

284V: Incorporates alterations of 21 December 2020 [R2020/160]  
(replaces rulebook dated 30 November 2020 [R2020/187])

I CERTIFY under section 161 of the *Fair Work (Registered Organisations) Act 2009* that the pages herein numbered:

<b>Most recent alterations:</b>	<b>Pages</b>	<b>Determined on:</b>
<a href="#">Federal Rules</a>	1 to 83	29 October 2020
Federal Branch Rules		
<a href="#">Queensland Branch</a>	84 to 104	17 December 2013
<a href="#">Western Australian Branch</a>	105 to 137	30 November 2017
<a href="#">New South Wales Teachers Federation (NSWTF) Branch</a>	138 to 187	29 October 2020
<a href="#">Tasmanian Branch</a>	188 to 242	15 February 2019
<a href="#">South Australian Branch</a>	243 to 289	3 June 2019
<a href="#">ACT Branch</a>	290 to 322	13 July 2016
<a href="#">Northern Territory Branch</a>	323 to 363	21 December 2020
<a href="#">Victorian Branch</a>	364 to 411	3 December 2018

contain a true and correct copy of the registered rules of the Australian Education Union.

DELEGATE OF THE GENERAL MANAGER  
FAIR WORK COMMISSION

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**Rules of the Australian Education Union**  
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PART I - PRELIMINARY

**1 - NAME**

The name of the Organisation shall be Australian Education Union (hereinafter referred to as "the Union").

**2 - DEFINITIONS**

"the Act"

The "Industrial Relations Act 1988."

"Federal Rules"

The Rules of the Union including the Federal Branch Rules.

"Federal Branch Rules"

The Rules of the Union which a Branch is able to amend pursuant to these Rules.

"Branch Rules"

The Rules made by a Branch for the regulation and government of a Branch other than Federal Branch Rules.

"Branch Council" - a reference in the Federal Rules to Branch Council means:-

- (i) in relation to Branches other than the Northern Territory Branch, the Branch Council established under the Federal Branch Rules.
- (ii) in relation to the Northern Territory Branch, the Branch Executive established under the Northern Territory Branch Federal Branch Rules.

"Member"

Means a person who is a member of the Union by reason of his/her eligibility pursuant to rule 5, sub-rule 20(3) or a person who retains membership of the Union pursuant to sub-rule 17(1A).

"National ATSIECs" shall mean the National Aboriginal and Torres Strait Islander Education Committee (General Division) and the National Aboriginal and Torres Strait Islander Education Committee (TAFE Division).

"National ATSIEC members" shall mean the members of the National Aboriginal and Torres Strait Islander Education Committee (General Division) and the members of the National Aboriginal and Torres Strait Islander Education Committee (TAFE Division).

"National Early Childhood Committee" shall be the Committee established by Federal Rule 76.

"National Early Childhood Committee members" shall mean the members of the National Early Childhood Committee.

"National Principals' Committee" shall be the Committee established by Federal Rule 75.

"National Principals' Committee members" shall mean the members of the National Principals' Committee.

## 2 - DEFINITIONS

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"Teacher" Means any person who is a teacher and includes a Principal howsoever titled.

Where the Federal Rules impose duties on a Branch Secretary, those duties shall, insofar as they relate to the Tasmanian Branch, be undertaken by the General Manager referred to in the Federal Branch Rules of the Tasmanian Branch, except in those instances where the Secretary or other prescribed officer is required to lodge documents under the Industrial Relations Act. In such instances the prescribed officer of the Branch shall be the Branch President.

"Technical college" shall mean an institution established under Commonwealth legislation or funded in whole or in part by the Commonwealth Government to, inter alia, provide academic and/or vocational education for students in Years 11 and 12.

"Board" means a group of persons who supervise, govern or otherwise have oversight of a corporation, organisation, association or other like body including a Board of Directors

"declared person or body" - a person is a declared person or body if:

- (i) an officer of the Union/branch has disclosed a material personal interest under sub-rule 77(3)(A) or the appropriate Federal Branch Rule; and
- (ii) the interest relates to, or is in, the person or body; and
- (iii) the officer has not notified the Union/branch that the officer no longer has the interest.

"disclosure period" means the financial year unless a shorter period is specified.

"financial duties" includes duties that relate to the financial management of the organisation or a branch of the organisation.

"non-cash benefit" means property or services in any form other than money, but does not include a computer, mobile phone or other electronic device that is used only or mainly for work purposes

"office" has the same meaning as defined by section 9 of the *Fair Work (Registered Organisations) Act 2009*

"officer" has the same meaning as defined by section 6 of the *Fair Work (Registered Organisations) Act 2009*

"peak council" has the same meaning as defined by section 12 of the *Fair Work Act 2009*

"related party" has the same meaning as defined by section 9B of the *Fair Work (Registered Organisations) Act 2009*.

"relative" in relation to a person, means:

- (i) parent, step parent, child, stepchild, grandparent, grandchild, brother or sister of the person; or
- (ii) the spouse of the first mentioned person.

"relevant remuneration" in relation to an officer of the *Union/branch* for a disclosure period is the sum of the following:

- (i) any remuneration disclosed to the *Union/branch* by the officer under sub-rule 77(2)(A), or appropriate Federal Branch Rule, during the disclosure period;



#### 4 - OBJECTS

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- (ii) any remuneration paid during the disclosure period, to the officer of the Union/branch.

“relevant non-cash benefits” - in relation to an officer of the Union/branch for a disclosure period means the non-cash benefits provided to the officer, at any time during the disclosure period, in connection with the performance of the officer’s duties as an officer, by the Union/branch or by a related party of the Union/branch

“remuneration”

- (i) includes pay, wages, salary, fees, allowances, leave, benefits or other entitlements; but
- (ii) does not include a non-cash benefit; and
- (iii) does not include the reimbursement or payment of reasonable expenses for the costs incurred in the course of the officer carrying out his or her duties.

### **3 - INDUSTRY**

The Union is formed in or in connection with the industry of Education.

### **4 - OBJECTS**

The Objects for which the Union is established are:

- (1) To uphold the rights and to foster, protect and improve the rights and interests of members industrially and otherwise;
- (2) To obtain and secure for its members the best possible conditions and proper and sufficient remuneration, and to guard them against any hardship, oppression or injustice in connection with their employment;
- (3) To encourage and foster improvement of the status, training and qualifications of all members;
- (4) To obtain equal pay and employment rights for members of both sexes;
- (5) To ensure that its members enjoy the same civil rights as are enjoyed by other citizens;
- (6) To formulate policies through the democratic involvement of members in the decision-making processes of the Union;
- (7) To foster, protect and promote the interests of government and public education including kindergarten and pre-school education, infants and primary education, secondary education, technical and further education, education at universities and colleges of advanced education, and recurrent education;
- (8) To secure the participation of and influence of members in the administration, development and planning of education;
- (9) To secure improvements in educational methods and the standard of education; to foster the complete and satisfactory educational development of all students and to foster and encourage a more equal distribution of the individual and social benefits of education;

#### 4 - OBJECTS

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- (10) To speak authoritatively for members;
- (11) To co-operate with and assist other organisations, associations, institutions and groups in the pursuit of these Objects;
- (12) To amalgamate affiliate or in any manner associate with other organisations, associations, institutions and groups in the pursuit of these Objects;
- (13) To purchase or otherwise acquire and undertake all or any part of the property, assets, and liabilities of any one or more of the organisations or associations with which the Union is authorised to amalgamate, affiliate, or otherwise in any manner associate;
- (14) To transfer all or any part of the property, assets and liabilities of the Union to any one or more organisations or associations with which the Union is authorised to amalgamate, affiliate, or otherwise in any manner associate;
- (15) To uphold the rights of labour and to represent members in the peak councils of the trade union movement and in international forums or organisations;
- (16) To represent the Union and its members in the Australian Industrial Relations Commission, in any other industrial tribunal or any court;
- (17) To determine actions on matters of concern to members in relation to international affairs and to carry out these actions internationally;
- (18) To provide financial assistance to members and their dependants in the pursuit of these Objects;
- (19) To act as an agent for and on behalf of members or non-members in a manner consistent with these objects and the rules and consistently with the interest of members and to do all things necessary and incidental thereto;
- (20) To provide legal assistance to members at the Union's sole and absolute discretion;
- (21) To provide from time to time such services to and for members as shall be determined;
- (22) To establish funds for mutual assistance and support in the carriage of these Objects;
- (23) To acquire land and other property real or personal for the use and benefit of the Union and to sell, exchange or dispose of any such land and property;
- (24) To borrow or raise money in such a manner as may be determined from time to time by the Union, and in particular by the issue of debentures or debenture stock perpetual or otherwise charged upon all or any part of the property of the Union both present and future, or without any such charge and upon such terms and conditions as may be determined by the Union, and generally, to borrow money in any manner and on any conditions;
- (25) To invest the funds of the Union;
- (26) To elect, appoint and employ Officers and Professional Officers and employees for the furtherance of the Union's Objects and to remunerate such persons by salaries, wages, honoraria and other payments and benefits;

## 5 - CONSTITUTION

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- (27) To make contributions to the financing of superannuation schemes or retirement funds for the benefit of the elected, appointed or employed Officers Professional Officers and employees and to enter into such arrangement as may be necessary for that purpose;
- (28) To take any gift of property real or personal, whether subject to any trust or not, for any one or more of the Objects of the Union;
- (29) To undertake and execute any trusts or any agency business which is directly or indirectly conducive to any Object of the Union;
- (30) To subscribe to any charity, or to make donations for any public purpose or for any purpose in direct or indirect furtherance of any Object of the Union;
- (31) To promote the extension of the Union throughout Australia;
- (32) To take any action as may be considered necessary and proper to carry out these Objects.

### 5 - CONSTITUTION

The Union shall consist of an unlimited number of persons employed or usually employed in the following categories:

- (1)
  - (a) Teachers of at least two years' trained status employed by the Education Department or another Department of the Government of Queensland in a State Pre-school, a State Kindergarten, a State Primary school, a State Secondary school or a State Special School by the Special Education Division of the Queensland Education Department.
  - (b) Teachers employed in the teaching and/or the training of handicapped children in Queensland schools or in any other Queensland establishment for the teaching and or training of handicapped children.
  - (c) Academic staff who are teachers of at least two year trained status appointed to the teaching staff of a Queensland College of Advanced Education or an institution for the training of teachers or a successor thereto.
  - (d) Teachers of at least two years' trained status who are teachers of commercial subjects in a technical college or a technical and further education institution in Queensland.
  - (e) Persons employed as Assistant Teachers in any institution or position referred to in paragraphs (a), (b), (c) and (d) of this sub-rule who have obtained a qualification to be an assistant teacher from a technical and further education institution or a tertiary institution.
  - (f) Teachers of the kind specified in paragraphs (a), (b), (c), (d) and (e), of this sub-rule who have been appointed, seconded or transferred to professional duties requiring teaching qualifications within the Queensland Education Department or to another Department of the Queensland State Government, a Queensland Crown instrumentality or corporation, a Queensland Minister of the Crown or to any Queensland State Board or Council.
  - (g) School teachers who are employed on a part-time (non-fractional) basis in the supervision and/or co-ordination of student teachers during their periods of practice teaching in schools provided they are eligible for membership of the Union in accordance with one of the preceding paragraphs of this sub-rule.

- (h) Any person whom the State Council of the Queensland Teachers Union of Employees elects or appoints to an office in that Union.
- (2)
  - (a) Teachers employed by the Education Department of Western Australia or by any institution providing technical and further education in Western Australia and teachers employed in Government pre-school centres in Western Australia provided that such teachers hold or are enrolled for the purpose of obtaining a teaching academic qualification.
  - (b) Any person employed by any of the employers or in any of the places referred to in paragraph (a) of this sub-rule who is employed as an education officer, guidance officer, counsellor or demonstrator.
  - (c) Teachers employed in a temporary capacity by a technical and further education institution.
  - (d) Teachers employed by and in a Community College in Western Australia.
  - (e) School teachers who are employed on a part-time (non-fractional) basis in the supervision and/or co-ordination of student teachers during their periods of practice teaching in schools provided they are eligible for membership of the Union in accordance with one of the preceding paragraphs of this sub-rule.
  - (f) Any person elected or appointed to the position of General Secretary, Industrial Advocate, Industrial Organiser, Librarian, Industrial Research Officer, Women's Officer, TAFE Organiser, Aboriginal Education Officer, Occupational Health and Safety Organiser or Organiser of the State School Teachers Union of Western Australia.
- (3)
  - (a) In South Australia teachers employed in any Government school, pre-school, child parent centre or technical and further education institution and any person employed in a technical and further education institution and responsible for the co-ordination of teaching therein.
  - (b) Persons employed in South Australia as school services officers or early childhood workers in Government schools and Government pre-school and child parent centres.
  - (c) Persons employed as Aboriginal Education Workers in South Australia.
  - (d) Persons who at the time they are eligible for membership pursuant to paragraphs (a), (b) and (c) and this paragraph of this sub-rule are seconded by their employer to professional duties requiring teaching qualifications or are appointed by the Minister of Education to any Board, Committee or Statutory Authority.
  - (e) School teachers who are employed on a part-time (non-fractional) basis in the supervision and/or co-ordination of student teachers during their periods of practice teaching in schools provided they are eligible for membership of the Union in accordance with one of the preceding paragraphs of this sub-rule.
  - (f) Any person elected or appointed to full time office in the South Australian Institute of Teachers.
- (4)
  - (a) All persons employed as teachers, lecturers, instructors, librarians, language assistants or instrumental musicians in or in connection with the Teaching Service of the State of Victoria but not including persons employed as sign language interpreters, or the Adult Multicultural Education Service (howsoever called) in the State of Victoria.

(b) In the State of Victoria:

- (A) All persons employed or seeking employment in or in connection with the vocational and/or technical and further education and training industries or by, in or in connection with institutions which provide vocational and/or technical and further education, howsoever named, to deliver or assess in, or to prepare vocational and/or technical or further education or training programmes or who (holding a relevant teaching qualification) directly co-ordinate or manage other teachers, including:
- i. such employees who are employed by, in or in connection with TAFE Institutes (being education providers whose primary or exclusive business is the provision of vocational and/or technical and further education or training other than Universities), and
  - ii. such employees who are employed by other education providers whose primary or exclusive business is the provision of vocational and/or technical and further education or training, and
  - iii. such employees who are employed by Universities for the provision of vocational and/or technical and further education or training;
- and
- (B) Employees employed in those classes of work known at 1 June 2000 as “TAFE Industrial Skills Instructors”, “TAFE Vocational Skills Instructors”, “TAFE Teacher-Librarians”, “Trainee Teachers in TAFE”, “TAFE Directors” and “Workplace Trainers and Assessors”;
- and
- (C) Persons who were members and eligible to be members of the union on 30 September 2001 by virtue of eligibility arising under the then sub-rule 4(b).
- (D) Nothing in paragraphs (A) and (B) shall be construed as conferring eligibility for membership of the union on:
- i. persons, in respect of work performed as a member of academic staff employed in or in connection with higher education; or
  - ii. persons employed in any class of work, to which, as at 1 June 2000, the following awards applied:
    - Higher Education Workers Victoria (Interim) Award, 1993
    - Universities and Post Compulsory Academic Conditions Award 1999
    - Teachers (English Language Centres of Australian Universities) Conditions of Employment Award 1998.
- (E) Provided that for the purpose of this subrule the term “vocational and/or technical and further education or training” includes workplace-based training and assessment, but excludes higher education.

- (c) Persons who are employed by the Victorian Curriculum and Assessment Board or the Victorian State Board of Education provided that those persons are registered by the Teachers' Registration Board as teachers and perform professional duties requiring teaching qualifications.
- (d) Persons, who at the time that they are eligible for membership pursuant to paragraphs (a) or (b) of this sub-rule commence to be employed elsewhere in the Victorian Ministry of Education or the State Training Board to perform professional duties requiring teaching qualifications or are seconded by their employer to perform any professional duties requiring teaching qualifications.
- (e) All persons employed as student teachers by the Victorian Ministry of Education in Technical and Further Education Institutions or in the Technical and Further Education Teaching Service or by a Technical and Further Education Institution.
- (f) Persons who are:
  - (i) employed to teach and/or supervise teaching in or by registered non-residential services including day training centres, adult units, open employment agencies, supported employment and/or sheltered employment settings;
  - (ii) employed to teach and/or supervise teaching in early intervention programmes for the disabled;  
  
and who are employed in Victoria and responsible for the instruction and/or training of disabled persons;
  - (iii) employed in Victoria to teach and/or supervise teaching of people with social, physical, sensory, educational and intellectual disabilities.
- (g) Members of the Victorian Teaching Service employed in non-school positions to perform professional duties requiring teaching qualifications provided that such persons are registered or are eligible for registration as teachers by the Teachers' Registration Board.
- (h) Persons employed as teachers or instructors in the Victorian School of Languages.
- (i) Persons employed by the Institute of Educational Administration pursuant to the Institute of Educational Administration Act 1980 to perform professional duties requiring teaching qualifications.
- (j) School teachers who are employed on a part-time (non fractional) basis in the supervision and/or co-ordination of student teachers during their periods of practice teaching in schools provided they are eligible for membership of the union in accordance with one of the preceding paragraphs of this sub-rule.
- (k) Any person elected or appointed to an office in the Federated Teachers' Union of Victoria.
- (l) Any person elected or appointed to an office in the Victorian Secondary Teachers' Association.

- (m) Subrule to reflect order made under section 118A of Workplace Relations Act 1996 recorded in Print N8687

For the purpose of giving effect to the section 118A order made on 6 February 1997 in C No. 33163 of 1993 recorded in Print N8687 and subject to further order of the Commission in C No. 33163 of 1993 to vary or set aside the section 118A order, with effect from 9 May 1997 the following persons or employees shall be eligible to be members of the AEU:

Allied staff employed in government primary and secondary schools and government pre-school centres, (howsoever titled and collectively described herein as Victorian government schools), in the State of Victoria, who for the purpose of this rule shall include all persons employed in or by the Department of Education in Victoria, or by any successor of that body, or by a body employing staff in Victorian government schools for the purpose of delivering educational services, who are employed as, or who perform the functions of, teacher aides, koori educators, manager - administration, registrars, assistant registrars, bursars, clerical assistants, clerical officers, typists, word processor operators, library technicians, library assistants, laboratory technicians, technical assistants, school community officers, job skills trainees, domestic arts assistants, literacy enhancement officers, school services officers and school technical officers, in Victorian government schools or who are based in any such school for the purpose of performing work.

(5) Deleted.

(6) Deleted.

(6A) (a) Any person employed in Victoria -

- (i) In a position requiring the occupant to be a qualified kindergarten teacher other than a person employed in a post-secondary education institution as a tutor or lecturer or employed in an administrative capacity by Community Services Victoria;
- (ii) As a pre-school play leader in a pre-school subsidized by the Victorian Government;
- (iii) In Early Childhood Services provided that the person has a primary or secondary teaching qualification recognised in Victoria, performs professional duties requiring teaching qualifications and is not employed as an officer or employee pursuant to the provisions of the Public Service Act 1974 (Vic.) or any successor thereto; or
- (iv) In a Montessori early childhood centre including a pre-school or kindergarten as a qualified teacher.
- (v) as a preschool assistant, a kindergarten assistant, an additional assistant (special needs) or a co-ordinator in a preschool or kindergarten or in a Montessori early childhood centre including a preschool or kindergarten with the exception of:
  - Persons employed in registered non-government schools registered with Registered Schools Board (Victoria) or any successor thereto; and

- employees of Local Government unless the main function of their work is the delivery of, or support for the delivery of, a preschool education program in conjunction with a preschool/kindergarten teacher.
- (b) Any person elected or appointed to a full-time or part-time paid office in the Kindergarten Teachers' Association of Victoria.
- (7) (a) Teachers, supervisors, counsellors, lecturers, educational officers engaged in pre-school infants, primary or secondary public education controlled by the Government of New South Wales in New South Wales or employed by the Education Commission of New South Wales;
- (b) Teachers, supervisors, counsellors, academic staff, educational officers, and trainee-teacher advisors engaged in technical and further education, tertiary education (including Universities, Colleges of Advanced Education and Community Colleges), adult migrant education or employed in Evening Colleges within New South Wales provided that eligibility for membership for academics at Universities shall be limited to persons who were employed at Universities and were members of the New South Wales Teachers Federation on the 30th May 1985.
- (c) Education officers and teachers working in the New South Wales State Department of Corrective Services;
- (d) Teachers and educational officers seconded as officers or permanently employed as officers of the research and guidance branch of the Education Department;
- (e) Persons who are members pursuant to this sub-rule who are elected to Parliament and who wish to retain membership of the Union;
- (f) Persons who have been elected as full-time members of any statutory body established to administer the provision of educational facilities in New South Wales, or to the New South Wales Superannuation Board, who have by reason of such election ceased to be employed in one of the categories set out in paragraphs (a), (b), (c) or (d) of this sub-rule.
- (g) School teachers who are employed on a part-time (non-fractional) basis in the supervision and/or co-ordination of student teachers during their periods of practice teaching in schools provided they are eligible for membership of the Union in accordance with one of the preceding paragraphs of this sub-rule.
- (h) Any person elected or appointed to an office in the New South Wales Teachers Federation.
- (8) (a) Teachers, (including teacher-librarians, student counsellors, supervisors and educational officers or any such other classification of employment incidental to education) engaged in kindergartens, and pre-school, infant, primary, secondary, senior secondary and technical and technical and further education under the control of the Government of Tasmania and such teachers seconded as officers or permanently employed as officers of the Service and Guidance Services Branches of the Education Department of Tasmania.
- (b) Professional officers employed by the Government of Tasmania in the Education Department to perform professional duties requiring teaching qualifications.



