

# SWINBURNE STUDENT UNION ELECTION REGULATIONS

## *Amendment history*

Council	20/08/20
Council	

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## **Part I – Definitions**

### **1) Definitions:**

- a)** “Academic day” means a day during a University Teaching Period that is not a Saturday, Sunday or day which falls outside a Teaching Period.
- b)** “By-election” means a by-election conducted pursuant to ‘Part 14 – Elections’ of the SSU Constitution and runs from the close of nominations to the declaration of the ballot.
- c)** “Candidate” means a nominee for election whose nomination has been accepted by the Returning Officer pursuant to clause 32.
- d)** “Day” means any working day that is not a Saturday, Sunday or day which falls outside a Teaching Period.
- e)** “Election” means an election conducted pursuant to ‘Part 14 – Elections’ of the SSU Constitution and runs from the close of nominations to the declaration of the ballot.

- f)** “Election material” means material produced by or on behalf of a candidate to be distributed to or made available to eligible voters that is intended to influence the outcome of the election. Election material includes how-to-vote cards.
- g)** “Election period” runs from the open of nominations until the submission and publication of the report of the Returning Officer.
- h)** “Eligible voter” means any voter entitled to vote in the election in accordance with ‘Part 14 – Elections’ of the SSU Constitution.
- i)** “How-to-vote card” means any printed or electronic list of candidates produced by or on behalf of a candidate designed to indicate recommended voting preference/s.
- j)** “Nominee” means a prospective candidate who has submitted a nomination but has not yet had the nomination accepted by the Returning Officer under clause 32.
- k)** “Official election material” means election material that complies with these regulations, including but not limited to complying with the resource limits defined in subclause 70 (a) or clause 71.
- l)** “Polling Day” means any day on which ballots may be cast.
- m)** “Poster” means election material displayed or intended for display.
- n)** “Publish” means material made available to eligible voters in any form, including printed material such as handouts and posters as well as electronic material including websites, email and electronic presentations.
- o)** “Returning Officer” means the Returning Officer, or any Assistant Returning Officers who have been delegated responsibility for implementation of particular clauses by the Returning Officer.
- p)** “SSU” means Swinburne Student Union Inc.
- q)** “Student” means an enrolled student of Swinburne University, but includes:
  - i)** the Student Union President, whether an enrolled student or not;
  - ii)** the Student Union General Secretary, whether an enrolled student or not, pursuant to clause 8 (e) (a) of the Student Union Constitution.
- r)** “Student Council” means the Student Council of Swinburne Student Union Inc.
- s)** “Student Union” means Swinburne Student Union Inc.
- t)** “SUPA” means the Swinburne University Postgraduate Association
- u)** “SISA” means Swinburne University International Students Association
- v)** “Ticket” means a group of candidates running for election under a single name or banner accepted by the Returning Officer pursuant to clause 39.
- w)** “Unauthorised election material” means election material that does not otherwise conform to the provisions of these regulations and may include, but shall not be limited to, unauthorised or anonymous material and material distributed by or on behalf of individuals who are not candidates for election, or material which exceeds the resource restrictions defined in subclause 70 (a) or clause 71.
- x)** “Continuing candidate” means a candidate who has neither been elected nor eliminated.

- y) “Stage of counting” means when all ballot papers which have not been exhausted have been allocated to continuing candidates.
- z) “Candidates Transfer Value” is the elected candidate’s value, less the quota at the stage of counting, all divided by the elected candidate’s value.

## **Part II – Returning Officer**

- 2) Council shall appoint a Returning Officer for each annual election or by-election.
- 3) The Returning Officer may appoint Assistant Returning Officers if necessary.
- 4) The Returning Officer, and Assistant Returning Officers if any, shall not be students or Swinburne Student Union office bearers within the previous two terms of office.
- 5) The Returning Officer shall be responsible to the SSU Council for the conduct of the election for which he or she is appointed and shall submit a report thereon to the SSU Council.
- 6) Where Council has not appointed a Returning Officer under subclause 64 (12) of the Constitution within 25 days of the open of nominations for annual elections, and within 10 days of the open of nominations for by-elections, the Executive Officer may arrange for the Returning Officer.
  - a) Where Council has not set a timeline for the Annual Elections by 30 August, the Executive Officer may set a timeline and arrange for the Returning Officer under clause 6.
- 7) The Returning Officer shall at all times implement this schedule fairly, without bias and in good faith.
- 8) Union Staff may be appointed as Assistant Returning Officer/s and are to be accountable to the Returning Officer pursuant to clause 4.

