

# Elections Regulations 2016

## Part 1 - Preliminary

### 1. Objective

The objective of these Regulations is to make provision for elections conducted by or on behalf of the University in accordance with the Governance, Academic and Student Affairs Statute 2013.

### 2. Authorising provision

These Regulations are made under the Governance, Academic and Student Affairs Statute 2013 and sections 28, 29 and 30 of the Victoria University Act 2010.

### 3. Definitions

In these Regulations-

- a. "ballot pack" means a set of ballot papers prepared for an election;
- b. "ballot period" means the period during which persons may vote at an election.
- c. "University body" means a body of the University which is comprised of some or all elected members and which is specified in Part 2 of these Regulations.
- d. returning officer has the same meaning as in section 15 of the Governance, Academic and Student Affairs Statute 2013.

(1) Note:

(2) Section 15(2) of the Governance, Academic and Student Affairs Statute 2013 provides that, in that section, the returning officer means the person appointed by the Vice-Chancellor to be returning officer.

## Part 1A - Prescribed University Bodies

### 4. Elected staff and student members of the Council

The Council is a University body for the purposes of section 14(b) of the Governance, Academic and Student Affairs Statute 2013 with respect to the election of the "elected members" specified in section 11 (4A) of the Victoria University Act 2010.

## Part 2 - Administration of Elections

### Division 1 - Functions of returning officer

### 5. Additional functions

In addition to powers conferred on the returning officer under the Governance, Academic and Student Affairs Statute 2013 the returning officer has power, in accordance with these Regulations, to-

- a. determine the form of ballot papers;
- b. determine the nomination period and process;

- c. determine voting methods (which may include electronic voting);
- d. determine vote counting methods;
- e. refuse to allow a person who has inadequate identification to vote;
- f. allow a person to vote provisionally;
- g. determine the validity of votes;
- h. determine the outcome of an election.

## **Division 2 - Voters roll**

### **6. Returning officer to keep voters' roll**

(3) The returning officer must compile voters' rolls for the purposes of elections conducted under these Regulations.

(4) Voters' rolls may categorise voters according to voter eligibility requirements of elections to be conducted under these Regulations.

(5) If the returning officer is satisfied that a person is not entitled to be included on the voters' roll, the returning officer must not enter that person's name on or, alternatively, must remove it from the voters' roll.

### **7. Information to be recorded on voters' roll**

(6) A voters' roll must contain, in respect of each person entitled to be on that roll-

- a. the person's name;
- b. the categories in which the person is entitled to vote; and
- c. any further information about the person which the returning officer considers to be appropriate to identify the person or to determine the person's eligibility to vote or nominate in an election.

### **8. Voters' roll to be accessible to voters**

(7) The returning officer must ensure that persons who are entitled to be on the voters' roll and who wish to review their inclusion on the voters' roll, are provided access to a copy of that voters' roll in a manner and at a time that the returning officer considers reasonable to allow them to achieve that purpose.

### **9. Application to be included on the voters' roll**

(8) A person may apply to the returning officer to be included on a voters' roll if-

- a. his or her name is not on the voters' roll; and
- b. the person believes that he or she is entitled to be included on the voters' roll.

(9) If the returning officer is satisfied that the person is entitled to be included on the voters' roll, the returning officer must enter the person's name on the voters' roll.

## **Division 3 - Retention of documents**

### **10. Returning officer to retain documents**

(10) In this Regulation-

- a. election documents means completed nomination forms, ballot documents, entries or data, voters rolls and other records relating to an election, in hard copy or electronic format;
- b. retention period means the period expiring on the last of the three dates referred to in sub regulation (2).

(11) The returning officer must retain election documents until the later of-

- a. three months after the date of the election;
- b. if a dispute relating to the conduct or result of the election has arisen, three months after the resolution of the dispute or the date on which the duly elected candidate commences his or her term, whichever is the later; and
- c. the expiry of any applicable retention period applying to public records under the Public Records Act 1973.

(12) The returning officer must ensure that election documents are destroyed at the end of the retention period.

### **Part 3 - Entitlement to Participate in Elections**

#### **11. Entitlement to vote**

(13) A person is entitled to vote at an election if the person's name is on the relevant voters' roll.

(14) Where there are separate voters' rolls for different categories of nominees in an election, a person is entitled to vote in all categories in respect of which their name is on the relevant voters' roll.