- (c) Recreation Officers and laboratory technicians employed by the Government of Tasmania in the Education Department.
  - (d) Part-time and/or temporary relieving teachers employed by the Government of Tasmania.
  - (e) Teachers in training on Tasmanian Government student-ships.
  - (f) Persons who have been elected or appointed full-time members of any Tasmanian statutory body established to administer the provisions of educational facilities who have by reason of such election ceased to be employed in one of the categories in the preceding paragraphs of this sub-rule.
  - (g) Persons who at the time they are eligible for membership pursuant to the preceding paragraphs of this sub-rule are seconded by their employer to perform professional duties requiring teaching qualifications.
  - (h) School teachers who are employed on a part-time (non-fractional) basis in the supervision and/or co-ordination of student teachers during their periods of practice teaching in schools provided they are eligible for membership of the Union in accordance with one of the preceding paragraphs of this sub-rule.
- (9)
- (a) Persons employed under the ACT Teaching Service Act 1989;
  - (b) Persons employed in schools, secondary colleges and TAFE institutions operated directly or indirectly by the Commonwealth of Australia or, in a Territory by the administration or Government of that Territory, or by a prescribed institution in that Territory. Provided that nothing in this paragraph shall confer eligibility for membership on persons employed or usually employed as ancillary staff or clerical staff in schools, secondary colleges and TAFE institutions.
  - (c) School teachers who are employed on a part-time (non-fractional) basis in the supervision and/or co-ordination of student teachers during their periods of practice teaching in schools provided they are eligible for membership of the Union in accordance with one of the preceding paragraphs of this sub-rule.
- (10)
- (a) Persons who are employed or usually employed under the Northern Territory Public Sector Employment and Management Act and whose current employment would have otherwise been subject to the Northern Territory Teaching Service Act had that Act not been repealed, including, for example, teachers, assistant teachers, superintendents, directors, education officers and lecturers;
  - (b) Persons who are employed or usually employed in a teaching capacity in schools operated directly or indirectly by the Government in the Northern Territory;
  - (c) Teachers employed by the Northern Territory Commissioner for Public Employment in an administrative, supervisory or advisory capacity in the Northern Territory Department of Education and TAFE Managers employed by the Northern Territory Employment and Training Authority;

- (d) Subrule to reflect orders made under section 118A of Workplace Relations Act 1996 recorded in Prints PR923929 and PR923924
- Persons employed or usually employed in schools operated directly or indirectly by the Government in the Northern Territory: as assistant teachers, Aboriginal and Islander Education Workers, Aboriginal Resource Officers, Inclusion Support Assistants, Part time instructors (being persons engaged primarily to provide educational instruction to students); or as Teaching Support Officers (encompassing all categories of allied staff employees whose primary functions involve the provision of education services – but not primarily administrative services – to students);
- (e) Persons employed at the Northern Territory University as Lecturers Categories I to IV.
- (f) School teachers who are employed on a part-time (non-fractional) basis in the supervision and/or co-ordination of student teachers during their periods of practice teaching in schools provided they are eligible for membership of the Union in accordance with one of the preceding paragraphs of this sub-rule.
- (g) Persons who are members pursuant to this sub-rule who are elected to Parliament and who wish to retain membership of the Union.
- (h) Without limiting the generality of paragraphs (a) - (g) above, or being limited thereby, teachers and/or lecturers employed in or by colleges and/or TAFE institutions, including Batchelor College, Centralian College and the Northern Territory Rural College, and teachers and/or lecturers employed in or by the Alice Springs Correctional Centre and/or the Darwin Correctional Centre.
- (11) With the exception of Queensland establishments for the teaching and/or training of handicapped children referred to in paragraph 5(1)(b), Day Training Centres referred to in sub-rule 5(f), institutions employing persons referred to in sub-rule 5(6A) and Colleges of Advanced Education referred to in paragraph 5(7)(b) nothing in this rule shall be construed as conferring eligibility for membership of the Union on persons employed or usually employed in non-government educational institutions.
- (12) Nothing in paragraphs 5(3)(d) or 5(4)(d) shall be taken as conferring eligibility for membership on persons after the expiration of three months from the date of final registration.
- (13) Persons who are qualified to be and desire to be employed in any of the categories of persons specified in the preceding sub-rules of this rule.
- (14) Notwithstanding the foregoing sub-rules of this rule, any other person whether employed in the industry of the Union or not who has been or is hereafter elected or appointed to a position of Federal Officer, Federal Professional Officer, Branch Officer or Branch Professional Officer or, in relation to the Tasmanian Branch, the General Manager.
- (15) Without limiting the generality of the other parts of this rule or being limited thereby, independent contractors who, if they were employees performing work of the kind which they usually perform as independent contractors, would be eligible for membership of the Union.

- (16) (a) Without limiting the generality of the other parts of this rule or being limited thereby, in South Australia, Victoria, Tasmania the Northern Territory and the Australian Capital Territory, all persons employed by or in or in connection with public schools, or by Commonwealth, State or Territory governments to work in public schools, in those States and Territories, excluding cleaners, janitors, caretakers, gardeners, swimming pool attendants and canteen workers employed by, in or for schools.

For the purposes of this sub rule 16 (a), the term “in connection with public schools” shall include:

- (i) all persons whose primary work location is at a public school or other public educational facility operated primarily for the delivery of education to public school students;
- (ii) such persons whose primary work location is not at a school:
  - (a) whose work involves regular contact with public school students; and
  - (b) who regularly perform duties directly related to the education of public school students;and
- (iii) In the State of Victoria, all persons employed as teachers, lecturers, instructors, teacher librarians, language assistants, or instrumental musicians, in positions funded or partly funded by the Department of Education and Training through its Strategic Partnerships Program, including those undertaking curriculum development and professional development activities (note for the purposes of this sub-clause, “Strategic Partnerships Program” refers to a specific Program created by the Victorian Government whereby the Government provides funding to cultural and scientific organisations and professional teaching associations to facilitate partnerships with school communities);

For the purposes of this sub-rule 16(a) the term “in connection with public schools” shall not include:

- (A) Save for those persons who have eligibility conferred outside of this sub-rule (5)(16) all other persons employed in a Departmental Office in a professional, administrative, clerical or technical classification who have no contact with school students in schools or other educational facilities operated primarily for the delivery of education to school students;
- (B) Any employee of a Department of Education who is physically located at a school site but who:
  - (i) does not work under the direction of the Principal of the School; and
  - (ii) if they were physically located at Departmental Head Office would be encompassed by paragraph (A) of this sub-rule (5)(16)(a).
- (C) In the State of Victoria, persons employed as Student Support Services Officers such as psychologists, speech therapists, speech pathologists, social workers and guidance officers;

- (D) In the State of South Australia, persons employed as speech pathologists, guidance officers, social workers, student attendance officers or psychologists;
  - (E) In the State of Tasmania, persons employed in solely clerical, administrative, finance, network support or network management positions at public school or other educational facility operated primarily for the delivery of education to school students;
  - (F) In the Australian Capital Territory and the Northern Territory, persons employed in solely clerical, administrative, or finance positions at a public school or other educational facility operated primarily for the delivery of education to school students;
  - (G) Persons employed in or by non-government schools or educational institutions or non-government entities whose primary purpose is the provision of education; and
  - (H) Persons eligible for membership of the ASU and employed by social and community service organisations (not including public schools and departments of education) who perform duties unrelated to the delivery of education of school students.
- (b) Without limiting the generality of the other parts of this rule or being limited thereby, all persons in the State of Western Australia employed by, in or in connection with public schools, or by commonwealth, state or territory governments to work in public schools in Western Australia, in the classification of Indigenous Tutorial Assistance Scheme (ITAS) Tutor (howsoever named).
- (17) Without limiting the generality of the other parts of this rule, persons employed in a technical college provided that:
- (a) they would be eligible for membership under another sub-rule of this rule, if the technical college were a government school; or
  - (b) they undertake duties that are usually undertaken by a person employed in a classification or category specified in the sub-rule of this rule applicable to the State or Territory in which they are employed.

Provided however that persons employed in a technical college that is registered as a non-government school or non-government educational institution in accordance with

- (i) the *Education Act 1990* (NSW)
- (ii) the *Education Act 1958* (Victoria)
- (iii) the *School Education Act 1999* (WA)
- (iv) the *Education (Accreditation of Non-State Schools) Act 2001* (Qld)

the *Education Act 1972* (SA)  
the *Education Act 2004* (ACT)  
the *Education Act 1994* (Tas)  
the *Education Act 1979* (NT)

or successor legislation thereto, shall not be eligible for membership by virtue of this sub-rule (17).

## **6 - INTERPRETATION**

In interpreting the various sub-rules of Rule 5, the meaning of each sub rule shall be determined independently of the meaning of any other sub rule of that rule.

### **PART II - MEMBERSHIP**

#### **7 - FEDERAL ORGANIZATION - DIVISIONS**

- (1) There shall be established within the Union a Division comprised of persons other than persons whose eligibility for membership derives from those parts of Federal Rule 5 relating to technical and further education. This Division shall be known as the General Division.
- (2) There shall be established within the Union a Division comprised of persons whose eligibility for membership derives from those parts of Federal Rule 5 relating to technical and further education and the category covered by Rule 5(4)(f) and those members in the category covered by Rule 5(4)(a) who are employed in the Adult Migrant Education Service and those members covered by Rule 5(7)(b) who are engaged in adult migrant education and those members covered by Rule 5(7)(c). This Division shall be known as the TAFE Division.
- (3) A person whose eligibility for membership of the Union derives from his/her election or appointment to an office in an associated body shall elect to be assigned to one or other of the Divisions referred to in this Rule provided that having elected to be assigned to one Division that person shall not be permitted to change divisions unless that person ceases to hold office in an associated body and is eligible for membership pursuant to another part of Rule 5.

#### **8 - LIFE MEMBERSHIP - HONORARY MEMBERSHIP - ASSOCIATE MEMBERSHIP**

- (1) The Federal Conference may confer the honour of Life Membership on any member or former member whom in its opinion has made an exemplary contribution to the Union's affairs or to education generally.
- (2) The Federal Conference may confer the honour of Honorary Membership of the Union on any person who is not eligible to be or has not been a member of the Union who in its opinion has made an exemplary contribution to the affairs of the Union or to education generally.
- (3) A Branch may admit to Associate Membership any person who has been a member of the Union or an Associated Body of the Union provided that such an associate member shall have no rights or privileges of membership under these rules.
- (4) Nothing in this rule shall be taken to prevent a Branch adopting a Federal Branch Rule which permits the Branch to confer Branch Life Membership or Branch Honorary Membership on a person.
- (5) Membership pursuant to this rule does not of itself entitle such person to membership of the Union pursuant to rule 5.

#### **9 - ADMISSION TO MEMBERSHIP**

- (1) An applicant for membership of the Union shall direct an application to the Branch to which, pursuant to the provisions of sub-rule 21(2), he/she would on becoming a member, be attached (the relevant Branch).

- (2) The application for membership may be made:
  - (a) In writing addressed to the Secretary of the relevant Branch;
  - (b) By making an online application to the relevant Branch; or
  - (c) By making a telephone application to the relevant Branch.
- (3) The relevant Branch Secretary shall provide all applicants for membership with the requisite information in writing. The requisite information consists of:
  - (a) The financial obligations arising from membership; and
  - (b) The circumstances, and the manner, in which a member may resign from the Union.
- (4) The Branch Secretary may comply with the requirements of sub-rule (3) of this rule:
  - (a) In the case of an application in writing, by providing the requisite information on an application for membership form;
  - (b) In the case of an online application, by causing the requisite information to be contained within the online application form; or
  - (c) In relation to a telephone application or an application received in writing other than on an application for membership form, by ensuring that the applicant for membership does not become a member until after he/she has been provided with the requisite information in writing.
- (5) An applicant for membership shall supply such information as to his/her name, address, occupation, employer, place of employment and such other information as to his/her eligibility for membership as may be required by the Branch Executive or Federal Executive.
- (6) Subject to the provisions of the Act and the Federal Rules, the relevant Branch Secretary shall accept or reject applications for membership.
- (7) Where there is no established Branch to which a person may make an application for membership, that person may make an application to the Federal Secretary and, subject to the Act and the Federal Rules, the Federal Executive shall accept or reject the application and that member shall be attached to such Branch as the Federal Executive determines.
- (8) Where a Branch Secretary considers an applicant for membership to be ineligible for membership, he or she shall refer the application to the Branch Executive. Where an application has been so referred, the Branch Executive may accept, reject or defer the application. Where any application referred to the Branch Executive is not accepted within three months of its receipt by the Branch Executive or is rejected, the applicant may appeal to the next meeting of the Federal Executive which may accept, reject or defer the application. The Federal Executive decision shall be final.
- (9) A Branch Secretary shall assign new members to a Division in accordance with Rule 7A. A member who is not satisfied with his/her assignment to a Division may appeal to the Branch Executive within 30 days of receiving advice from the Branch Secretary of his/her assignment to a Division. A member whose appeal is rejected by the Branch Executive may appeal within 30 days to the Federal Executive the decision of which shall be final.

## 10 - ADMISSION TO MEMBERSHIP - MEMBERS OF ASSOCIATED BODIES

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- (10) An applicant for membership whose application has been accepted in accordance with sub-rule (6), (7) or (8) shall be deemed to have become a member of the Union as from:
- (a) the date of admission as provided in the Federal Branch rules of the relevant Branch to which the member is admitted in accordance with sub-rule (1) of this rule;
  - (b) where there is no Federal Branch rule, the date of receipt of that applicant's application at the office of the relevant Branch to which that applicant is admitted in accordance with sub-rule (1) of this rule,
  - (c) where sub-rule (4)(c) applies, on the date which the Branch Secretary has furnished the applicant with the requisite information, or
  - (d) where sub-rule (7) applies, the date of receipt by the Federal Secretary of that applicant's application.

### **10 - ADMISSION TO MEMBERSHIP - MEMBERS OF ASSOCIATED BODIES**

- (1) An associated body may, after the relevant date, make application for membership of the Union on behalf of financial members of the associated body eligible for membership of the Union, to the relevant Branch Secretary pursuant to a dual membership rule.
- (2) An application by an associated body on behalf of a member shall include the information referred to in Rule 9 (2) of these Rules.
- (3) On receipt of an application which complies with this Rule the Branch Secretary shall forthwith accept the Application without payment of entrance fees or subscriptions to the Union provided that an agreement of the type referred to in Sub-Rule 11 (7) continues in effect.
- (4) A member of an associated body shall not become a member of the Union pursuant to this Rule if, having been notified by the associated body of the intention of that associated body to make an application on behalf of members for membership pursuant to this rule, the member notifies the Branch Secretary within thirty days of the notification that she/he does not wish to become a member of the Union.
- (5) For the purposes of this Rule:
  - (a) The term "associated body" has the same meaning as in Rule 11.
  - (b) A "dual membership rule" is a rule of an associated body which permits the associated body to apply on behalf of members of the associated body for membership of the Union.
  - (c) The "relevant date" is a date determined by the Federal Secretary in relation to an associated body when the associated body has made and has in effect a dual membership rule.
  - (d) The "relevant Branch Secretary" is the Secretary of the Branch of the Union whose membership corresponds with that of the associated body making an application in accordance with this Rule.

**11 - ENTRANCE FEES AND SUBSCRIPTIONS**

- (1) Entrance fees and subscriptions payable by each member shall be such amounts and shall be payable at such times as are determined from time to time by the respective Branch Councils or Branch Executives and shall be paid to and collected by the Secretary of the Branch to which such member is attached pursuant to rule 21(2) or by any person authorised by him/her or by the Branch Rules.
- (1A) In the absence of a decision by a Branch Council or Branch Executive to determine the subscription payable by each member, the subscription payable by each member shall be determined by the Federal Executive.
- (2) (a) Each Branch shall each year pay to the Federal Fund in respect of each financial member of the Union attached to that Branch as at June 30th in the preceding year a capitation fee.
- (b) The capitation fee in any one calendar year shall be calculated in accordance with the following formula:
- Capitation Fee = x + y + z
- Where x represents 0.032% of the highest class room teacher rate provided for a four year trained teacher under the relevant applicable industrial award or instrument in the ACT at 30 June in the preceding year;
- y is the annual per capita affiliation fee payable to the Australian Council of Trade Unions at 1st January of that year; and
- z is the annual per capita affiliation fee of the Education International or its successor as at 1st January of that year.
- In addition to the capitation fee, there shall be payable to the Federal Fund any amount due as a result of the imposition of government taxes or other government levies.
- (3) Each Branch Secretary shall cause such entrance fees and subscriptions to be received and dealt with in accordance with the Act and the Federal Rules and the Branch Rules of that Branch.
- (4) The Branch Secretary shall cause all such monies to be forthwith deposited to the credit of an account in the name of the Branch of the Union to which the moneys were paid and such moneys shall not be disbursed except in accordance with the Federal Rules and the Branch Rules.
- (5) deleted
- (6) Any applicant for membership or members the payment of whose subscription is both:
- (a) the subject of a written agreement in a form approved by the relevant Branch Council between any person and the Officer appointed by the Branch Council for that purpose whereby the aforesaid person agrees to forward to the Branch Secretary the subscriptions of that applicant or member or pay the same into an account in the name of that Branch, and



- (b) the subject of a written agreement in a form approved by the relevant Branch Council between the applicant or member and the aforesaid person whereby the applicant or member instructs that person to forward the applicant's or member's subscriptions to the Branch in a manner in accord with paragraph (a) of this sub rule,

shall subject to these Rules during the currency of such agreements for all purposes be a financial member of the Union, provided that any applicant or member who breaches the terms of the agreement entered into pursuant to paragraph (b) of this sub rule so as to entitle the person therein referred to to refuse to forward that applicant's or member's subscription shall from the time of such breach be unfinancial.

- (7) Any applicant for membership or member who pays subscriptions to an Association recognised by these Rules as an Associated Body (being a member of such Associated Body) in an amount equivalent to or greater than the amount payable by such member as entrance fees and subscriptions to the Union under these Rules shall subject to these Rules during the currency of any agreement between the Union and such Associated Body providing for the payment of an approved amount by the Associated Body to either a Branch of the Union designated by the Federal Executive or to the Federal Secretary be and be deemed to be for all purposes of these Rules a financial member of the Union.

- (8) For the purposes of this rule:

- (a) "Associated Body" means:

Queensland Teachers Union of Employees;  
The State School Teachers Union of Western Australia-(Incorporated);

or any successor thereto or reconstitution thereof by whatever named called.

- (b) "Approved Amount" means:

An amount in each case calculated by reference to the total number of members of the Associated body who have applied for membership of the Union in the Branch of the Union designated by the Federal Executive pursuant to sub-rule 7 of this rule multiplied by the entrance fees and subscriptions otherwise payable by each such member to that Branch of the Union under these Rules.

## 12 - FINANCIAL MEMBERS

- (1) A member shall be a financial member only if he/she has paid all subscriptions levies and fines payable by him/her and his/her current subscription unless such current subscription or fine has been due and payable for less than 60 days and unless the date decided at the imposition of any levy or the date for payment of any fine as prescribed in rule 13 or any relevant Federal Branch Rule has not yet been reached.
- (2) A Branch Council or a Branch Executive may in special circumstances waive the whole or any portion of subscriptions and levies payable by a member or levied on such member or any fine imposed pursuant to its Federal Branch Rules or Branch Rules.
- (3) Any member who fails to pay any fine or levy by the date on which it is payable or fails to pay a subscription within six months of the date on which it is payable shall be deemed to have committed an offence against these Rules and may be dealt with accordingly pursuant to rule 13.

### 13 - OFFENCES BY MEMBERS

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- (4) The existence of a debt to the Union by any member or former member in respect of any subscription fine or levy payable by him/her shall be sufficiently proved by production of:
  - (a) The Rules of the Union;
  - (b) The original or duplicate application form signed by the member for admission to the Union;
  - (c) The Minutes of a meeting of Federal Conference, Federal Executive or the relevant Branch Council or Branch Executive or certification by the Federal Secretary or the relevant Branch Secretary in which the existence of the debt is indicated.
- (5) No person other than a financial member shall vote upon any matter or propose or second any motion or sign any requisition nor shall he/she hold or continue to hold any office in the Union nor shall he/she be eligible for nomination or election thereto nor shall he/she nominate any member for election to any office in the Union nor shall he/she act as proxy or deputy for any officer of the Union.
- (6) Any unfinancial member shall continue to be liable for all subscriptions levies and fines thereafter accruing or imposed until cessation of membership.
- (7) All claims for subscriptions, levies, fines, debts or liabilities of any kind due or payable to the Union may be sued for and recovered in the name of the Union.
- (8) Proceedings for recovery of such amounts may be taken upon the authority of the Federal Secretary or relevant Branch Secretary.
- (9) In addition to the other amounts payable under the Rules, a member shall be liable to pay all legal costs reasonably incurred in recovering from him/her the said subscriptions fees dues debts or liabilities.