## **Part III – Poll Clerks**

- 9) The Returning Officer shall appoint disinterested persons to be poll clerks or to assist in any other capacity at the election and are to be accountable to the Returning Officer.
- 10) Current Swinburne students or Swinburne Student Union office bearers within the previous two terms of office shall not be poll clerks.

## **Part IV – Annual Elections**

- 11) Annual elections shall be held at a time during an academic period when a large proportion of students are not between teaching periods or on mid semester break.
  - a) The timeline for each annual election shall be as follows:
    - i) The Returning Officer shall be appointed no later than the week that is 5 weeks prior to polling week;
    - ii) The notice of election shall be published at least 3 weeks prior to polling week;
    - iii) Nominations and ticket registration shall open at least 3 weeks prior to polling week;
- 12) The President and General Secretary no later than 30 August will present to Student Council for approval a motion, *inter alia*:

- a) for annual elections to take place, including recommendations for Returning Officer, budget and other administrative arrangements;
  - b) the time and places by which nominations of candidates for the elections shall be made; and
  - c) the times and places at which a poll shall, if necessary, be held.
- 13) The President will consult with relevant standing committees prior to finalising an election proposal in accordance with clause 12.
- 14) As far as is practical, all polling places shall be located at a venue which is central to the student population and is reasonably accessible to both Higher Ed and PAVE Division students.
- 15) The Returning Officer, in consultation with Campus Chairs, other Council members and staff shall determine the times which polling booths at each campus shall be open. Polling booths may be open at different times on different campuses, and may include an hour in which polling is closed each day, subject to Council direction and clause 64 of the Constitution.

### **Part V – By-Elections**

- 16) By-elections shall be held in an academic period when a large proportion of students are likely to be attending classes on campus.
- 17) These regulations shall apply equally to annual elections and by-elections with the following exceptions:
- a) The timeline for by-elections shall be as follows:
    - i) The Returning Officer shall be appointed no later than the week that is 4 weeks prior to polling week;
    - ii) The notice of election shall be published at least 3 weeks prior to polling week;
    - iii) Nominations and ticket registration shall open at least 2 weeks prior to polling week;
  - b) For by-elections, the part of clause 56 concerning SSU staff shall not apply, notwithstanding that SSU representatives and other students should not have access to ballot papers or boxes at any time.

### **Part VI – Notification of Election**

- 18) The Returning Officer shall by notice publish the fact that an election is to be held and call for nominations, and shall on such notice set forth –
- a) the times and places the President and/or General Secretary have determined pursuant to clauses 12, 14, 15 and 30;
  - b) how nominations can be made;
  - c) how tickets can be registered;
  - d) information on where to find ‘Part XII - Electoral Conduct’ of this Schedule; and
  - e) any other information approved by the Returning Officer.

- 19) The notice referred to in clause 18 shall be published by being displayed on Student Union noticeboards - except where the council determines that the Annual election will be a postal election under clause 60(5) of the constitution - from the publishing of the notice of election and for the duration of nomination and ticket registration periods, and copies thereof shall be published in the Student Union newspaper, if any, the Student Union website, social media, an email to financial members, making all reasonable attempts to have the information published by Swinburne University of Technology through its communication channels, and such other places as the Returning Officer deems appropriate.
- 20) No candidate may nominate for or simultaneously hold more than one position per Student Union body. Candidates may nominate and simultaneously hold a position on Council as well as SUPA, SISA, Media Committee or any other committee up for election.
- 21) As per the SSU Constitution all currently enrolled Swinburne students will be eligible to vote in the elections. Students who have deferred are not considered as currently enrolled.

## **Part VII - Nominations**

- 22) Nomination of a candidate for election shall be made in writing in the form approved by and included as a schedule to these regulations.
- 23) Nomination forms shall be available from the Swinburne Student Union reception desk at the Hawthorn Campus, Student Union Website and at any other place designated by the Returning Officer.
- 24) In addition to any other information required by the Returning Officer, nomination forms must include provision for candidates to:
  - a) Indicate an email address and contact phone number for distribution to other candidates.
- 25) Each nominee shall require a financial member of the Student Union to nominate them, and a second financial member to second their nomination. A nominee may not nominate or second themselves for election.
- 26) At the time of close of nominations, the nominee must be qualified to vote at the election for which the nominee is a candidate.
- 27) PAVE students are eligible to nominate and vote for positions with the National Union of Students (NUS).
- 28) Where a nominee nominates for a campus based position, such as Campus Chair or for a Campus Committee, that campus must be the campus on which the majority of subjects are reasonably likely to be studied in the Teaching Period following the Teaching Period in which the election is held, or in the case of by-elections, for that Teaching Period. A prospective transfer of course shall not of itself be sufficient to satisfy the requirements of this clause without additional evidence that the university is likely to accept such a transfer.
- 29) Any student who has been convicted of a criminal offence where the necessary elements of that offence substantially involved SSU is not eligible to become a candidate in an election conducted under these regulations.
  - a) Any student who has had a civil judgement entered against them by a Victorian Court where SSU was named as a complainant is not eligible to become a candidate in an election conducted under these regulations.
- 30) Nominations shall be made to the Returning Officer;

- a) At the Hawthorn Campus by being left with an employee of the Union at the Student Union Office at the Hawthorn Campus. or,
- b) Via an electronic submission of the nomination form to the returning officer if the Student Union office at the Hawthorn Campus is closed to the public for any reason.