##### **Example #1**

(15) A person is enrolled as both a postgraduate student and an undergraduate student. The person may vote in both categories.

##### **Example #2**

(16) A person is an international student who is an undergraduate. The person may vote as an international student and as an undergraduate student.

#### **12. Entitlement to be nominated for election**

(17) Unless specified otherwise in this Regulation, a person is entitled to be nominated for election if the person's name is validly or entitled to be validly on the voters' roll on the date on which nominations close.

(18) A person is entitled to be nominated for election as a staff member of the Council if the person:

- a. is validly or entitled to be validly on the voters' roll on the date on which nominations close; and
- b. is a continuing full time member of staff of the University and are based at a Victorian campus of the University; and
- c. for the 12 months immediately preceding the date on which nominations close was a full time member of staff at the University; and
- d. has not been or, by the end of the nominated term of the elected position, would not have been a member of the Council for 12 years, whether consecutive or not.

(19) A person is entitled to be nominated for election as a student member of the Council if the person:

- a. is validly or entitled to be validly on the voters' roll on the date on which nominations close; and
- b. for the 12 months immediately preceding the date on which nominations close was enrolled in and successfully completed a minimum of two units per semester (or the equivalent in the case of a higher degree by research) in a course at a Victorian campus of the University; and
- c. is resident in Victoria and is enrolled in a minimum of two units per semester (or the equivalent in the case of a higher degree by research) in a course at a Victorian campus of the University and the course in which they are enrolled has a minimum duration of four semesters; and

- d. has not been or, by the end of the nominated term of the elected position, would not have been a member of the Council for 12 years, whether consecutive or not.

#### Example

(20) A student who has completed a Diploma at a Victorian campus and is transitioning into a Bachelor Degree or a student who is progressing to a higher degree by research from an earlier qualification at a Victorian campus will be eligible.

## **Part 4 - Term of Elected Members of University Bodies**

### **13. Term of elected members of the Council**

(21) The term of the elected staff member of the Council is three years.

(22) The term of the elected student member of the Council is two years.

## **Part 5 - Conduct of Elections**

### **Division 1 - Nomination of candidates**

#### **14. Nomination of candidates**

(23) The returning officer must call for nominations of candidates from the relevant electorate not less than ten days before the first day of a ballot period.

(24) A call for nominations must-

- a. be in a form determined by the returning officer;
- b. specify a date, being not less than five days before the first day of the ballot period, by which nominations are to be delivered to the returning officer.

(25) In determining the method of calling for nominations the returning officer must take into consideration the objective of ensuring that the call comes to the attention of the relevant electorate.

(26) Following the close of nominations the returning officer must ensure that a provisional list of candidates is publicly displayed.

(27) After University records have been checked the returning officer must ensure that, within two days after the close of nominations, a final list of candidates is publicly displayed.

(28) In determining the method of publicly displaying the provisional and final lists of candidates, the returning officer must take into consideration the objective of ensuring that publication comes to the attention of the relevant electorate.

(29) A candidate may withdraw his or her nomination within three days after the nomination period has closed.

### **Division 2 - Authorisation of election material**

#### **15. Authorisation of material**

(30) Only election material which canvasses votes for one or more candidate in an election may be displayed or distributed if it has been authorised in accordance with this Regulation.

(31) Election material issued by, on behalf of, or in support of a candidate must bear the authorisation of that candidate.

(32) All election material distributed or displayed must be authorised by the returning officer.

(33) Any material distributed or displayed and not bearing the requisite authorisations may be removed by any person eligible to vote.

(34) The returning officer must not authorise material which is-

- a. clearly untrue;
- b. misleading or deceptive, or is likely to be so; or
- c. unlawful or otherwise offensively discriminatory, racist, sexist or homophobic.

### **Division 3 - Procedure where there is no contest**

#### **16. Unopposed candidates**

If the number of candidates nominated for election to a body in a particular category does not exceed the number of vacancies in that category, the returning officer shall declare those candidates duly elected.

