



*Australian Principals Federation*  
ABN: 57 322 696 251

**APF**

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PO Box 3496  
Success WA 6964  
Tel: 0403 262049  
Email: [info@pfwa.org.au](mailto:info@pfwa.org.au)

Dear Ms Dugan,

**Post-Election Reports: Election E2015/167; Election E2015/174; Election E2015/208.**

I refer to the Post Election Reports dated 23 February 2016 for the following elections:

Election 2015/167  
Election 2015/174  
Election 2015/208

In those reports the following rules were identified as difficult to apply or interpret:

Rule 10(e)  
Rule 11 (b)  
Rule 21 (e) (ix)(B)  
Rule 21 (e) (i)  
Rule 21 (e) (iii)  
Rule 21 (e)( xii)  
Rule 47 (10) (h) (x) B  
Rule 47 (10)(b)  
Rule 47(10) (h) (i)  
Rule 47 (10)(h)(iv)  
Rule 47 (10)(h)(xiii)  
Rule 47 (15)(h)

The Federation has reviewed the Post-Election Reports and has noted the concerns raised.

The matters raised and the Federation's responses are as follows:

- (a) Incorrect cross-references to other rules (rules 10 (e), 47(10)(b), 47(15)(h)).

The Federation officers propose to recommend to the Council that it correct these reference errors by Rule alteration. It is noted that the correct references were readily apparent.

- (b) References in the Rules to the former Act or Regulations (e.g. Rules 11(b), 21(e)( ix )B, 47(10)(h) (x)B)

The Federation does not accept that the Rules concerned were difficult to apply or interpret within the meaning of section 197(4). Nonetheless, as part of the exercise of correcting references referred to above, the Federation officers propose to recommend to

Council that it update references to be the names of the current Act and Regulations by Rule alteration.

- (c) There are references in the rules to the requirement that in the event of a tied vote the result in some circumstances is to be determined by the Returning Officer drawing lots in the presence of the tied candidates. It is suggested in the Reports that the presence of the candidates appears not to be appropriate in a postal election and it may result in a delay to the declaration of the polls (Rules 21(e)(xii), Rule 47 (10)(h)(xiii))

The Federation does not accept that these rules were difficult to apply or interpret within the meaning of Section 197(4). Nonetheless, the Federation officers propose recommending to Council that it alter the Rule to provide for tied candidates (in the relevant circumstances) to be provided with an opportunity to be present in person or by scrutineer at the drawing of the lots.

- (d) There are references in the rules to the calling of nominations to be by circular posted to members with nominations to be lodged at the postal address of the Returning Officer. The issue identified by the Returning Officer is a concern about the cost and frequency of Australia Post's new delivery schedule in respect of the posting of notices of election and the lodgement of nominations at the postal address of the Returning Officer. (Rules 21(e)(i), 21(e) (iii), 47(10)(h)(i), 47(10)(h)(iv).

The Reports propose that the Returning Office should be able to determine the means of publication of an election notice and the means of lodgement and the receipt of nominations.

The Federation does not accept that these Rules were difficult to apply or interpret within the meaning of section 197(4). Further, the Federation does not propose to alter these rules by omitting reference to the means by which election notices are to be distributed or nominations are to be lodged. The Federation considers it inappropriate for these matters to be left to the discretion of the Returning Officer from time to time.

Finally, I invite the AEC's attention to the terms of section 197(4) of the Act. The provision is not an invitation to the AEC/Returning Officer to comment generally on the rules. Rather, it is confined to rules that are difficult to interpret or apply "in relation to the conduct of the election". In circumstances where an organisation is required to take numerous steps consequent upon a difficult rules report, under threat of civil penalty, it is submitted that such reports should be appropriately confined. In the present case it is clear that at least some of the matters identified could not have arisen in relation to the election concerned. In the event that a Returning Officer wishes to make suggestion about the rules, then it would be open to them to do so, without the threat of civil penalty in relation to the organisation's dealing with the suggestion.