### 13 - OFFENCES BY MEMBERS

- (1) The Federal Executive may and at the request of a Branch Council which has submitted to the Federal Executive a prima facie case against a member shall by summons in writing call upon any member whom the Federal Executive and/or the Branch Council alleges is acting or has within the preceding twelve months committed any offence against these Rules or the Rules of the Branch in which his/her membership lies to show cause why he/she should not be reprimanded, fined or expelled from the Union.
- (2) The summons shall:
  - (a) state the allegation together with particulars thereof;
  - (b) disclose the evidence on which the allegation is based;
  - (c) be signed by the Federal President or Federal Secretary;
  - (d) state the time, date and place at which the member is to show cause;
  - (e) be delivered personally to the member concerned or posted by registered mail to his/her last known address at least 21 days before the meeting at which the matter is to be determined;
  - (f) have attached to it a copy of this rule.

## 14 - RIGHTS OF MEMBERS

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- (3) Should any member against whom an allegation is made fail to appear at the hearing and fail to provide a satisfactory explanation for his/her non-attendance, the Federal Executive may proceed with the hearing of the allegation in his/her absence provided it is first satisfied that notice of the hearing in accordance with this Rule has been served on him/her.
- (4) The evidence relating to the alleged offence shall be heard by the Federal Executive or by a committee of the members thereof appointed for that purpose and consisting of not less than three of its members and the member concerned shall be heard in his/her defence either personally and/or in writing.
- (5) If the evidence relating to the offence is heard by a committee that committee shall report its finding to the Federal Executive as the case may be together with a recommendation to the Federal Executive as to penalty if any.
- (6) If in the opinion of the Federal Executive the member is guilty of the offence alleged the Federal Executive may reprimand him/her or may fine him/her a sum not exceeding One Hundred Dollars for any one offence or may suspend him/her for a period not exceeding 12 months or may expel him/her from the Union.
- (7) The Federal Secretary shall promptly inform the member by registered letter of the decision of the Federal Executive. In the event of expulsion the expulsion shall become effective 14 days after the date of posting such letter and in the event of a fine being imposed the fine subject to sub-rule (8) hereof shall become payable immediately and the member shall be deemed unfinancial if the fine is unpaid one month after the date of posting such letter and shall remain unfinancial until the fine is paid.
- (8) A member who is found guilty of an offence by the Federal Executive shall have a right of appeal to the next Federal Conference against such finding and/or any penalty imposed by the Federal Executive provided that he/she submits such appeal to the Federal Secretary in writing not more than 14 days after the date of posting of the letter informing him/her of the decision of the Federal Executive and pending the determination of any such appeal the finding and/or penalty shall not become effective. The Federal Conference determination of the appeal shall be final.
- (9) Any member expelled pursuant to this Rule shall not be re-admitted to membership except by vote of Federal Conference.
- (10) Notwithstanding anything in this rule a Federal Delegate, or Federal Executive member, Federal Officer, National TAFE Council Delegate, TAFE Council Executive Member or Federal TAFE Officer shall be reprimanded, fined or expelled only by Federal Conference pursuant to rule 33.

## 14 - RIGHTS OF MEMBERS

- (1) Every financial member of the Union shall have the right (subject to reasonable provisions in the relevant Branch's Federal Branch Rules and Branch Rules with respect to enrolment):
  - (a) to vote in any ballot taken for the purpose of submitting a matter to a vote of the members of the Union or of the relevant Branch, sub-branch or section or division of that Branch;
  - (b) to vote in any election for the election of Federal Delegates to represent his/her Branch on the Federal Conference;

- (c) to vote in elections held by the relevant Branch:
  - (i) to elect members to Branch Council;
  - (ii) to elect officers of any sub-branch section or division provided for in the Branch's Federal Rules or Branch Rules,

provided that the Branch Federal Rules and the Branch Rules may make provision defining the area or category of electorate in which a member may vote to elect members to Branch Council or any sub-branch section or division of the Branch.

### **15 - REGISTER OF MEMBERS**

- (1) Each Branch Secretary shall:-
  - (a) keep at the registered office of the Branch an up-to-date Branch Register showing the full names of all members of the Union attached to the Branch with their postal addresses, employers, place of employment, dates of admission to the Union and subscriptions, levies and fines in arrears and showing the Division sub-branch, section or local committee (howsoever named) to which each member belongs;
  - (b) supply a copy of the Branch Register or of such extracts as the Federal Executive may require;
  - (c) effect the transfer of a Member when required, in accordance with Federal Rules.
- (2) Each Branch Secretary shall:-
  - (a) supply such information from the Branch Register as may from time to time be required by the Branch Council;
  - (b) transfer to a separate register the names and particulars of all Branch Members whose membership of the Union has been determined, or who have been transferred to another Branch of the Union.
- (3) The Branch Register shall be available for inspection by the Federal and Branch Returning Officers, and Auditors and any Branch Officer holding Office under the Rules or the Branch Rules, and by any Member so authorised from time to time by the Branch Council.
- (4) Where the Federal Executive considers it necessary in the interests of the Union, it may, provided that at least two thirds of all members of the Federal Executive present and voting in favour, determine that a Federal Officer/s shall assume the responsibilities set out in sub clauses (1) and (2) in relation to a Branch. Such a decision shall be reviewed by the next Federal Conference which may determine further action in relation to the Federal Executive decision.

### **16 - TRANSFERS BETWEEN BRANCHES**

Where a member changes his/her place of employment or employer and thereby ceases to be attached to a Branch but remains eligible for membership of the Union and becomes attached to another Branch his/her membership shall be transferred from the former Branch to the latter Branch. The Branch from which he/she is transferred shall effect the transfer by fixing the date of transfer and by notifying the Branch to which he/she is transferred and the Federal Secretary of the transfer. The member shall be liable to pay to the Branch to which he/she transfers any subscriptions levies or fines payable by him/her which are unpaid at the date of transfer.

**17 - RESIGNATION FROM MEMBERSHIP AND TERMINATION OF ELIGIBILITY**

- (1) Subject to sub-rule 17(1A) a member becomes ineligible for membership of the Union when he/she no longer meets the conditions of eligibility for membership of the Union.
- (1A) The following persons shall after the date referred to in sub-rule 5(12) be eligible to retain membership of the Union notwithstanding the fact that they are no longer eligible for membership within the conditions of eligibility for membership set out in rule 5:
- (a) members who are eligible for membership pursuant to paragraphs 5(3)(a), (b) or (c) and are -
    - (i) seconded by their employer to non-teaching duties, or
    - (ii) appointed by the Minister for Education to any Board, Committee or statutory authority;
  - (b) members who were formerly eligible for membership pursuant to paragraph 5(4)(a), (b) or (c) and have commenced to be employed elsewhere in the Victorian Education Department or in a technical and further education institution or by the Technical and Further Education Board or are seconded by their employer to perform professional duties requiring teacher qualifications;
  - (c) persons who become members of the Union prior to the date referred to in sub-rule 5(12) pursuant to paragraphs 5(3)(d) or 5(4)(d);

provided that persons who are entitled to retain membership pursuant to this sub-rule should not be entitled to retain membership after the expiration of the secondment or appointment.

- (2) A member who becomes ineligible for membership of the Union shall within seven days thereof give written notice of the fact and the reason therefore to the Secretary of the Branch to which he/she is attached.
- (3) A member may resign from membership of the Union by written notice addressed to and delivered to the Secretary of the Branch to which the member is attached.
- (4) A notice of resignation from membership takes effect:-
- (a) where the member ceases to be eligible to become a member of the Union -
    - (i) on the day on which the notice is received at the office of the relevant Branch Secretary; or
    - (ii) on the day specified in the notice, which is a day not earlier than the day when the member ceases to be eligible to become a member;whichever is later; or
  - (b) in any other case -
    - (i) at the end of 2 weeks after the notice is received at the office of the relevant Branch Secretary; or

- (ii) on the day specified in the notice;  
  
whichever is later.
- (5) Any subscriptions, levies or fines which are due and payable but have not been paid by a former member in relation to a period before the member's resignation took effect, may be sued for and recovered in the name of the Union, in a court of competent jurisdiction, as a debt due to the Union.
- (6) A notice delivered to the relevant Branch Secretary shall be taken to have been received by the Union when it was delivered.
- (7) A notice of resignation that has been received at the office of the relevant Branch Secretary is not invalid because it was not addressed and delivered in accordance with sub-rule (1).
- (8) A resignation from membership is valid even if it is not effected in accordance with this section if the member is informed in writing by or on behalf of the Union that the resignation has been accepted.
- (9) A relevant Branch Secretary may accept a resignation from membership which is not effected in accordance with this Rule.
- (10) Where the relevant Branch Secretary accepts a resignation in accordance with the previous sub-rule the relevant Branch Secretary shall inform the member in writing that his/her resignation has been accepted.
- (11) On receipt of a written notice from a member that he/she has become ineligible for membership of the Union or a notice of resignation or on acceptance of a resignation which is not effected in accordance with this Rule, the Branch Secretary shall, as soon as possible notify the Federal Secretary that the member has become ineligible for membership or that the member has resigned.

### **18 - DETERMINATION OF MEMBERSHIP**

- (1) A member shall cease to be a member when:
  - (a) he/she is no longer eligible for membership or he/she is no longer eligible to remain a member for the purposes of Rule 17; or
  - (b) he/she is expelled; or
  - (c) he/she dies; or
  - (d) the period of the notice of intention to resign (unless previously withdrawn) has expired; or
  - (e) the Branch Executive accepts the resignation as effective on a date prior to the expiry of written notice; or
  - (f) when he/she fails to respond to correspondence referred to in subrule 18(2).
- (2) The Branch Secretary shall write to each member who has been unfinancial for 3 months to his or her last address shown on the register requesting the member to make an arrangement to pay the outstanding dues. If no response is received within 14 days he/she will cease to be a member and will be removed from the register of members.

## **19 - CHANGE OF ADDRESS**

In the event of a Branch Member changing:-

- (1) his/her place of residence; or
- (2) his/her employer; or
- (3) his/her place of employment.

he/she shall report such change to the relevant Branch Secretary in writing within 14 days.

## **20 - AGREEMENTS WITH STATE REGISTERED UNIONS**

- (1) The Union is authorised by this Rule, to enter into agreements with State Registered Unions, to the effect that members of the State Registered Union concerned who are ineligible State members (that is, members of the State Union who are ineligible to be members of the Union) are eligible to become members of the Union in accordance with the agreement.
- (2) Notwithstanding any other provisions of these Rules, persons who are members of the State Registered Union bound by such agreement referred to in sub clause (1) shall have rights, entitlements and privileges of membership in the Union as shall be provided for in the terms of such agreement.
- (3) Without limiting the generality of sub-clause (2) of this Rule, a person who is a member of a State Registered Union bound by the terms of an agreement referred to in sub-clause (1) shall be eligible for the following: to vote in all elections in the Union, to nominate and to be nominated for an office of the Union, to attend all meetings of the Union and vote at these meetings in accordance with these Rules and to qualify for office in accordance with the provisions of these Rules.

## **PART III - CONSTITUTION, MANAGEMENT AND POWERS**

### **A. BRANCHES**

## **21 - FEDERAL ORGANISATION - BRANCHES**

- (1) There shall be the following branches of the Union:
  - (a) The Australian Education Union Queensland (Qld.) Branch.
  - (b) The Australian Education Union Western Australian (WA) Branch.
  - (c) The Australian Education Union South Australian (SA) Branch.
  - (d) The Australian Education Union Victorian (Vic) Branch
  - (e) The Australian Education Union New South Wales Teachers Federation (NSWTF) Branch.

- (f) The Australian Education Union Tasmanian (Tas) Branch.
  - (g) The Australian Education Union ACT Branch.
  - (h) The Australian Education Union Northern Territory (NT) Branch.
- (2) (a) Subject to Sub-Rule 21(2)(d) each member of the Union shall by virtue of this sub-rule on becoming a member be attached to a Branch, such Branch to be determined as in the following table by reference to the sub-rule of rule 5 by which that member's eligibility for membership is determined.

Sub-rule of rule 5 by which members eligibility is determined	Branch to which member is attached
(1)	QLD. BRANCH
(2)	W.A. BRANCH
(3)	S.A. BRANCH
(4)	VIC BRANCH
(6A)	VIC BRANCH
(7)	NSWTF BRANCH
(8)	TAS. BRANCH
(9)	ACT BRANCH
(10)	NT BRANCH

- (b) A person (not being a member) elected to a position of Federal Professional Officer shall on becoming a member be attached to the Branch of his/her choice.
  - (c) A person (not being a member) elected or appointed to a position of Branch Professional Officer shall on becoming a member be attached to the Branch which so elected or appointed him/her.
  - (d) Where any applicant is eligible for membership of the union and is eligible to be attached to more than one branch of the union, such member shall be attached to the Branch of his/her choice.
- (3) Each Branch may make provision for the making, amending and rescinding of Branch Rules for the regulation and government of the Branch provided that if any such rule is inconsistent with any Federal Rule the latter shall prevail to the extent of any inconsistency.
- (4) Each Branch in a State or Territory where there is no Associated Body and in South Australia shall have full autonomy in matters affecting members of the Branch only and matters concerning the participation of the Branch in any system of conciliation and arbitration or of wages boards or like systems established under the laws of the State in which the Branch is established or howsoever established for the purpose of determining the terms and conditions of employment of any of its members.
- (5) The Union shall not participate in any of the systems referred to in the preceding sub-rule except when and to the extent and for so long as the Branch concerned with that system so requests and where the Union so participates the Secretary of that Branch of the Union shall be the person to sue or be sued in respect of any acts or omissions arising out of that participation.
- (6) Each Branch shall subject to these Rules have power to constitute reform or dissolve sub-branches, sections and local committees (howsoever named) and to determine or vary their powers and duties. Members of any such sub-branch, section or local committee shall at all times be governed by the Federal Rules and the Branch Rules.



- (7) Notwithstanding any other sub-rule of this rule, if at any time the Federal Conference or Federal Executive is of the opinion that the Branch Rules of a Branch do not comply with the requirements of the Act Federal Conference or Federal Executive may call on the Branch to bring its Branch Rules into conformity with the Act within a specified time. If at the end of the time specified the Branch Rules of the Branch have not been so altered Federal Conference or Federal Executive may make such alterations to the Branch Rules of the Branch as will in its opinion bring them into conformity with the Act.
- (8) No Branch shall determine any policy with respect to or in any way whatsoever act contrary to any policy determined by Federal Conference with respect to international matters.
- (9) No Branch shall affiliate with or send delegates to or be represented in any other manner on any national or international organisation or body by whatever name called without the prior consent of Federal Conference or Federal Executive.
- (10)
  - (a) Subject to paragraph (b) a Branch shall not make an application for an award of the Australian Industrial Relations Commission until such time as the Federal Executive or the Federal Conference has so authorised at least once in respect of that Branch.
  - (b) For the purposes of this rule, it shall not be necessary for the ACT Branch or the Northern Territory Branch to seek authorisation from the Federal Executive or the Federal Conference for the making of an award of the Australian Industrial Relations Commission.
- (11) Each Branch shall at all times conform to the Federal Rules.

## **22 - BRANCH LEVIES**

- (1) The Branch Council or Branch Executive of any Branch may impose a levy or levies on each member of the Union attached to such Branch pursuant to Rule 21(2).
- (2) Such levy or levies shall become due and payable on the date specified by the Branch Council or Branch Executive concerned.

## **B. FEDERAL CONFERENCE**

### **23 - GOVERNMENT - FEDERAL CONFERENCE**

- (1) The affairs of the Union shall be governed by a Federal Conference which shall be the supreme governing authority of the Union.
- (2)
  - (a) There shall be a meeting of Federal Conference each calendar year which shall be known as the Annual Conference .
  - (b) The Annual Conference shall be held on a date and at a place determined by the preceding Conference or, in the absence of a decision by the Annual Conference, by the Federal Executive.
  - (c) The Federal Secretary shall give five months' notice in writing to each Branch Secretary of the date and place of the Annual Conference.

- (3) Federal Conference or Federal Executive by resolution in that behalf shall have power to convene special meetings of Federal Conference (hereinafter referred to as "Special Conference") and to determine when where and for what purpose such special meetings shall be held. At least thirty days notice of any special meeting of Federal Conference shall be given to each member of Federal Conference and to each Branch Secretary by post addressed to the respective addresses as appearing from the records of the Union.
- (4) Upon a request in writing made to the Federal Secretary by or on behalf of four Branches pursuant to a resolution of the Branch Council of each such Branch requesting that Special Conference be convened to transact the business set forth in the said special resolution the Federal Secretary shall convene a special meeting of Federal Conference for a date not later than sixty days from the date on which the request to the Federal Secretary was made. At least thirty day's notice of any such special meeting specifying the business of the meeting shall be given to each member of Federal Conference and to each Branch Secretary by pre- paid certified or registered post addressed to the respective addresses appearing from the records of the Union.
- (5)
  - (a) The Federal Secretary shall convene a special meeting of Federal Conference upon a request in writing by financial members so to do if such request:
    - (i) is signed by ten per cent of the financial members of the Union as at the date of receipt of the request;
    - (ii) contains in relation to each signature:
      - (a) the date of signing;
      - (b) the signatory's name in capital letters;
      - (c) the name of the Branch to which the signatory is attached.
  - (b) The Special Conference shall be convened for a date not later than sixty days from the date on which the Federal Secretary receives the request.
  - (c) At least thirty day's notice of any such special meeting specifying the business of the meeting shall be given to each member of Federal Conference and to each Branch Secretary by pre-paid certified or registered post addressed to the respective addresses appearing from the records of the Union.
- (6) At every meeting of Federal Conference a quorum shall be a majority of delegates.
- (7) The agenda for any meeting of Federal Conference convened pursuant to sub-rule (4) or sub-rule (5) of his rule shall be only that business set forth in the "resolution" or the "request" respectively referred to in those sub-rules.

#### **24 - CONSTITUTION OF FEDERAL CONFERENCE**

- (1) The Federal Conference shall consist of the Federal President, the Deputy Federal President and Federal Delegates representing the General Division and the TAFE Division and Aboriginal and Torres Strait Islander Federal Delegates elected pursuant to Rule 30.
- (2) Subject to sub-rules 24(2A) 24(3) and 24(3A) each Division in a Branch shall be entitled to one delegate for each 2,500 members assigned to each Division in the Branch or part thereof.

## 24 - CONSTITUTION OF FEDERAL CONFERENCE

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- (2A) In addition to the Branch delegate entitlement in sub-rule 24(2) each branch with at least 10 members who are Aboriginal or Torres Strait Islander persons shall be entitled to one additional delegate, the Aboriginal and Torres Strait Islander Federal Delegate, who must be an Aboriginal or Torres Strait Islander person.
- (3) Subject to sub-rule 24(3A) members of the Union assigned to the TAFE Division in the ACT, Northern Territory and Tasmanian Branches shall jointly elect delegates to Federal Conference. The number of Federal Delegates elected in accordance with this sub-rule shall be on the basis of 1 delegate for each 2,500 members or part thereof assigned to the TAFE Division in the ACT, Northern Territory and Tasmanian Branches.
- (3A) The number of delegates and number of female delegates representing the General Division in each Branch shall be calculated in accordance with the following table:-

<u>Size of Branch</u>	<u>No. of Delegates</u>	<u>No. of Female Delegates</u>
0 - 2,500	1	-
2,501 - 5,000	2	1
5,001 - 7,500	3	2
7,501 - 10,000	4	2
10,001 - 12,500	5	3
12,501 - 15,000	6	3
15,001 - 17,500	7	4
17,501 - 20,000	8	4
20,001 - 22,500	9	5
22,501 - 25,000	10	5
25,001 - 27,500	11	6
27,501 - 30,000	12	6
30,001 - 32,500	13	7
32,501 - 35,000	14	7
35,001 - 37,500	15	8
37,501 - 40,000	16	8
40,001 - 42,500	17	9
42,501 - 45,000	18	9
45,001 - 47,500	19	10
47,501 - 50,000	20	10
50,001 - 52,500	21	11
52,501 - 55,000	22	11
55,001 - 57,500	23	12
57,501 - 60,000	24	12
60,001 - 62,500	25	13
62,501 - 65,000	26	13
65,001 - 67,500	27	14
67,501 - 70,000	28	14
70,001 - 72,500	29	15
72,501 - 75,000	30	15
75,001 - 77,500	31	16
77,501 - 80,000	32	16

- (4) In determining the number of the members assigned to a Division in a Branch for the purposes of this Rule regard shall be had to the total number of financial members of the Branch assigned to the Division as at 5.00 p.m. local time on 30 June. The figure determined in accordance with this sub-rule shall apply until 30 June in the following year.

