158**

I refer to your post-election report dated 29 November 2017.

In the section 'Other Matters' I note the list of issues in relation to E2017/103 and E2017/158.

While the branch rules do not address candidate statements, in my role as Branch Secretary I provided each candidate with advice as to the submission and distribution of candidate statements through the AEU NT Office. This advice is attached. However, as there is nothing in our Branch rules pertaining to candidate statements, our Branch Executive may consider introducing an addition to the Branch's rules in relation to this.

I also note your point regarding Rule 109 and its lack of flexibility with regards to the variation of election timelines.

I will suggest to the Branch Executive at our next meeting on 9 March 2018 to consider a change to Rule 109 and an introduction of rules concerning candidate statements. Rule amendments can be put to our 2018 Branch Conference for consideration.

Your issue with the lack of information regarding qualifications for nominators is noted. This matter should be able to be corrected administratively when we provide you with the roll of voters.

The issue regarding the ability to declare a contested election, where the nominee has nominated for more than one election, could also be dealt with by an amendment to Rule 109. The matter of nominees nominating for more than one position is related to this. I'll put both matters in the context of a foreshadowed rule change to Branch Executive next March.

I will address the matters of discrepancies and missing information on rolls, as well as roll updates, by improving the administration and provision of those rolls in the future.

The AEU NT will make available this response to members in accordance with section 198(3) of the FW(RO) Act.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'A. Lampe', written in a cursive style.

Adam Lampe
Branch Secretary

Elections 2017 – Candidate Statement Regulations

GENERAL

1. The following regulations have been drawn up by the Branch Secretary. They are in accordance with AEU NT Branch Rules 108 to 111. These regulations shall be binding on all members of the Union.

2. These regulations shall be circulated to all candidates, and published on the AEU NT website. The Branch Office shall supply a copy to any member on request.

ELECTION STATEMENTS

3. Once the nominations process is finalised, a request for Candidates to supply a statement supporting their candidacy will be made one week before the expected arrival of ballot papers with members. Candidates will be given 7 days in which to respond.

4. Candidates may submit a statement for each post for which they are standing. Candidates standing for more than one post who wish to use the same statement for each post must clearly state that this is the case. Candidates submitting a different statement for each of the posts they are standing for must clearly indicate which statement is for which post.

5. Each election statement, which must consist of text only, must not exceed 250 words in total. This includes biographical information. If the 250 word limit is exceeded, only the first 250 words will be printed. Candidates' election addresses will be reproduced as specified below:

- Bullet points are excluded from the word count;
- Numbers, initials and dates count as words. So "\$2,000", "AEU", "2017" all count as one word;
- Hyphenated words count as one word - so "ex-TWU" counts as one;
- With the exception of abbreviations, the Branch Office will convert text all in capital letters into normal upper and lower case.
- Any italics and underlining will be converted to bold text by the Branch Office.

6. In addition to any election statement, the following factual details will be printed. This will not count towards the 250 words limit. FORENAME, SURNAME, GENDER and SUB-BRANCH NAME will be added to the compendium of statements

Candidates should ensure their details are correctly recorded in MEMNET, (the AEU NT membership database).

7. Candidates may provide a passport sized photograph of themselves to the Branch Secretary, as jpg attachment to an email to admin@aeunt.org.au for publication. The photograph must have been taken in the last twelve months. A photograph used for a previous election will not be accepted. No alterations will be made other than sizing of those received to be all the same.

8. Photographs must be received by the Branch Secretary attached to an email via admin@aeunt.org.au by no later than 4.00pm on 2 October 2017.

9. Election statements must be received by the Branch Secretary by no later than 4.00pm on 2 October 2017. Election statements must be provided electronically and sent as a word document attached to an email to admin@aeunt.org.au.

10. Candidates should ensure that their statement(s) have been proof read carefully and are correct before submitting as replacement/amended copies will not be accepted.

11. Submissions will be acknowledged within 24hrs (excluding weekends). If you do not receive an acknowledgment within this time you must contact Kelly Whitty on 08 8948 5399.

12. It is the responsibility of the nominee to submit within the deadline, election statements and photographs received after 4.00pm on 2 October 2017 shall not be accepted.

13. The Branch Office may require any candidate to verify that the statement and/or photo submitted is theirs.

14. Each candidate is responsible for ensuring that their statement contains no libellous material. AEU NT retains the right to refuse to have published any part of a candidate's election statement which, after taking legal advice, may be libellous or provide grounds for any legal proceedings against the union.

MISUSE OF MEMBERSHIP DATA

15. No information derived from the union's membership or other database (i.e. MEMNET and any mailing lists derived from it) comprising names and/or addresses of members of the union shall be used by any candidate or by a candidate's supporters.