Yours sincerely,



Ron Bamford  
Federal President  
15/03/2016



1 March 2016

Ms Angela Stefani  
Executive Officer  
Australian Principals Federation-Victorian Branch

[astefani@apf.net.au](mailto:astefani@apf.net.au)

Dear Ms Stefani,

**Organisation must respond to the post-election report of the Australian Electoral Commission: E2015/208**

On 29 February 2016 the Fair Work Commission (the Commission) received a post election report from the Australian Electoral Commission (AEC) for election E2015/208 dated 23 February 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 10 (e), 11 (b) and 47 (10) (b) and (h). 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 written response must be provided to the AEC**

Section 198 of the RO Act requires that a written response is 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)).

**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)).

**Extract of report and written response 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.

A copy of the organisation's response 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

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

Telephone: (03) 8656 4693  
Email : [orgs@fwc.gov.au](mailto:orgs@fwc.gov.au)  
Internet : [www.fwc.gov.au](http://www.fwc.gov.au)

- 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).

Yours sincerely

Nick Salzberg  
Regulatory Compliance Branch



1 March 2016

Ms Angela Stefani  
Executive Officer  
Australian Principals Federation-Victorian Branch  
astefani@apf.net.au

Dear Ms Stefani,

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

The Australian Electoral Commission has provided the Commission a declaration of results for the election [E2015/208]. This letter is a reminder of certain obligations imposed on organisations and persons elected to office.

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.

Also, section 233(2) of the RO Act requires that an organisation must notify the Fair Work Commission (the Commission) within 35 days of any changes to the holders of office in the organisation. If the election has resulted in any changes to the holders of office, the Australian Principals Federation-Victorian 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. 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

Nick Salzberg  
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/CEASED operation:
    1. [include name of each new branch]
    2. ...

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).]**

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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)

## 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	Reason for change	Name of <u>New</u> Office Holder	Postal Address of <u>New</u> Office Holder (for privacy reasons, we recommend NOT a private address)	Occupation of <u>New</u> Office Holder
<i>National</i>	<i>1.1.2014</i>	<i>Secretary</i>	<i>Full Name</i>	<i>Retiring</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>Scheduled Election</i>	<i>Full Name</i>	<i>As above</i>	<i>mechanic</i>
...							
<i>NSW</i>	<i>1.1.2014 (resigned) 7.1.2014 (appointed)</i>	<i>President</i>	<i>Full Name</i>	<i>Resignation</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>Scheduled Election</i>	<i>Full Name</i>	<i>As above</i>	<i>mechanic</i>
		<i>Treasurer</i>	<i>Full Name</i>	<i>Scheduled Election</i>	<i>vacant</i>	<i>vacant</i>	<i>vacant</i>
...							

Ms Angela Stefani  
Executive Officer  
Australian Principals Federation  
Suite 1315A  
401 Docklands Drive  
DOCKLANDS VIC 3008

**Post Election Report For: Australian Principals Federation  
Elections: E2015/208**

I refer to the above election for your organisation.

Section 197(1) of Schedule 1 of the Fair Work (Registered Organisations) Act 2009 requires the AEC to provide a written report on the conduct of the election to Fair Work Australia and to the organisation or branch for whom the election was conducted. A copy of the report in relation to this election is attached.

Section 198 of Schedule 1 requires that if an organisation or branch is given a post election report under section 197 that identifies a rule that was difficult to interpret or apply, the organisation or branch must, within 30 days, give a written response to the AEC on that aspect of the report. The response must specify whether the organisation or branch intends to take any action in relation to the rule, and if so, what action it intends to take.

If the attached Report identifies a rule that was difficult to interpret or apply, you should forward your response to the AEC by email to 'industrial.elections@aec.gov.au' within thirty days of the date of the report.

Section 198 and the regulations also require an organisation to make the post election report and the organisation's response to the report (if applicable) available to members.