### **31) Receipt of Nominations**

- a) Nominees submitting a nomination must be issued with an official receipt at the time the nomination is submitted.
- b) The official receipt must include:
  - i) the time and day on which the nomination is submitted.
  - ii) the name and signature of the person issuing the receipt;
  - iii) the name and student number of the candidate; and
  - iv) the position nominated for.
  - v) A stamp unique to the Union as determined by the Returning Officer.
- c) A separate receipt shall be issued for each position nominated for.
- d) It is the nominee's responsibility to ensure that a receipt is correctly filled out. If the information on the receipt is incorrect the nominee must immediately advise the issuing officer and ensure that any inaccuracies are corrected.

### **32) Validity of Nominations**

- a) The Returning Officer shall determine the validity of nominations within one day of the close of nominations as far as is practical.
- b) Where it is possible the Returning Officer shall check Swinburne records to ensure that all nominations received are genuine and in order. Where it is not possible for the Returning Officer to check Swinburne records by way of the electoral role nominees must supply a valid student identification card and/or documentation from the University confirming they are a currently enrolled student.
  - i) Nominees for all positions except for NUS Delegate must be financial members of the SSU unless there is no financial membership scheme in place.
  - ii) Nominees for the positions of President, and General Secretary must have been enrolled at Swinburne University of Technology for at least one contiguous Teaching Period within the previous two Teaching Periods.
- c) Nominations shall be rejected if submitted past the time and date specified by the Returning Officer as the close of nominations in accordance with clauses 12 and 30.
- d) Nominations shall be rejected if not delivered to a location approved by the Returning Officer in accordance with clauses 12 and 30.
- e) Nominations shall be rejected if they do not comply with the provisions of these regulations, or the Constitution, excepting that the Returning Officer may accept any nomination where the nominee's intention is, in the Returning Officer's opinion, in whole or part clear.

- f)** In applying these regulations the Returning Officer shall be the sole judge of whether a nomination is valid, sub-clauses 32 (c) and 32 (d) notwithstanding.
- g)** A nominee may object to the decision of the Returning Officer and has two days to supply further evidence and/or proof that they are eligible to nominate. The Returning Officer must consider any evidence and/or proof and make a determination within twenty four hours. No further objection or appeal shall be accepted by the Returning Officer once they make this final determination.
- 33)** Any eligible voter may, by appointment with the Returning Officer, inspect a nomination after the close of nominations. Nominations may only be viewed in the presence of the Returning Officer and notes, photocopies or photographs of the nominations may not be taken. Nominations shall not be available for inspection prior to determination of the validity of nominations by the Returning Officer pursuant to sub-clause 32 (a).
- 34)** A candidate may, at any time before the commencement of the count of the ballot for which they are a candidate, withdraw from the election by the submission of a withdrawal form as approved by and included as a schedule to these regulations, signed by the candidate, to the Returning Officer, who shall then proceed as if such nomination has not been made.
- 35)** Where, prior to the declaration of the poll, it becomes known that a candidate has ceased to be eligible to hold the position for which they are running the Returning Officer shall proceed as if that nomination had not been made.
- 36)** Where a candidate is disqualified from an election as a result of an authorised decision of the Returning Officer or the Appeals Committee under this schedule, votes shall be recounted for that position as if that nomination had not been made. If a declaration of the poll has already been made the original declaration for this position shall become invalid and an amended result shall be declared in accordance with this clause.
- 37)** If the number of candidates does not exceed the number of persons to be elected, the Returning Officer shall by notice published on Student Union Noticeboards and as soon as possible in the Student Union newspaper, if any, the Student Union website, social media, an email to financial members, making all reasonable attempts to have the information published by Swinburne University of Technology through its communication channels, and such other places as the Returning Officer deems appropriate, declare such candidates duly elected.
- 38)** If the number of candidates exceeds the number of members to be elected there shall be a poll.
- 39)** Candidates may choose to organise together under a common banner (ticket).
- 40)** Ticket registration shall be in a form as approved by and included as a schedule to these regulations, and must:

  - a)** Include the full name, student number and contact details of the candidate to be the authorising officer; and
  - b)** Be supported by 30 Financial Members of the Swinburne Student Union, who have provided their full name, student number and signed the form.
- 41)** For the purposes of clause 40) b):

  - a)** A financial member must not be a signatory for more than one ticket registration; and
  - b)** If a member has supported two or more ticket registrations, their support must not count for any of the ticket registrations.

