

LA TROBE UNIVERSITY
COUNCIL (ELECTIONS) REGULATIONS 2016

The Council of La Trobe University makes these Regulations under the **Council (Elections) Statute 2016**.

PART 1—PRELIMINARY

1. Name

These Regulations are the **Council (Elections) Regulations 2016**.

2. Definitions

In these Regulations, unless the context otherwise requires—

ballot means a document, be it hard copy or in electronic form, by which each person eligible to vote may cast a vote in an election under these Regulations;

Disputed Returns Officer means the person appointed as such by the Vice-Chancellor under section 4;

Returning Officer, for an election, means the person appointed as such by the Vice-Chancellor under section 3;

student has the meaning given in the Act.

3. Appointment of Returning Officer

- (1) The Vice-Chancellor must appoint a person to act as the Returning Officer for each election of an elected member to the Council.
- (2) In making an appointment under subsection (1), the Vice-Chancellor may appoint a person as the Returning Officer if the Vice-Chancellor believes, on reasonable grounds, that the person has suitable skills and experience.
- (3) Despite subsection (2), the Vice-Chancellor may not appoint a person as Returning Officer for an election if the person is or was any of the following—
 - (a) the Disputed Returns Officer for the election;
 - (b) a candidate or voter in the election;

- (c) occupying or acting in the position of University Ombudsman at the time of the election;
- (d) a member of the Council at the time of the election.

4. Disputed Returns Officer

- (1) The Vice-Chancellor must appoint a person to act as the Disputed Returns Officer for each election of an elected member to the Council.
- (2) In making an appointment under subsection (1), the Vice-Chancellor may appoint a person as the Disputed Returns Officer if the Vice-Chancellor believes, on reasonable grounds, that the person has suitable skills and experience.
- (3) Despite subsection (2), the Vice-Chancellor may not appoint a person as Disputed Returns Officer for the election if the person is or was any of the following—
 - (a) the Returning Officer for the election;
 - (b) a candidate or voter in the election;
 - (c) occupying or acting in the position of University Ombudsman at the time of the election;
 - (d) a member of the Council at the time of the election.

5. Disqualifying factors applicable to candidates and voters

- (1) Despite anything to the contrary elsewhere in these Regulations, the following persons may not be nominated for or elected to a position on the Council—
 - (a) a member of the staff of the University who, at the time of the election, is suspended from work, with or without pay;
 - (b) a student who, at the time of the election, has had his or her enrolment suspended and has been excluded from the University for any length of time;
 - (c) a person who, at the time of the election, is serving a term of imprisonment, whether in Victoria, elsewhere in Australia or overseas;
 - (d) a person who, at the time of the election, is an insolvent under administration;

- (e) a person who is or ever has been disqualified from managing corporations under a law of any jurisdiction;
- (f) a person who is a member of a municipal council anywhere in Australia.

Note: see section 14 of the Act for further disqualifying factors regarding Council membership.

(2) Despite anything to the contrary elsewhere in these Regulations, the following persons may not vote in an election for an elected member of the Council—

- (a) a member of the staff of the University who, at the time of the election, is suspended from work, with or without pay;
 - (b) a student who, at the time of the election, has had his or her enrolment suspended and has been excluded from the University for any period of time;
 - (c) a person who, at the time of the election, is serving a term of imprisonment, whether in Victoria, elsewhere in Australia or overseas.
-

PART 2—ELECTIONS

Division 1—Member elected by and from the staff of the University

6. Eligibility for nomination as a candidate

- (1) A member of the staff of the University is eligible for nomination as a candidate for election to the Council as the elected staff member of the Council if the staff member—
 - (a) is employed by the University under a continuing or fixed term contract on at least a 0.5 full-time equivalent basis; and
 - (b) has been employed by the University under a continuing or fixed term contract on at least a 0.5 full-time equivalent basis for at least 12 consecutive months immediately prior to nomination.
- (2) Despite subsection (1) and without limiting anything contained in section 5(1), the following persons may not be nominated for or elected to a position on the Council—
 - (a) the Vice-Chancellor;
 - (b) the Senior Deputy Vice-Chancellor;
 - (c) the Deputy Vice-Chancellor (Research);
 - (d) the Vice-President (Administration);
 - (e) the Chief of Staff;
 - (f) the Chief Financial Officer;
 - (g) a Pro Vice-Chancellor.

7. Nominations

A staff member who is eligible for nomination as a candidate for election to the Council as the elected staff member of the Council may nominate himself or herself by filling in the form required for that purpose by the Returning Officer and by giving that form to the Returning Officer within the time set for the submission of such nominations by the Returning Officer.

8. Entitlement to vote in election of staff member

Without limiting anything contained in sections 5(2)(a) and (c), a

member of the staff of the University may vote an election for the elected staff member of the Council.