Further, Regulation 141(4) of the Fair Work (Registered Organisations) Act 2009 requires an organisation or branch to publish a notice on its web site advising members that a copy of the post election report is available upon request. If a website is not available, publishing a notice in a journal or newsletter would be considered appropriate.

Please contact me if you wish to clarify any aspect of this report.



Ann Dougan  
Returning Officer

23 February 2016



Fair Work (Registered Organisations) Act 2009

POST ELECTION REPORT

Australian Principals Federation

ELECTION/S COVERED IN THIS REPORT

Election Decision No/s: E2015/208

RULES

Rules used for the election: [300V: Incorporates alterations of 01/01/14 determined on 12/12/13] [R2013/389] (replaces rule book dated 03/09/2007 R2007/307)

Rules difficult to apply/interpret: **Rule: 10(e)**  
*A member who has been exempted from payment of subscriptions in accordance with Rule 8(ii) of these rules.....*

It appears that this is a reference to Rule 8(b)

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**Rule 11(b)**  
*.....Registrar appointed under the Workplace Relations Act 1996.*

**47(10)(h)(x)B**  
*.....Workplace Relations (Registration and Accountability of Organisations) Regulations;*

There are many (samples above) instances of the old act and regulations being referred to in the rules of the organisation.

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**47 (10) Elections for Branch Council**

**47(10)(h)(i)**

*The Returning Officer shall call for nominations ....., by circular, posted to all eligible members of the Branch, specifying the dates, times, places and postal addresses for the receipt of nominations by the Returning Officer.*

A review of this rule is recommended based on the recent changes to Australia Post delivery schedules as well as the increasing cost of postage.

The organisation may wish to consider changing

the means of publication of an Election Notice to an option where the returning officer can determine the method of delivery taking into consideration the most efficient and cost effective means of distribution of the election notice and receipt of nominations.

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**47(10) Elections for Branch Council**

**47(10)(b)**

*The electorate for Branch Council elections shall be in accordance with Rule 8 (Branch Council).*

It appears that is a reference to Rule 47(8)

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**47(10) Elections for Branch Council**

**47(10)(h)(iv)**

*Nominations must be received by the Returning Officer at the postal address provided for the receipt of nominations by the Returning Officer by 5.00pm on the day on which nominations close.*

A review of this rule is recommended to allow the Returning Officer to determine the method of receipt of nominations. This would allow flexibility to receive nominations by a range of methods. With the recent changes to Australia Post delivery services, the requirement to receive nominations by post only may cause delays.

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**47(15) Election of Branch Executive**

**47(15)(h)**

*Any candidate may appoint a scrutineer who is a member of the Branch Electoral College to represent him or her at the ballot. Branch Rule 10(h)(xviii) shall apply with necessary changes to scrutineers in respect of elections under this rule.*

It appears that is a reference to Rule 47(10)(h)(xviii)

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**47 (10) Elections for Branch Council**

**47(10)(h)(i)**

*The Returning Officer shall call for nominations ....., by circular, posted to all eligible members of the Branch, specifying the dates, times, places and postal addresses for the receipt of nominations by the Returning Officer.*

A review of this rule is recommended based on the recent changes to Australia Post delivery schedules as well as the increasing cost of

postage.

The organisation may wish to consider changing the means of publication to an option where the returning officer can determine the method of delivery taking into consideration the most efficient and cost effective means of distribution of the election notice.

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#### **47(10) Elections for Branch Council**

*47(10)(h)(xiii)*

*In the event of a tie occurring the result shall be determined by the Returning Officer drawing lots in the presence of the tied candidates, provided that if one of the tied candidates is a retiring office holder from the position which is the subject of the tied result, the retiring office holder shall be declared elected.*

In the presence of the candidates appears not be appropriate where the election is conducted by post. In the event of a tie occurring in this situation the returning officer needs to contact the candidates and invite them to the draw, and this would hold up the declaration of the ballot for several days.

