



4 October 2016

Ms Debra James  
General Secretary  
Independent Education Union of Australia-Victoria Tasmania Branch  
djames@ieuvictas.org.au

cc: Federal Secretary Independent Education Union of Australia

Dear Ms James

**Organisation must respond to the post-election report of the Australian Electoral Commission: E2016/195**

On 3 October 2016 the Fair Work Commission (the Commission) received a post-election report from the Australian Electoral Commission (AEC) for election E2016/195 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 rule 17(g). 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



4 October 2016

Ms Debra James  
General Secretary  
Independent Education Union of Australia-Victoria Tasmania Branch  
djames@ieuvictas.org.au

Dear Ms James,

cc::Federal Secretary, Independent Education Union of Australia

### **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 [E2016/195] for Victoria Tasmania 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 Independent Education Union of Australia-Victoria Tasmania 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;

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)

- 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

# Independent Education Union of Australia Victoria Tasmania Branch

## Declaration of Results for Uncontested Offices

**E2016/195**

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.

### Victoria Tasmania Branch

#### Branch Delegates to Federal Council (10)

##### Candidates

BREAR, David  
BUCKLEY, Liz  
COTTER, Loretta  
HICKEY, Cathryn  
JAMES, Debra  
MANNION, Paul  
MATSON, Denis  
O'LOUGHLIN, Therese  
WALDOCK, John  
WILLIAMS, Mark V.

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



Jeff Webb  
Returning Officer

9 September 2016

Ms Debra James  
General Secretary  
Independent Education Union of Australia  
PO BOX 1320  
SOUTH MELBOURNE VIC 3205

By email to: [info@ieuvictas.org.au](mailto:info@ieuvictas.org.au)

**Post Election Report For: Independent Education union of Australia**  
**Election E2016/195**

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.



Jeff Webb  
Returning Officer

29 September 2016

Fair Work (Registered Organisations) Act 2009

**POST ELECTION REPORT**  
**Independent Education Union of Australia**

**ELECTION/S COVERED IN THIS REPORT**

Election Decision No/s: *E2016/195*

**RULES**

Rules used for the election: 130N: Incorporates alterations 23/05/20165  
[R2016/76

Rules difficult to apply/interpret: 17(g) suggest alteration to this rule to allow  
other methods of receipt of nomination such as  
by scanned copy emailed to returning officer or  
by facsimile.

Model Rule reference (if any): N/A

**ROLL OF VOTERS**

Total number of voters on the Roll: Ballot not required

Number of apparent workplace addresses: N/A

Number of non-current addresses: N/A

Other matters pertaining to the roll of voters: N/A

**IRREGULARITIES**

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

Other irregularities identified, and action taken: Nil

**ATTACHMENTS**

Declaration of Results



Jeff Webb  
Returning Officer

29 September 2016



12 September 2016

Ms Debra James  
General Secretary  
Independent Education Union of Australia-Victoria Tasmania Branch  
**By email: [djames@ieuvictas.org.au](mailto:djames@ieuvictas.org.au)**

CC:  
Independent Education Union of Australia  
The Federal Secretary Independent Education Union of Australia  
**By email: [ieu@ieu.org.au](mailto:ieu@ieu.org.au)**

Dear Ms James,

### **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 [E2016/195] for the Victoria/Tasmania 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**

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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 Independent Education Union of Australia-Victoria Tasmania 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;

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

Telephone: (03) 8656 4737  
Email : [orgs@fwc.gov.au](mailto:orgs@fwc.gov.au)  
Internet : [www.fwc.gov.au](http://www.fwc.gov.au)



- 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

Jennifer Raeburn  
Regulatory Compliance Branch

# Independent Education Union of Australia Victoria Tasmania Branch

## Declaration of Results for Uncontested Offices

**E2016/195**

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.