- 42) Acceptance of ticket registration or a particular ticket name is up to the discretion of the Returning Officer.
- a) Ticket names cannot be misleading, deceptive or offensive.
  - b) Ticket names may not exceed five (5) words.
  - c) No candidates may register a ticket named 'independent' or a variant thereof.
  - d) If any ticket wishes to register a ticket name that is the same or substantially similar to the name of a ticket used in the last three calendar years inclusive of the current year, then the student who is registering the ticket must be or have the written permission of the most recent registering officer of the ticket.
  - e) If any ticket wants to register a ticket name of any or a substantially similar name of any club, body or society at Swinburne University, the registering officer must be or provide written permission of the president of that club, body or society to the Returning Officer.
- 43) As soon as practicable after the receipt of a ticket registration, the returning officer must:
- a) Verify that the ticket complies with clause 42; and
  - b) Notify the authorised officer whether their ticket has been accepted or rejected.
- 44) A group of candidates may apply to be set out as a ticket by completing and submitting an application in the form as approved by and included as a schedule to these regulations.
- 45) An application to be set out as a ticket must include a minimum number of candidates for positions being elected that is:
- a) At least 10 candidates for positions on the Council; except
  - b) Where a ticket only includes candidates for standing committees as set out in Part 11 of the Constitution - in which case the number of candidates for each committee must be equal to or greater than half of the total positions to be elected for that committee.
- 46) In the case that one or more candidates on a ticket withdraw or are declared ineligible to stand as candidates, then the ticket remains valid, except where the withdrawal or ineligibility to run of candidates reduces the number of candidates on that ticket to below the minimums as set out in clause 45.
- 47) If a ticket is invalid for reason of not meeting the minimum number of candidates set out in part 45 then the candidates who applied to be set out on that ticket must appear on the ballot paper in the same way as individual candidates.
- 48) If an application is not submitted, the candidates must appear on the ballot paper in the same way as individual candidates.
- 49) An authorised officer may submit a statement of distribution of preferences for their ticket by submitting the statement in the form prescribed by the returning officer.

## **Part VIII – Advice to Candidates**

- 50) Within three (3) days of the close of nominations the Returning Officer shall email to all valid candidates and publish on the SSU website:
- a) A copy of the SSU Constitution
  - b) A copy of these Regulations



- c) Contact details for the Returning Officer, including email and phone number
  - d) The preferred format and procedure for lodging objections and appeals, if any
  - e) The procedure for nominating scrutineers and the qualifications required of scrutineers, if any
  - f) The time and place at which ballots will be counted
  - g) The time and place at which it is intended that the poll will be declared
  - h) The name of all other candidates standing for election and the position/s for which they are standing.
  - i) Any other information deemed appropriate by the Returning Officer.
  - j) A copy of the position description/s.
- 51) All mail to candidates shall be sent to the email address listed on that candidate's nomination form.
- 52) Within one (1) day of ticket registration closing the Returning Officer shall e-mail to all valid candidates, publish on the SSU website and place on Student Union Noticeboards and such other places as the Returning officer deems appropriate, the list of tickets registered in addition to the candidates within each ticket, the positions of which they are candidates and any other information deemed appropriate by the Returning Officer.

## **Part IX – Support for Candidates**

- 53) Candidate Statements
- a) A statement by and photograph of each candidate shall be published in a Student Union publication, if any, and on the SSU Website prior to the start of polling;
  - b) Candidate statements and photographs shall be provided at each polling place or, in the case an electronic ballot for online student representatives, accompanying the electronic ballot communication;
  - c) Candidate statements shall not exceed 600 words in length.
- 54) A statement by each ticket shall be published in a Student Union publication, if any, and on the SSU Website prior to the start of polling; provided that they shall not exceed 800 words in length provided further that they have been handed to the Returning Officer on or before ticket registration closes but not before the ticket for which the statement is made has been registered.
- 55) Council may devise additional means of acquainting voters with the policies of candidates.
- 56) The Returning Officer may devise and implement additional means of encouraging participation in the electoral process and promoting the elections.