- (4A) In determining the number of members who are Aboriginal or Torres Strait Islander persons assigned to a Branch for the purposes of subrule 24(2A) regard shall be had to the total number of financial members who are Aboriginal or Torres Strait Islander persons of the Branch as at 5:00PM local time on 30 June. The figure determined in accordance with this sub-rule shall apply until 30 June in the following year.
- (5) Federal Delegates shall hold office for 2 years or until their successors are elected.
- (6) A Federal Delegate who is elected to the office of Federal President, Deputy Federal President, Federal Secretary, Deputy Federal Secretary shall upon assuming office cease to hold office as a Federal Delegate and a casual vacancy shall thereupon be created.
- (7) In the event that there is -
- (a) a casual or extraordinary vacancy arising in the office of Federal Delegate, or
  - (b) an increase in the Branch's entitlement to Federal Delegates,
- the casual vacancy or increased entitlement shall be filled,
- (i) where the Federal Branch Rules provide for the election of alternate Federal Delegates - by the Branch Returning Officer declaring elected the alternate Federal Delegate from the relevant Division who received the highest number of votes before the allocation of preferences or where no election was held by determining by lot the successful candidate, or
  - (ii) where the Federal Branch Rules make no provision for the election of alternate Federal Delegates - by conducting an election to fill the casual vacancy or increased entitlement.
- (8) An election in accordance with the previous sub-rule shall be conducted using the same mode of election as is prescribed by these Rules for the election of Federal Delegates and the person elected shall hold office until the next normal 2 yearly election of Federal delegates. Where a person has been elected to fill a vacancy caused by an increase in the Branch's entitlement to Federal Delegates, that person shall take office on 1 January in the following year and shall hold office until the next normal 2 yearly election of Federal delegates.
- (9) The relevant Branch Council may, in relation to a casual vacancy or extraordinary vacancy, notwithstanding sub-rule (7) and (8), where the term of office to which a member would be elected would be less than three quarters of the term of office of the incumbent, appoint a financial member of the Branch assigned to the Division in which the vacancy has arisen to the office, or in the case that the vacancy is the Aboriginal and Torres Strait Islander Federal Delegate appoint a financial member of the Branch who is an Aboriginal or Torres Strait Islander person, and that member shall hold office as though elected in accordance with the previous sub-rule.
- (10) Where there is a casual or extraordinary vacancy in the office of the Federal Delegate for the ACT, Northern Territory or Tasmanian Branches the ACT, Northern Territory and Tasmanian Branches shall elect or appoint a financial member of one of the Branches assigned to the TAFE Division in accordance with sub-rules (7), (8) and (9) as if references to an election by a Branch were references to a joint election by the Branches and a reference to an appointment by a Branch Council was a reference to a joint appointment by the Branch Councils.

## 25 - CONSTITUTION OF FEDERAL CONFERENCE - MINIMUM REPRESENTATION OF WOMEN

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- (11) In the event that a Branch's entitlement to Federal Delegates decreases as at 30 June in a year when there is no normal two yearly election, the Branch Returning Officer shall determine the person or persons who shall cease to be Federal Delegates from 1 January in the following year. The person or persons who shall cease to hold office shall be determined -
- (a) where there has been an election for Federal Delegates - by one or more delegates resigning or, if not, by determining the person or persons last elected during the counting of votes and the allocation of preferences; or
  - (b) where there has been no election - by one or more delegates resigning or, if not, by determining the person or persons by lot.
- (12) Each Federal Delegate shall be provided with credentials certified by the relevant Branch Secretary and lodged with the Federal Secretary within 7 days of the declaration of the ballot in which the Federal Delegate is elected.
- (13) (a) The Federal Secretary and the Deputy Federal Secretary may attend, speak, propose and second motions but shall have no other rights by virtue of holding such office with respect to meetings of Federal Conference other than the rights conferred by sub-rule 24(15).
- (b) The Federal TAFE Secretary and the Professional Officers may attend and speak at any Federal Conference but shall have no other rights by virtue of holding such office with respect to meetings of Federal Conference unless they are a Federal Delegate.
- (14) Each member of Federal Conference shall have one vote.
- (15) For the purposes of the election of Federal Officers, the Federal Secretary, and the Deputy Federal Secretary shall be and be deemed to be members of the Federal Conference with one vote each provided that a Federal Officer who was appointed to fill a casual vacancy in accordance with paragraph 37(3)(b) of the Federal Rules is not entitled to vote unless he/she at the time of appointment was a Federal delegate or entitled to vote under this Rule.
- (16) Where a TAFE delegate has been elected to Federal Conference by members of the ACT, Northern Territory and Tasmanian Branches, the Branches other than the Branch to which the person elected is attached, may each nominate one National TAFE Council Member from that Branch to attend Federal Conference.
- (17) A National TAFE Council member nominated in accordance with the previous sub-rule shall be entitled to speak but shall not have any voting rights on Federal Conference.

## **25 - CONSTITUTION OF FEDERAL CONFERENCE - MINIMUM REPRESENTATION OF WOMEN**

- (1) This Rule shall operate for all elections for Federal Delegates to Federal Conference.
- (2) This Rule shall operate in conjunction with other Federal Rules relating to the election of Federal Delegates provided that where there is an inconsistency, this Rule shall prevail over any inconsistent provision in any other Federal Rule.
- (3) These Rules shall apply to the election of Federal Delegates to Federal Conference representing the General Division only and references in these Rules and the relevant Federal Branch Rules to Branch entitlements to Federal Delegates shall be deemed to be references to Branch entitlements to Federal Delegates representing the General Division.
- (3) DELETED

## 26 - POWERS OF FEDERAL CONFERENCE

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- (4) In the event that the number of female candidates for Federal Delegate positions is less than the minimum number of female delegates, the position shall be filled by a male candidate.
- (5) Any casual or extraordinary vacancy in the office of the Federal Delegate shall be filled by a person of the same sex as the person who is being replaced.
- (6) In the event of an increase in the Branch's entitlement, the Branch Returning Officer shall having regard to the formula set out in sub-rule 24(3A), determine the sex of the person to be elected.
- (7) In the event that it is necessary to reduce a Branch's Federal Delegate entitlements, the Branch Returning Officer shall, having regard to the formula set out in sub-rule 24(3A), determine the sex of the person or persons to be eliminated and determine the person or persons who shall cease to be Federal Delegates from 1 January in the following year -
  - (a) where there has been an election for Federal Delegates - by determining the person or persons last elected during the counting of votes and the allocation of preferences; or
  - (b) where there has been no election - by one or more delegates resigning or, if not, by determining by lot the male or female delegate or delegates to be eliminated.

### **25A - ABORIGINAL AND TORRES STRAIT ISLANDER FEDERAL DELEGATE**

- (1) The delegate referred to in sub-rule 24(2A) shall be an Aboriginal or Torres Strait Islander member from the General Division or the TAFE Division of the Branch and shall be elected jointly by all the members of the Branch but shall not be regarded for the purpose of these rules as representing either Division.
- (2) The delegate shall have the same term of office as all other Federal Conference delegates and shall be elected in accordance with the mode of election as is prescribed in these rules for the election of federal conference delegates.
- (3) Any casual or extraordinary vacancy in the office of an Aboriginal and Torres Strait Islander Federal Delegate shall be filled by an Aboriginal or Torres Strait Islander person in accordance with subrules 24(7), 24(8) and 24(9).

## **26 - POWERS OF FEDERAL CONFERENCE**

Federal Conference shall be the supreme governing authority of the Union and shall have power to do all things necessary to achieve the Objects of the Union and upon registration of the Union as an organisation of employees under the Act shall exercise all of the powers therein conferred upon a registered organisation of employees except those related to the financial management of the Union and without limiting the generality hereof shall have power to:

- (1) Make amend and rescind any of the rules of the Union.
- (2) Fix and from time to time vary the mode of payment of capitation fees payable by Branches to the Federal Fund of the Union.
- (3) Appoint a Federal Returning Officer, not being the holder of any other office in and not being an employee of the Union or of a Branch section or division of the Union.

- (4) Seek and obtain or oppose the making of Awards by the Australian Industrial Relations Commission or by any successor to that body by whatever name called in accordance with the policy and procedures of the Act, as the interests of members may from time to time require.
- (5) In relation to any Federal Delegate, Federal Executive Member or Federal Officer:-
  - (a) suspend or remove that person from office if he/she has ceased according to the rules, with the exception of Rule 12(5), to be eligible to hold such office; or
  - (b) reprimand or impose a fine not exceeding \$100.00, suspend or remove that person from office, or expel that person from membership if he/she has been found guilty of the conduct referred to in paragraph 33(1)(b) of these Rules.
- (6) Subject to sub-rule 4 of rule 21 authorise the Union's participation in any State or Territory system of conciliation and arbitration.
- (7) Determine all matters of policy affecting the Union's relations with other organisations or associations.
- (8) Hear such applications or appeals as these rules provide.
- (9) Hear and determine any appeal by any member of the Union whom a Branch has reprimanded, imposed a penalty upon, or suspended or expelled from membership of the Union.
- (10) Act as an agent for and on behalf of members or non-members or other unions, associations or groups of persons whether those persons are members of the union or not, consistently with the objects and rules of the union and in the interests of the members of the union, upon such terms and conditions as the Federal Conference may determine appropriate.
- (11) Do all things necessary or convenient to the exercise of the foregoing powers or the achievement of the Objects of the Union or of the Act.

**27 - FEDERAL CONFERENCE POWERS IN RELATION TO OVERRIDE DECISIONS OF NATIONAL TAFE COUNCIL AND TAFE COUNCIL EXECUTIVE**

Federal Conference may in relation to a decision by National TAFE Council or TAFE Council Executive:-

- (a) Where the decision affects members outside the TAFE Division - declare the decision affects members outside the TAFE Division and rescind, amend or affirm the decision; and
- (b) In relation to any other decision, rescind or amend the decision provided that the majority in favour of amending or rescinding the decision includes a majority of Federal Delegates representing the TAFE Division.

**28 - MEETING OF THE FEDERAL CONFERENCE**

- (1) The Federal President or in his/her absence the Deputy Federal President or in the absence of both a delegate to Federal Conference elected by the Delegates assembled for the meeting shall preside as chairperson at any meeting of Federal Conference.
- (2) At any meeting of Federal Conference the Federal Secretary shall read the Federal Delegates' credentials and the Federal Conference shall unless otherwise determined by Federal Conference proceed to the business of the Agenda.
- (3) Federal Conference, Federal Executive, National TAFE Council, TAFE Council Executive, a Branch Council or a Branch Executive may place an item on the agenda for any meeting of Federal Conference convened pursuant to rule 23(2) provided that notice is given to the Federal Secretary at least sixty days prior to the date of such meeting. The Federal TAFE Secretary, each Branch Secretary and member of Federal Conference shall be given at least thirty days written notice by the Federal Secretary of such agenda items. A member of Federal Conference who wishes Federal Conference to consider any matter not on the agenda for that meeting may have such matter other than a matter requiring the exercise of Federal Conference powers under Rule 26(1) or 26(2) considered if the Conference resolves to consider the matter by a resolution carried by an absolute majority of the votes exercisable at the meeting.
- (4) Subject to sub-rule (3) of this Rule the agenda for any meeting of Federal Conference convened pursuant to rule 23(2) shall be determined by the Federal Conference or Federal Executive and the Federal Secretary shall cause a copy of such agenda to be forwarded to the Federal TAFE Secretary, each Branch Secretary and each Federal Delegate at least thirty days before such meeting.
- (5) Where a matter only affecting TAFE Division members is being considered by Federal Conference which has not previously been dealt with by the National TAFE Council or TAFE Council Executive, Federal Conference shall, if called upon by a majority of TAFE Delegates to Federal Conference, either:-
  - (i) Defer a decision on the matter until the matter has been considered by National TAFE Council or TAFE Council Executive; or
  - (ii) Not implement the decision unless and until a meeting of the National TAFE Council or TAFE Council Executive has endorsed the decision.
- (6) Where the Federal Conference determines that a matter referred to the National TAFE Council or TAFE Council Executive is urgent, Federal Conference may impose on the National TAFE Council or TAFE Council Executive a time limit in which to make a decision.



## 29 - PLEBISCITE

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- (7) If a decision is not made within the time limit determined in accordance with the previous sub-rule Federal Conference may determine the matter or implement the decision as the case may be.
- (8) Where Federal Conference is dealing with matters which only affect General Division members, Federal Conference may, by resolution passed by majority of delegates provided that the majority includes a majority of TAFE delegates, determine that the business of Federal Conference can be conducted in the absence of TAFE Division delegates.
- (9) The requirements of this rule as to notice shall be directory and not mandatory and the accidental or inadvertent omission to give the full notice required to any person entitled to same shall not of itself invalidate the proceedings of the Federal Conference meeting at which such matter is considered.
- (10) Nothing in this rule shall be read as precluding the addition to or amendment or rescission of any rule by postal ballot of the members of Federal Conference conducted in accordance with the requirements of sub-rule 12 of this rule.
- (11) Within forty-five days of the rising of the Federal Conference the Federal Secretary shall forward to each Branch and to each member of the Federal Conference and Federal Executive a copy of the draft minutes of that meeting.
- (12) Where in the opinion of the Federal Executive it is expedient to do so it may determine that the business of any meeting of Federal Conference convened pursuant to rule 23(3) shall be conducted by postal vote. Such votes shall be returned to the Federal Secretary who shall keep them unopened and hand them to the Federal Returning Officer at the end of the day fixed for that meeting of Federal Conference. The Federal Returning Officer shall then in the presence of the Federal Secretary count the vote and in writing declare the outcome of the business the subject of the vote, whereupon he/she shall forthwith deliver all votes and his/her declaration to the Federal Secretary for safekeeping as a record of that Federal Conference.
- (13) The provisions of this rule with respect to notice are subject to rule 68.

## 29 - PLEBISCITE

- (1) A plebiscite of members on any matter shall be taken if directed by the Federal Conference.
- (2) The matter to be voted upon in the plebiscite shall be set out in the form of a motion or motions approved by the Federal Conference.
- (3) The Federal Secretary shall unless otherwise directed by Federal Conference within twenty-eight days of the decision of Federal Conference pursuant to sub-rule (1) hereof inform all Branches of the intended plebiscite.
- (4) Each Branch shall on receipt of such a notice of a plebiscite if it does not already have one appoint a Branch Returning Officer. Within twenty- eight days after the despatch of a notice under sub-rule 3 of this rule, the Federal Returning Officer shall submit the motion to a postal vote of all financial members whose names appear on the Branch Registers at 5.00 p.m. local time five clear days after the despatch of the aforesaid notice by sending or causing to be sent to each member by prepaid letter post:
  - (a) a ballot paper;
  - (b) a plain envelope in which the ballot paper is to be sealed after the voter has cast his/her ballot;

- (c) an envelope pre-addressed to the Branch Returning Officer of the Branch to which that member is attached into which the plain envelope is to be inserted by the voter. Such pre-addressed envelope shall provide on its outer surface for the member to declare that he/she is, at the time of voting, a financial member of the Union entitled to vote under these Rules and to which Branch that member is attached and shall be stamped, franked, pre-paid or endorsed such that postage thereon is not payable by the voter.
  - (d) If so directed by Federal Conference or Federal Executive a separate enclosure setting out information of a factual or informative nature relevant to the matter(s) to be voted on. Such enclosure shall not incorporate any material designed to influence the outcome of the vote and no other enclosure shall be included.
- (5) The ballot paper shall set out:
- (a) the closing date for receipt of ballots as determined by the Federal Executive;
  - (b) the motion followed by provision for the member to record his/her vote. If there is more than one motion provision is to be made for the member to record his/her vote on each motion separately;
  - (c) instructions to the voter as to how to record his/her vote.
- (6)
- (a) Where a member entitled to vote at a plebiscite will be absent during the conduct of the ballot from the State in which the office of the Branch of which he/she is a member is located, he/she may, during the period after the notification under sub-rule 3 by the Federal Secretary of the intended plebiscite and before the opening date of the ballot, apply in writing to the Branch Returning Officer for an absent vote on stating the ground that his/her absence will otherwise prevent his/her voting at the ballot;
  - (b) Where the Branch Returning Officer receives an application under paragraph (a) hereof and is satisfied that the member will be prevented from voting at the ballot the Federal Returning Officer shall by pre-paid post, forward or cause to be forwarded to the member a ballot paper in accordance with this Rule.
- (7) Each Branch Returning Officer shall:-
- (a) maintain a locked and sealed ballot box in which he/she shall place from time to time ballot papers received by post;
  - (b) upon the closing of the ballot, take steps to ensure that no further ballots are lodged;
  - (c) after the close of the ballot with the assistance of the Assistant Branch Returning Officer and such other persons as the Branch Returning Officer shall approve determine prima facie the validity of each ballot by reference to the Register of members;
  - (d) with such assistance count the votes cast by the financial members of the Branch; and
  - (e) notify both the Branch Secretary and the Federal Returning Officer promptly of the numbers of votes cast for and against the motion submitted.
- (8) If a majority of the voters vote in favour of the motion and in addition a majority of voters in at least four Branches vote in favour of the motion and in addition in each of those Branches not less than 25 per cent of financial members whose names appear on the Branch Register as at the time and date referred to in sub-rule (4) hereof vote in favour of the motion, the motion shall be deemed to be carried but not otherwise and shall have the effect of a decision of Federal Conference.

- (9) In the conduct of a plebiscite pursuant to this rule each Branch Returning Officer and Assistant Branch Returning Officer and any persons assisting them shall act under the direction and control of the Federal Returning Officer and be responsible to him/her.

### **29A - GENERAL MEETING - FINANCIAL REPORTS**

- (1) The Federal Secretary shall convene a meeting of the members of the Union upon a request in writing by members calling for a General Meeting for the purposes of considering the financial reports as described in Schedule 1B of the Workplace Relations Act 1996 if such a request:
- i) is signed by no less than 5% of the members of the Union as at the date of receipt of the request;
  - ii) contains in relation to each signature:
    - (a) the date of signing;
    - (b) the signatory's name in capital letters;
    - (c) the name of the Branch to which the signatory is attached.
- (2) A General Meeting of the members of the Union pursuant to this Rule may be conducted as a series of meetings held at different locations.
- (3) The Federal Secretary shall give 28 days notice to the members of the Union of any General meeting called pursuant to this Rule.
- (4) The Federal Secretary shall give notice of any meeting to be conducted pursuant to this Rule by written notice sent or delivered to and posted in a conspicuous place at each members place of employment or by email communication to each member or by notice on the Union website to all members who have immediate access to that website and to each Branch Secretary.
- (5) A meeting conducted pursuant to this Rule is taken to have been completed at the time of the last meeting in any series of meetings.
- (6) All decisions at a meeting called in accordance with the Rule shall be by a show of hands except where a resolution is carried which determines to submit the question to a secret ballot.
- (7) Attendance at meetings conducted under this Rule shall be recorded and such attendance records shall be used to ensure that each member records only one vote.

### **30 - ELECTION OF FEDERAL DELEGATES**

- (1) The Federal Branch Rules of each Branch shall make provision for the election of Federal Conference Delegates representing the General Division and provided the Branch is entitled to elect Federal Conference Delegates representing the TAFE Division, provision for the election of Federal Delegates representing the TAFE Division.

Federal Conference Delegates representing the General Division shall be elected by and from the financial members of the Branch in the General Division. Federal Conference Delegates representing the TAFE Division shall be elected by and from the financial members of the Branch in the TAFE Division.

### 30A - CONDUCT OF FEDERAL AND BRANCH ELECTIONS

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- (1A) The Federal Branch Rules of a Branch may make provision for an election of alternate Federal Conference Delegates representing the General Division and alternate Federal Conference Delegates representing the TAFE Division to be conducted in conjunction with the election of Federal Conference Delegates.
- (2) Subject to the next sub-rule, the elections shall be conducted in accordance with a timetable which permits the declaration of the election on or before 31 October prior to the date on which the Federal Delegates elected assume office.
- (3) Where, in a year in which there is no normal 2 yearly election for Federal Delegates, the Branch becomes eligible for an increased entitlement, an election shall be held as soon as possible after 30 June in that year.
- (4) At each election of Federal Delegates for a Division, all financial members of the Union attached to the Branch assigned to that Division, as at the close of the roll of voters for the ballot, are eligible to vote in that election. The roll of voters is to be closed seven days before the day on which nominations open.
- (5) A Federal Delegate elected in a normal 2 yearly election shall take office on 1 January in the year following his/her election and cease to hold office on 31 December in the next year provided that the Federal Delegate does not cease to hold office as a result of a decrease in the entitlement of the Branch to delegates representing the Division. In the event of a delay in completing the ballot the outgoing Federal Delegates shall remain in office until their successors are elected and their successors shall hold office until the next normal 2 yearly election of Federal delegates.
- (6) Each Branch Returning Officer shall within 7 days of the declaration of any ballot for the election of a Federal Delegate notify the Federal Secretary and Federal Returning Officer of the results of the ballot.
- (7) In these Rules a member who has been elected as a Federal Delegate but has not yet commenced his/her term of office is referred to as a Federal Delegate Elect.
- (8) The election of the position of the Aboriginal and Torres Strait Islander Federal Delegate shall be in accordance with the relevant Federal Branch Rules for election of federal delegates except that the member being nominated and the nominators must be Aboriginal or Torres Strait Islander members.

### 30A - CONDUCT OF FEDERAL AND BRANCH ELECTIONS

For the avoidance of doubt (and notwithstanding anything else contained in these Rules), where in these Rules a nomination is required to be delivered to the Returning Officer and the Australian Electoral Commission acts as the Returning Officer, delivery shall be effected by means which include the following:

- (a) Physically delivering the document to an address determined by the Returning Officer;
- (b) Sending the document by post to an address determined by the Returning Officer;
- (c) Emailing the document to an email address determined by the Returning Officer (provided that the sender retains a copy of the document to be produced on request to the Returning Officer); or
- (d) Sending the document by facsimile transmission to a facsimile number determined by the Returning Officer (provided that the sender retains a copy of the document to be produced on request to the Returning Officer).