VOTING

16. Ballots for election to a union's principal executive committee (including President) must be conducted by the Australian Electoral Commission (AEC). Thus nomination, voting papers and counting processes are all conducted by the AEC. Ordinary members should observe the deadlines and requests made by the AEC in connection with these elections.

COMPLAINTS OF ALLEGED BREACH OF THESE REGULATIONS

17. Any complaint as to the alleged breach of these regulations shall be made in writing to the Branch Secretary and should be received in less than 24 hours from the closing date for the supply of election statements. If the Branch Secretary, after consulting the Branch President, considers that the regulations have been breached the Branch Secretary will decide what action, if any, be taken. The Branch Secretary's decision shall be final and binding on all members. The Branch Secretary shall publish the decision, together with the reasons for it, to sub-branches.



6 December 2017

Secretary
Australian Education Union-Northern Territory Branch
admin@aeunt.org.au

Cc: aeu@aeufederal.org.au

Dear Secretary

Organisation must respond to the post-election report of the Australian Electoral Commission: E2017/103

On 29/11/2017 the Registered Organisations Commission (the ROC) received a post election report from the Australian Electoral Commission (AEC) for election E2017/103 dated 29/11/2017. The AEC will have also provided the report to the organisation under section 197 of the *Fair Work (Registered Organisations) Act 2009* (the RO Act).

The report identifies rules that were difficult to interpret or apply, in particular rule 109. This letter serves as a reminder of the obligations imposed on the organisation or branch as a consequence of the AEC's report. If a response has already been sent to the AEC and made available to all members please disregard this letter.

A notice must be published on the organisation's website

The organisation or branch must publish on its website a notice that a copy of the report is available from the organisation, branch or the AEC on request. The notice must be kept on the website for a period of at least 3 months (see regs 141(4) and (5)).

A written response must be provided to the AEC

A written response must be provided to the AEC within 30 days of receipt of the report. The organisation's response must include whether the organisation or branch intends to take action and if so what action the organisation or branch intends to take (s198(2)).

Extract of report must be made available to members

The organisation or branch must make the section of the report relating to the difficult rules available to its members (s198(3)). This extract from the report must be made available to the members before or at the same time as the organisation's response is made available to members.

Written response must be made available to members

A copy of the organisation's response to the AEC must be made available to members either:

- within 30 days after the response is given to the AEC, or
- published in the next edition of the organisation or branch journal (s198(5))

Subsection 198(6) and regulation 142 prescribe ways in which the relevant extract and the copy of the response can be made available to members. These do not limit the ways in which they can be made available to members. The organisation will comply if it does all of the following:-

- publish the report extract and the copy of the response in the next edition of the organisation or branch's journal; and

- within 30 days of giving the response to the AEC:
 - lodges with the ROC a copy of the relevant extract and response, together with a declaration that a copy will be provided to any member who so requests; and
 - give notice in the next edition of the organisation or branch's journal, or an appropriate newspaper, that a copy of the relevant extract and response are available on request to each member free of charge; and
- publish the relevant extract on the website within 14 days after receiving the report, and publish the response on the website within 14 days of giving the response to the AEC (reg 142(2)).

Penalties may apply

If the organisation or branch does not:

- respond to the AEC within 30 days,
- make the extract of the report relating to the rules available to members no later than the organisation's response is made available to members, or
- make the organisation's response available to members within 30 days or in the next edition of the journal,

the organisation may face penalties under the RO Act. Each requirement listed above is a civil penalty provision that may result in fines for the organisation

As noted above, if the response and report have already been made available to members and the AEC, please disregard this letter. If you have any questions in relation to these obligations please contact the ROC for assistance by email to regorgs@roc.gov.au.

If the organisation or branch decides to alter its rules in response to the AEC's report

If the organisation or branch decides to alter its rules in response to the AEC's report, the ROC is NOT able to provide advice and assistance regarding draft alterations or the processes required to make the alterations. Rule alterations remain a function of the Fair Work Commission.

Yours faithfully

Christine Hibberd

Registered Organisations Commission

November 2017

Post-election Report

AEU NT E2017/103 and E2017/158

Contents

Election(s) Covered in this Report.....	3
Rules.....	3
Roll of Voters.....	3
Irregularities.....	3
Other Matters	4
Attachments	4

Election(s) Covered in this Report

Election Decision No/s: E2017/103 and E2017/158

Rules

Rules used for the election: 284V incorporates alterations of 23/6/2017 R2017/54

Rules difficult to apply/interpret: Please see other matters
Module Rule reference (if any) (e.g., N/A)

Roll of Voters

Total number of voters on the Roll: See attachment 1
Number of apparent workplace addresses:

Number of non-current addresses: 49

Other matters pertaining to the roll of voters: 83 duplicate records included on the roll of voters

Irregularities

Details of written allegations of irregularities, and action taken by AEC: *N/a*

Other irregularities identified, and action taken:

Other Matters

Northern Territory branch rules do not address candidate statements, but are covered by Federal rules / some states rules. This inconsistency causes confusion for candidates and voters.