## **Part X - Voting**

- 57) Voting shall be by secret ballot.
- 58) The ballot paper shall be in the form of a booklet.
- 59) The cover page of the booklet must:

- a) List each ticket that has completed a valid application to be set out as a ticket; and
  - b) Provide instructions that give effect to the method of casting a ticket vote as at regulation 67) a).
- 60)** The following pages of the booklet must:
- a) Be separately segmented for each position or standing committee;
  - b) List the candidates (and ticket if applicable) for each position in that corresponding segment for that position; and
  - c) Provide instructions that give effect to the method of casting candidate votes as at regulation 67) b).
- 61)** Each page following the cover page may contain more than one segment except that there must be a whole page for the positions of NUS Delegates which shall be the final page in the booklet.
- 62)** Where a candidate commonly goes by a variation of their name listed in their student enrolment record the Returning Officer may approve an alternative if that alternative is common and reasonable. Examples of common variations might include use of a second name as given name (eg F. Walter Mitty), or common abbreviations of given names (eg Robert/Rob), or names that are culturally or linguistically appropriate to students from different backgrounds. For the purpose of this clause nicknames shall not be accepted.
- 63)** The Returning Officer shall by lot determine the order of the candidates name on the ballot paper.
- 64)** Elections must use the optional preferential proportional representation method of election.
- 65)** A Voter may cast their vote by:
- a) Placing the number 1 against the name of a ticket of first preference and consecutively higher numbers against the name of as many other tickets of lower preference in order as they wish on the cover page of the ballot booklet; or
  - b) Placing the number 1 against the name of the candidate of first preference for each position to be elected and consecutively higher numbers against the names of as many other candidates of lower preference in order as they wish.
- 66)** For the purpose of regulation 67) a):
- a) The number 1 against the name of a ticket; or
  - b) A tick against the name of a ticket where there is no number 1 against the name of another ticket; or
  - c) A cross against the name of a ticket where there is no number 1 against the name of another ticket,
  - d) Indicates preference for that ticket ahead of all other tickets.
- 67)** For the purpose of regulation 67) b):
- a) A number against the name of a candidate indicates a preference for that candidate ahead of all candidates with higher numbers or no number against their name;
  - b) A vote is formal even if:

- i) The lowest number is not 1;
  - ii) The numbers are not consecutive or;
  - iii) Numbers are repeated.
  - iv) A vote is considered formal until the voters intention becomes unclear;
  - v) A cross against the name of a candidate where there is no number 1 or tick against the name of another candidate is to be taken as the number 1;
  - vi) A tick against the name of a candidate where there is no number 1 against the name of another candidate is to be taken to be the number 1; and
  - vii) A letter against the name of a candidate indicates a preference for that candidate ahead of all candidates with alphabetically subsequent letters or no letters against their name.
- 68)** A voter who has voted for a ticket in accordance with regulation 67) a) is deemed to have voted as if they had placed the number 1 against the name of the candidate on the ticket and consecutive higher numbers against the names of other candidates on the ticket in order, in accordance with the application to be set out as a ticket.
- 69)** If a group of candidates have lodged a statement under regulation 49), voters who have voted for that ticket are deemed to have voted for other candidates in the election in accordance with the statement.
- 70)** A voter who has voted in accordance with both regulations 67) a) and 67) b) is deemed to have voted in accordance with regulation 67) a) and not regulation 67) b).
- 71) Ballot Handling**
- a) The Poll Clerk shall initial every ballot paper given to a voter.
  - b) The Poll Clerk shall record on a roll or by such other means as the Returning Officer determines the name of each voter.
  - c) If a voter spoils his or her ballot paper he or she may vote again provided that he or she surrenders his or her spoilt ballot paper to the Poll Clerk, who shall write 'spoilt' over such spoilt ballot paper.
- 72)** All ballot papers (including spoilt ones) shall be placed in a locked ballot box at the polling place. No person shall open the ballot box until after the close of voting.
- 73)** At the end of each session's voting, ballot papers, ballot boxes and roll or other record of voters' names shall be locked in a secure location as approved by the Returning Officer. The ballot boxes are not at any time to be left with or be accessible to SUT students, SSU staff or anyone who has an interest in the outcome of the elections with exception to the Returning Officer and any Assistant Returning Officer/s. The Returning Officer is responsible for the safe keeping of the ballot boxes.

## **Part XI - Counting of Votes**

- 74)** Votes shall be counted after the final close of voting by the Returning Officer with the assistance of such other persons as may be appointed by the Returning Officer for the purpose.
- 75)** The counting of ballots shall begin as soon as practical following the close of polling, but no later than the next working day.