### **ROLL OF VOTERS**

Total number of voters on the Roll:	Stage 1: Ballot not required Stage 2: 17
Number of apparent workplace addresses:	17 100%
Number of non-current addresses:	Nil
Other matters pertaining to the roll of voters:	Nil

### **IRREGULARITIES**

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

### **ATTACHMENTS**

Declaration of Results

1. Declaration Stage 1 – Branch Councillor from the Comprehensive Sector in the South Western Victoria Region (uncontested)
2. Declaration Stage 2 – Branch Vice-President (contested)

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

Ann Dougan  
Returning Officer

23 February 2016

**Australian Principals Federation  
Branch Councillor - Comprehensive Sector - South  
Western Region**

**Declaration of Results for Uncontested Offices**

**E2015/208**

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.

**Victorian Branch**

**Branch Councillor from the Comprehensive Sector in the South Western Victoria Region**

Candidates

No nomination was received



Ann Dougan  
Returning Officer

23 October 2015

# Australian Principals Federation Branch Vice-President

## Declaration of Results for Contested Offices

**E2015/208**

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.

### Victorian Branch

Total number of names on the roll of voters	17
Ballot papers issued	17
Replacement ballot papers issued	0
<b>Total Ballot Papers Issued</b>	<b>17</b>
Ballot papers / envelopes returned for scrutiny	14
Less ballot papers / envelopes rejected at preliminary scrutiny	0
Adjusting balance	0
<b>Total Ballot Papers Admitted to Scrutiny</b>	<b>14</b>
Percentage of ballot papers returned to number issued	82
Ballot papers returned as unclaimed mail	0
Ballot papers not returned	3

### Branch Vice-President

<u>Candidates</u>	<u>Votes</u>
DURKIN, Steve	7
PIAZZA, Loretta	7
Total votes	<b>14</b>
Formal ballot papers	<b>14</b>
Informal ballot papers	<b>0</b>

As a result of the tie in the ballot shown above, a draw by lot was conducted at 10am Thursday 18 February 2016 at Level 8, Casselden, 2 Lonsdale Street, Melbourne, to determine the candidate to be elected in accordance with Rule 47(15)(f)(viii). (The tied candidates were invited to attend.)

I declare Steve Durkin elected.



Ann Dougan  
Returning Officer  
Australian Electoral Commission

18 February 2016



## DECISION

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

**Australian Principals Federation**  
(E2015/208)

MR ENRIGHT

MELBOURNE, 29 JULY 2015

*Arrangement for conduct of election.*

[1] On 21 and 29 July 2015 the Victorian Branch of the Australian Principals Federation lodged with the Fair Work Commission the prescribed information in relation to an election to fill casual vacancies in the following offices:

Branch Vice-President

Branch Councillor from the Comprehensive Sector – South Western Region

[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 Principals Federation**

ABN: 57 322 696 251

**APF**

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Leederville WA 5007  
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Fax: 08 6380 2955  
Email: [apf@apf.net.au](mailto:apf@apf.net.au)

### **Victorian Branch**

29<sup>th</sup> July 2015

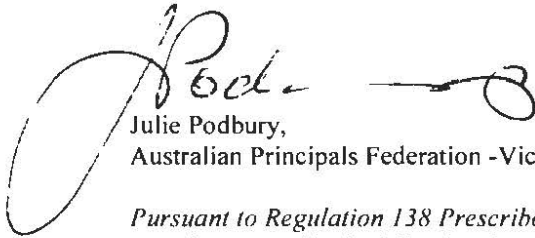
Prescribed Information for Election – Sec 189 (1) – *Fair Work (Registered Organisations) Regulations 2009 (as amended)*

I, Julie Podbury, of the Australian Principals Federation Victorian Branch make the following statement:

I am the President of the Australian Principals' Federation Victoria Branch.