Further, for the avoidance of doubt and provided that the relevant Federal Branch Rules do not contain a rule consistent with these provisions, this rule applies in relation to a branch as if references to the Returning Officer were references to a Branch Returning Officer and references to the Rules were references to the relevant Federal Branch Rules.

For the avoidance of doubt (and notwithstanding anything else contained in these Federal Rules), where the AEC is unable to conduct an election including in circumstances relating to the COVID-19 pandemic all current officers shall hold over in office until their successor is declared elected. The successful candidate(s) will take up office immediately on the declaration of the election and hold office until the next normal election.

### **31 - FEDERAL RULES IN RELATION TO BRANCHES**

- (1) The Rules of the Union in relation to the various Branches of the Union shall be as provided for in the various respective appendices to these Rules (herein referred to as the Federal Branch Rules).
- (2) Each Branch Council shall subject to the Act and the Federal Rules have full power and authority to make, amend and rescind its Federal Branch Rules in any respect whatsoever that does not conflict with the Federal Rules, and any such rule so made or amended shall be part of the Rules of the Union, and without limiting the generality of the foregoing may in any such Rule make provision for such Life, Honorary, Associate or similar category of membership as it shall see fit provided that membership of such category shall not of itself entitle such member to membership of the Union pursuant to rule 5.
- (3) The Secretary of any Branch which alters its Federal Branch Rules shall within 35 days of the amendment thereof file with the Registrar of the Australian Industrial Relations Commission full particulars of the alteration in such form and manner that the Registrar is able to form an opinion whether or not the alteration complies with and is not contrary to the provisions of the Act, of the regulations made under the Act or of an award made pursuant to the Act and is not otherwise contrary to law and has been made in accordance with the relevant procedures laid down by the Rules of the Union.
- (4) The Secretary of any Branch who files particulars with the Registrar pursuant to sub-rule (3) of this rule shall on the day he/she so files forward to the Federal Secretary a true copy of the said particulars and shall thereafter forward to the Federal Secretary a copy of all correspondence and documents and transcript with respect to the Australian Industrial Relations Commission's dealings with the alteration.

### **32 - PROXY VOTING ON FEDERAL CONFERENCE AND ALTERNATE FEDERAL DELEGATES**

- (1) Subject to sub-rule (7) a Federal Delegate to Federal Conference may appoint a Federal Delegate or member of the Branch Council or a member endorsed by the Branch Executive to act as his/her proxy.
- (2) An appointment of a proxy shall be in writing and delivered by hand, by post or by facsimile to the Federal Secretary.
- (3) The number of proxies which may be carried by a single person is as follows:-
  - (a) A Federal Delegate in relation to Federal Conference, one proxy;
  - (b) A person other than a Federal Delegate in relation to Federal Conference - no more than two proxies.
- (4) A proxy Federal Delegate shall have all the powers of the person he/she represents but in exercising a vote he/she shall act in accordance with any direction given by the person for whom

he/she acts as proxy and failing any such direction in accordance with any direction of the Branch Council or Branch Executive.

### 33 - REMOVAL FROM OFFICE AND SUSPENSION OF FEDERAL OFFICE HOLDERS

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- (5) For all purposes at any meeting of Federal Conference a person entitled to exercise one or more proxy votes shall be counted as though he or she were a Federal Delegate in relation to each such proxy.
- (6) A proxy Federal Delegate shall not thereby be eligible for election as a Federal Officer. A member endorsed by the Branch Executive or a member of the Branch Council who is acting as a proxy shall not participate in an election for Federal Officer.
- (7) Where a Branch has elected alternate Federal Conference Delegates representing the General Division and the TAFE Division and a Federal Delegate will not be present for the whole or any part of a meeting of the Federal Conference, the alternate Federal Conference Delegate representing the absent delegate will be determined:
  - (i) Where a ballot has been held, by the order in which the candidates were elected in the ballot;
  - (ii) Where no ballot has been held, by the relevant Branch Council or Branch Executive nominating an alternate Federal Conference Delegate representing the General Division or the TAFE Division, as the case may be, to attend the meeting of the Federal Conference provided that, where it is not practicable for an alternate Delegate to attend, a proxy may be appointed in accordance with this rule.
- (8) An alternate Federal Conference Delegate shall be entitled to exercise all the rights of a Federal Delegate to Federal Conference other than the right to participate in an election for Federal Officers or be eligible for election as a Federal Officer.

### **33 - REMOVAL FROM OFFICE AND SUSPENSION OF FEDERAL OFFICE HOLDERS**

- (1) The Federal Conference may at any time by resolution of a majority of two thirds of the votes able to be cast by those present at its meeting:-
  - (a) suspend or remove from office any Federal Delegate, Federal Executive Member, Federal Officer, National TAFE Council Delegate, TAFE Council Executive Member, Federal TAFE Officer, Aboriginal and Torres Strait Islander Education Committee (General Division) Member, Aboriginal and Torres Strait Islander Education Committee (TAFE Division) Member, National Principals' Committee Member or Early Childhood Committee Member if that person has ceased according to the rules, with the exception of Rule 12(5), to be eligible to hold such office, or
  - (b) reprimand, fine, suspend or remove from office or expel from membership any Federal Delegate, Federal Executive Member, Federal Officer, National TAFE Council Delegate, TAFE Council Executive Member, Federal TAFE Officer, Aboriginal and Torres Strait Islander Education Committee (General Division) Member, Aboriginal and Torres Strait Islander Education Committee (TAFE Division) Member, National Principals' Committee Member or Early Childhood Committee Member if that person has been found guilty of:-
    - (i) misappropriation of the funds of the Union;
    - (ii) substantial breach of the Union's Rules;
    - (iii) gross misbehaviour in relation to his/her office; or
    - (iv) gross neglect of duty in the conduct of his/her office.
- (2) A person shall not be dealt with pursuant to sub-rule (1) of this rule unless he/she has been given twenty one days notice in writing of the place and date of the meeting at which the resolution is to be considered together with particulars in writing of the evidence on which the allegation is based and has been given the opportunity to be heard by that meeting of Federal Conference personally and through another person and in writing.

- (3) The powers referred to in sub-rule (1) hereof shall in relation to the persons holding the offices specified therein be exercised by the Federal Conference exclusively and no Federal Branch Rule or Branch Rule shall purport to authorise the exercise of those powers in relation to the aforesaid persons.
- (4) (a) A Federal Officer or Federal TAFE Officer may be suspended from office by the Federal Executive if the Executive is satisfied that such officer has a case to answer in relation to the matters referred to in sub-rule (1) of this rule.
- (b) If the Federal Executive suspends a Federal Officer pursuant to paragraph (a) of this sub-rule it shall forthwith appoint a financial member of the Union, whether a member of the Federal Executive or not, to act in the place of the officer so suspended.
- (c) The Federal Secretary or any person appointed pursuant to paragraph (b) of this sub-rule to act in his/her place shall within 48 hours of the suspension provide the suspended Federal Officer with a notice in writing advising him/her of the suspension and shall within seven days of the suspension convene for a date within forty two days of the suspension a meeting of Federal Conference to deal with him/her pursuant to sub-rule (1) of this rule.
- (d) The provisions of sub-rules (1) and (2) of this rule apply in like manner so far as they are capable of applying in relation to the person suspended pursuant to paragraph (a) of this sub-rule and the Federal Conference convened in pursuance of paragraph (c) of this sub-rule.
- (e) If a meeting of Federal Conference is not convened in pursuance of paragraph (c) of this sub-rule the person suspended from office, shall be deemed to be reinstated in his/her office from the expiration of the period for convening such a meeting of Federal Conference. On such reinstatement the person suspended shall receive all the entitlements to which he/she would have been entitled if he/she had not been suspended.
- (f) If Federal Conference does not resolve to remove the person suspended from office that person shall be reinstated in his/her office subject to such terms and conditions as the Federal Conference subject to the Act and the Rules may impose.
- (g) A member appointed to act in place of an officer suspended shall continue to act in that position until the person suspended from office has been reinstated pursuant to subparagraph (e) or (f) of this sub-rule or, where the suspended officer is removed from office, until the position is filled in accordance with sub-rule 37(3).
- (h) For the purposes of this rule where a notice is required to be given to a person it shall be delivered personally or posted by registered mail to his/her last known address.

#### C. FEDERAL EXECUTIVE

### **34 - FEDERAL EXECUTIVE**

- (1) (a) The management of the Union shall, between meetings of Federal Conference, be vested in the Federal Executive which shall be the Committee of Management of the Union.
- (b) The Federal Executive shall have, between meetings of Federal Conference, all powers of Federal Conference except the power referred to in sub-rules 26(1), 26(2), 26(6) and Rule 29 or any other rule expressly reserved to itself by a decision of Federal Conference or the power to rescind or amend any decision of Federal Conference.



- (c) The Federal Executive shall have the power to:
    - (i) Disburse or authorise the disbursements of monies from the Federal Fund for any purpose within the Objects of the Union;
    - (ii) Appoint an auditor qualified to act in accordance with the Act to conduct the yearly or other more frequent audit of the Federal Fund;
    - (iii) Fix and from time to time vary the salaries and allowances or honoraria payable to the Federal Officers of the Union;
    - (iv) Create and abolish such positions of Federal Professional Officer and positions of employee as it shall think fit;
    - (v) Appoint and dismiss such Federal Professional Officers and employees;
    - (vi) Determine the conditions of employment of Federal Professional Officers.
  - (d) No decision to dismiss any Federal Professional Officer shall be made by the Federal Executive unless the Professional Officer concerned has received at least 28 days notice in writing that a motion for that Officer's dismissal will be moved at a Federal Executive nominated in that notice.
  - (e)
    - (i) Federal Executive may declare that a decision of the TAFE Council Executive affects members outside the TAFE Division and affirm, amend or rescind the decision.
    - (ii) Federal Executive shall not have power to amend or rescind a decision of the National TAFE Council or TAFE Council Executive on matters affecting TAFE Division members only and shall not have power to declare that a decision of the National TAFE Council affects members outside that TAFE Division.
  - (f) Where Federal Executive is considering a matter only affecting TAFE Division members which has not previously been dealt with by the National TAFE Council or TAFE Council Executive, the Federal TAFE President and the Federal TAFE Secretary may jointly request the Federal Executive to refer the matter to the National TAFE Council or TAFE Council Executive.
  - (g) Where a request is made to refer a matter to the National TAFE Council or the TAFE Council Executive in accordance with paragraph 34(1)(f) Federal Executive shall either -
    - (i) defer a decision on the matter until the matter has been considered by National TAFE Council or TAFE Council Executive; or
    - (ii) not implement the decision unless and until a meeting of the National TAFE Council or TAFE Council Executive has endorsed the decision.
  - (h) Where the Federal Executive determines that a matter referred to the National TAFE Council or TAFE Council Executive is urgent, Federal Executive may impose on the National TAFE Council or the TAFE Council Executive a time limit in which to make a decision.
  - (i) If a decision is not made within the time limit determined in accordance with the previous paragraph Federal Executive may determine the matter or implement the decision as the case may be.
- (2) Federal Executive shall meet at least four times in each year at a time and place to be determined by the Federal Executive. Meetings of Federal Executive shall be convened:

- (a) Whenever Federal Executive so determines.
  - (b) Whenever four or more Branches by resolutions of their respective Branch Councils or Executives so request and such meeting shall be held within 21 days of the receipt by the Federal Secretary of notice of the said resolutions from the requisite number of Branch Councils or Executives.
  - (c) By decision of the Federal President after consultation with the Federal Secretary.
- (3) The Federal President or in his/her absence the Deputy Federal President or in the absence of both a member of Federal Executive elected by the persons assembled for the meeting shall preside as chairperson.
- (4) Subject to sub-rule (5) hereof the Federal President shall determine the agenda for any meeting of the Federal Executive. The Federal Secretary shall give the Federal TAFE Secretary, each Branch Secretary and each member of Federal Executive 14 days notice of any executive meeting and shall include with that notice a copy of such agenda.
- (5) The agenda of Federal Executive shall include the agenda determined pursuant to sub-rule 4 of this rule and any item:
- (a) which the Federal Conference or Federal Executive has previously determined should be included;
  - (b) of which notice of special resolution has been given pursuant to sub-rule 2(b) of this Rule;
  - (c) of which notice has been given in writing by a member of the executive at least 10 days prior to the meeting;
  - (d) which the Federal Executive determines be included.
- (6) The requirements of sub-rules (4) and (5) of this Rule as to notice are directory and not mandatory and the accidental omission to give any required notice or provide any agenda shall not itself invalidate any subsequent resolution of the Federal Executive.
- (7) (a) Where in the interests of the union it is necessary that there be a meeting of the Federal Executive but it is not practicable for the Federal Executive to assemble, the Federal President after consultation with the Federal Secretary may determine that the business of any such Federal Executive meeting shall be conducted by postal, telegraphic, facsimile, telex or telephone vote. The agenda for such meetings shall be determined and forwarded in accordance with sub-rules (4) and (5) of this Rule. The minutes of such meetings shall be taken and a copy thereof shall be forwarded to each member of Federal Executive and each Branch Secretary.
- (b) Where in the opinion of both the Federal President and the Federal Secretary it is necessary in the interests of the Union that the Federal Executive meet as a matter of urgency the Federal President may forthwith convene a meeting of Federal Executive which meeting may be conducted by postal, telegraphic, facsimile, telex or telephone vote and the minutes of which shall be taken and forwarded as provided in paragraph (a) of this sub-rule.
- (c) Where one third of the members of the Executive request that an Executive meeting convened pursuant to this sub-rule be held only by the executive members meeting in person such a meeting shall be held within 5 days of such request and no decision on the business that was to be determined by the executive pursuant to this sub- rule shall be made pending that meeting.

- (8) The Federal Executive shall as expeditiously as possible give effect to the decisions of Federal Conference.
- (9) Federal Executive Members or proxy members of the Federal Executive representing a majority of votes and a majority of the Branches/Divisions at the Federal Executive shall constitute a quorum.

**35 - CONSTITUTION OF FEDERAL EXECUTIVE**

- (1) The Federal Executive shall consist of:-
- (a) The Federal President;
  - (b) The Deputy Federal President;
  - (c) The Federal TAFE President;
  - (d) In all Branches other than the South Australian Branch, Western Australian Branch, Tasmanian Branch and the Northern Territory Branch, Executive Members elected biennially by and from members of each Branch Council who are assigned to the General Division; and
  - (e) In the case of the South Australian Branch and the Northern Territory Branch, Executive members elected biennially by and from members of the Branch Executive who are assigned to the General Division and in the case of the Western Australian Branch and the Tasmanian Branch, as provided for in the Western Australian and Tasmanian Branch Rules; and
  - (f) Any additional TAFE Member of Federal Executive elected in accordance with sub-rule 35(4).
  - (g) an Aboriginal or Torres Strait Islander member (the Aboriginal and Torres Strait Islander Federal Executive Member) elected biennially and jointly by and from the members of the National ATSIEC members.
  - (h) Subject to Federal subrule 35(4B) a member (the National Principal Federal Executive Member) elected biennially and jointly by and from the members of the National Principals' Committee.
  - (i) Subject to Federal subrule 35(4C) an early childhood sector member (the Early Childhood Educator Federal Executive Member) elected biennially and jointly by and from the members of the National Early Childhood Committee.
- (1A) Federal Executive Members shall take up office on 1 March following their election and hold office until their successors are declared elected provided that Federal Executive Members elected in 1995 shall take up office on 1 March, 1995 and shall, notwithstanding sub-rule (1) (d), hold office until their successors are declared elected in 1996. In the event of a delay in completing the ballot, the outgoing Federal Executive members shall remain in office until their successors are elected and their successors shall hold office until the next normal election of Federal Executive Members.
- (2) The number of Executive Members elected by each Branch shall be determined in accordance with the following formula:-
- | <u>No. Members in the Branch<br/>Assigned to General Division</u> | <u>Number of Executive<br/>Members</u> |
|---|--|
| Up to 15,000 financial members                                    | 1                                      |
| Each additional 15,000 financial members or part thereof          | 1                                      |
- (3) The total number of financial members assigned to the General Division of a Branch as at 5.00 p.m. local time on 30th June in any one year shall be deemed to be the number of financial

members assigned to the General Division in that Branch for the purpose of determining the number of Executive Members which that Branch is entitled to have on the Federal Executive during the succeeding year.

- (4) (a) In the event that the number of financial members of the Union assigned to the TAFE Division as at 5.00 p.m. local time on 30 June in any one year exceeds 15,000, an additional TAFE member of Federal Executive shall be elected to the Federal Executive in accordance with this sub-rule by and from the members of the National TAFE Council and the Federal TAFE Secretary.
- (b) The first election for the additional Federal Executive Member representing the TAFE Division shall be conducted as soon as is practical after the increased entitlement arises.
- (c) A person who is elected in accordance with paragraph 35(4)(b) shall hold office until the next normal election for the Federal TAFE President.
- (d) Elections for the additional TAFE member of Federal Executive after the first election shall be held at the same time as the normal elections for the Federal TAFE President.
- (e) Elections for the additional TAFE member of Federal Executive including the first election shall be conducted in accordance with the same mode of elections as that prescribed by these Rules for the election of Federal TAFE Officers.
- (f) The term of office of the additional TAFE member of Federal Executive, other than the first elected member, shall be 2 years and shall coincide with that of the Federal TAFE President.
- (4A) (a) The first election for the Aboriginal and Torres Strait Islander Federal Executive Member shall be conducted in 1998 as soon as practicable after the Branches elect National ATSIEC members in accordance with amendments to the Federal Branch Rules.
- (b) The person elected in accordance with paragraph 35(4A)(a) shall hold office until the next normal election of Federal Executive members.
- (c) The term of office of the Aboriginal and Torres Strait Islander Federal Executive Member other than the first member elected in 1998 shall be two years.
- (d) The Aboriginal and Torres Strait Islander Federal Executive Member shall be elected in accordance with Rule 35A provided that the election conducted in 1998 shall follow the mode of election as far as practicable.
- (4B) (a) The first election for the National Principal Federal Executive Member shall be conducted as soon as practicable after the Branches elect National Principals' Committee members in accordance with amendments to the Federal Branch Rules.
- (b) The person elected in accordance with paragraph 35(4B)(a) shall hold office until their successor is declared elected at the conclusion of the next scheduled election of Federal Executive members.
- (c) The National Principal Federal Executive Member shall be elected in accordance with Federal Rule 35B provided that the first election conducted shall follow the mode of election as far as practicable.
- (4C) (a) The first election for the National Early Childhood Educator Federal Executive Member shall be conducted as soon as practicable after the Branches elect National Early Childhood Committee members in accordance with amendments to the Federal Branch Rules.

- (b) The person elected in accordance with paragraph 35(4C)(a) shall hold office until their successor is declared elected at the conclusion of the next scheduled election of Federal Executive members.
- (c) The National Early Childhood Educator Federal Executive Member shall be elected in accordance with Federal Rule 35C provided that the first election conducted shall follow the mode of election as far as practicable.
- (5) The Secretary of each Branch shall in writing notify the Federal Secretary of the name of the Executive member(s) elected by the Branch Council from time to time.
- (6) (a) A casual vacancy in the office of the Aboriginal and Torres Strait Islander Federal Executive Member, National Principal Federal Executive Member, the Early Childhood Educator Federal Executive Member or Branch Federal Executive Member shall be filled in accordance with this sub-rule.
  - (b) Where the casual vacancy occurs more than 12 months before the expiration of the term of office of the incumbent there shall be an election by and from the members of the Branch Council, or in the case of the South Australian Branch and the Northern Territory Branch the Branch Executive, using as far as is practicable the same mode of election as prescribed in the relevant Federal Branch Rules or, where that vacancy is the Aboriginal and Torres Strait Islander Federal Executive Member, by and from the National ATSIEC members or, where that vacancy is the National Principal Federal Executive Member, by and from the National Principals' Committee members or, where that vacancy is the Early Childhood Educator Federal Executive Member, by and from the National Early Childhood Committee members.
  - (c) Where an election is required to be held in accordance with paragraph (b) the Branch Executive may appoint a financial member from the relevant Branch, or in the case that the vacancy is the Aboriginal and Torres Strait Islander Federal Executive Member the National ATSIECs may appoint a National ATSIEC member, or in the case that the vacancy is the National Principal Federal Executive Member the National Principals' Committee may appoint a National Principals' Committee member, or in the case that the vacancy is the Early Childhood Educator Federal Executive Member the National Early Childhood Committee may appoint a National Early Childhood Committee member, to act in that position pending the election.
  - (d) Where the vacancy occurs within 12 months of the expiration of the term of office of the former incumbent, the vacancy shall be filled by a person appointed by the relevant Branch Council, or in the case of the South Australian Branch and the Northern Territory Branch the Branch Executive or in the case of the Aboriginal and Torres Strait Islander Federal Executive member by the National ATSIECs or in the case of the National Principal Federal Executive Member by the National Principals' Committee or in the case of the Early Childhood Educator Federal Executive Member by the National Early Childhood Committee.
  - (e) A person elected or appointed to hold office by virtue of this sub-rule shall hold office by virtue of the election or appointment for no longer than the unexpired portion of the term of office of the person whom she/he was elected or appointed to replace.
- (6A) In the event that a Branch becomes entitled to an additional Executive member, the Branch Returning Officer shall fill that vacancy using the same mode of election as is prescribed in the relevant Federal Branch Rules and the person elected shall hold office until the next normal two yearly election of Federal Executive members.
- (7) Subject to Rule 36 each member of the Federal Executive shall have one vote.