Division 2— Member elected by and from the students of the University

9. Eligibility for nomination as a candidate

- (1) Subject to subsection (2) but without limiting anything contained in section 5(1), a student is eligible for nomination as a candidate for election to the Council as the elected student member of Council if he or she is—
 - (a) at least 18 years of age; and
 - (b) if also employed by the University, is employed under a casual contract or a continuing or fixed-term contract on less than a 0.5 full-time equivalent basis.
- (2) If a student who is enrolled part-time is also employed by the University under a casual contract or a continuing or fixed-term contract that is at least on a 0.5 full-time equivalent basis, then—
 - (a) the student is not eligible for nomination as a candidate for election to the Council as the elected student member of Council; but
 - (b) is instead eligible for nomination as a candidate for election to the Council as the elected staff member of the Council.

10. Nominations

A student who is eligible for nomination as a candidate for election to the Council as the elected student member of the Council may nominate himself or herself by filling in the form required for that purpose by the Returning Officer and by giving that form to the Returning Officer within the time set for the submission of such nominations by the Returning Officer.

11. Entitlement to vote in election of student member

- (1) Subject to subsection (2) but without limiting anything contained in sections 5(2)(b) and (c), a student may vote in an election for the elected student member of the Council if he or she is at least 18 years of age.
- (2) If a student is also a member of the staff of the University, then—
 - (a) the student may not vote in an election for the elected student

member of the Council; but

- (b) may instead vote in an election for the elected staff member of the Council.

Division 3—General electoral provisions

12. Scrutineers

The Returning Officer may appoint one or more persons who are not candidates to act as scrutineers for an election.

13. Returning Officer to call for nominations

- (1) The Returning Officer must call for nominations of candidates by—
 - (a) in the case of an election of a staff member—e-mailing all persons eligible for nomination as a candidate in that election under Division 1; and
 - (b) in the case of an election of a student member—e-mailing all persons eligible for nomination as a candidate in that election under Division 2.
- (2) An e-mail under subsection (1) must—
 - (a) be sent to the University e-mail address of the intended recipient; and
 - (b) state that nominations close at midday on a date chosen by the Returning Officer, being a date that is at least 14 days after the date on which the e-mail is sent.

14. Sufficiency of nominations

- (1) If only one eligible person is nominated as a candidate in an election under Division 1 or Division 2, the nominated candidate must be declared to be elected by the Returning Officer.
- (2) If there are no candidates nominated in respect of an election to be held under Division 1 or Division 2, the Returning Officer must call for nominations once more until at least one eligible nomination is received, such call to be made in accordance with section 13.

15. Returning Officer to notify date etc. of election

- (1) Within 7 days after the closing date for the receipt of nominations specified by a Returning Officer under section 13(2)(b), if there is

more than one eligible candidate for an election under Division 1 or Division 2, the Returning Officer must—

- (a) fix the date on which the election is to be held; and
- (b) notify each eligible candidate and each person entitled to vote in the election informing him or her of—
 - (i) the nature, date and times of the election; and
 - (ii) the candidate profiles.
- (2) The date fixed under subsection (1) for an election must be a date that is at least 7 days from the date the notice referred to in subsection (1)(b) is sent.
- (3) The notice referred to in subsection (1)(b) may be sent by any means reasonably deemed reliable by the Returning Office, which may include being sent to the University e-mail address of each intended recipient.

16. Method for conduct of elections

- (1) The Returning Officer must, wherever possible, conduct an election under these Regulations by way of an electronic voting system which ensures the secrecy of the vote cast by the voter.
- (2) If, for reasons beyond the reasonable control of the University, it is not possible to conduct an election by an electronic voting system which ensures the secrecy of the vote cast by the voter, then the Returning Officer may conduct the election by way of a conventional paper-based secret ballot.

17. Format of ballots

- (1) Subject to subsection (2), a ballot used in an election conducted under this Part must be in a form approved by the Returning Officer.
- (2) The Returning Officer must set out the names of the candidates in an election on a ballot for that election in alphabetical order, based on each candidate's surname.

Division 4—Voting

18. One vote per person

A person who is entitled to vote at an election under these Regulations is only entitled to one vote.

19. Method of voting

- (1) A voter must complete his or her ballot by placing an “X” or other suitable mark as required by the form in the box opposite the name of 1 candidate.
- (2) After completing his or her ballot, a voter must lodge the ballot in accordance with the requirements of the method used to conduct that election.

20. Counting of votes

- (1) In an election under these Regulations, the votes are to be counted in accordance with the principles of first-past-the-post voting.
- (2) A Returning Officer must reject a ballot used in an election if it does not contain the figure “X” or other suitable mark as required by the form in the box opposite the name of one candidate.
- (3) If on the final count 2 or more candidates each have an equal number of votes, the result is to be determined by the drawing of lots by the Returning Officer in a manner determined by the Returning Officer.

Division 5—Declaration of election result

21. Returning Officer to declare election result

As soon as reasonably practicable after completion of the counting of all the votes in an election under these Regulations (and, if required, the drawing of lots), the Returning Officer must issue a statement on a website maintained by the University declaring the result of the election.

PART 3—DISPUTED RETURNS

22. Method of disputing elections

The validity of an election can only be disputed by means of a petition to the Disputed Returns Officer.

23. Who can dispute an election?

An election may be disputed by—

- (a) a candidate for the election in dispute; or
- (b) a person who was entitled to vote at the election in dispute.