#### **17. Insufficient candidates**

(35) Unless specified otherwise in this Regulation, this Regulation applies-

- a. to all of the vacancies if-
  - i. no candidates are nominated for election to a body in a particular category; or
  - ii. all candidates nominated for election to a vacancy withdraw before being elected;
- b. to the number of vacancies which are not filled if-
  - i. the number of candidates nominated for election to a body in a particular category is less than the number of vacancies; or
  - ii. a candidate nominated for election to a vacancy withdraws before being elected, resulting in the number of remaining candidates being less than the number of vacancies; or
  - iii. an elected candidate withdraws before the commencement of their term, resulting in the number of remaining candidates being less than the number of candidates; or
  - iv. a person appointed under regulation 15(3) resigns.

(36) Where this Regulation applies, the returning officer must notify the relevant member of University staff responsible for the area which oversees the body of the vacancy and of the requirements of this Regulation.

(37) A member of University staff who has received a notification under this Regulation must, after consultation with the Chair of the body, appoint suitable persons to fill the vacancies.

(38) A person appointed under sub regulation (3) must have the like qualifications (if any) that would have made the person eligible to nominate in the election.

(39) A person appointed under sub regulation (3) will hold that position as if they had been elected to that position.

(40) Notwithstanding sub regulation (3), it is not obligatory to appoint a person to fill a vacancy if there is no suitable person willing or available to be appointed to fill the vacancy.

(41) Notwithstanding sub regulation (3), if the appointment is to fill a position on the Academic Board, no appointment can be made unless the Academic Board has passed a motion approving the appointment of the nominated individual to the position.

(42) With respect to the Council, Regulation 17 does not apply.

(43) Note

With respect to the Council, insufficient candidates are considered casual vacancies and must be filled in accordance with clauses 7 and 8 of Schedule 1 of the Act.

#### **Division 4 - Procedure where there is a contest**

##### **18. Election if more candidates than vacancies**

If the number of candidates nominated for election to a body in a particular category exceeds the number of vacancies, the returning officer must conduct a ballot in accordance with these Regulations.

##### **19. Notice of ballot**

(44) The returning officer must publish a notice of ballot not less than five days before the first day of the ballot period.

(45) In determining the method of notification the returning officer must take into consideration the objective of ensuring that the notice comes to the attention of the relevant electorate.

(46) A notice of ballot must specify the opening and closing times of the ballot period.

##### **20. Voting procedure**

(47) Votes may be cast and recorded in a manner determined by the returning officer.

(48) Note

This provision allows the returning officer to determine that voting will be by paper or online or using any other system or method and may include postal or other forms of voting.

(49) The manner for conducting elections under this Regulation must be included in the notice of ballot under Regulation 19.

(50) With respect to the Academic Board and the Council, elections will be determined by optional preferential voting in accordance with Part 5A of these Regulations.

(51) With respect to all other bodies, elections will be determined by plurality voting known as "first past the post", in accordance with Part 5B of these Regulations.

#### **Division 5 - Counting Ballots**

##### **21. Counting votes**

(52) After the ballot closing time, the returning officer or the returning officer's nominee must-

- a. examine all votes cast;
- b. determine whether any votes are invalid; and
- c. count the valid votes in accordance with these Regulations.

##### **22. Votes received late not to be counted**

(53) Except as provided in this Regulation, votes received after the ballot period has closed must not be counted.

(54) If the Vice-Chancellor and the returning officer are of the opinion that voting has been affected by an Act of God or industrial action, they may direct that votes received after a time specified by them, being not later than 5.00 pm five days after the last day of the ballot period, be examined and counted.

(55) If sub regulation (2) is invoked, then for the purpose of this Regulation the end of the ballot period will be deemed to be 5.00pm five days after the last day of the original ballot period.

### **23. Scrutineers**

(56) Subject to confidentiality restrictions as determined by the returning officer, a person nominated by a candidate in an election may review the result of the election.

(57) A scrutineer must not be a contesting candidate.

### **24. Invalid votes**

(58) A vote is invalid if-

- a. the vote has been cast in a manner other than as specified in these Regulations or the instructions given by the returning officer;
- b. the person who voted is not eligible to vote at the election or in a category at the election in which that person voted; or
- c. a person voted more than once in a category (in which case only the first vote cast by that person in that category shall be valid).

### **25. Determining the validity of votes**

(59) Notwithstanding Regulation 24, the returning officer may determine a vote is valid if in the opinion of the returning officer it is fair and reasonable to do so.

(60) The returning officer's decision that a vote is invalid is final.