35A - ELECTION OF THE ABORIGINAL AND TORRES STRAIT ISLANDER FEDERAL EXECUTIVE MEMBER

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- (8) (a) Subject to paragraph (c), the Federal Secretary and Deputy Federal Secretary may attend, speak and move and second motions at any meeting of Federal Executive but may not vote.
- (b) Subject to paragraph (c), the Federal TAFE Secretary may attend and speak at any meeting of the Federal Executive but may not vote.
- (c) Nothing in this sub-rule shall prevent the Federal Secretary, the Federal TAFE Secretary or Deputy Federal Secretary voting at a Federal Executive meeting if he/she is a Federal Executive Member elected by a Branch or the TAFE Division.

**35A - ELECTION OF THE ABORIGINAL AND TORRES STRAIT ISLANDER FEDERAL EXECUTIVE MEMBER**

- (1) The Federal Returning Officer shall call for nominations for election to the position of Aboriginal and Torres Strait Islander Federal Executive Member as soon as practicable after the declaration of the election of National ATSIEC members by notifying all persons eligible to nominate and all Branch Secretaries.
- (2) A person shall not be eligible for election to the position of Aboriginal and Torres Strait Islander Federal Executive member unless:
- (a) the person is at the date of nomination a National ATSIEC member;
- (b) the person nominates for election in writing and the nomination is proposed by at least 2 persons who are at the date of the nomination National ATSIEC members; and
- (c) the nomination is received by the Federal Returning Officer at an address he/she determines.
- (3) The Federal Returning Officer upon the receipt of any nomination shall:
- (a) forthwith place the nomination in a safe and secure place and in writing notify the nominee and the Federal Secretary of its receipt;
- (b) at the earliest opportunity cause enquiries to be made as to the nominee's eligibility for election and on completion of these enquiries forthwith in writing notify the nominee and the Federal Secretary of the result of those enquiries;
- (c) if the result of the enquiries is that the nominee is not eligible for election permit the nominee to have access to the information on which that result is based.
- (4) A nominee in a ballot conducted in accordance with this Rule may withdraw their nomination after nominations have closed, provided that such withdrawal is exercised within seven days (7) after the date on which nominations are advised to the Federal Secretary.
- Such withdrawal of nomination shall be by notice in writing to the Returning Officer signed by the nominee and submitted by hand, post or facsimile.
- (5) The election of the Aboriginal and Torres Strait Islander Federal Executive member shall be conducted in accordance with rule 39 (the necessary changes being made).

- (6) If there is only one nomination for the position of Aboriginal and Torres Strait Islander Federal Executive Member received by close of nominations, the Federal Returning Officer shall declare the nominated person as elected, advise all National ATSIEC members and the Federal Secretary.
- (7) If there is more than one nomination for the position of Aboriginal and Torres Strait Islander Federal Executive Member received by close of nominations a secret ballot shall be held to determine the election to such office and shall be conducted in the manner hereinafter set out and in accordance with rule 39 (the necessary changes being made). The Federal Returning Officer shall declare the result of the ballot no later than 28 February.

**35B - ELECTION OF THE NATIONAL PRINCIPAL FEDERAL EXECUTIVE MEMBER**

- (1) The Federal Returning Officer shall call for nominations for election to the position of National Principal Federal Executive Member as soon as practicable after the declaration of the election of National Principals' Committee members by notifying all persons eligible to nominate and all Branch Secretaries.
- (2) A person shall not be eligible for election to the position of National Principal Federal Executive Member unless:
  - (a) the person is at the date of nomination a National Principals' Committee member;
  - (b) the person nominates for election in writing and the nomination is proposed by at least 2 persons who are at the date of the nomination National Principals' Committee members; and
  - (c) the nomination is received by the Federal Returning Officer at an address he/she determines.
- (3) The Federal Returning Officer upon the receipt of any nomination shall:
  - (a) forthwith place the nomination in a safe and secure place and in writing notify the nominee and the Federal Secretary of its receipt;
  - (b) at the earliest opportunity cause enquiries to be made as to the nominee's eligibility for election and on completion of these enquiries forthwith in writing notify the nominee and the Federal Secretary of the result of those enquiries;
  - (c) if the result of the enquiries is that the nominee is not eligible for election permit the nominee to have access to the information on which that result is based.
- (4) A nominee in a ballot conducted in accordance with this Rule may withdraw their nomination after nominations have closed, provided that such withdrawal is exercised within seven days (7) after the date on which nominations are advised to the Federal Secretary.

Such withdrawal of nomination shall be by notice in writing to the Returning Officer signed by the nominee and submitted by hand, post or facsimile.
- (5) The election of the National Principal Federal Executive Member shall be conducted in accordance with Federal Rule 39 (the necessary changes being made).



35C - ELECTION OF THE EARLY CHILDHOOD EDUCATOR FEDERAL EXECUTIVE MEMBER

- (6) If there is only one nomination for the position of National Principal Federal Executive Member received by close of nominations, the Federal Returning Officer shall declare the nominated person as elected, advise all National Principals' Committee members and the Federal Secretary.
- (7) If there is more than one nomination for the position of National Principal Federal Executive Member received by close of nominations a secret ballot shall be held to determine the election to such office and shall be conducted in the manner hereinafter set out and in accordance with Federal Rule 39 (the necessary changes being made). The Federal Returning Officer shall declare the result of the ballot no later than 28 February.

**35C - ELECTION OF THE EARLY CHILDHOOD EDUCATOR FEDERAL EXECUTIVE MEMBER**

- (1) The Federal Returning Officer shall call for nominations for election to the position of Early Childhood Educator Federal Executive Member as soon as practicable after the declaration of the election of National Early Childhood Committee members by notifying all persons eligible to nominate and all Branch Secretaries.
- (2) A person shall not be eligible for election to the position of Early Childhood Educator Federal Executive Member unless:
  - (a) the person is at the date of nomination a National Early Childhood Committee member;
  - (b) the person nominates for election in writing and the nomination is proposed by at least 2 persons who are at the date of the nomination National Early Childhood Committee members; and
  - (c) the nomination is received by the Federal Returning Officer at an address he/she determines.
- (3) The Federal Returning Officer upon the receipt of any nomination shall:
  - (a) forthwith place the nomination in a safe and secure place and in writing notify the nominee and the Federal Secretary of its receipt;
  - (b) at the earliest opportunity cause enquiries to be made as to the nominee's eligibility for election and on completion of these enquiries forthwith in writing notify the nominee and the Federal Secretary of the result of those enquiries;
  - (c) if the result of the enquiries is that the nominee is not eligible for election permit the nominee to have access to the information on which the result is based.
- (4) A nominee in a ballot conducted in accordance with this Rule may withdraw their nomination after nominations have closed, provided that such withdrawal is exercised within seven days (7) after the date on which nominations are advised to the Federal Secretary.

Such withdrawal of nomination shall be by notice in writing to the Returning Officer signed by the nominee and submitted by hand, post or facsimile.
- (5) The election of the Early Childhood Educator Federal Executive member shall be conducted in accordance with Federal Rule 39 (the necessary changes being made).

- (6) If there is only one nomination for the position of Early Childhood Educator Federal Executive Member received by close of nominations, the Federal Returning Officer shall declare the nominated person as elected, advise all National Early Childhood Committee members and the Federal Secretary.
- (7) If there is more than one nomination for the position of Early Childhood Educator Federal Executive Member received by close of nominations a secret ballot shall be held to determine the election to such office and shall be conducted in the manner hereinafter set out and in accordance with Federal Rule 39 (the necessary changes being made). The Federal Returning Officer shall declare the result of the ballot no later than 28 February.

### **36 - PROXY VOTING ON FEDERAL EXECUTIVE**

- (1) A member of the Federal Executive may appoint a Federal Delegate, Federal Executive Member or member of the Branch Council or a member endorsed by the Branch Executive to act as his/her proxy.

The Aboriginal and Torres Strait Islander Federal Executive Member may also appoint a member of the National Aboriginal and Torres Strait Islander Education Committee to act as his/her proxy. The National Principal Federal Executive Member may also appoint a member of the National Principals Committee to act as his/her proxy. The Early Childhood Educator Federal Executive Member may also appoint a member of the National Early Childhood Committee to act as his/her proxy.

- (2) An appointment of a proxy shall be in writing and delivered by hand, by post or by facsimile to the Federal Secretary and the relevant Branch Secretary.
- (3) A Federal Executive member or an eligible person who has been appointed as a proxy by a Federal Executive Member may carry the proxy votes of up to all the Federal Executive Members from his/her Branch.
- (4) A proxy Federal Executive member shall have all the powers of the person he/she represents but in exercising a vote he/she shall act in accordance with any direction given by the person for whom he/she acts as proxy and failing any such direction in accordance with any direction of the Branch Council or Branch Executive.
- (5) For all purposes at any meeting of Federal Executive a person entitled to exercise one or more proxy votes shall be counted as though he or she were a Federal Executive member in relation to each such proxy.

## **D. FEDERAL OFFICERS AND PROFESSIONAL OFFICERS**

### **37 - FEDERAL OFFICERS**

- (1) The Federal Officers of the Union shall be the Federal President, Federal Secretary, the Deputy Federal President and Deputy Federal Secretary who shall devote so much of their time to the execution of their duties as the Federal Conference or Federal Executive shall from time to time require.

(2) The Federal Officers shall be and remain financial members of the Union and shall be elected by and from the members of the Federal Conference and shall assume office on the 1st of February following their election and shall hold office:-

- (a) in the case of the Federal President and the Federal Deputy President for no more than 2 years; and
- (b) in the case of the Federal Secretary and the Federal Deputy Secretary for no more than 4 years.

Notwithstanding these provisions, where there has been a delay in the completion of the ballot, the outgoing Federal Officers shall continue to hold office until their successors are elected and their successors shall hold office until the next normal election of Federal Officers as the case may be.

- (3) (a) A casual vacancy in the office of Federal Officer shall be filled in accordance with this sub-rule.
  - (b) Subject to paragraph (d), where the casual vacancy occurs such that the unexpired part of the term exceeds twelve months or three quarters of the term of office of the incumbent, whichever is the greater, there shall be an election by and from the members of the Federal Conference using as far as practicable the same mode of election as prescribed by Rule 38.
  - (c) Where an election is required to be held in accordance with paragraph (b) the Federal Executive may appoint a financial member to act in that position pending the election.
  - (d) Where a vacancy occurs such that the unexpired portion of the term of office does not exceed three quarters of the former incumbent's term of office, the Federal Executive shall determine whether the vacancy should be filled in accordance with paragraph (b) or by the appointment of a financial member of the Union by the Federal Executive.
  - (e) A person elected in accordance with paragraph (b) or appointed in accordance with paragraph (d) shall hold office by virtue of the election or appointment for the unexpired portion of the term of office of the person whom he/she was elected or appointed to replace.
  - (f) Persons appointed under paragraph (d) shall not by virtue of the appointment be entitled to stand for re-election to an office of Federal Officer unless he/she is a Federal Delegate or a Federal Delegate elect.
- (4) Each Federal Officer shall be eligible for election or re-election to a position of Federal Officer.
- (5) Federal Officers may be dismissed from office only by the Federal Conference.

### **38 - ELECTION OF FEDERAL OFFICERS**

- (1) The Federal Returning Officer shall call for nominations for election to a position of Federal Officer other than an election in accordance with sub-rule 37(3) as soon as practicable after the declaration of the election of Federal Delegates and not later than 15 November by notifying all persons eligible to nominate and all Branch Secretaries.

- (2) A person shall not be eligible for election to any position of Federal Officer unless:
- (i) the person is at the date of nomination a Federal Conference Delegate elect or an incumbent Federal Officer;
  - (ii) the person nominates for election in writing specifying the office for which he/she is a candidate and the nomination is proposed by at least 2 persons who are at the date of the nomination financial members; and
  - (iii) the nomination is received by the Federal Returning Officer at an address he/she determines by 5.00 p.m. (local time), 30 November.
- (3) The Federal Returning Officer upon the receipt of any nomination shall:
- (a) forthwith place the nomination in a safe and secure place and in writing notify the nominee and the Federal Secretary of its receipt;
  - (b) at the earliest opportunity cause enquiries to be made as to the nominee's eligibility for election and on completion of these enquiries forthwith in writing notify the nominee and the Federal Secretary of the result of those enquiries;
  - (c) if the result of the enquiries is that the nominee is not eligible for election permit the nominee to have access to the information on which that result is based.
- (4) A nominee in a ballot conducted in accordance with this Rule may withdraw their nomination after nominations have closed, provided that such withdrawal is exercised within seven days (7) after the date on which nominations are advised to the Federal Secretary.
- Such withdrawal of nomination shall be by notice in writing to the Returning Officer signed by the nominee and submitted by hand, post or facsimile.
- (5) The Federal Returning Officer shall subject to the Act and these Rules and in any particular case any decision of Federal Conference finally determine whether any nominee is eligible for election. In arriving at that decision he/she shall make such enquiries as he/she sees fit and each and every officer, official or person holding any office and each employee of the Union or any of its Branches shall co-operate with and assist the Federal Returning Officer in such enquiries.
- (6) The election of the Federal Officers shall be conducted in accordance with rule 39.
- (7) A person may be nominated for the office of Federal President, Deputy Federal President, Federal Secretary and Deputy Federal Secretary but he/she may not hold more than one of those offices at the same time.
- (8) (a) If only one person is nominated for the office of Federal President and he/she is also nominated for any other office(s) the other nomination(s) shall lapse.
- (b) Subject to paragraph (a), if only one person is nominated for the office of Deputy Federal President and he/she is also nominated for any other office the other nomination(s) shall lapse.

### 39 - CONDUCT OF ELECTION OF FEDERAL OFFICERS

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- (c) Subject to the preceding paragraphs of this sub-rule if only one person is nominated for the office of Federal Secretary and he/she is also nominated for any other office the other nomination(s) shall lapse.
- (9) If after the application of sub-rule (7) the nominations for any office of Federal Officer received prior to the closing date are equal to the number required, the Federal Returning Officer shall declare each person nominated for such office elected, advise all Federal Conference Delegates and Branch Secretaries and prepare a report on the election for the next Annual Conference.
- (10) If the nominations for any office of Federal Officer after the application of sub-rule 7 received prior to the closing date and hour exceed the number required for such office a secret ballot shall be held to determine the election to such office and shall be conducted in the manner hereinafter set out and in accordance with rule 39.
- (11) If two or more persons be nominated for the office of Federal President, and any of them be also nominated for any other office of Federal Officer then the ballot for the Federal Presidency shall be counted first, and if the successful candidate is also nominated for any other office of Federal Office his/her name and the votes gained by him/her shall be omitted in counting the ballot for the other offices.
- (12) Subject to sub-rule 10 of this rule if two or more persons be nominated for the office of Deputy Federal President and any of them be also nominated for any other office of Federal Officer then the ballot for the Deputy Federal Presidency shall be counted first and if the successful candidate is also nominated for any of the other offices of Federal Officer his/her name and the votes gained by him/her shall be omitted in counting the ballot for the other officers.
- (13) Subject to sub-rules 10 and 11 of this rule if two or more persons be nominated for the office of Federal Secretary and any of them be also nominated for any other office of Federal Officer then the ballot for Federal Secretary shall be counted first, and if the successful candidate is also nominated for the office of Deputy Federal Secretary his/her name and the votes gained by him/her shall be omitted in counting the ballot for the office.
- (14) The Federal Officer so elected shall if otherwise qualified under these rules be eligible for re-election to their respective offices.
- (15) In the case of votes gained by a candidate for a particular office being omitted as provided in sub-rules 10, 11 and 12 of this rule the numerical values of his/her preference votes gained by other less preferred candidates shall be adjusted accordingly.

### **39 - CONDUCT OF ELECTION OF FEDERAL OFFICERS**

- (1) A Federal Returning Officer who need not necessarily be a member of the Union shall be appointed by the Federal Conference at each Annual Meeting of the Federal Conference for the conduct of any elections that may be held within the Union throughout the ensuing year. The Federal Returning Officer shall not during the term of his/her office be an employee of or the holder of any office in the Union or any Branch, sub-Branch section or division thereof or a candidate at any election within the Union other than an election for the appointment of a Federal Returning Officer for the following term, and shall not be eligible to nominate any candidate for any election under these Rules, and shall hold office until his/her successor is elected. If the Federal Returning Officer is unable or unwilling to act as and when required or if there is a casual vacancy in his/her office the Federal Executive shall appoint an acting Federal Returning Officer provided that no person so appointed shall be the holder of any other office or be an employee of or a candidate for any other office in the Union, a Branch, sub-Branch section or division thereof.

- (2) The Federal Returning Officer shall take such actions and give such directions as are reasonably necessary in order to ensure that no irregularities occur in or in connection with such an election or in order to rectify any procedural defects and no person shall refuse or fail to comply with such directions or obstruct or hinder the Federal Returning Officer or any other person in the conduct of such election or in the taking of any such action.
- (3) The decision of the Federal Returning Officer shall be final and binding regarding any matter touching the validity or normality of any nomination or vote or any matter touching or concerning such an election and the conduct hereof.
- (4) The Federal Returning Officer shall consider all nominations and if, in his/her opinion, any nomination is defective, he/she shall immediately notify the person concerned of the defect by the most expeditious means and, where it is practicable to do so, give him/her the opportunity of remedying the defect, within seven days after notification.
- (5) If, at any time prior to the declaration of the election an irregularity should occur in the conduct of the election which in the opinion of the Federal Returning Officer may affect the result of such election, the Federal Returning Officer shall declare void the election, or where appropriate, any step in or in connection with the election.
- (6) Where the Federal Returning Officer has made a declaration pursuant to sub-paragraph (5) he/she shall hold another election or take whatever steps are required to be taken again and then proceed with the uncompleted steps in the election.
- (7) In exercising powers pursuant to sub-paragraph (6) the Federal Returning Officer may, subject to the Act, waive the requirements of the rules to the extent necessitated by the practicalities of the situation.
- (8) Where the Federal Returning Officer has made a declaration pursuant to sub-paragraph (5) or there is some delay in the completion of the ballot with respect to an election for an office the person holding that office immediately prior to that election shall remain in office until his/her successor is elected.
- (9) In any election each candidate shall be entitled to appoint any person whether a member of the Union or not, to act as scrutineer at the election and may appoint a substitute scrutineer in the event that the scrutineer is unable or unwilling to act as scrutineer at the election. All scrutineers shall in the case of a ballot be entitled to observe the admission and the counting of votes, the conduct of and determination of the election and the declaration of the poll. In every case a scrutineer shall observe the directions of the Federal Returning Officer who shall take all reasonable steps to enable each scrutineer to exercise her/his rights. No election shall be vitiated should a scrutineer not exercise any or all such rights if he/she had reasonable opportunity so to do.
- (10) The Federal Returning Officer shall nominate the address to which voters may post ballot papers.
- (11) For the purpose of each election the Federal Returning Officer shall maintain a locked and sealed ballot box in which he/she shall place from time to time ballot papers received by post.
- (12) Each candidate appointing a scrutineer shall hand to the Federal Returning Officer not less than one day prior to the close of the ballot a notice in writing specifying the name and address of such scrutineer.

- (13) Upon being notified of the appointment of a scrutineer the Federal Returning Officer shall inform such scrutineer of the steps he intends taking in the conduct of the ballot.
- (14) Immediately after the closing date and hour for receipt of the returned ballot papers the Federal Returning Officer shall, in the presence of such scrutineers as are present take steps to ensure that no further ballot papers are deposited in the ballot box. Thereupon, or in sufficient time to determine the result of the ballot that day he/she shall:-
  - (a) Open the ballot box and produce unopened all ballot paper envelopes;
  - (b) Determine, prima facie, the bona fides of the ballots by reference to the current membership of Federal Conference;
  - (c) Open the ballot paper envelopes and extract from them all the ballot papers in such manner as to preserve the secrecy of the ballot;
  - (d) Place the ballot paper envelopes and ballot papers in separate bundles;
  - (e) Proceed with the counting of the votes.
- (15) The Federal Returning Officer shall not less than twenty one days prior to the date appointed for the declaration of the result of an election deliver to each voter by pre-paid post a ballot paper. With each ballot paper there shall be provided a declaration envelope which fits inside a pre-paid envelope in the form prescribed in Schedule 1B of the Workplace Relations Act 1996 and the Regulations thereunder such that the postage thereon is not payable by the voter.
- (16) The ballot paper shall list all the titles of Federal Officer for which an election is to be held in the sequence Federal President, Deputy Federal President, Federal Secretary, Deputy Federal Secretary and following each title shall list the names of candidates in sequence determined by lot by the Federal Returning Officer. Opposite each name there shall be a box in which the voter is to be instructed to indicate his/her preference for the candidate for that position by inserting the numbers 1, 2, 3 ... etc, the number 1 indicating first preference. In the ballot for any particular position, if all boxes are not completed and/or there is any break in the sequence of numbers used by the voter such ballot shall be invalid provided that where the voter has indicated his/her first preference for one candidate and his/her contingent preference for all remaining candidates except one and the square opposite the name of that one candidate has been left blank it shall be deemed that the voter's preference for that candidate is his/her last and that accordingly he/she has indicated the order of his/her preference for all the candidates and further where there are two candidates only and the voter has indicated his/her vote by placing the figure "1" in the square opposite the name of one candidate and has left the other square blank the voter shall be deemed to have indicated the order of his/her preference for all the candidates. The voter shall be instructed to place the ballot paper in the declaration envelope which is then placed in another envelope that is in the form prescribed in Schedule 1B of the Workplace Relations Act 1996 and the Regulations thereunder.
- (17) The Federal Returning Officer shall advise all voters that the closing date and hour for the receipt of returned ballot papers shall be a date and hour fixed by him/her having regard to these rules.
- (18) Voters must return the ballot papers to the Federal Returning Officer either by posting them to the address shown on the envelope and referred to in sub-rule 39(10) or otherwise so that the ballot paper is received no later than the notified hour on the closing date by the Federal Returning Officer. It is the voter's responsibility to ensure that his/her ballot is received by the Federal Returning Officer by the closing date and time and subject to his/her having exercised reasonable care the Federal Returning Officer shall not be responsible for the loss of any ballot.