24. What can be disputed?

A person who wishes to dispute an election may do so on one or more of the following grounds—

- (a) there was a defect or irregularity in the conduct the election which in turn had a material effect on the election result;
- (b) a person who was elected should not have been;
- (c) a person who was not elected should have been.

25. Requirements of petition

A petition must—

- (a) be in writing in the English language;
- (b) set out the facts relied on to dispute the election;
- (c) set out the decision sought from the Disputed Returns Officer;
- (d) be signed by the petitioner before two witnesses whose addresses and occupations are stated; and
- (e) be given to the Disputed Returns Officer within 14 days after the declaration of the outcome of the election in dispute.

26. Disputed Returns Officer to consider petition

- (1) The Disputed Returns Officer must consider a petition which complies with the requirements of section 25.

- (2) In considering a petition, the Disputed Returns Officer —
 - (a) must act fairly and according to the substantial merits of the petition;
 - (b) is bound by the rules of natural justice;
 - (c) is not bound by the rules of evidence or any practices or procedures applicable to courts of record; and
 - (d) must act with as little formality and technicality as the requirements of the Statute and these Regulations permit.
- (3) In considering a petition, the Disputed Returns Officer may conduct an open hearing or determine the matter solely on the basis of the petition and any written submissions received from any respondent.
- (4) If the Disputed Returns Officer considers a petition by way of an open hearing, then neither the petitioner nor the respondent is entitled to be represented by another person acting as advocate on behalf of the petitioner or respondent, regardless of whether the representative is legally qualified.
- (5) For the purposes of subsections (3) and (4), a person is a respondent if he or she is named in the petition as someone—
 - (a) whose conduct is alleged by the petitioner to have caused a defect or irregularity in the conduct the election which in turn had a material effect on the election result;
 - (c) who should, or should not (as the case requires), have been elected.

27. Powers of Disputed Returns Officer

- (1) The powers of the Disputed Returns Officer include the following—
 - (a) dismissing a petition;
 - (b) upholding a petition in whole or in part;
 - (c) declaring an election void;
 - (d) if a petition was brought on the ground that a person who was elected should not have been—declare that person not to have been elected;
 - (e) if a petition was brought on the ground that a person who was

not elected should have been—declare that person elected.

- (2) As soon as reasonably practicable after exercising any one or more of his or her powers under subsection (1), the Disputed Returns Officer must issue a statement on a website maintained by the University publicising his or her decision on the petition.
- (3) A decision of the Disputed Returns Officer is, as far as the power of the Council to make these Regulations permits, final.

28. Consequences of decisions of Disputed Returns Officer

- (1) If the Disputed Returns Officer declares that a person declared elected was not elected, that person ceases to be a member of the Council from the date determined by the Disputed Returns Officer and, unless subsection (2) or subsection (3) also applies, the person's position on Council is to be treated as an unfilled vacancy.
- (2) If the Disputed Returns Officer declares that a person not declared elected was elected, that person is declared to be elected from the date determined by the Disputed Returns Officer.
- (3) If the Disputed Returns Officer declares that an election is void, a re-election must be held in accordance with these Regulations and on the same electoral roll that was prepared for the purposes of the election that has been declared void.

PART 4—OTHER MATTERS

29. Terms of elected members

- (1) A person elected to the Council by and from the staff of the University shall hold office as an elected member of the Council for three years.
- (2) Subject to subsection (3), a person elected to the Council by and from the students of the University shall hold office as an elected member of the Council for one year.
- (3) The first person to be elected to the Council by and from the students of the University under these Regulations shall hold office as an elected member of the Council from the day on which they take up their office until the end of 2017.

Note:

The University expects to conduct the first elections under these Regulations at some point in the second half of 2016. For practical purposes, it is intended that the first person to be elected as the student member of the Council will serve for the remainder of 2016 and for the full year in 2017. Subsequent elections for the student member will then be conducted so that the term of office for the student member corresponds to the calendar year immediately following the year in which their election is held.

30. Training and support of elected members

- (1) The Vice-Chancellor must ensure that each elected member receives training on—
 - (a) the elected member's legal responsibilities as members of the Council, including without limitation those responsibilities specified in section 15 of the Act;
 - (b) the responsibilities, powers, duties and functions of the Council, including without limitation those specified in sections 8, 9, 10 and 18 of the Act; and
 - (c) the procedures of the Council, including without limitation the procedures specified in the Schedule to the Act.
- (2) The Vice-Chancellor may appoint suitably qualified and experienced staff members or external consultants, or both, to provide the training referred to in subsection (1).
- (3) The training referred to in this section 30 must be provided to each elected member before he or she attends his or her first meeting of Council or as soon as practicable thereafter.

31. Prohibition on external campaign support

A candidate in an election under these Regulations must not use the money or any in-kind support of any other person or any organisation or other entity to support in any way the candidate's election campaign.

LEGISLATIVE HISTORY

These Regulations were approved by the Council of La Trobe University on 30 July 2016 and promulgated in accordance with the **Council (Elections) Statute 2016** on 1 August 2016 (LS Ref Leg/13684).