**76) Scrutineers**

- a) Each candidate may appoint one scrutineer to be present at the count.
- b) Scrutineer appointments shall be written in a form specified by the Returning Officer.
- c) The Returning Officer has the right to exclude any scrutineer who, in their opinion, is behaving in a way that may compromise the integrity of the count or the electoral process. There shall be no right of appeal against any decision by the Returning Officer to exclude a scrutineer from the count.
- d) Anyone may be appointed as a scrutineer, notwithstanding regulation 78) c).

**77)** Neither the Returning Officer, nor any scrutineer, nor or any other person shall in any way whatsoever directly or indirectly divulge or disclose or aid in divulging or disclosing the vote of any voter.

**78)** The Returning Officer shall be the sole judge of whether any ballot paper is not acceptable and shall accept a ballot paper on which the voter's intention is, in the Returning Officer's opinion, in whole or part clear.

**79) Tied Results**

- a) When a result is tied in the first instance there shall be a recount.
- b) Where the ballot remains tied following a recount the Returning Officer will call for a by-election where only the tied candidates are able to nominate.
- c) Where the by-election also produces a tie, the Returning Officer determine the result by the same method used to determine ballot order.

**80)** Votes must be counted in accordance with the following procedure:

- a) Each ballot paper must first be given the value of 1;
- b) The value of each ballot paper must be allocated to the continuing candidate against whose name appears the lowest number on the ballot paper;
- c) A ballot paper which does not show a valid preference for at least one continuing candidate is exhausted and may not be allocated further
- d) A quota must be calculated at each stage of counting by dividing the total value of ballot papers allocated to continuing candidates by one more than the number of positions remaining to be filled and rounding up the answer so obtained in the sixth decimal place;
- e) If at any stage a continuing candidate is allocated a value in excess of the quota, that candidate must be declared elected and each ballot paper allocated to that candidate must be given a new value obtained by multiplying its current value by the candidates transfer value; and
- f) If at any stage of counting no continuing candidate is allocated a value in excess of quota, the candidate with the lowest value must be eliminated. If there are two or more candidates with an equal value and no candidate has a lower value at an earlier stage of counting the returning officer must determine by lot which of these candidates is to be eliminated.

**81)** The procedure in regulation 82) must be repeated in order until the number of positions to be filled is filled.

**82) Recounts**

- a) the Returning Officer shall recount the votes for any position where, in their opinion, there is a possibility that a recount may alter the result.
  - b) A candidate or scrutineer may request a recount in writing prior to the declaration of the poll. Except as specified in clause 66 (c), the Returning Officer is not obliged to accept a request for a recount.
  - c) On request, a recount shall be automatically granted where the difference between the two leading candidates is less than 15 votes or 2% of total votes cast for that position, whichever is greater.
  - d) Unless under exceptional circumstances, as determined by the Returning Officer, no more than one recount will be allowed for any position.
- 83) As soon as the counting of votes is concluded the Returning Officer shall declare the election.
- 84) Notice of election results shall be published:
- a) Immediately by notice published in the Student Union Offices
  - b) by notice published in the Student Union newspaper, if any, as soon as possible;
  - c) by notice published on Student Union Noticeboards no later than the next day; and
  - d) by letter informing the candidate/s of the result stating the number of votes received at each stage of counting,
  - e) on the SSU websites and social media as soon as possible,
  - f) in an email sent to all members within 5 days of the election declaration.
  - g) in any means deemed appropriate by the Returning Officer.
- 85) The Returning Officer shall ensure that all publicity of the result includes the procedure for lodging objections, including contact details for the Returning Officer.

## **Part XII – Electoral Conduct**

- 86) No person shall in connection with any election;
- a) engage in electioneering or display posters within six meters distance, clearly marked, from the polling booth as determined by the Returning Officer;
  - b) record a vote which he or she is not entitled to record;
  - c) remove a ballot paper from the immediate vicinity of a polling booth, unless with permission of the Returning Officer;
  - d) interfere with any notice, except with the permission of the Returning Officer, which may be given if such notice infringes against this Schedule;
  - e) interfere with any ballot paper, ballot box, sheet of election names, nomination, or other things relating to the election;
  - f) engage in any dishonest, misleading or deceptive practice. Slander and defamation will be treated as extremely serious by the Returning Office;
  - g) in any other manner impede or attempt to impede the proper conduct of an election;