- (19) Any vote in respect of the election of a person to an office shall be informal if:-
- (a) The ballot paper is received by the Federal Returning Officer after the notified hour on the closing date;
  - (b) The ballot paper is not returned in a declaration envelope in the form described by Schedule 1B of the Workplace Relations Act 1996 and the Regulations thereunder;
  - (c) The content of the ballot paper does not comply with the instructions printed on it.
- (20) If the Federal Returning Officer is satisfied that a ballot paper has been destroyed, lost, damaged or misused he/she shall supply (in the place of the damaged or misused ballot paper on receipt thereof) to the person to whom the original ballot paper was supplied a substitute ballot paper.
- (21) The Federal Returning Officer shall collect the returned ballot papers and after rejecting those ballot papers which are informal shall count the votes. The Federal Returning Officer shall retain all ballot papers, envelopes and other documents used in connection with the election and keep them in safe custody at the Federal Office for a period of one year after the date of the election.
- (22) The ballot shall be counted in the following manner:
- (a) The Federal Returning Officer shall count first preference votes cast for each candidate and if any candidate has received an absolute majority of first preference votes he/she shall be declared elected.
  - (b)
    - (i) If no candidate has received an absolute majority of first preference votes, the candidate with the lowest number of first preference votes shall be eliminated and the second preference votes of that candidate shall be allocated to the remaining candidates in accord with the voter's preference. If, on a count of those votes a candidate has an absolute majority of votes he/she shall be declared elected;
    - (ii) If no candidate then has an absolute majority of votes the process of eliminating the candidate with the lowest number of votes at that stage and allocating the next preference votes of that candidate shall be repeated until one candidate has received an absolute majority of votes; and
    - (iii) The candidate who has received an absolute majority of votes shall be declared elected.
  - (c) If on any count of votes pursuant to paragraph (b) above, two or more candidates have an equal number of votes and one or more of them has to be eliminated the Federal Returning Officer shall determine by lot which candidate or candidates shall be eliminated.
- (23) As between the candidates receiving an equal number of votes the Federal Returning Officer shall determine by lot which candidate or candidates shall be elected.
- (24) The result of the ballot shall be declared by the Federal Returning Officer by not later than 8 p.m. on the day appointed for that purpose.
- (25)
  - (a) This sub-rule shall override any conflicting provision of Rule 39.
  - (b) When the Annual Federal Conference is being held in the month of January, the Federal Executive may request the Returning Officer to make arrangements for the conduct of the ballot at the meeting of the Annual Federal Conference.



- (c) When the Federal Returning Officer determines that the ballot will be conducted at the Annual Federal Conference, he/she may give such directions and take such action as he/she considers necessary for ensuring the secrecy of the ballot and for ensuring that no irregularities occur in or in connection with the ballot.
- (d) The Federal Returning Officer shall not less than twenty one days prior to the date appointed for the declaration of the result of an election inform Federal Conference delegates of the times he/she has set for opening and closing the ballot.
- (e) The ballot paper shall list all the titles of Federal Officer for which an election is to be held in the sequence Federal President, Deputy Federal President, Federal Secretary, Deputy Federal Secretary and following each title shall list the names of candidates in sequence determined by lot by the Federal Returning Officer. Opposite each name there shall be a box in which the voter is to be instructed to indicate his/her preference for the candidate for that position by inserting the numbers 1, 2, 3 ... etc, the number 1 indicating first preference. In the ballot for any particular position, if all boxes are not completed and/or there is any break in the sequence of numbers used by the voter such ballot shall be invalid provided that where the voter has indicated his/her first preference for one candidate and his/her contingent preference for all remaining candidates except one and the square opposite the name of that one candidate has been left blank it shall be deemed that the voter's preference for that candidate is his/her last and that accordingly he/she has indicated the order of his/her preference for all the candidates and further where there are two candidates only and the voter has indicated his/her vote by placing the figure "1" in the square opposite the name of one candidate and has left the other square blank the voter shall be deemed to have indicated the order of his/her preference for all the candidates. The voter shall be instructed, after casting his/her vote to fold the ballot paper so that the marking thereof is not visible until unfolded, to deposit the ballot paper in a locked ballot box provided for the purpose.
- (f) The Federal Secretary shall ensure that any typing, printing or secretarial assistance as may be required is available to the Federal Returning Officer at the time of the meeting of the Annual Federal Conference.
- (g) After the completion of the counting of ballot papers, the Federal Returning Officer shall declare the result of the election by issuing to the meeting and to the Federal Secretary a statement in writing setting out:
  - (i) the number of ballot papers distributed to voters;
  - (ii) the number of formal votes cast;
  - (iii) the number of votes rejected as informal; and
  - (iv) the number of votes received by each candidate.
- (h) The absence of a quorum at a meeting of the Annual Federal Conference shall not prevent the Federal Returning Officer from making any declaration at the venue of the meeting.
- (i) The provisions of Rule 32 (PROXY VOTING ON FEDERAL CONFERENCE AND ALTERNATE FEDERAL DELEGATES) shall apply in respect to a ballot conducted under this sub-rule. The Federal Secretary shall, prior to the ballot, provide the Federal Returning Officer with the written documentation appointing proxy delegates.

**40 - DUTIES OF FEDERAL PRESIDENT**

- (1) The Federal President shall:
  - (a) Preside at and conduct all meetings of Federal Conference and Federal Executive and sign the minutes thereof;
  - (b) In consultation with the Federal Secretary convene meetings of Federal Conference and Federal Executive;
  - (c) Exercise a deliberative vote only if he or she so desires at all meetings of Federal Conference and Federal Executive but shall not have a casting vote;
  - (d) Ensure as far as possible that the Rules of the Union are performed and observed by Officers and members of the Union;
  - (e) Request and receive an explanation from any Officer or member of the Union in any case where he/she believes that the Rules of the Union may not have been performed or observed and report thereon to Federal Executive and Federal Conference;
  - (f) Be the chief executive officer of and principal spokesperson for the Union;
  - (g) Be responsible to the Federal Conference and the Federal Executive for the implementations of their decisions and directions.
- (2) The Federal President shall be an ex-officio member of any committee of the Union other than a committee of a Branch.

**41 - DUTIES OF DEPUTY FEDERAL PRESIDENT**

- (1) The Deputy Federal President shall exercise all of the rights and powers and perform all of the duties of the Federal President in the absence of the Federal President or whenever the Federal President requests or Federal Conference or Federal Executive instructs him/her so to do.

**42 - ACTING DEPUTY FEDERAL PRESIDENT**

- (1) The Federal Executive may appoint a Federal Executive member as Acting Deputy Federal President where the Federal President or Deputy Federal President are on leave or for some other reason are temporarily unable to perform all or part of their duties.
- (2) A member of the Federal Executive appointed as an Acting Deputy Federal President shall be entitled to exercise all the rights and perform all the duties of the Deputy Federal President except the right to vote by virtue of that office.

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**43 - DUTIES OF FEDERAL SECRETARY**

- (1) The Federal Secretary shall:
  - (a) Attend all meetings of Federal Conference and Federal Executive;
  - (b) Keep or cause to be kept accurate minutes of the business transacted at each such meeting and circulate or cause to be circulated such minutes in draft where required by these Rules and present or cause to be presented a true copy of the minutes in each case to the subsequent meeting of the same body;
  - (c) Receive, reply to, file, and report upon all correspondence requiring attention or cause such correspondence so to be dealt with;
  - (d) Receive and receipt, enter up and bank forthwith to the credit of the Federal Fund of the Union all monies paid to the Union or cause such monies so to be dealt with;
  - (e) Prepare and sign cheques drawn upon the Federal Fund of the Union in payment of accounts proper to be paid and ensure that each such cheque is countersigned as required by the Rules and is in all respects in order;
  - (f) Keep or cause to be kept proper books of account of the Union and see to the preparation of an annual balance sheet and statement of receipts and payments and income and expenditure disclosing the true financial position of the Union and submit same together with all books and vouchers or records required for audit to the Federal Auditor within twenty-eight days of the end of the period to which it relates and present or cause to be presented the annual balance sheet and statement of receipts and payments and income and expenditure together with the Federal Auditor's report thereon to the next ensuing annual meeting of Federal Conference convened pursuant to Rule 23(2) or as Federal Executive may direct;
  - (g) Inform the Federal President of any matters affecting or likely to affect the Union or any Branch and report thereon to Federal Executive and Federal Conference;
  - (h) Ensure that all matters required to be attended to by organisations of employees registered under the Act are attended to within the times and in the mode prescribed in the said Act and any regulation made thereunder;
  - (i) Sign any process or document proper to be signed on behalf of the Union by an officer thereof and appear or authorise another to appear before any Court Commission or Industrial Tribunal before which the Union is to be represented;
  - (j) Sue and be sued and accept service or process on behalf and in the name of the Union;
  - (k) Be responsible for the supervision, direction and control of all Federal Professional Officers and employees of the Union (other than employees of a Branch);
  - (l) Be responsible for the day to day maintenance and protection of the Union's interest in any property real or personal or any contract;
  - (m) Subject to any decision of the Federal Executive appoint and dismiss the Union's employees other than those appointed by the Federal Executive;

- (n) Diligently and carefully carry out all the instructions of the Federal Conference and Federal Executive and report to Federal Conference and Federal Executive thereon and see to the prompt circulation of all agendas notices and minutes by these rules required to be circulated and generally pursue by all lawful means the Objects of the Union.
- (2) The Federal Secretary shall be an ex-officio member of any committee of the Union other than a committee of a Branch.

#### **44 - DUTIES OF DEPUTY FEDERAL SECRETARY**

The Deputy Federal Secretary shall assist the Federal Secretary to perform the duties of Federal Secretary and in the absence of the Federal Secretary or whenever the Federal Secretary requests or Federal Conference or Federal Executive instructs him/her to do so shall perform the duties and exercise all the powers of the Federal Secretary or such thereof as may be specified in such request or instruction.

#### **45 - ACTING DEPUTY FEDERAL SECRETARY**

- (1) The Federal Executive may where the Federal Secretary or the Deputy Federal Secretary are on leave or for some other reason are temporarily unable to perform the duties of their position appoint a member as Acting Deputy Federal Secretary.
- (2) A person appointed as an Acting Deputy Federal Secretary shall be entitled to exercise all the rights and powers of the Deputy Federal Secretary.

#### **46 - PROFESSIONAL OFFICERS**

- (1) The Federal Executive shall from time to time determine the positions of Federal Professional Officers of the Union and shall appoint persons to such positions.
- (2) The Federal Executive shall take into account the Objects of the Union in determining such Federal Professional Officer positions.
- (3) The Professional Officers shall attend to the duties of the position to which they are appointed subject to the supervision, direction and control of the Federal Secretary.
- (4) Notwithstanding anything to the contrary in these Rules, the Federal Executive may appoint a person to act as a relieving Federal Professional Officer where a Federal Professional Officer is on leave or absent from duty for a temporary period.
- (5) The Federal Executive shall elect, every two (2) years, a Professional Officers Appointments Committee. This Committee shall not have any of the powers and duties of a committee as defined in the Fair Work (Registered Organisations) Act 2009.
- (6) The Professional Officers Appointments Committee shall be comprised of:
  - (a) the Federal President;
  - (b) the Federal Secretary;
  - (c) three members of the Federal Executive elected by and from the Federal Executive, with no Branch having more than one member from either Division.

At least 50% of the total membership of the Professional Officers Appointments Committee must be women.

- (7) The quorum for the Professional Officers Appointments Committee shall be four voting members, with the Professional Officers Appointments Committee having the right to co-opt up to two non-voting members to provide particular knowledge.
- (8) The elections for the Professional Officers Appointments Committee shall take place every two years at the first Federal Executive which occurs following the normal election of Federal Executive members.
- (9) The Professional Officers Appointments Committee members shall take up office on their election and hold office for two years. The Federal Executive shall appoint a replacement in the event of a casual vacancy occurring.
- (10) The Professional Officers Appointments Committee shall consider applications for Professional Officer Positions against specified position descriptions and criteria as determined by the Federal Executive. The Federal Executive shall, from time to time, determine the procedures by which the Professional Officers Appointments Committee shall operate.
- (11) The Professional Officers Appointments Committee shall make a report and recommendation to the Federal Executive as to the most suitable applicant, if any.

E. NATIONAL TAFE DIVISION

**47 - NATIONAL TAFE COUNCIL**

- (1) There shall be a National TAFE Council constituted in accordance with this Rule.
- (2) The members of the National TAFE Council shall be the Federal TAFE President, the TAFE Council Executive members and National TAFE Council Delegates.
- (3) The number of National TAFE Council Delegates and TAFE Council Executive Members shall be determined in accordance with the following formula:

<u>No. of TAFE Division Members In Branch</u>	<u>Number of Delegates (including TAFE Council Executive Members)</u>	<u>Minimum Number of Female Delegates (including TAFE Council Executive Members)</u>
Less than 500	2	1
500 to 999	3	2
1,000 to 1,499	4	2
1,500 to 1,999	5	3
2,000 to 2,499	6	3
2,500 to 2,999	7	4
3,000 to 3,499	8	4
3,500 to 3,999	9	5
4,000 to 4,499	10	5
4,500 to 4,999	11	6

For each additional 500 members or part thereof                      2 Additional Delegates one of whom must be a woman

- (4) In determining the number of members assigned to the TAFE Division in a Branch for the purposes of this Rule regard shall be had to the total number of financial members of the Branch assigned to the TAFE Division as at 5.00 p.m. local time on 30 June. The figure determined in accordance with this sub-rule shall apply until 30 June in the following year.

- (5) National TAFE Council Delegates shall hold office for 2 years or until their successors are elected.
- (6) A member of the National TAFE Council who is elected to the office of Federal President, Deputy Federal President, Federal Secretary, Deputy Federal Secretary, Federal TAFE President or Federal TAFE Secretary shall upon assuming office cease to hold office as a member of National TAFE Council and a casual vacancy shall thereupon be created.
- (7) In the event that there is -
  - (a) a casual or extraordinary vacancy arising in the office of a member of the National TAFE Council; or
  - (b) an increase in the Branch's entitlements to members of the National TAFE Council representing the TAFE Division

the casual vacancy or increased entitlement shall be filled immediately in the case of sub-rule 7(a) and from 1 January in the following year in the case of sub-rule 7(b) –

- (c) where the Federal Branch Rules provide for the election of the National TAFE Council - by the Branch Returning Officer declaring elected the alternate members of the National TAFE Council who receive the highest number of votes before the allocation of preferences or where no election was held, by determining by lot the successful candidate, or
  - (d) where the Federal Branch Rules make no provision for the election of alternate members of the National TAFE Council - by conducting an election to fill the casual vacancy or increased entitlement. Where a person has been elected to fill a vacancy caused by an increase in the Branch's entitlement to National TAFE Delegates, that person shall take office on 1 January in the following year and shall hold office until the next 2 yearly election of National TAFE delegates.
- (8) An election in accordance with the previous sub-rule shall be conducted using the same mode of election as is prescribed by these Rules for the election of members of the National TAFE Council and the person elected shall hold office until the next normal two yearly election of members of the National TAFE Council.
  - (9) The relevant Branch Council may, in relation to a casual vacancy or an extraordinary vacancy, notwithstanding sub-rules (7) and (8), where the term of office to which the member would be elected would be less than three quarters of the term of office of the incumbent, appoint a financial member of the Branch assigned to the Division in which the vacancy has arisen to the office and that member shall hold office as though elected in accordance with the previous sub-rule.
  - (10) In the event that the entitlement of a Branch to members of National TAFE Council decreases as at 30 June in a year when there is no normal 2 yearly election, the Branch Returning Officer shall determine the person or persons who shall cease to be members of National TAFE Council from 1 January of the following year. The person or persons who shall cease to hold office shall be determined -
    - (a) where there has been an election for National TAFE Council Delegates – by one or more delegates resigning or, if not, by determining the person or persons last elected during the counting of votes and the allocation of preferences; or
    - (b) where there has been no election - by one or more delegates resigning, or, if not, by determining the person or persons by lot.

- (11) Each member of National TAFE Council shall be provided with credentials duly certified by the Secretary of the Branch he/she represents and such credentials shall be lodged with the Federal TAFE Secretary within 7 days of the declaration of the ballot in which he/she was elected.
- (12) The Federal TAFE Secretary may attend, speak, propose and second motions at any National TAFE Council meeting and vote for Federal TAFE Officers. The Federal TAFE Secretary shall not vote on other matters dealt with by the National TAFE Council.
- (13) Apart from the Federal TAFE Secretary, each member of National TAFE Council shall have one vote.

#### **47A - CONSTITUTION OF NATIONAL TAFE COUNCIL - MINIMUM REPRESENTATION OF WOMEN**

- (1) This rule shall operate for all elections for National TAFE Council Delegates to National TAFE Council.
- (2) This Rule shall operate in conjunction with other Federal Rules relating to the election of National TAFE Council Delegates provided that where there is an inconsistency, this Rule shall prevail over any inconsistent provision in any other Federal Rule.
- (3) In the event that the number of female candidates for National TAFE Council Delegate positions is fewer than the minimum number of female delegates, vacant positions shall be filled by male candidates.
- (4) Any casual or extraordinary vacancy in the office of the National TAFE Council Delegate shall be filled by a person of the same sex as the person who is being replaced.
- (5) In the event of an increase in the Branch's entitlement, the Branch Returning Officer shall having regard to the formula set out in sub-rule 47(3), determine the sex of the person to be elected.
- (6) In the event that it is necessary to reduce a Branch's National TAFE Council Delegate entitlements, the Branch Returning Officer shall, having regard to the formula set out in sub-rule 47(3), determine the sex of the person or persons to be eliminated and determine the person or persons who shall cease to be National TAFE Council Delegates from 1 January in the following year-
  - (a) where there has been an election for National TAFE Council Delegates - by determining the person or persons last elected during the counting of votes and the allocation of preferences; or
  - (b) where there has been no election - by one or more delegates resigning or, if not, by determining by lot the male or female delegate or delegates to be eliminated.

#### **48 - MEETINGS OF NATIONAL TAFE COUNCIL**

- (1) The National TAFE Council shall hold its annual general meeting at a time and place to be determined by the preceding annual General Meeting or, in the absence of such a determination, by the TAFE Council Executive.
- (2) Until the National TAFE Council makes rules providing for notice of meetings, special meetings, notice of special meetings, the agenda for meetings and the quorums for meetings, the provisions of Federal Rule 23 in relation to meetings of Federal Conference shall apply mutatis mutandis.

**49 - POWERS OF NATIONAL TAFE COUNCIL**

- (1) The National TAFE Council shall have power to do all things necessary to achieve the objects of the Union and the powers conferred under the Industrial Relations Act on registered organizations of employees with respect to matters exclusively relating to TAFE Division members in more than one Branch.
- (2) Without limiting the generality of the previous sub-rule, the National TAFE Council shall have power to -
  - (a) Make, amend or rescind any rules -
    - (i) for the conduct of meetings of the National TAFE Council or TAFE Council Executive,
    - (ii) for the balloting procedures for elections for the Federal TAFE President, National TAFE Council Delegates and National TAFE Executive Members;
    - (iii) for the conduct of a plebiscite of members assigned to the TAFE Division; or
    - (iv) for proxy voting on National TAFE Council or TAFE Council Executive.
  - (b) Appoint a Returning Officer to preside over elections within the TAFE Division;
  - (c) Subject to paragraph 49(2)(d) submit industrial disputes relating to TAFE Division members only to conciliation and arbitration in accordance with the Act;
  - (d) Seek and obtain or oppose the making of Awards relating to TAFE Division members by the Australian Industrial Relations Commission or by any successor to that body by whatever name called in accordance with the policy and procedures of the Act, as the interests of members may from time to time require.
  - (e) Do all things necessary or convenient to the exercise of the foregoing powers the achievement of the objects of the Union or of the Act.
- (3) The National TAFE Council Meeting may make recommendations to Federal Conference on matters which relate to both TAFE Division members and General Division members of the Union.