Rule 109 stipulate exact date nominations open and close, including closing time. This restricted election timeliness and flexibility, as the day changed with the date.

Nil information regarding qualifications for nominators (ie which region nominators can be from) caused confusion finalising nomination acceptances.

Nil information regarding ability to declare an uncontested election, where the nominee has nominated for more than one election. As a result, elections were held where a candidate would be excluded, as they were already elected to a higher position.

More information needed regarding nominees nominating for more than one position.

Although the roll was provided, several clarifications were required to resolve discrepancies and missing information (matter number, number on roll, membership numbers etc)

Nil roll updates received after nominations closed.

Attachments

- 1) Total number of voters on the roll for AEU NT Matters E2017/103 and E2017/158
- 2) Declaration of Results for Contested and Uncontested Offices E2017/103
- 3) Declaration of Results for Contested Offices E2017/158



Naomi Stubbs
Returning Officer

29 November 2017

Australian Electoral Commission

Attachment 1 – Total number of voters on the roll for AEU NT Matters E2017/103 and E2017/158

Office	Total on Roll	Apparent Work addresses	Total non-current addresses
Treasurer	1661	370	49
Women's Officer	1661	370	49
Alice Springs Region	261	50	2
Arnhem Region	226	123	11
Darwin Region	540	28	9
Palmerston and Rural Region	332	66	11
Barkly Region	85	32	1
Katherine Region	203	68	15
Non Regional	14	3	0



6 November 2017

Secretary
Australian Education Union-Northern Territory Branch
admin@aeunt.org.au

Dear Secretary,

cc: aeu@aeufederal.org.au

Reminder of actions required when persons elected to office

The Australian Electoral Commission has provided the Registered Organisations Commission (the ROC) a declaration of results for the election of uncontested and contested offices for NT Branch Executive Councillors Election [E2017/103]. This letter is a reminder of certain obligations imposed on organisations and on persons elected to office.

A notice must be published on the organisation's website

The organisation or branch must publish on its website a notice that a copy of the report is available from the organisation, branch or the AEC on request. The notice must be kept on the website for a period of at least 3 months (see regulation 141 of the Fair Work (Registered Organisations) Regulations 2009).

Holders of office required to undertake approved training

Section 293K of the *Fair Work (Registered Organisations) Act 2009* (the RO Act) requires each officer with financial management duties to undertake approved training that covers those duties within 6 months after the person begins to hold office. Please ensure that relevant officers undertake approved training within the required timeframe. Please also ensure that all new holders of office are advised of their obligations to make disclosures regarding remuneration, non-cash benefits and material personal interests, the details of which are provided for in the RO Act.

Organisation must notify the Commission of changes

Also, section 233(2) of the RO Act requires that an organisation must notify the Commission **within 35 days of any changes** to the holders of office in the organisation. **If there are no changes a notification is not required.** If the election has resulted in **any changes** to the holders of office, the Australian Education Union-Northern Territory Branch must notify the Commission of these changes. In particular, please advise:

1. Person(s) who have ceased to hold office:
 - the name of the office vacated;
 - the date of the change of office holder; and
 - the name of the person vacating the office.

2. Person(s) who have commenced to hold office:
 - the name of the office now held;
 - the date of the change of office holder;
 - the name of the person now holding the office;
 - the postal address of the person (generally the postal address of the organisation); and

- the occupation of the person now holding the office.

The notification must include a declaration by the Secretary (or other prescribed officer) that the information is a correct statement of the changes made. A template notification of changes, which may assist you, is attached. If any change does not apply until a date in the future, you do not need to notify until then (e.g. AGM, 1 January, 2nd Monday in March). If you have already lodged this information, please disregard this reminder.

Regards

Christine Hibberd
Registered Organisations Commission

NOTIFICATION OF CHANGES TO RECORDS (Changes to Records in the Annual Return) required to be kept in accordance with section 230 *Fair Work (Registered Organisations) Act 2009* and regulation 147 *Fair Work (Registered Organisations) Regulations 2009*

I, [NAME], being the [OFFICER] of the [ORGANISATION NAME], declare the following:

1. I am authorised to make this declaration.
2. The following is a correct statement of the changes made to the information contained in the records required to be kept by the organisation in accordance with s.230(1)(b), (c), and (d) of the *Fair Work (Registered Organisations) Act 2009*:

[delete all that do not apply]

- On [DATE] the address of the organisation changed to [STREET ADDRESS].¹
- On [DATE] the name and/or address of a branch[es] of the organisation changed to:²
 1. *[include OLD name and address and NEW name and address of every branch that has changed]*
 2. ...
- A list of changes to offices and the names, postal addresses and occupations of persons holding those offices is attached to this declaration at Annexure A and forms part of this declaration.
- On [DATE] the following branch[es]:³
 - COMMENCED operation:
 1. *[include name of each new branch]*
 2. ...
 - CEASED operation:
 1. *[include name of each closed branch]*

¹ s.230(1)(d); reg.147(d)

² s.230(1)(d); reg.147(a) & (d)

³ s.230(1)(d); reg.147(b) & (c)

2. ...