- h)** engage in any electioneering unless an enrolled student of Swinburne University of Technology;
  - i)** engage in any abusive or discriminatory behaviour towards any other person, whether involved in the election or otherwise;
  - j)** use any Swinburne Student Union resources for the purpose of any election not available for other Swinburne students which would otherwise advantage, disadvantage themselves or others in the election.
  - k)** pay any person to campaign in an election or offer any voter any form of inducement to cast or not cast a ballot in a particular way.
  - l)** Engage in behaviour aimed at decreasing participation in the election.
- 87)** No individual or ticket shall, in connection with any election, use paid advertising to promote their ticket, individual candidates, or any other form of election communications. Prohibited paid advertising includes but is not limited to TV or radio advertising, billboards, sponsored content on social media platforms, and paid content in print or online magazines.
- 88)** If a student is employed in a permanent or fixed term role by the Student Union and nominates as a candidate the student must cease employment for the entire election period even if they have been declared elected unopposed.
- 89)** Candidates shall comply with any reasonable request or direction of the Returning Officer during the course of an election.
- 90)** Election Material  
Notwithstanding the other provisions of this Part:
- a)** Election material shall not be libellous or defamatory.
  - b)** Election material must not be produced in such a way as to cause confusion or so as to deliberately mislead voters into incorrectly attributing the material to any other individual, group or organisation.
  - c)** Election material must prominently identify the candidate or ticket for whom the material is produced.
  - d)** Authorisation

    - i)** All election material must, in addition to what is required by subclause 75 (c), include the words “Authorised by:” followed by the name of the candidate on whose behalf the material has been produced, their primary campus, the position for which they are running and their course of study.
    - ii)** Election material shall not be authorised by any individual other than the candidate for whom the material is produced, and must not be distributed on behalf of that candidate without their explicit knowledge and endorsement.
- 91)** Neither the Swinburne Student Union Inc. nor the Returning Officer indemnifies any person against liability for defamation in an election.

## **Part XIII - Objections**

- 92)** Submission of Objections

- a) An eligible voter or candidate may submit an objection under this clause where they are of the opinion that;
  - i) this schedule has not been implemented as required; or
  - ii) a candidate or agent of a candidate has acted in breach of this schedule; or
  - iii) the Returning Officer or other polling official has not acted in good faith.
- b) Objections should be submitted as soon as possible but no later than three (3) days following the day on which an objector becomes aware of an alleged infraction and, in any case, no later than three (3) days following declaration of the poll.
- c) Objections must be in writing, delivered to the Returning Officer either directly, by email or by facsimile, and in a form specified by the Returning Officer in the advice to candidates under clause 40.
- d) The objection shall state the facts and grounds of objection and shall ask for some specific remedial action to secure justice and equity.

### 93) Hearing of the Objection

- a) The Returning Officer shall as soon as possible hear the parties to the objection as well as any other persons he or she thinks fit, and in determining the objection the Returning Officer shall be guided by good conscience and the substantial merits of the case, without regard to legal forms or technicalities, except as regards the mandatory provisions of this Schedule.
- b) Where the Returning Officer is satisfied that a *prima facie* case has been made out that an infringement against this Schedule has occurred he or she shall attempt to rectify the situation in accordance with 'Part XIV – Infractions'.

94) The Returning Officer shall attempt to finalise objections within one day of the objection being received.

### 95) Appeals

- a) A person aggrieved by a decision of the Returning Officer in upholding or dismissing an objection under clause 77, may lodge a notice of appeal with an independent chair (who is to not be a staff or student member of the Union) as nominated by Union Council.
- b) A notice of appeal shall be in writing, shall set forth the grounds of the appeal and shall be lodged no later than three (3) days following the day on which determination of the objection has been advised to the objector and subject of the objection, if any.
- c) Upon receipt of a notice of appeal the independent chair shall constitute an Appeal Committee to hear and determine the appeal or objection within five (5) days of notification, where practical.
- d) The Independent Chair will draw together the Appeal Committee which will consist of at least three (3) members and can be drawn from:
  - i) A member of the University staff
  - ii) An academic staff member of the University
  - iii) An external member of the University
- e) A person shall not be appointed to the Appeal Committee unless the person is:

- i) associated in some way with Swinburne, however they must not be a student or Union staff member;
  - ii) responsible; and
  - iii) disinterested.
- f) Until an appeal has been determined by the Appeal Committee no action shall be taken which may prejudice the appeal.
- g) Clause 79 shall apply as far as possible to the hearing of the appeal or objection by the Appeal Committee as if any reference in these provisions to the Returning Officer were a reference to the Appeal Committee.
- h) The Appeal Committee may delegate to the Returning Officer power to do anything necessary for the purpose of giving effect to the decision of the Appeal Committee.
- i) The Appeal Committee will determine and notify each appellant of the outcome of their appeal, within five (5) days of the hearing which heard the case.