## **Part 5A - Determining the Results of an Optional Preferential Election**

### **26. Tally of results**

(61) The returning officer must keep a tally of the votes cast for each candidate in each category of an election.

(62) The returning officer must retain the document containing the tally until the later of-

- a. three months after the date of the election;
- b. if a dispute relating to the conduct or result of the election has arisen, three months after the resolution of the dispute or the date on which the duly elected candidate commences his or her term, whichever is the later; and
- c. the expiry of any applicable retention period applying to public records under the Public Records Act 1973.

### **27. Validity of preferences**

Where on any voting paper there is any repetition of a figure or any break in the sequence of figures indicating a voter's preferences, only the preference or preferences preceding the repetition or break shall be distributed among the candidates.

### **28. Equality of votes**

(63) If two or more candidates receive an equal number of votes and are tied on the least number of votes at a stage where one candidate must be declared a defeated candidate (such that the preferences cast on ballots can be

distributed to continuing candidates), then the returning officer must draw lots in the presence of at least two (2) witnesses and the candidate whose name is drawn is declared the defeated candidate.

(64) If two or more candidates receive an equal number of votes once all of the preferences have been distributed, then the returning officer must draw lots in the presence of at least two (2) witnesses and the candidate whose name is drawn is declared elected.

## **29. Where one person is to be elected**

(65) At an election where one person is to be elected and there are only two candidates, the returning officer shall upon the close of the poll, count the valid first preference votes and declare the candidate who has received the greater number of such votes to be elected.

(66) At an election where one person is to be elected and there are three or more candidates, the returning officer shall upon the close of the poll count the first preference votes for each candidate and declare the candidate (if any) who has received an absolute majority of such votes to be elected.

(67) If no candidate has an absolute majority of votes then the returning officer shall -

- a. declare the candidate who has received the fewest first preference votes a defeated candidate;
- b. distribute the voting papers cast for such defeated candidate amongst the continuing candidates in order of the voters' preference; and
- c. after such distribution again ascertain the total number of votes given to each continuing candidate -

(68) and the candidate who has then received the greatest number of votes, if such number constitutes an absolute majority of votes, shall be declared elected.

(69) If no candidate has an absolute majority of votes, the process in Regulation 29(3) shall be repeated and the votes shall be recounted after every such redistribution until one candidate has received an absolute majority of votes and such candidate shall be declared elected.

## **30. Where more than one person is to be elected**

(70) At any election where two or more persons are to be elected the first vacancy shall be filled in the manner provided in Regulation 29 for the election of a person where only one person is to be elected and there are three or more candidates.

(71) At any election where two or more persons are to be elected the second vacancy shall be filled as follows -

- a. The returning officer shall rearrange all the valid voting papers under the names of the candidates in accordance with the first preferences indicated, except for the voting papers on which the first preference is shown for the elected candidate which shall be placed in the parcels of the continuing candidates in order of the voters' next preference, and if any candidate has then received an absolute majority of votes then that candidate shall be declared elected.
- b. If no candidate has an absolute majority of votes the returning officer shall declare the candidate who has received the fewest votes a defeated candidate and distribute the voting papers counted to such defeated candidates amongst the continuing candidates in order of the voters' next preference and after such distribution again ascertain the number of votes given to each candidate and if any candidate has then received an absolute majority of votes then that candidate shall be declared elected.
- c. If no candidate then has an absolute majority of votes the process of declaring the candidate who has the fewest votes a defeated candidate and distributing the voting papers counted to such defeated candidate amongst the continuing candidates in order of the voters' next preference shall be repeated and the votes shall



be recounted after every such redistribution until one candidate has received an absolute majority of votes and such candidate shall be declared elected.

(72) At an election where three or more persons are to be elected the third and subsequent vacancies shall be filled in the manner provided in Regulation 28(2) for filling the second vacancy except that where the first preference on a voting paper is shown for any elected candidate that voting paper shall be placed in the parcel of the continuing candidate in order of the voter's next preference.

## **Part 5B - Determining the Results of a First Past the Post Election**

### **31. Tally of results**

(73) The returning officer must keep a tally of the votes cast for each candidate in each category of an election.

(74) The returning officer must retain the document containing the tally until the later of-

- a. three months after the date of the election;
- b. if a dispute relating to the conduct or result of the election has arisen, three months after the resolution of the dispute or the date on which the duly elected candidate commences his or her term, whichever is the later; and
- c. the expiry of any applicable retention period applying to public records under the Public Records Act 1973.