Signed: [SECRETARY OR OTHER AUTHORISED OFFICER]

Dated: [DATE]

*[PLEASE NOTE: This declaration must be submitted to the Registered Organisations Commission within **35 days** of the change. It can be submitted to regorgs@roc.gov.au.]*

ANNEXURE A

- Changes to Offices and Office Holders in the Organisation and its Branches [*insert as many pages as required*]:

Please note the 35 days begins at the earliest event (for instance when the officer retires) and an organisation may need to notify the events separately if the appointment or election process will take longer than 35 days.

Branch	Date of Change	Name of Office that has changed	Name of <u>Outgoing</u> Office Holder	Name of <u>New</u> Office Holder	Postal Address of <u>New</u> Office Holder	Occupation of <u>New</u> Office Holder
<i>National</i>	<i>1.1.2014</i>	<i>Secretary</i>	<i>Full Name</i>	<i>Full Name</i>	<i>c/- the Registered Organisation, postal address of Registered Organisation</i>	<i>Paid official</i>
	<i>25.12.2013</i>	<i>President</i>	<i>vacant</i>	<i>Full Name</i>	<i>As above</i>	<i>mechanic</i>
<i>...</i>						
<i>NSW</i>	<i>1.1.2014 (resigned) 7.1.2014 (appointed)</i>	<i>President</i>	<i>Full Name</i>	<i>Full Name</i>	<i>c/- the Branch, postal address of the Branch</i>	<i>mechanic</i>
		<i>Committee of Management Member</i>	<i>Full Name</i>	<i>Full Name</i>	<i>As above</i>	<i>mechanic</i>
		<i>Treasurer</i>	<i>Full Name</i>	<i>vacant</i>	<i>vacant</i>	<i>vacant</i>
<i>...</i>						

**Australian Education Union
NT Branch Executive Councillors Election 2017/103**

Declaration of Results for Contested and Uncontested Offices

E2017/103

Below are 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.

Australian Education Union - NT Branch

Total number of names on the roll of voters	1661
Ballot papers issued	1661
Replacement ballot papers issued	3
Total Ballot Papers Issued	1664
Ballot papers / envelopes returned for scrutiny	255
Less ballot papers / envelopes rejected at preliminary scrutiny	11
Ballot papers missing from returned envelope	5
Total Ballot Papers Admitted to Scrutiny	239
Percentage of ballot papers returned to number issued	15.33%
Ballot papers returned as unclaimed mail	35
Ballot papers not returned	1374

Women's Officer

<u>Candidates</u>	<u>First Preference Votes</u>	<u>Votes</u>
DAGLAS, N'tina	35	35
HOLTZE, Delean	56	56
KAVANAGH, Alyson	146	146
Exhausted Votes	0	0
Informal ballot papers	2	2
Total ballot papers	239	239

I declare Alyson Kavanagh elected.

Branch Vice-President (TAFE)

Candidates

HOLTZE, Delean

I declare Delean Holtze elected.

Alice Springs Region

Total number of names on the roll of voters	261
Ballot papers issued	261
Replacement ballot papers issued	0
Total Ballot Papers Issued	261
Ballot papers / envelopes returned for scrutiny	42
Less ballot papers / envelopes rejected at preliminary scrutiny	2
Ballot papers missing from returned envelope	0
Total Ballot Papers Admitted to Scrutiny	40
Percentage of ballot papers returned to number issued	15.33%
Ballot papers returned as unclaimed mail	1
Ballot papers not returned	218

Branch Executive Councillor (2)

<u>Candidates</u>	<u>First Preference Votes</u>	<u>Votes</u>
GUEST, Kenneth	20	20
THORNTON, Paula	28	28
PHILLIPS, Carly	26	26
Exhausted Votes	6	6
Informal ballot papers	0	0
Total Votes	80	80

I declare Paula Thornton and Carly Phillips elected.

Arnhem Region

Total number of names on the roll of voters	226
Ballot papers issued	226
Replacement ballot papers issued	1
Total Ballot Papers Issued	227
Ballot papers / envelopes returned for scrutiny	36
Less ballot papers / envelopes rejected at preliminary scrutiny	1
Ballot papers missing from returned envelope	1
Total Ballot Papers Admitted to Scrutiny	34
Percentage of ballot papers returned to number issued	15.93%
Ballot papers returned as unclaimed mail	11
Ballot papers not returned	180



Branch Executive Councillor (2)

<u>Candidates</u>	<u>First Preference Votes</u>	<u>Votes</u>
O'MEARA, Melody	22	22
GLEESON, Lawrence Bernard	16	16
STIMPSON, Michael	20	20
Exhausted Votes	10	10
Informal ballot papers	0	0
Total votes	68	68

I declare Melody O'Meara and Michael Stimpson elected.