#### **Part XIV - Infractions**

- 96) Unless otherwise specified, references in this clause to the Returning Officer shall apply equally to the Appeals Committee.
- 97) Where the Returning Officer is satisfied that a *prima facie* case has been made that an infringement against this Schedule has occurred he or she shall specify in writing the steps he or she shall take to rectify the infraction and mail or hand deliver a copy to any candidate/s who are the subject of the decision as well as the objector, if any.
- 98) In rectifying an infraction or breach against this schedule the Returning Officer may
  - a) deem the infraction trivial or insignificant and take no action;
  - b) require that a candidate:
    - i) retract or withdraw a statement or publication; or
    - ii) cease a particular behaviour or action; or
    - iii) issue an apology; or
  - c) refer this matter to Council for consideration of whether any disciplinary action should be taken;
  - d) disqualify any candidate;
  - e) declare that any person who has been declared elected was not duly elected;
  - f) declare the election absolutely void.
- 99) Any action under this part shall be, as far as possible and reasonable, proportional to the infraction and ensure that fairness of the electoral process is preserved.
- 100) Where the Returning Officer takes action under clause 82 (d), (e) and (f) that decision shall not be implemented until the timeline for appealing that decision has expired, or, where an appeal against that decision is lodged, until the Appeals Committee has made a determination on the appeal.



- 101) Where taking action under 82 (a), (b) or (c) to rectify any imbalance created by an infraction the Returning Officer shall make a judgement based on the balance of probabilities that a candidate has been advantaged or disadvantaged, and may not necessarily find that opposing candidates knowingly encouraged or were involved in the infraction.
- 102) Where taking action under 81 (d), (e) or (f) the Returning Officer must assure themselves beyond reasonable doubt that the candidate/s against whom the action is to be taken either encouraged or were knowingly involved in the infraction.
- 103) Where a previous directive under 'Part XIV – Infractions' has not been complied with in a reasonable time, or an offense is repeated, the Returning Officer may escalate penalties as appropriate until such time as the determination is complied with or repeated infractions cease.
- 104) Where an election has been declared absolutely void and a new election has been ordered, the Returning Officer may proceed as if the original election has been avoided, or may direct that only a poll shall be held again, clause 84 notwithstanding.
- 105) Lack of familiarity with, or understanding of, these regulations shall not be a defence to any infraction under or against these regulations.

## **Part XV - General**

- 106) The Returning Officer shall do and prescribe such things and matters of detail not inconsistent with this Schedule as are necessary for the efficient conduct of the election and are not provided for this by this Schedule.
- 107) Minor deviations from the provisions of the Schedule due to an error or accident, which in the opinion of the Returning Officer do not cause injustice to any candidate, shall not *ipso facto* invalidate any election.
- 108) Referenda shall be conducted in accordance with the provisions of this Schedule so far as they are applicable subject to any direction by the Council.
- 109) A full report shall be tabled by the Returning Officer to the SSU Council on each election, which will make reference to any irregularities or misconduct or any other outstanding issues.
- 110) A full report shall be tabled by the President to Council on each election, which will make reference to any irregularities or misconduct or any other outstanding issues.
- 111) The full report will contain all results from each election, including complaints, outcomes of complaints and count totals for each candidate, shall be kept within the Union for future reference, excluding personal details of the candidate/s.
- 112) To the extent of any inconsistency between these regulations and the NUS Constitution, Regulations or By-Laws, relating to the manner in which elections for delegates to the National Union of Students are conducted, the former shall prevail.

## **Part XVI – Postal Voting**

- 113) These regulations apply where the Student Council has resolved that persons are genuinely unable to attend a polling booth and participate in the election & as such are granted a postal vote in accordance with Section 60 (5) of the Constitution.
- 114) Where the Student Council determines where persons are unable to attend a polling booth and are granted a postal vote, the Returning Officer has the power to require that persons register before a deadline set in accordance these regulations. The form or method shall be prescribed by the Returning Officer.

- 115)** The Returning Officer must verify the eligibility of each registered person against the relevant roll/s.
- 116)** As soon as possible after the close of nominations, the Returning Officer must send to the postal address of each member registered to vote:
- a)** Voting instructions;
  - b)** Ballot papers;
  - c)** a link to the SSU website which shall host authorised policy statements and how to votes;
  - d)** an envelope large enough to contain all ballot papers, with a declaration form printed on the outside; and
  - e)** a pre-addressed postage-paid return envelope.
- 117)** The Returning Officer must keep a list of members to whom postal ballots have been sent.
- 118)** Postal ballots:
- a)** received by the Returning Officer before the opening of polling shall still be counted;
  - b)** must be received by the Returning Officer within three business days of the closing of polling; and
  - c)** received by the Returning Officer later than three business days after the closing of polling must be destroyed.
- 119)** The Returning Officer will wait at least three business days after the close of polling before proceeding to count the ballot.
- 120)** Postal ballots which are returned by any method other than by delivery to the address listed on the return envelope must be destroyed.