

28 May 2021

# Post-election report

**Independent Education Union of Australia**  
**New South Wales/Australian Capital Territory Branch**  
**Scheduled election**  
**E2020/37**

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# Election(s) Covered in this Report

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Organisation: Independent Education Union of Australia - New South Wales/Australian Capital Territory Branch  
Election: Scheduled  
Election Decision No/s: E2020/37

## Rules

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Rules used for the election: [130N: Incorporates alterations of 16 October 2020 [R2020/119] And [R2020/135]] (replaces rulebook dated 12 October [R2020/88])

Rules difficult to apply/interpret: None

Model Rule reference (if any): N/A

For more details see the Model Rules on the AEC website:

[https://www.aec.gov.au/About\\_AEC/AEC\\_Services/Industrial\\_Elections](https://www.aec.gov.au/About_AEC/AEC_Services/Industrial_Elections)

## Roll of Voters

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Total number of voters on the Roll: See Attachment A  
Number of apparent workplace addresses:

Number of non-current addresses:

Other matters pertaining to the roll of voters:

## Irregularities

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Details of written allegations of irregularities, and action taken by AEC: N/A

Other irregularities identified, and action taken: N/A

## Other Matters

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Returning Officer actions required (Section 193): Yes  
Details:

- Branch Rule 10.14 (c) states that the roll of voter closes at 1<sup>st</sup> May and rule 10.14 (e) states that the nomination must be received not later than fifth day of May. Rule 10.14 (a) provides for a two year term for Delegates. In accordance with these rules, the close of roll should have occurred on 1<sup>st</sup> May 2020 and nominations received no later than 5th May 2020. These rules were set aside as the AEC held concerns that the coronavirus pandemic would impact on the ability for stakeholders to fully participate in the election. A timetable for the conduct of the ballot which varies from the rules has been set.
- The effect of branch rules 10.14 (c) and 10.14 (e) would mean that the nominations close 5 days after the roll closes. Subsection 143(3) of the Fair Work (Registered Organisation) Act 2009 (FWRO Act) requires rules to provide that the roll closes 7-30 days before nominations open. Consequently the Branch rules are defective. The Returning Officer will apply subparagraph 193(1) (b)(ii) of the FWRO Act 2009 and follow the federal rule 17(h) which allows for a nomination period of least 21 days with the roll closing 7 days before nominations opening.
- As there is no rule pertaining to the withdrawal of the Nomination, the Returning Officer will apply subparagraph 193(1) (b)(ii) of the Fair Work (Registered Organisation) Act 2009 to fix a closing time for the withdrawal of the nomination and the withdrawal period will align with the close of the nomination period.
- Branch rules of the Organisation are silent about the ballot closing date. But the Federal rule 17(p) and 17(r) states that the ballot to be closed on the 22<sup>nd</sup> day after the opening of the ballot. Due to current delivery time taken by the Australia Post, the ballot period is not sufficient. The Returning Officer will apply subparagraph 193(1) (b)(ii) of the Fair Work (Registered Organisation) Act 2009 to extend the period and will allow 28 days instead of 22 days.
- Rules are silent on remedying defective nominations. Subsection 143(1) (c) of the Fair Work (Registered Organisation) Act 2009 requires that at least 7 days defect period from the date of the notification is required. The Returning Officer will apply subparagraph 193(1) (b)(ii) of the Fair Work (Registered Organisation) Act 2009 and will allow 7 days from the date of the notification to remedy the defect. It is recommended that the Rules incorporate the AEC's Model Rules Guide (refer to paragraph 9.1.1).

Model Rule reference (if any): Refer to AEC Model Rules Guide as indicated above.

For more details see the Model Rules on the AEC website:

[https://www.aec.gov.au/About\\_AEC/AEC\\_Services/Industrial\\_Elections](https://www.aec.gov.au/About_AEC/AEC_Services/Industrial_Elections)

## Signed

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 28 May 2021

# Attachments

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- A. Consolidated Report on Roll of voters
- B. Declaration of Results for Uncontested Offices
- C. Declaration of Results for Contested Offices