



4 October 2016

Ms Susan Hopgood  
Federal Secretary  
Australian Education Union  
shopgood@aeufederal.org.au

Cc: Australian Education Union-Western Australia Branch

Dear Ms Hopgood

**Organisation must respond to the post-election report of the Australian Electoral Commission: E2016/183**

On 9 September 2016 the Fair Work Commission (the Commission) received a post-election report from the Australian Electoral Commission (AEC) for election E2016/183 dated 9 September 2016. 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 rules 9.18(8), 9.1(15), 9.1(16), 9.1(17), 6(1), 9.1(1), 9.1(8) and 9.1(12). 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 Commission 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 Commission for assistance by email to [orgs@fwc.gov.au](mailto:orgs@fwc.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 Regulatory Compliance Branch of the Commission is able to provide advice and assistance regarding draft alterations, as well as about the processes required to make the alterations. We encourage the organisation or branch to forward drafts of proposed alterations to [orgs@fwc.gov.au](mailto:orgs@fwc.gov.au)

Yours sincerely

Marianne Kay

Regulatory Compliance Branch

**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].<sup>1</sup>
- On [DATE] the name and/or address of a branch[es] of the organisation changed to:<sup>2</sup>
  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]:<sup>3</sup>
  - COMMENCED operation:
    1. [include name of each new branch]
    2. ...
  - CEASED operation:
    1. [include name of each closed branch]
    2. ...

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<sup>1</sup> s.230(1)(d); reg.147(d)

<sup>2</sup> s.230(1)(d); reg.147(a) & (d)

<sup>3</sup> s.230(1)(d); reg.147(b) & (c)

Signed: [SECRETARY OR OTHER AUTHORISED OFFICER]

Dated: [DATE]

*[PLEASE NOTE: This declaration must be submitted to the Fair Work Commission within **35 days** of the change. It can be submitted to [orgs@fwc.gov.au](mailto:orgs@fwc.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.*

<b>Branch</b>	<b>Date of Change</b>	<b>Name of Office that has changed</b>	<b>Name of <u>Outgoing</u> Office Holder</b>	<b>Name of <u>New</u> Office Holder</b>	<b>Postal Address of <u>New</u> Office Holder</b>	<b>Occupation of <u>New</u> Office Holder</b>
<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>						



4 October 2016

Ms Susan Hopgood  
Federal Secretary  
Australian Education Union  
aeu@aeufederal.org.au

Dear Ms Hopgood,

cc: inquiries@sstuwa.org.au

### **Reminder of actions required when persons elected to office**

The Australian Electoral Commission has provided the Fair Work Commission (the Commission) a declaration of results for the election [E2016/183] for the Australian Education Union – Western Australia Branch. 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 154D(1) of the Fair Work (Registered Organisations) Act 2009 (the RO Act) requires the rules of organisations (and branches of organisations) to require 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 should be provided for in your organisation's rules.

#### **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-Western Australia 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.

11 Exhibition Street  
Melbourne VIC 3000  
GPO Box 1994  
Melbourne VIC 3001

Telephone: (03) 8656 4753  
Email : [orgs@fwc.gov.au](mailto:orgs@fwc.gov.au)  
Internet : [www.fwc.gov.au](http://www.fwc.gov.au)

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. I have attached a template notification of changes which may assist you. If any change does not apply until a specific date, you don't 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

Marianne Kay  
Regulatory Compliance Branch

## Fair Work (Registered Organisations) Act 2009

### POST ELECTION REPORT

**Client:** Australian Education Union - Western Australian Branch  
**Contact details:** Mary Franklyn  
**Email:** [gensec@sstuwa.org.au](mailto:gensec@sstuwa.org.au)  
**Tel:** (08) 9210 6000

**FWA contact officer:** Rebecca Lee  
**Email:** [rebecca.lee@fwc.gov.au](mailto:rebecca.lee@fwc.gov.au)  
**Tel:** Not provided

#### ELECTION/S COVERED IN THIS REPORT

Election Decision No/s: E2016/183

#### RULES

284V: Incorporates alterations of 10 June 2016 [R2016/89]:

Rules difficult to apply/interpret:

1. Withdrawal of a nomination submitted by a candidate who is an individual candidate and not a member of a team.

AEU WA Branch rule 9.1 (8) states:

A group of eligible members may nominate as members of a "Team Nomination" which must have a name. A team may be a Senior Officers Team, or an Executive Team, or a Senior Officers and Executive Team.

AEU WA Branch rule 9.1 (15) states:

The withdrawal from the ballot of a member of a Team Nomination after the close of nominations does not invalidate that Team Nomination.