### **32. Where one person is to be elected**

(75) If only 1 person is to be elected then the candidate with the most votes shall be declared elected.

(76) If two or more candidates receive the equal highest number of votes, the returning officer must draw lots in the presence of at least two (2) witnesses and the candidate whose name is drawn is declared elected.

### **33. Where two or more candidates to be elected**

(77) Where two or more candidates are to be elected-

- a. the first vacancy must be filled in accordance with the procedure applying to the filling of one vacancy in accordance with Regulation 30;
- b. the remaining vacancies must be filled in order of votes received.

Example

The candidate with the second highest number of votes is elected to the second position.

## **Part 5C - Vacancies of Elected Members Within a Period of an Election**

### **34. Vacancy within period after election**

If a person is elected but withdraws, resigns or is otherwise removed from their office at any time up to three months after the date of the election, then:

- a. in the case of an optional preferential election in accordance with Part 5A of these Regulations, the votes cast will be counted in accordance with Regulation 30, and the candidate with the most votes (having declared the previous member ineligible to be elected for the purpose of the vote count) shall be declared elected for the remainder of the term of the member whose office the new member fills; and
- b. in the case of a first past the post election in accordance with Part 5B of these Regulations, the candidate with the next highest number of votes at the election shall be declared elected for the remainder of the term of the member whose office the new member fills.

## **Part 6 - Casual Vacancies**

### **35. Filling vacancies**

(78) Positions filled by election or appointment in accordance with Regulation 15 that become vacant before the end of a term of office must be filled as follows-

- a. if the position was contested and a ballot was conducted under Regulation 18 and the position becomes vacant after the person has been declared elected but before the term of office begins, then the candidate with the next highest number of votes must be declared elected;
- b. if the position was contested and a ballot was conducted under Regulation 18 and the position becomes available after the term of office begins, then Regulation 17 (2) to (7) applies;
- c. if the position was uncontested and the candidate was elected unopposed under Regulation 16, then Regulation 15 (2) to (7) applies;
- d. if holder of the position was appointed in accordance with Regulation 15 and that position becomes vacant after the person holds office, then Regulation 17 (2) to (7) applies.

(79) Note:

Casual vacancies for the Council must be filled in accordance with clauses 7 and 8 of Schedule 1 of the Act.

(80) A person elected or appointed under sub regulation (1) is entitled to hold office during the remainder of the term.

(81) It is not obligatory to fill if a casual vacancy if-

- a. the casual vacancy occurs within 6 months before the expiry of the term of office; or
- b. there is no suitable person willing or available to be appointed to fill the casual vacancy.

## **PART 7 - Specified Elections**

### **Division 1 - Bodies to which this Regulation applies**

#### **36. Scope**

This Regulation applies to elections for bodies in addition to the Academic Board and the Council (as expressly provided by these regulations) which form part of the University's governance structure.

## **Part 8 - Miscellaneous**

### **Division 1 - Offence**

#### **37. Offence**

(1) A person must not, in connection with a University election-

- a. vote more than once in an election;
- b. record a vote to which he or she is not entitled;
- c. without authority, remove a ballot paper from the polling place;
- d. be involved in electioneering activity within a marked 2 meters radius of the polling place;
- e. interfere with a ballot box, ballot paper pack, electoral roll, nomination form or any other thing relating to the election;
- f. engage in dishonest practice;
- g. impede the fair conduct of the election.

(82) It is general misconduct for the purposes of the section 37 of the Governance, Academic and Student Affairs Statute 2013 if a person records a vote which he or she is not entitled to record.

## **Division 2 - Validity of elections**

### **38. Validity of election**

(83) An election, including the conduct and outcome of an election, is valid notwithstanding a procedural irregularity which, in the opinion of the returning officer or the Vice-Chancellor, would not have affected the result.

## Status and Details

<b>Status</b>	Historic
<b>Effective Date</b>	17th May 2016
<b>Review Date</b>	17th January 2021
<b>Approval Authority</b>	University Council
<b>Approval Date</b>	5th April 2016
<b>Expiry Date</b>	6th June 2016
<b>Responsible Officer</b>	John Lambrick Head of Legal Services +61 3 99195280
<b>Enquiries Contact</b>	