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JQ: 18/18

15 February 2018

Christine Hibberd
Registered Organisation Commission
GPO Box 2983
Melbourne VIC 3001
regorgs@roc.gov.au


Post – Election report of the Australian Education Commission: E2017/154

Dear Christine

Enclosed please find the Union's response to the Post – Election report of the Australian Education Commission: E2017/154, and the relevant extract from the report.

I declare the AEC Post-Election report and the Union's response is available on the Union's website and a copy will be provided to members if requested.

Yours sincerely



John Quessy
Secretary

12 February 2018

JQ:12/18

Mr Ishtiaq Ahmed
Returning Officer
Australian Electoral Commission
PO Box 496
HAYMARKET NSW 1240

Dear Mr Ahmed

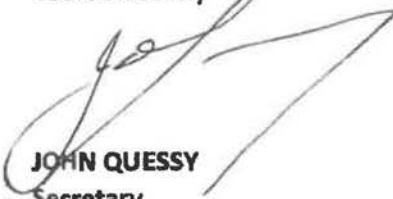
Your Ref: E2017-154

I write in response to the Post Election Report provided on 17 January 2018 in respect of the above-referenced election and consistent with the Union's obligations pursuant to s198 of the *Fair Work (Registered Organisations) Act 2009*.

The following constitutes our response:

1. The AEC conducted a recent election (E2016/106) for the Union, utilising the same rules as were used in this instance and issued a report (dated 21 November 2016) but did not raise any of the matters raised in this report.
2. In issuing its reports, in addition to obligations arising from legislation, the AEC should be mindful of the fact that, consistent with Rule 17(c) of the IEU's rules, not all elections for offices in the Union will be conducted by the AEC. The Union's rules are formulated to facilitate both elections conducted by the AEC and those conducted by the branch itself.
3. Aspects of Rule 17(c) have been varied to resolve issues raised in this electoral report and in other reports received by the Union's branches.
4. The recommendations in respect of Rules 17(s) and 17(t) are noted and were referred to the IEUA Federal Executive for consideration at its 8 February 2018 meeting. The Executive resolved to undertake a review of Rule 17 during 2018.

Yours sincerely



JOHN QUESSY
Secretary



24 January 2018

Ms Helen Gregory
Independent Education Union of Australia-New South Wales/Australian Capital Territory Branch
ieu@ieu.asn.au

Dear Ms Gregory,

cc: Mr John Quessy, New South Wales/Australian Capital Territory Branch, industrial@ieu.asn.au
Federal Secretary, ieu@ieu.org.au

Reminder of actions required when persons elected to office

The Australian Electoral Commission has provided the Registered Organisations Commission (the ROC) a declaration of results for the election of contested office for New South Wales/Australian Capital Territory Branch [E2017/154]. 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 293K of the *Fair Work (Registered Organisations) Act 2009* (the RO Act) requires 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 are provided for in the RO Act.

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-New South Wales/Australian Capital Territory Branch must notify the Commission of these changes. In particular, please advise:

1. Person(s) who have ceased to hold office:
 - the name of the office vacated;
 - the date of the change of office holder; and
 - the name of the person vacating the office.

2. Person(s) who have commenced to hold office:
 - the name of the office now held;
 - the date of the change of office holder;
 - the name of the person now holding the office;

- the postal address of the person (generally the postal address of the organisation); and
- the occupation of the person now holding the office.

The notification must include a declaration by the Secretary (or other prescribed officer) that the information is a correct statement of the changes made. A template notification of changes, which may assist you, is attached. If any change does not apply until a date in the future, you do not 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

Christine Hibberd
Registered Organisations Commission

NOTIFICATION OF CHANGES TO RECORDS (Changes to Records in the Annual Return) required to be kept in accordance with section 230 *Fair Work (Registered Organisations) Act 2009* and regulation 147 *Fair Work (Registered Organisations) Regulations 2009*

I, [NAME], being the [OFFICER] of the [ORGANISATION NAME], declare the following:

1. I am authorised to make this declaration.
2. The following is a correct statement of the changes made to the information contained in the records required to be kept by the organisation in accordance with s.230(1)(b), (c), and (d) of the *Fair Work (Registered Organisations) Act 2009*:

[delete all that do not apply]

- On [DATE] the address of the organisation changed to [STREET ADDRESS].¹
- On [DATE] the name and/or address of a branch[es] of the organisation changed to:²
 1. *[include OLD name and address and NEW name and address of every branch that has changed]*
 2. ...
- A list of changes to offices and the names, postal addresses and occupations of persons holding those offices is attached to this declaration at Annexure A and forms part of this declaration.
- On [DATE] the following branch[es]:³
 - COMMENCED operation:
 1. [include name of each new branch]
 2. ...
 - CEASED operation:
 1. [include name of each closed branch]

¹ s.230(1)(d); reg.147(d)

² s.230(1)(d); reg.147(a) & (d)

³ s.230(1)(d); reg.147(b) & (c)

2. ...