AEU WA Branch rule 9.1 (16) states:

In the event of a withdrawal in accordance with sub-rule (15), the person who has withdrawn can be replaced by another eligible person who has nominated as a candidate for any position, who is not a member of any other Team Nomination, and who consents to becoming a member of the Team Nomination. In such a case the Returning Officer must be notified of the change prior to the printing of ballot papers.

AEU WA Branch rule 9.1 (17) states:

An individual member of a Team Nomination cannot withdraw from the Team Nomination once ballot papers for the election have been printed.

The rules provided for a member who has nominated as a member of a team nomination to withdraw their nomination from the team and the election up to the time the ballot papers are printed.



There is no provision in the AEU rules for a member who nominates as an individual candidate and not as a member of a team to withdraw their nomination.

To remedy a procedural defect in the AEU rules I exercised Section 193 (1) (b) (ii) of the Fair Work (Registered Organisations) Act 2009 to allow for an individual to withdraw their nomination in AEU WA Branch Election E2016/183.

It is recommended the rules be amended to allow for a person who nominates as an individual candidate to be able to withdraw their nomination.

2. In relation to Team Nominations and the Office of Aboriginal and Torres Strait Islander Executive Member.

AEU WA Branch rule 6 (1) states:

The Branch Executive shall be elected by and from the financial members of the Branch in accordance with the Branch Rules and shall be the committee of management of the Branch and shall consist of:

- (a) The Branch President, the Branch Senior Vice President, and the Branch Vice President;
- (b) Fourteen Ordinary Executive Members;
- (c) An Aboriginal and Torres Strait Islander Executive member who shall be elected by and from Aboriginal and Torres Strait Islander members of the Branch;

AEU WA Branch rule 9.1 (1) states:

For the purposes of this rule and Rule 13.1 - CONDUCT OF ELECTION OF BRANCH SENIOR OFFICERS AND BRANCH EXECUTIVE, Branch Senior Officers comprise the Branch President, Branch Senior Vice President, Branch Vice President and Branch Secretary

AEU WA Branch rule 9.1 (8) states:

A group of eligible members may nominate as members of a "Team Nomination" which must have a name. A team may be a Senior Officers Team, or an Executive Team, or a Senior Officers and Executive Team.

AEU WA Branch rule 9.1 (12) states:

A Team Nomination must nominate an eligible person (or the required number of people) for each position for which nominations have been called whereupon each person will be considered to have nominated for each position concerned

- the office of Aboriginal and Torres Strait Islander Executive member is a part of the Branch Executive. Senior Officers are defined for the conduct of the election.

The offices included in the Executive Team are not defined. Team nominations are allowed for Senior Officers Team, or an Executive Team, or a Senior Officers and Executive Team. Aboriginal and Torres Strait Islander Executive member shall be elected by and from Aboriginal and Torres Strait Islander members of the Branch. The intent of the WA Branch Rule 9.1 (8) is to allow for Ordinary Executive Members, and not the Office of Aboriginal and Torres Strait Islander Executive Member, to be part of a team and the word Ordinary has been omitted from this rule.

To remedy a procedural defect in the AEU rules I exercised Section 193 (1) (b) (ii) of the Fair Work (Registered Organisations) Act 2009 to facilitate the requirement for the Office of Aboriginal and Torres Strait Islander Executive member to be elected by Aboriginal and Torres Strait Islander members only and will exclude the Office from being an Office in the Executive Team for the purpose of AEU WA Branch rules 9.1 (8) and 9.1 (12).

It is recommended the rules be amended to exclude the Office of Aboriginal and Torres Strait Islander Executive member from the Executive Team for the purpose of AEU WA Branch rules 9.1 (8) and 9.1 (12).

Model Rule reference (if any)                      NA

## **ROLL OF VOTERS**

The roll of voters was supplied by the AEU WA Branch. As the election was uncontested the roll was no used.

## **IRREGULARITIES**

Details of written allegations of                      Nil  
irregularities, and action taken by AEC:

Other irregularities identified, and action taken:

## **ATTACHMENTS**

Declaration of Results for Uncontested Offices.



Simon Bulloch  
Returning Officer  
9 September 2016

# Australian Education Union Western Australian Branch Scheduled Election

## Declaration of Results for Uncontested Offices

E2016/183

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.