### Victoria Tasmania Branch

#### Branch Delegates to Federal Council (10)

##### Candidates

BREAR, David  
BUCKLEY, Liz  
COTTER, Loretta  
HICKEY, Cathryn  
JAMES, Debra  
MANNION, Paul  
MATSON, Denis  
O'LOUGHLIN, Therese  
WALDOCK, John  
WILLIAMS, Mark V.

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



Jeff Webb  
Returning Officer

9 September 2016



**Reference:** V16/450

Ms Debra James  
General Secretary  
Independent Education Union of Australia  
120 Clarendon Street  
SOUTHBANK VIC 3006

Dear Ms James,

**Independent Education Union of Australia  
Victoria Tasmania Branch  
E2016/195**

The declaration of the election for uncontested offices is attached.

The election is now complete.

Yours sincerely



Jeff Webb  
Returning Officer

9 September 2016

cc all candidates



## DECISION

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

### **Independent Education Union of Australia** (E2016/195)

MR ENRIGHT

MELBOURNE, 4 AUGUST 2016

*Arrangement for conduct of election.*

[1] On 13 July 2016 the Victoria Tasmania Branch of the Independent Education Union of Australia (the Branch) lodged with the Fair Work Commission the prescribed information in relation to an election for the following offices:

Branch Delegates to Federal Council (10)

[2] In correspondence dated 13 July 2016 the General Secretary of the Branch Debra James noted that the prescribed information was not lodged before the prescribed day as required by regulation 138(3) of the *Fair Work (Registered Organisations) Regulations 2009*. Regulation 138(3) defines the prescribed day as “the day occurring 2 months before the first day when a person may, under the rules of the organisation or branch, become a candidate in an election”. The rules of the Independent Education Union of Australia do not provide a date for the opening of nominations. However, rule 17(h) provides that the date for completion of the election must be not later than 31 October. The prescribed information was lodged on 13 July 2016. If nominations open two months later, on 13 September 2016, this leaves insufficient time for the election to be completed before 31 October 2016 should a ballot be required. Ms James explained that the delay was due to the Branch changing its rules to provide for four-year terms for Branch offices and, consequently, overlooking the fact that elections for Branch Delegates to Federal Council are required under the Federal rules every three years.

[3] I am not satisfied that the above reason is a sufficient ground to justify the failure to comply with a statutory obligation. Having regard to the normal and reasonable expectation that registered organisations take steps to ensure they comply with the time-frame requirements set out not only in the *Fair Work (Registered Organisations) Act 2009* (the Act) but also in instruments or references pertaining to their own governance formulated by the organisations themselves, I decline on this occasion to allow, under section 189(2) of the Act, a later day for lodgement. The failure to lodge the prescribed information before the prescribed day therefore renders the organisation liable for a civil penalty provision pursuant to section 189(2) of the Act.

[4] The refusal of an extension of time under section 189(2) of the Act does not, however, affect a determination of an election notification matter for the purposes of section 189(3) of the Act.

[5] 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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[REDACTED]

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**From:** Loretta Cotter <lcotter@ieuvictas.org.au>  
**Sent:** Wednesday, 3 August 2016 11:53 AM  
**To:** Orgs  
**Cc:** Carolyn Monk; Sharon Goulding  
**Subject:** [REDACTED]

Dear Rebecca, I refer to correspondence of 13 July 2016 from the General Secretary, Debra James, advising of the need to hold an election for delegates to Federal Council. We omitted to advise that it would be 'financial' members of the IEU Victoria Tasmania Branch that would be voting in the forthcoming election. My apologies.

Yours sincerely

Loretta Cotter.