**Barkly Region
Branch Executive Councillor**Candidates

SKIDMORE, Robert (Bob)

I declare Robert (Bob) Skidmore elected.

Darwin Region

Total number of names on the roll of voters	540
Ballot papers issued	540
Replacement ballot papers issued	2
Total Ballot Papers Issued	542
Ballot papers / envelopes returned for scrutiny	102
Less ballot papers / envelopes rejected at preliminary scrutiny	2
Ballot papers missing from returned envelope	0
Total Ballot Papers Admitted to Scrutiny	100
Percentage of ballot papers returned to number issued	18.52%
Ballot papers returned as unclaimed mail	7
Ballot papers not returned	440



Branch Executive Councillor (3)

<u>Candidates</u>	<u>First Preference Votes</u>	<u>Votes</u>
GEORGE, Barry	66	66
DANVERS, Julie	50	50
BRERETON, Anthony	76	76
CAMERON, Bruce	72	72
Exhausted Votes	36	36
Informal ballot papers	0	0
Total votes	300	300

I declare Anthony Brereton, Bruce Cameron and Barry George elected.

Katherine Region**Branch Executive Councillor (2)**Candidates

HARNETT, Jess

I declare Jess Harnett elected.
No other nominations received.

Palmerston & Rural Region


Total number of names on the roll of voters	332
Ballot papers issued	332
Replacement ballot papers issued	0
Total Ballot Papers Issued	332
Ballot papers / envelopes returned for scrutiny	38
Less ballot papers / envelopes rejected at preliminary scrutiny	2
Ballot papers missing from returned envelope	2
Total Ballot Papers Admitted to Scrutiny	34
Percentage of ballot papers returned to number issued	11.45%
Ballot papers returned as unclaimed mail	7
Ballot papers not returned	287



Branch Executive Councillor (2)

<u>Candidates</u>	<u>First Preference Votes</u>	<u>Votes</u>
HYLAND, Linda	21	21
HOLTZE, Delean	15	15
HESTER, Glynis Ann	23	23
Exhausted Votes	9	9
Informal ballot papers	0	0
Total votes	68	68

I declare Glynis Ann Hester and Linda Hyland elected.



Steve Gillespie
Returning Officer
Australian Electoral Commission

3 November 2017





Copy of Signed Decision

Title of Matter: Application/Notification by Australian Education Union-Northern Territory Branch
Section: s.189(1) RO Act - Notification of elections for office
Subject: Executive Councillors (6) (scheduled election), plus: Vice President (TAFE) (insufficient nominations at last election - E2017/158); and Womens Officer (casual vacancy)
Matter Number(s): E2017/103

A copy of the Commissioner's decision is attached for your information.

The relevant rulebook can be accessed via the Fair Work Commission's [website](#).

Dear Australian Education Union-Northern Territory Branch,

Section 233(2) of the *Fair Work (Registered Organisations) Act 2009* requires details of changes to an organisation's records to be declared to the Registered Organisations Commission. This includes changes to officers as a result of elections. Changes must be declared within 35 days and a template is available from the [website](#).

Dear Australian Electoral Commissioner via the Electoral Officer,

Under subsection 189 of the *Fair Work (Registered Organisations) Act 2009*, please arrange for the conduct of the above election.

Contact: Secretary of the organisation, as per the prescribed information.

Please send any declaration(s) and post election report to the Registered Organisations Commission at regorgs@roc.gov.au.

Inquiries:

Any inquiries relating to this matter are to be directed to Carolyn Moloney through regorgs@roc.gov.au.

17 JULY 2017



DECISION

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

Australian Education Union
(E2017/103)

MR ENRIGHT

MELBOURNE, 17 JULY 2017

Arrangement for conduct of election.

[1] On 19 May 2017 the Northern Territory Branch (the Branch) of the Australian Education Union (AEU) lodged with the Registered Organisations Commission (the Commission) prescribed information for an election to fill the following offices:

Executive Councillors (number to be determined in accordance with the rules) from the following Regions:

Alice Springs
Arnhem
Barkly
Darwin
Katherine
Palmerston and Rural

[2] On 19 May 2017 the Branch also lodged with the Commission prescribed information for an election to fill a casual vacancy in the following office for the remainder of the term:

Womens Officer (1)

[3] On 19 May 2017 the Branch also lodged with the Commission prescribed information for an election to fill the following office, due to insufficient nominations received in a previous election (E2016/146):

Vice-President (TAFE) (1)

[4] In relation to the office of Vice-President (TAFE), the declaration of the results in the previous election, E2016/146, indicating that no nominations had been accepted for that office, is dated 18 October 2016. The prescribed information to conduct a further election for that office was lodged approximately seven months later, on 19 May 2017.