I am authorized to lodge the following prescribed information concerning a forthcoming election of the Australian Principals' Federation.

I confirm that the following information is being lodged under subsection 189 (1) of the Fair Work (Registered Organizations) Act 2009.



Julie Podbury,  
Australian Principals Federation -Victorian Branch

*Pursuant to Regulation 138 Prescribed Information for election, Fair Work (registered Organisations) Regulations 2009, the following is provided:*

(a) The name of each office or position for which an election is required;

Victorian Branch Executive

One position as follows:

Vice President

1 position

Victorian Branch Councillor

One position as follows:

Comprehensive Sector Representative for the APF Victorian Branch Council in the following region:

South Western Victoria

1 position

(b) The reasons for the election are:

1. Executive vacancy arising from the resignation of Julie Podbury as Vice President as attached.
2. Councilor vacancy arising from the resignation of Peter Kearney as Branch Councillor Comprehensive Sector South Western Victoria Region as attached.



**Elected by**

1. Vice President - Branch Electoral College of Australian Principals Federation – Victorian Branch
2. Councilor - The financial members of the Australian Principals Federation from the sectors of the Region as designated.

**Voting System**

1. Vice President            Collegiate System
2. Councilor                 Direct Voting System

**Nominations Open**

As soon as possible and to be arranged by the Australian Electoral Commission.

**Nominations close**

At 5.00pm, twenty one days after the opening of nominations.

**Cut-off date for Roll:**

Seven days prior to the opening date for nominations.



**Australian Principals Federation**

ABN: 57 322 696 251

**APF**

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Leederville WA 5007  
Phone: 08 6380 2344  
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Email: [apf@apf.net.au](mailto:apf@apf.net.au)

### **Victorian Branch**

20<sup>th</sup> July 2015

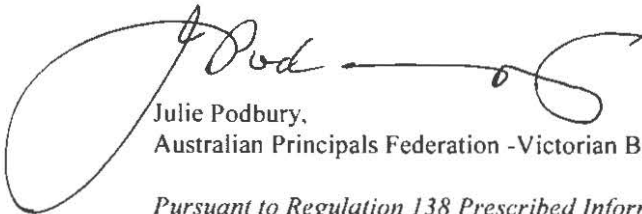
Prescribed Information for Election – Sec 189 (1) – *Fair Work (Registered Organisations) Regulations 2009 (as amended)*

I, Julie Podbury, of the Australian Principals Federation Victorian Branch make the following statement:

I am the President of the Australian Principals' Federation Victoria Branch.

I am authorized to lodge the following prescribed information concerning a forthcoming election of the Australian Principals' Federation.

I confirm that the following information is being lodged under subsection 189 (1) of the Fair Work (Registered Organizations) Act 2009.



Julie Podbury,  
Australian Principals Federation -Victorian Branch

*Pursuant to Regulation 138 Prescribed Information for election, Fair Work (registered Organisations) Regulations 2009, the following is provided:*

(a) The name of each office or position for which an election is required;

Victorian Branch Executive

One position as follows:

Vice President

1 position

Comprehensive Sector Representative for the APF Victorian Branch Council in the following region:

North Western Victoria

1 position

(b) The reasons for the election are:

1. Executive vacancy arising from the resignation of Julie Podbury as Vice President as attached.
2. Councilor vacancy arising from the resignation of Peter Kearney as Branch Councillor Comprehensive Sector North Western Victoria Region as attached.

**Elected by**

1. Vice President - Branch Electoral College of Australian Principals Federation – Victorian Branch
2. Councilor - The financial members of the Australian Principals Federation from the sectors of the Region as designated.

**Voting System**

1. Vice President            Collegiate System
2. Councilor                 Direct Voting System

**Nominations Open**

As soon as possible and to be arranged by the Australian Electoral Commission.

**Nominations close**

At 5.00pm, twenty one days after the opening of nominations.

**Cut-off date for Roll:**

Seven days prior to the opening date for nominations.