Loretta Cotter  
Deputy Secretary  
IEU Victoria Tasmania  
T 03 9254 1860  
F 03 9254 1865

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13 July 2016

The General Manager  
Fair Work Commission  
GPO Box 1994  
MELBOURNE VIC 3001  
Via email: [orgs@fwc.gov.au](mailto:orgs@fwc.gov.au)

Dear General Manager

I write to advise that the Branch made an error in our Annual Return of Information for 2016. On 26 February 2016, I advised the Commission that there were no elections that needed to be held this year. The Branch moved to a four year term for elections in 2013, but we overlooked that fact that our election of Branch Delegates to Federal Council must be held pursuant to the Federal Rules which require elections every three years. As such, I now advise that we need to conduct an election in 2016 for Branch Delegates to Federal Council in accordance with Section 183(1) of the *Fair Work (Registered Organisations) Act*.

I attach the following documentation:

1. A Statement made in accordance with Regulation 138 signed by an officer authorised to make the Statement.
2. Schedule 1 setting out the prescribed information in respect of the elections pursuant to Regulation 138 and required by s189(1) of the Act.
3. Schedule 2 setting out the proposed timetable for the conduct of elections in accordance with the Rules of the Union. The draft timetable envisages the calling for nominations on 17 August 2016.
4. Attachment 1 – Motion of the IEU Committee of Management carried on 12 July 2016 authorising the General Secretary to call for nominations as required by s183(2) of the Act.

I note that the proposed date does not meet provisions in relation to the prescribed day in Regulation 138(3) but that s189(2) of the Act provides that the General Manager may allow a later day. Accordingly I request that the General Manager approve a later prescribed day in order to meet the attached timetable.

I look forward to your response.

Yours sincerely

  
**Debra James**  
General Secretary

# STATEMENT

I, Debra James, of 120 Clarendon Street, South Melbourne, am the General Secretary of the Independent Education Union Victoria Tasmania, a Branch of the Independent Education Union of Australia, and an officer authorised under the Rules to make this statement.

The information set out in the attached schedules is lodged in accordance with s189(1) of the *Fair Work (Registered Organisations) Act* as follows:

1. Schedule 1:
  - The names and number of each office in respect of which an election is required;
  - The reason for the election;
  - Details of the electorate for each of the offices.
2. Schedule 2:
  - The details of the commencement and expiration of the period during which nomination of candidates will be called for under the Rules of the Branch of the IEUA.
3. Attachment 1:
  - The resolution passed by majority of the IEU Committee of Management on 12 July 2016
4. The voting system is a direct voting system.
5. The day on which the roll of voters is to be closed consistent with the timetable in Schedule 2, is 10 August 2016

Signed:



**Debra James**

General Secretary, Independent Education Union Victoria Tasmania

**Dated: 13 July 2016**



**SCHEDULE 1  
REGULATION 138**

**PRESCRIBED INFORMATION IN RESPECT OF ELECTION –  
SUB-SECTION 189(1) OF THE ACT**

NAME OF OFFICE	NUMBER OF OFFICES		REASON FOR ELECTION	ELECTORATE
Delegates to IEUA Federal Council	Number of members at 31/12/15		Expired term of office	Elected by and from the total Branch membership
	<b>18,693</b>	<b>10</b>		

## SCHEDULE 2

### PROPOSED TIMETABLE FOR THE HOLDING OF ELECTIONS IN 2016

**13 July** IEU Website publishes COM resolution of 12 July 2016

**17 August** Nominations are called for in respect of all positions through advertisement in *The POINT* and on the IEU website.

***Nominations must be open for at least 21 days***

**8 September** Nominations close

***Ballot must open no later than 28 days after close of nominations***

**6 October** Ballot opens

***Ballot must be open no less than 21 days***

**28 October** Ballot closes

# ATTACHMENT 1

## IEU COMMITTEE OF MANAGEMENT MOTION

12 July 2016

### **Motion**

*“That the Committee of Management notes, according to the rules of the Branch, that elections are required in 2016 for Delegates to Federal Council and directs the General Secretary to make such arrangements as are required under the Union Rules and the Fair Work Act 2009 for the conduct of elections.”*

**Moved:** Debra James

**Seconded:** Loretta Cotter

**CARRIED**