[5] Rule 117 of the Federal Branch rules in relation to the Northern Territory Branch provides that in the event of insufficient nominations for an office, that office shall be filled in accordance with the rules relating to casual vacancies. Sub-rule 27(b) makes the following provisions in relation to filling a casual vacancy:

In the case of... the Vice-President (TAFE)... an election shall be held in accordance with these Rules as soon as practicable after the vacancy occurs.

[6] In my view, it is practicable to request the conduct of a further election as soon as the Branch is reasonably able to do so, in circumstances where an office could not be filled in a previous election due to insufficient nominations.

[7] On 13 July 2017 the Commission contacted the Branch President, Mr Jarvis Ryan, to discuss the reasons for the time lapse between the date of the declaration of the election in E2016/146 showing insufficient nominations to fill relevant office, and the date of lodgement of the prescribed information to fill the office.

[8] On 14 July 2017 Mr Ryan provided a written explanation of the delay in lodgement, indicating that the Division of the Branch that forms the electorate for the office 'is extremely small', and that, despite attempts to ascertain interest from an eligible member since the office was vacated in June 2013, the Branch 'has not been able to find a member willing to nominate for this position'. In the knowledge of the likelihood that no valid nominations would be forthcoming, the Branch considered that attempting to conduct an election to fill that office would have been an unnecessary use of Commonwealth resources. Mr Jarvis acknowledged that notice of this situation should have been provided to the Commission earlier.

[9] In my previous consideration of a similar issue in relation to the timeliness of a casual vacancy election in the Western Australian Branch of the Australian Nursing and Midwifery Federation¹, the prescribed information for the election was lodged some nine months after the vacancy occurred even though the rules provided that it should be lodged as soon as possible. In that matter I noted the following:

section 5(3)(d) of the *Fair Work (Registered Organisations) Act 2009* (the RO Act) provides that one of the standards set out in the RO Act is to 'provide for the democratic functioning and control of organisations'. A key component of democratic functioning includes the conduct of regular scheduled elections to ensure that the number of office holders elected by members of an organisation corresponds with the number provided in its rules. It is a normal and reasonable expectation that registered organisations take steps to ensure that they comply with the time-frame requirements set out not only in the RO Act but also in instruments or references pertaining to the governance arrangements formulated by organisations themselves.²

[10] In that matter, I advised the Branch that lodging the prescribed information nine months after the vacancy occurred did not meet the requirement in the rules of conducting such an election as soon as possible³.

¹ E2015/196 [2015] FWCD 4869.

² Ibid.

³ Ibid.

[11] The circumstances of the abovementioned matter are similar to the election currently before me, for which the prescribed information was lodged approximately seven months after the declaration of results formally notified the Branch of the vacancy. While I acknowledge the explanation provided by Mr Ryan as noted above, I must conclude that consideration of the likelihood of the success of an election does not negate the requirement in the rules to conduct the election ‘as soon as practicable’.

[12] I do not propose to frustrate the democratic function of the AEU and its Northern Territory Branch to conduct an election to fill the unfilled office. However, I advise the branch that future prescribed information in relation to elections arising as a result of casual vacancies or insufficient nominations must be lodged with the Commission as soon as practicable in accordance with the organisation’s rules.

[13] 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 COMMISSIONER

Printed by authority of the Commonwealth Government Printer
<Price code A, PR350777>

To: ROC - Registered Org Commission

Subject: FWD: CM for actioning_AEU NT VP Tafe Position Ref E2017/103 Attn Carolyn Maloney

Attention: Carolyn Maloney

Re: AEU NT VP Tafe Position Ref E2017/103

Hi Carolyn

Can you please look over the below and let me know whether you think this wording would be acceptable to go to the Delegate? Thanks Jarvis

Carolyn Maloney has contacted our office in relation to our request to hold a casual vacancy election for the vacant Vice-President (TAFE) position.

The ROC's concern is as to why the Branch only notified the regulator of this vacancy and requested permission to hold an election to fill the position in May this year, when the scheduled election process was completed in October last year.

I acknowledge notice should have been given to the regulator of the failure to fill this position earlier, based on Branch Rule 27 (Branch Conference and Branch Executive – Filling Casual Vacancy), sub-section (b), which states that a vacancy should be filed as “as soon as practicable after the vacancy occurs”.

However, the Branch had what I believe were sound reasons for not requesting that a stand alone casual vacancy election be held for this position.

The last person to hold office was Renzo Giuliani, who resigned in June 2013 due to his work commitments (his resignation letter to the then Branch Secretary is attached). The Branch has not been able to find a member willing to nominate for this position since this time.