Signed: [SECRETARY OR OTHER AUTHORISED OFFICER]

Dated: [DATE]

*[PLEASE NOTE: This declaration must be submitted to the Registered Organisations Commission within **35 days** of the change. It can be submitted to regorgs@roc.gov.au.]*

ANNEXURE A

- Changes to Offices and Office Holders in the Organisation and its Branches [*insert as many pages as required*]:

Please note the 35 days begins at the earliest event (for instance when the officer retires) and an organisation may need to notify the events separately if the appointment or election process will take longer than 35 days.

| Branch | Date of Change | Name of Office that has changed | Name of <u>Outgoing</u> Office Holder | Name of <u>New</u> Office Holder | Postal Address of <u>New</u> Office Holder | Occupation of <u>New</u> Office Holder |
|-----------------|---|--|--|---|---|---|
| <i>National</i> | <i>1.1.2014</i> | <i>Secretary</i> | <i>Full Name</i> | <i>Full Name</i> | <i>c/- the Registered Organisation, postal address of Registered Organisation</i> | <i>Paid official</i> |
| | <i>25.12.2013</i> | <i>President</i> | <i>vacant</i> | <i>Full Name</i> | <i>As above</i> | <i>mechanic</i> |
| <i>...</i> | | | | | | |
| <i>NSW</i> | <i>1.1.2014 (resigned) 7.1.2014 (appointed)</i> | <i>President</i> | <i>Full Name</i> | <i>Full Name</i> | <i>c/- the Branch, postal address of the Branch</i> | <i>mechanic</i> |
| | | <i>Committee of Management Member</i> | <i>Full Name</i> | <i>Full Name</i> | <i>As above</i> | <i>mechanic</i> |
| | | <i>Treasurer</i> | <i>Full Name</i> | <i>vacant</i> | <i>vacant</i> | <i>vacant</i> |
| <i>...</i> | | | | | | |
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24 January 2018

Ms Helen Gregory
Independent Education Union of Australia-New South Wales/Australian
Capital Territory Branch
ieu@ieu.asn.au

Cc: Mr John Quessy, New South Wales/Australian Capital Territory Branch, industrial@ieu.asn.au
Federal Secretary, ieu@ieu.org.au

Dear Ms Gregory

Organisation must respond to the post-election report of the Australian Electoral Commission: E2017/154

On 17/01/2018 the Registered Organisations Commission (the ROC) received a post election report from the Australian Electoral Commission (AEC) for election E2017/154 dated 17/01/2018. The AEC will have also provided the report to the organisation under section 197 of the *Fair Work (Registered Organisations) Act 2009* (the RO Act).

The report identifies rules that were difficult to interpret or apply, in particular rules 17(c), 17(s), and 17(t). 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 ROC 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 ROC for assistance by email to regorgs@roc.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 ROC is NOT able to provide advice and assistance regarding draft alterations or the processes required to make the alterations. Rule alterations remain a function of the Fair Work Commission.

Yours faithfully

Christine Hibberd

Registered Organisations Commission

17 January 2018

Post-election Report

**Independent Education Union of Australia NSW/ACT Branch
E2017/154**

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Election(s) Covered in this Report

Election Decision No/s: E2017/154

Rules

Rules used for the election: 130N: Incorporates alterations of 9/11/2016 [R2016/207]
(replaces rulebook dated 6/10/2016 [R2016/188])

Rules difficult to apply/interpret: Rule 17(c) is difficult to apply as the Returning Officer is appointed by Australian Electoral Commission to conduct the election after receiving the Order from Registered Organisations Commission. It is recommended that this issue be resolved.

Rule 17(s) is difficult to apply. It is recommended that the Rules incorporate the AEC's Model Rules Guide (http://www.aec.gov.au/About_AEC/AEC_Services/Industrial_Elections/files/model-rules-nov2010.pdf), refer to paragraphs 16 & 17.

Rule 17(t), delete the reference to the 'registered office'. Counting of ballot papers are conducted at AEC offices to ensure security of all ballot materials. It is recommended that the Rules incorporate the AEC's Model Rules Guide, refer to paragraphs 16 and 17. Further, 'opened in the presence of the Scrutineers and counting shall then proceed' is not always practicable. The Returning Officer will commence the count at the allotted time as soon as the ballot closes, regardless of the presence of scrutineers.