### Branch President

#### Candidates

BYRNE, Patricia

### Branch Senior Vice President

#### Candidates

BRIDGE, Paul

### Branch Vice President

#### Candidates

SCHOFIELD, Samantha

### Branch Secretary

#### Candidates

FRANKLYN, Mary

### Ordinary Branch Executive Members (14)

#### Candidates

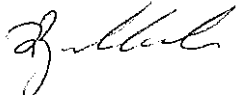
BANYARD, Leslie Bruce  
BLACK, Edmund Fredrick  
BLEWITT, Natalie  
BUNNEY, Catherine  
BUZZA, Wesley John  
HITCHENS, Simon  
LAU, Jan Marie  
MANNION, Kathryn Louise  
NELSON, Lisa  
REPPER, Graeme  
ROSE, Lincoln  
TUMAK, Anne  
VERTIGAN, Sharon  
WINROW, Pauline L

**Aboriginal and Torres Strait Islander Executive Member**

Candidates

No nomination was received

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



Simon Bulloch  
Returning Officer

8 September 2016



## DECISION

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

**Australian Education Union**  
(E2016/183)

MR ENRIGHT

MELBOURNE, 10 AUGUST 2016

*Arrangement for conduct of election.*

[1] On 4 July and 1 August 2016 the Western Australia Branch of the Australian Education Union lodged with the Fair Work Commission the prescribed information in relation to an election for the following offices:

Branch President  
Branch Senior Vice President  
Branch Vice President  
Branch Secretary  
Ordinary Branch Executive Members (14)  
Aboriginal and Torres Strait Islander Executive Member

[2] 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

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# Australian Education Union (W.A. Branch)

P.O. Box 6140, East Perth W.A. 6892  
Inwats: 1800 199 073  
Branch President: **Patricia Byrne**  
Branch Secretary: **Mary Franklyn**

Telephone: 9210 6000  
Facsimile: 9210 6001  
Email: [inquiries@sstuwa.org.au](mailto:inquiries@sstuwa.org.au)

Our Ref: MF:SS:16-06496

1 August 2016

Ms Bernadette O'Neill  
General Manager  
Fair Work Commission  
GPO Box 1994  
Melbourne VIC 3001

Email: [orgs@fwc.gov.au](mailto:orgs@fwc.gov.au)

Dear Ms O'Neill

## **Supplementary Information in relation to Section 198(1) of the Fair Work (Registered Organisations) Act 2009**

In relation to E2016/183, the Prescribed Information for this election was provided in a letter dated 4 July 2016. It has been drawn to my attention that two pieces of information were missing from that letter and I provide them below:

1. The electorate for the office of Branch Secretary is all of the financial members of the Branch.
2. The roll of voters in the above election 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.

I trust this additional information meets the requirements of s189(1) of the Fair Work (Registered Organisations) Act 2009.

Yours sincerely

**Mary Franklyn**  
AEU WA Branch Secretary



# Australian Education Union (W.A. Branch)

P.O. Box 6140, East Perth W.A. 6892

Inwats: 1800 199 073

Branch President: **Patricia Byrne**

Branch Secretary: **Mary Franklyn**

Telephone: 9210 6000

Facsimile: 9210 6001

Email: [inquiries@sstuwa.org.au](mailto:inquiries@sstuwa.org.au)

Our Ref: MF:SS:16-05422

4 July 2016

Ms Bernadette O'Neill  
General Manager  
Fair Work Commission  
GPO Box 1994  
Melbourne VIC 3001

Email: [orgs@fwc.gov.au](mailto:orgs@fwc.gov.au)

Dear Ms O'Neill

## **Statement: Prescribed Information: Section 189(1) of the Fair Work (Registered Organisations) Act 2009**

In accordance with Section 189 (1) of the Fair Work (Registered Organisations) Act 2009 and Regulation 138, I wish to lodge the following prescribed information in relation to elections in the Australian Education Union, Western Australian Branch, for the undermentioned offices.

I am an officer of the **Australian Education Union (W.A. Branch)** and am authorised to lodge this prescribed information.

### **Names of Offices:**

Elections will need to be held under Rule 6(1) to elect:

#### ***Branch President (1)***

*1 January 2017 – 31 December 2019*

#### ***Branch Senior Vice President (1)***

*1 January 2017 – 31 December 2019*

#### ***Branch Vice President (1)***

*1 January 2017 – 31 December 2019*

#### ***Branch Secretary (1)***

*1 January 2017 – 31 December 2019*

#### ***Fourteen Ordinary Executive Members (14)***

*1 January 2017 – 31 December 2019*

#### ***Aboriginal and Torres Strait Islander Executive Member (1)***

*1 January 2017 – 31 December 2019*

**Reason for the Elections:**

The current terms of office for the above positions expire on 31 December 2016.

The electorates for the elections are:

- for the Branch Presidential positions and Branch Executive Members - by and from the financial members of the General and TAFE Divisions of the WA Branch; and
- for the Aboriginal and Torres Strait Islander Executive Member – by and from ATSI members of the AEU WA Branch.

The voting system is by direct election.

The dates and times that nominations close are to be fixed by the Returning Officer pursuant to the Rules.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Mary Franklyn', with a stylized flourish at the end.

**Mary Franklyn**  
AEU WA Branch Secretary