The main reason for this is that our TAFE division is extremely small, with approximately three dozen members employed at Charles Darwin University and the Batchelor Institute (BIITE).

Numerous attempts have been made to fill the position, including during the regular election cycles in 2014 and 2016. We have attempt to ascertain interest from our TAFE members as whether someone may be willing to nominate for position, but have not been able to attract any interest.

A request to hold another casual vacancy election would likely have not led to any candidates nominating, and would have unnecessarily squandered ROC and AEC resources.

However, in recent months the Branch has been involved in enterprise bargaining for our TAFE division members and this has generated increased activity among our small membership base. We hope this may lead to increased interest in at least member volunteering to stand for the position.

Thus I decided to request that the casual vacancy election be aligned with our upcoming annual election cycle, to minimise duplication and waste. I acknowledge that this vacancy should have been notified to ROC/FWC at the conclusion of the previous election cycle in October last year, and permission requested to delay holding the election until a later date. Every effort will be made to ensure the Branch complies with Casual Vacancy requirements in line with our Rules in future.

Kind regards

Jarvis Ryan

Branch President

Australian Education Union NT

Phone 08 8948 5399 Fax 08 8948 2577

www.aeunt.org.au

www.facebook.com/AEUNT

www.twitter.com/jarvis001

Unit 3, 8 Totem Rd, Coconut Grove NT

PO Box 41863, Casuarina NT 0811



The information contained in this message and any attachments may be confidential information and may be subject to legal privilege, public interest or legal professional privilege. If you are not the intended recipient, any use, disclosure or copying of this message or any attachments is unauthorised. If you have received this document in error, please advise the sender. Views expressed herein are the sender's and not those of the Australian Education Union - Northern Territory Branch unless specifically stated. No representation or warranty is given that attached files are free of viruses or other defects. The recipient assumes all responsibility for any loss or damage resulting directly or indirectly from the use of any attached files.



Aust
Regi

Copy of Prescribed Information

Title of Matter: Application/Notification by Australian Education Union-Northern Territory Branch
Section: s.189(1) RO Act - Notification of elections for office
Subject:
Matter Number(s): E2017/103

Attn: Electoral Officer

A copy of the Prescribed Information in relation to the above matter is attached for your information.

The election decision will be forwarded to your office in due course.

Inquiries:

Any inquiries relating to this are to be directed to: regorgs@roc.gov.au

15 JUNE 2017

From: Kelly Whitty [REDACTED]
Sent: Friday, 19 May 2017 4:54 PM
To: ROC - Registered Org Commission
Subject: ON CMS AR2017 94 AEU NT - LODGEMENT OF PRESCRIBED INFORMATION FOR ELECTIONS AND NOTIFICATION OF CHANGES TO RECORDS
Attachments: 1905170022 Letter to ROC including notice of prescribed information for elections.pdf

Good afternoon Mr Bielecki

On behalf of Jarvis Ryan, Branch President, I attach the lodgement of Prescribed Information for Elections and Notification of Changes to Records as per your requirements.

Should you require anything further, please do not hesitate to contact me.

Kind regards

Kelly Whitty
Australian Education Union NT

Phone 08 8948 5399 Fax 08 8948 2577

www.aeunt.org.au

Unit 3, 8 Totem Rd, Coconut Grove NT
PO Box 41863, Casuarina NT 0811



The information contained in this message and any attachments may be confidential information and may be subject to legal privilege, public interest or legal professional privilege. If you are not the intended recipient, any use, disclosure or copying of this message or any attachments is unauthorised. If you have received this document in error, please advise the sender. Views expressed herein are the sender's and not those of the Australian Education Union - Northern Territory Branch unless specifically stated. No representation or warranty is given that attached files are free of viruses or other defects. The recipient assumes all responsibility for any loss or damage resulting directly or indirectly from the use of any attached files.



Our Ref: 1905170022

Mr Mark Bielecki
Commissioner
Registered Organisations Commission

Via Email: regorgs@roc.gov.au

19 March 2017

Your Ref [E2017/103]

Dear Mr Bielecki,

RE: Lodgement of Prescribed Information for Elections and Notification of Changes to Records

I write regarding: -

- a) Changes to the records of the NT Branch of the Australian Education Union – specifically, changes in the composition of our Branch Executive (the Branch’s committee of management).
- b) And to provide Prescribed Information for Elections.

Please find attached a notification of Changes to Records declaration detailing the change. This change is a result of the resignation of the Branch Women’s Officer, Rachel Webb, on 22 April 2017.

Please also see attached Prescribed Information for Elections statement in relation to the positions of Executive Councillor which scheduled to commence on 22 July 2017 as proscribed by our Rules.

Also listed are two vacant positions:

- 1) Women’s Officer, due to the resignation referred to above;
- 2) Vice President (TAFE) as no nominations was received for that position in our 2016 elections.