Model Rule reference: Refer to AEC Model Rules Guide as indicated above.

Roll of Voters

Total number of voters on the Roll: 29152

Number of apparent workplace addresses: 131

Number of non-current address: 131

Other matters pertaining to the roll of voters: Nil

Irregularities

Details of written allegations of irregularities,
and action taken by AEC: None

Other irregularities identified, and action taken: None

Other Matters

None

Attachments

Declaration of results for Contested Offices.

Ishtiaq Ahmed
Returning Officer
17 January 2018

**Independent Education Union of Australia –
New South Wales / Australian Capital Territory Branch**

Casual Vacancy Election - E2017-154

Declaration of Results for Contested Offices

E2017-154

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.

NSW /ACT Branch

| | |
|---|--------------|
| Total number of names on the roll of voters | 29152 |
| Ballot papers issued | 29152 |
| Replacement ballot papers issued | 1 |
| Total Ballot Papers Issued | 29153 |
| Ballot papers / envelopes returned for scrutiny | 4040 |
| Less ballot papers / envelopes rejected at preliminary scrutiny | 229 |
| Total Ballot Papers Admitted to Scrutiny | 3811 |
| Percentage of ballot papers returned to number issued | 13% |
| Ballot papers returned as unclaimed mail | 133 |
| Ballot papers not returned | 24980 |

General Executive Member

| <u>Candidates</u> | <u>Votes</u> |
|------------------------|--------------|
| COOPER, Vincent Edward | 1215 |
| GOSS, Simon | 1586 |
| HARVEY, Patricia Mary | 423 |
| MOKACHAR, Zeinab | 492 |
| TITA, Nevine | 82 |
| | |
| Total votes | 3811 |
| Formal ballot papers | 3798 |
| Informal ballot papers | 13 |

I declare Simon Goss elected.



Ishtiaq Ahmed
Returning Officer
Australian Electoral Commission
19 October 2017



DECISION

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

**Independent Education Union of Australia-New South Wales/Australian
Capital Territory Branch**
(E2017/154)

MR ENRIGHT

MELBOURNE, 27 JUNE 2017

Arrangement for conduct of election.

[1] On 2 June 2017 the New South Wales/Australian Capital Territory Branch of the Independent Education Union of Australia lodged with the Registered Organisations Commission prescribed information for an election to fill a casual vacancy in the following office for the remainder of the term:

General Executive Member

[2] I am satisfied that an election for the abovenamed office 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 COMMISSIONER

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PRESCRIBED INFORMATION FOR ELECTIONS in accordance with Section 189 *Fair Work (Registered Organisations) Act 2009* and Regulation 138 *Fair Work (Registered Organisations) Regulations 2009*

I, John Quessy, being the Secretary of the Independent Education Union of Australia, NSW/ACT Branch, make the following statement:

1. I am authorised to sign this statement containing prescribed information for NSW/ACT Branch of the Independent Education Union of Australia.
2. The following information is lodged under subsection 189(1) of the Fair Work (Registered Organisations) Act 2009 (the RO Act).
3. The elections that are required are set out in the table in Annexure A.
4. The resignation letter is attached for the casual vacancy.
5. I note that advice of this resignation was previously advised to the Fair Work Commission on 5 April 2017 (see attached notification and receipt of notification).

Signed:



Dated:

2/6/17

[PLEASE NOTE: This statement should be lodged with the Registered Organisations Commission at least 2 months prior to nominations opening. It can be submitted to regorgs@roc.gov.au.]

ANNEXURE A

- Elections that are required:

| Branch | Name of Office | Number required | Voting System <i>Direct voting system; Collegiate electoral system</i> | Reason for Election <i>Scheduled; Casual vacancy; New office created; Insufficient nominations</i> | Electorate |
|-----------------------|--------------------------|-----------------|---|---|---|
| <i>NSW/ACT Branch</i> | <i>General Executive</i> | <i>1</i> | <i>Direct Voting System</i> | <i>Casual vacancy (the resignation is attached)</i> | <i>All members of NSW Branch (NSW/ACT Branch rule 10.4 & IEUA rule 17(a))</i> |
| | | | | | |
| | | | | | |

- Important dates:

| | Direct Voting System |
|------------------------------------|--|
| Nominations OPEN | <i>To be determined by the returning officer</i> |
| Nominations CLOSE | <i>To be determined by the returning officer</i> |
| Roll of Voters cut-off date | <i>7 days prior to nominations opening (IEUA rule 17(q))</i> |

Please note: that for insufficient nominations and casual vacancies, the date nominations open and close, unless specified in the rules, should be listed as ‘to be determined by the returning officer’. Casual vacancies must be accompanied by proof of resignation and attached to this statement.