We are in receipt of your Advisor’s letter dated 10 May 2017, but have been preparing this notice on the basis that deadline for receipt was 22 May 2017, two months before our election for Executive Councillor was due.

We submit these notices together on the basis of telephone advice from your Officers taken today.

We trust that this notice is correct and complete so that we have met our requirements under that Act.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Jarvis Ryan'.

Jarvis Ryan
Branch President

Annex B

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, Jarvis Anthony Ryan, being the Branch President of the Australian Education Union Northern Territory Branch, make the following statement:

1. I am authorised to sign this statement containing prescribed information the NT Branch of NT Branch of the Australian Education Union.
2. The following information is lodged under subsection 189(1) of the Fair Work (registered Organisations) Act 20019 (the RO Act).
3. The elections that are required are set out in the table in Annexure A.
4. The statement is lodged at least 2 months before nominations open for the elections below.

Dated: this 19th day of May 2017

A handwritten signature in black ink, appearing to be 'JARVIS RYAN', written in a cursive style.

Jarvis Ryan
Branch President

ANNEXURE A

- Elections that are required [insert as many pages as required]:

Branch	Name of Office	Number required	Voting System <i>Direct voting system; Collegiate electoral system</i>	Reason for Election <i>Scheduled; Casual vacancy; New office created; Insufficient nominations</i>	Electorate
<i>Northern Territory</i>	<i>Vice-President (TAFE)</i>	<i>1</i>	<i>DVS</i>	<i>Insufficient nominations at last election</i>	<i>All financial members of the TAFE Division of the Branch (Branch Rule 108)</i>
<i>Northern Territory</i>	<i>Womens Officer</i>	<i>1</i>	<i>DVS</i>	<i>Casual vacancy</i>	<i>All financial members of the Branch (Branch Rule 108)</i>
<i>Northern Territory</i>	<i>Executive Councillor</i>	<i>#</i>	<i>DVS</i>	<i>Scheduled</i>	<i>All financial members of their respective regions of the Branch (Branch Rule 108)</i>

= To be determined by size of the roll of voters as at Saturday 15 July 2017. As per Rules 18 and 108. Minimum of 6 on basis of 1 per region.

-

	Direct Voting System
Nominations OPEN	<i>Saturday 22 July 2017 (Rule 109)</i>
Nominations CLOSE	<i>5pm, Monday 21 August 2017 (Rule 109)</i>
Roll of Voters cut off date	<i>7 Days prior to nominations opening (Rule 105)</i>



4 April 2017

Mr Jarvis Ryan
President
Australian Education Union-Northern Territory Branch
Sent via email: admin@aeunt.org.au

CC: AEC Returning Officer by email: industrial.elections@aec.gov.au

Dear Mr Ryan,

Courtesy Letter - Election for offices [E2017/103]

The rules of the Australian Education Union-Northern Territory Branch indicate that an election for offices within the branch is due to commence shortly.

- Executive Councillors

It appears that nominations for the election for the above-named offices open in July this year.

This is a courtesy letter to remind you of your obligation to lodge information about the election (known as the 'prescribed information') pursuant to sub-sections 189(1) and (2) of the *Fair Work (Registered Organisations) Act 2009* (the 'Act') within the month. Prescribed information must be lodged with the Fair Work Commission (the Commission) two months before nominations open for the election.

If you have a different interpretation for the commencement of the election or the offices due for election under your rules, please let the Commission know, otherwise, the prescribed information should contain details of the election as required by regulation 138(1) of the *Fair Work (Registered Organisations) Regulations 2009* (the 'Regulations'), and any subsequent collegiate elections, if that is relevant. A sample of the prescribed information can be found on our website at <https://www.fwc.gov.au/registered-organisations/fact-sheets-templates-webinars>.

The prescribed information should be emailed to orgs@fwc.gov.au. If your branch believes that it will be unable to comply with the prescribed day as set out in the Regulations, it will need to apply to the General Manager within the month for a later date. Such request will need to set out in detail the reason why your organisation is unable to comply with the requirement. While the General Manager will consider such an application, there is no assurance that consent to a later day will be allowed.

It should be noted Section 189(2) is a civil penalty provision. Failure for an organisation to comply may result in legal proceedings being issued with the possibility of a pecuniary penalty being imposed upon an officer and/or the organisation.

The Commission intends to continue to provide reminders that an election is due as a courtesy. However failure to receive a reminder from the Commission cannot be relied on as a reason for late, incorrect or non-lodgment of prescribed information. The obligation to lodge prescribed information consistent with the Act and the rules of the organisation rests with the organisation.

When lodging the prescribed information, please quote [E2017/103]

Should you seek any clarification in relation to the above, please contact the Commission on orgs@fwc.gov.au.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Sam Gallichio', written in a cursive style.

Sam Gallichio

Adviser

Regulatory Compliance Branch