**50 - MEETINGS OF NATIONAL TAFE COUNCIL**

- (1) The Federal TAFE President or in his/her absence a delegate to the National TAFE Council elected by the assembled delegates at the meeting shall preside at any meeting of the National TAFE Council.
- (2) Until the National TAFE Council makes rules providing for the matters set out in Rule 28 of the Federal Rules, the provisions of Rule 28 shall apply mutatis mutandis to meetings of the National TAFE Council.



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**51 - PLEBISCITE**

- (1) A plebiscite of members assigned to the TAFE Division shall be taken either where -
  - (a) National TAFE Council directs that a plebiscite should be taken, or
  - (b) the National TAFE Secretary receives a request in writing in accordance with the next sub-rule requesting that a plebiscite be taken.
- (2) A request for a plebiscite in accordance with paragraph 51(1)(b) shall -
  - (a) be in writing signed by at least 5% of the financial members of the Union assigned to the TAFE Division as at the date of receipt of the request; and
  - (b) set out the question to be determined by the plebiscite and in respect of each signatory, his/her signature, name in capital letters, date of signature and the name of the Branch to which the person is attached.
- (3) The matter to be voted on in the plebiscite shall be set out in the form of a motion or motions approved by the Federal Conference or in the form of the question submitted by members in accordance with paragraph 51(2)(b).
- (4) The Federal TAFE Secretary shall within 28 days of the decision of National TAFE Council or the receipt of the request for a plebiscite in accordance with paragraph 51(2)(b) inform all Branches of the plebiscite. Provided that, in the case of a plebiscite directed by National TAFE Council, the Federal TAFE Secretary shall comply with any other direction given by National TAFE Council as to informing the Branches of the intended plebiscite.
- (5) Until the National TAFE Council makes rules providing for the conduct of a plebiscite, the provisions of sub-rules 29(4) to 29(9) of the Federal Rules shall apply mutatis mutandis to plebiscites conducted pursuant to this Rule.

**52 - TAFE COUNCIL EXECUTIVE**

- (1) Between meetings of the National TAFE Council the functions of the National TAFE Council shall be vested in the TAFE Council Executive.
- (2) The TAFE Council Executive shall meet at least 4 times each year at a time and place determined by the TAFE Council Executive.
- (3) The TAFE Council Executive shall have all powers of the National TAFE Council other than the powers set out in paragraphs 49(2)(a) and, until the first Federal Award applying to the salaries of TAFE Division members is made, the powers set out in paragraphs 49(2)(c) and (d).
- (4) Until the National TAFE Council makes rules providing for the matters set out in Federal Rule 34 other than sub-rule 34(1), the provisions of Rule 34 shall apply mutatis mutandis.
- (5) The Federal TAFE Secretary may attend, speak, propose and second motions at any TAFE Council Executive meeting but may not vote.

**53 - CONSTITUTION OF TAFE COUNCIL EXECUTIVE**

- (1) The TAFE Council Executive shall consist of the Federal TAFE President and one TAFE Council Executive Member from each Branch.
- (2) Each Branch shall exercise on TAFE Council Executive the same voting power it exercises within the National TAFE Council.
- (3) The Federal TAFE Secretary:-
  - (i) may attend and speak at any meeting of the TAFE Council Executive;
  - (ii) shall not vote.
- (4) TAFE Council Executive Members shall hold office for 2 years or until their successors are elected.

**54 - ELECTION OF NATIONAL TAFE COUNCIL DELEGATES AND TAFE COUNCIL EXECUTIVE MEMBERS**

- (1) The Federal Branch Rules of each Branch shall make provision for the election of National TAFE Council Delegates and TAFE Council Executive Members by and from members of the Union attached to the Branch and assigned to the TAFE Division provided that any such Federal Branch Rule shall be consistent with the provisions of this Rule or any amendments made to this Rule by the National TAFE Council.
- (2) The Federal Branch Rule shall provide that -
  - (i) The elections for National TAFE Council Delegates and TAFE Council Executive Members be simultaneously conducted;
  - (ii) Members may nominate for both the position of National TAFE Council Delegates and TAFE Council Executive Member;
  - (iii) The votes for the position of TAFE Council Executive Member shall be counted first and the successful candidate determined;
  - (iv) Where a successful candidate has been determined in accordance with the previous paragraph, the successful candidate shall be eliminated from the election for the National TAFE Council Delegate position and the second and subsequent preference votes cast for that person shall be allocated as first and subsequent preference votes for the remaining candidates.
- (3) National TAFE Council Delegates and TAFE Executive members take office on 1 January following their election and cease to hold office on 31 December in the following year provided that where there is a delay in the completion of the ballot, the outgoing Delegates shall hold office until their successors are elected and their successors shall hold office until the next normal election of National TAFE Council Delegates and TAFE Executive members.

**55 - FEDERAL TAFE OFFICERS**

- (1) The Federal TAFE Officers shall be the Federal TAFE President and the Federal TAFE Secretary who shall, subject to these rules, devote so much of their time to the execution of their duties as the National TAFE Council and the TAFE Council Executive shall from time to time require.
- (2) The Federal TAFE Officers shall be and remain financial members of the Union and shall be elected by and from the members of the National TAFE Council.
- (3) The Federal TAFE Officers shall assume office on 1 February following their election and shall hold office:-
  - (i) In the case of the Federal TAFE President - for 2 years; and
  - (ii) In the case of the Federal TAFE Secretary - for 4 years.

Notwithstanding these provisions, where there has been a delay in the completion of the ballot, the outgoing Federal TAFE Officers shall continue to hold office until their successors are elected and their successors shall hold office until the next normal election of Federal TAFE Officers.

- (4) A casual vacancy in a position of Federal TAFE Officer that occurs more than 12 months before the expiration of the incumbents term of office shall be filled by election by and from the members of National TAFE Council using as far as is practical the mode of election set out in Rule 56 provided that the TAFE Council Executive may appoint a financial member to act in that position pending the election.
- (5) A casual vacancy occurring within 12 months of the expiration of a Federal TAFE Officer's term of office shall be filled by a financial member of the Union assigned to the TAFE Division appointed by the TAFE Council Executive.
- (6) A person elected or appointed in accordance with this rule shall hold office by virtue of that election or appointment for no longer than the unexpired portion of the term of office of the person whom he/she was elected or appointed to replace.
- (7) Federal TAFE Officers may only be dismissed from office by the Federal Conference.

**56 - ELECTION OF FEDERAL TAFE OFFICERS**

Until the National TAFE Council makes rules providing for the conduct of elections of Federal TAFE Officers, the provisions of Rule 38 of the Federal Rules shall apply mutatis mutandis to the election of Federal TAFE Officers.

**57 - CONDUCT OF ELECTION OF FEDERAL TAFE OFFICERS**

Until the National TAFE Council makes rules providing for the conduct of elections of Federal TAFE Officers, the provisions of Rule 39 of the Federal Rules shall apply mutatis mutandis to the conduct of elections of Federal TAFE Officers.

**58 - DUTIES OF FEDERAL TAFE PRESIDENT**

- (1) The Federal TAFE President:-
  - (a) shall preside at and conduct all meetings of the National TAFE Council and TAFE Council Executive and sign the Minutes thereof;
  - (b) shall in consultation with the Federal TAFE Secretary convene meetings of National TAFE Council and TAFE Council Executive;
  - (c) may exercise a deliberative vote only if he/she so desires at all meetings of National TAFE Council and TAFE Council Executive but shall not have a casting vote; and
  - (d) shall be responsible to the National TAFE Council and TAFE Council Executive for the implementation of their decisions and directions.
- (2) The Federal TAFE President shall be an ex officio member of any committee established by the National TAFE Council or TAFE Council Executive.
- (3) The Federal TAFE President shall be an ex officio member of the Federal Executive.

**59 - DUTIES OF FEDERAL TAFE SECRETARY**

- (1) The Federal TAFE Secretary shall:-
  - (a) Assist the Federal Secretary to perform the duties of Federal Secretary in matters affecting technical and further education;
  - (b) When requested by the Federal Secretary or instructed by Federal Conference or Federal Executive perform the duties and exercise all the powers of Federal Secretary or such thereof as may be specified in such request or instruction;
  - (c) Attend all meetings of Federal Conference, Federal Executive, National TAFE Council and TAFE Council Executive;
  - (d) Keep or cause to be kept accurate minutes of the business transacted at meetings of National TAFE Council or TAFE Council Executive and circulate or cause to be circulated such minutes in draft where required by these rules and present or cause to be presented a true copy of the minutes in each case to the subsequent meeting of the relevant body;
  - (e) With respect to correspondence relating to technical and further education matters, receive, reply to, file and report on the correspondence which requires attention or cause such correspondence to be dealt with;
  - (f) Inform the Federal Secretary and Federal TAFE President of any matters affecting or likely to affect the Union or any Branch;
  - (g) Inform the Federal TAFE President of any matters affecting or likely to affect the TAFE Division and report thereon to the Federal TAFE Council or TAFE Council Executive;
  - (h) Diligently and carefully carry out all the instructions of the Federal Secretary, National TAFE Council and TAFE Council Executive and report to the Federal Secretary, National TAFE Council and TAFE Council Executives on those matters and ensure that all agendas, notices and minutes required to be circulated under these Rules are circulated;

- (2) The Federal TAFE Secretary shall be an ex officio member of any committee established by the National TAFE Council or the TAFE Council Executive.

## **60 - PROXY VOTING ON TAFE COUNCIL AND EXECUTIVE**

Until the National TAFE Council makes rules providing for proxy voting on National TAFE Council or TAFE Council Executive, the provisions of Rules 32 and 36 of the Federal Rules shall apply mutatis mutandis to proxy voting.

### **F. FINANCES**

## **61 - FEDERAL FUND**

- (1) There shall be a Federal Fund of the Union which shall consist of:-
- (a) Any real or personal property of which the Federal Executive by the Rules or by any established practice not inconsistent with these rules, has, or in the absence of any limited term lease, bailment, or arrangement, would have, the right of custody control or management;
  - (b) Capitation fees payable by a Branch to the Union;
  - (c) All entrance fees, subscriptions, fines, fees or levies payable by a Branch to the Union;
  - (d) Any interest, rents, dividends or other income derived from the investment or use of the Fund;
  - (e) Any superannuation or long service leave or other fund operated or controlled in accordance with rules relating to the Union as a whole for the benefit of its officers or employees;
  - (f) Any sick pay fund, accident pay fund, funeral fund, or like fund operated in accordance with the Rules for the organisation as a whole for the benefit of members;
  - (g) Any property acquired wholly or mainly by expenditure of the monies of the Fund or derived from other assets of the Fund, or
  - (h) The proceeds of any disposal of parts of the Fund.
- (2) The Federal Fund shall be managed and controlled in accordance with the Rule relating to the Union as a whole.
- (3) Federal Executive may by resolution from time to time authorise the disbursement of moneys standing to the credit of the Union and for its administration.
- (4) (a) A cheque signed on behalf of the Union must be signed by any two persons referred to in paragraph (b).
- (b) A cheque may be signed on behalf of the Union by any Federal Officer and, where authorised by the Federal Executive, a member of the Federal Executive.

- (5) For the purposes of the general administration of the Union including payment of salaries, honoraria, travelling expenses, payroll deductions, Federal and State taxes, rates, rent, interest on loans, accounts for stationery, printing, hire of premises for meetings, legal costs and disbursements, transcript, telephone, telegraph, telex and postal services and expenses of like kind reasonably incidental to the general administration of the Union the prior authority of Federal Executive shall not be necessary before such cheques are signed or accounts paid.
- (6) The Federal Executive may authorise the payment by cheque of specified accounts on behalf of the Union and may specify the upper limit of the amounts of any such cheque.

### **62 - BRANCH FUND**

- (1) There shall be a Branch Fund for each particular Branch which shall consist of:-
  - (a) Any real or personal property of which the Branch of the Union by the Rules or by any established practice not inconsistent with the Rules, has, or in the absence of any limited term lease, bailment or arrangement, would have, the right of custody, control or management;
  - (b) The amounts of entrance fees, subscriptions, fines fees or levies received by the Branch, less so much of those amounts as is payable by the Branch to the Union;
  - (c) Any interest, rents or dividends derived from the investment of the Fund;
  - (d) Any superannuation or long service leave fund operated or controlled by the Branch for the benefit of its officers or employees;
  - (e) Any sick pay fund, accident pay fund, funeral fund or like fund operated or controlled by the Branch for the benefit of its members;
  - (f) Any property acquired wholly or mainly by expenditure of the monies of the Fund or derived from other assets of the Fund; and
  - (g) The proceeds of any disposal of parts of the Fund.
- (2) The Rules relating to a Branch Fund shall not be altered except with the consent of the Branch concerned.
- (3) Until each Branch makes Federal Branch Rules providing for the management and control of Branch Funds sub-rules 61(3), (4), (5) and (6) of the Federal Rules shall apply as if references to Federal Conference, Federal Executive, the Union, Federal President, Federal Secretary and Federal Officer were references to Branch Council, Branch Executive, the Branch, Branch President, Branch Secretary and Branch Officers.

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**63 - LOANS GRANTS AND DONATIONS**

- (1) Neither the Union nor any Branch shall make any loan, grant or donation of an amount exceeding \$1,000.00 unless, in the case of the Union the Federal Executive and in the case of a Branch, the Branch Council or Branch Executive has:
  - (a) satisfied itself:
    - (i) that the making of the loan, grant or donation would be in accordance with the Rules of the Union or the Branch as the case may be; and
    - (ii) in relation to a loan - that, in the circumstances, the security proposed to be given for the repayment of the loan is adequate and the proposed arrangements for the repayment of the loan are satisfactory; and
  - (b) approved the making of the loan, grant or donation.
- (2) Nothing in this rule relates to payments made by the Union or a Branch by way of provision for, or reimbursement of out of pocket expenses incurred by persons for the benefit of the Union or Branch as the case may be.

**64 - CAPITATION FEE**

- (1) Subject to this Rule, each Branch shall pay to the Federal Secretary the capitation fee.
- (2) A Branch shall not be required to pay a capitation fee to the Federal Secretary in accordance with this Rule where an Associated Body, pursuant to an agreement of the type referred to in sub-rule 11(7), pays to the Federal Secretary an approved amount in accordance with the terms of the agreement.
- (3) For the purposes of sub-rule (1), the capitation fee shall be paid in quarterly payments which shall fall due on 1 January, 1 April, 1 July and 1 October each year and shall be paid within one month of falling due, subject to the right of the Federal Conference or Federal Executive to vary the arrangements in special cases.
- (4) Where -
  - (a) a Branch fails to pay capitation fees to the Federal Secretary in accordance with a decision made by the Federal Conference pursuant to sub-rule (3); or
  - (b) an Associated Body fails to pay the approved amount pursuant to an agreement of the type referred to in sub-rule 11(7).

the delegates to Federal Conference, the Federal Executive Members, the National TAFE Council delegates and the TAFE Council Executive Members from the relevant Branch shall not be entitled to attend or participate in any way in meetings of the Federal Conference, Federal Executive, National TAFE Council or TAFE Council Executive until the outstanding capitation fees or approved amount, as the case may be, have been paid to the Federal Secretary.

### **65 - AUDITOR**

- (1) The Federal Executive shall each year appoint an Auditor of the Union and such Auditor shall be a person qualified to act as Company Auditor under the legislation of the State(s) in which he/she resides.
- (2) An Auditor shall hold office until a new Auditor is appointed shall be eligible for re-appointment.
- (3) The Auditor shall at least once in each year thoroughly audit and check the accounts of the Union and shall make such report to the Annual Meeting of the Federal Conference as he/she deems fit and as is sufficient to comply with requirements of the Act and shall make such report at any time to the Federal Executive as he/she deems fit and desirable.
- (4) If an Auditor resigns, dies or otherwise becomes unavailable to fulfil his/her duties, Federal Executive shall appoint another Auditor in accordance with the Act, to take his/her place.

### **66 - FINANCIAL YEAR**

For the purposes of the Federal Rules excluding the Federal Branch Rules the financial year for 2011- 2012 shall be from the 1st October to 30th September. Thereafter, the financial year shall be from the 1st January to 31st December.

### **G. INTERNATIONAL TRUST FUND**

#### **67 - INTERNATIONAL TRUST FUND**

- (1) In addition to the Federal Fund of the Union there shall be a fund known as the International Trust Fund.
- (2) The International Trust Fund shall consist of monies transferred to the Union by the Australian Teachers' Federation from "The Australian Teachers' Federation International Trust Fund" and funds received from the following sources:
  - (a) the Federal Fund or Branch Funds of the Union;
  - (b) monies contributed by bodies associated with the Union;
  - (c) monies contributed by members of the Union;
  - (d) monies contributed by the Australian Government;
  - (e) monies contributed by International Agencies;
  - (f) monies contributed by other unions; and
  - (g) monies from such other sources as may be agreed to by the Trust Fund Committee.
- (3) The objects of the International Trust Fund shall be:-
  - (a) To promote the exchange of information and understanding between teachers and their organisations in Australia and in other countries;



- (b) To promote the development of united and effective teachers' organisations throughout the world and to assist them in times of crisis;
  - (c) To further the development of education and the professional development of teachers;
  - (d) To seek the extension of educational opportunities to all children in the world; and
  - (e) To promote peace, international co-operation and understanding and respect of human rights.
- (4) The International Trust Fund shall be managed by a Trust Fund Committee comprised of:
- (a) The Federal President;
  - (b) Six Delegates to the Federal Conference elected by and from the Federal Conference.
- (5) (a) The provisions of Rule 38 apply mutatis mutandis to the election of members of the Trust Fund Committee.
- (b) Elections for members of the Trust Fund Committee shall be conducted every 2 years in conjunction with elections for the Federal President.
- (c) Elections for the first Trust Fund Committee Members shall be conducted as soon as possible after the certification of these Rules provided that the Returning Officer may make such modifications to the Rules as are necessary to permit the election to take place.
- (d) The first Trust Fund Committee Members shall take office on the declaration of the election and hold office until their successors take office following elections conducted in accordance with the next scheduled election for the Federal President.
- (6) The Federal Secretary and the Deputy Federal Secretary shall be entitled to attend and participate in meetings of the Trust Fund Committee but shall not be entitled to vote.
- (7) (a) Subject to decisions of the Federal Conference and Federal Executive, the Trust Fund Committee shall in accordance with the objects of the International Trust Fund conduct the Union's international assistance program.
- (b) Without limiting the generality of the previous paragraph the Trust Fund Committee shall:
- (i) determine guidelines for the conduct of the program;
  - (ii) receive all monies payable to the fund and approve payments out of the Fund;
  - (iii) approve all projects for which funds are allocated and oversee the implementation of projects;
  - (iv) seek sources of funds for programs;
  - (v) report to the annual meeting of Federal Conference on activities in the preceding calendar year and report to the Federal Executive or Federal Conference on any matter referred to it by the Federal Conference or the Federal Executive.
- (8) (a) The Trust Fund Committee may use monies in the International Trust Fund for the purposes of an international assistance program and to pay costs associated with the administration of the International Trust Fund.

- (b) The Federal Secretary shall cause monies payable to the International Trust Fund to be held in a bank account to be known as the Australian Education Union International Trust Fund Account.
- (c) Monies held in the account referred to in the previous paragraph may be expended with the approval of the Trust Fund Committee provided that the Federal Secretary in consultation with the Federal President may, for the purposes of the general administration of the International Trust Fund authorise the expenditure of a sum of not more than \$1,000.00.
- (d) Cheques drawn on the account of the Australian Education Union International Trust Fund Account may be signed by any 2 of the following persons - a member of the Trust Fund Committee, the Federal Secretary or the Deputy Federal Secretary.

#### H. ALTERATION OF RULES AND BY-LAWS

### 68 - ALTERATION OF THE RULES

- (1) Subject to this Rule, these rules or any of them other than the Federal Branch Rules of any Branch may be added to or amended or repealed by Federal Conference provided that:-
  - (a) More than 50% of all members of Federal Conference and not less than 50% of the Branches of the Union; or
  - (b) Not less than 60% of all members of Federal Conference,vote in favour of the motion for such addition or amendment or repeal.
- (2) For the purpose of this Rule a Branch shall be deemed to have voted in favour of such motion if more than 50% of the delegates representing that Branch so vote in favour of the motion.
- (3)
  - (a) Motions to amend, add to or rescind any Federal Rule, apart from a Federal Branch Rule, may be proposed in accord with Sub-Rule 28 (3).
  - (b) Such motions shall not be considered:
    - (i) By the Annual Conference unless the motion is received by the Federal Secretary at least three months before the Annual Conference; or
    - (ii) by a Special Meeting of Federal Conference unless they are received by the Federal Secretary at least 35 days before such Special Conference.
  - (c) The Federal Secretary shall forward the content of all such motions to all Branch Secretaries, Delegates and where applicable, Delegates elect:
    - (i) In the case of Annual Conference, within 14 days of the last day for receiving motions in accordance with sub-paragraph (3)(b)(i); and
    - (ii) in the case of a Special Meeting of Federal Conference, at least 30 days prior to such Meeting.
  - (d) Amendments to the aforesaid motions may be submitted by any body referred to in Sub-Rule 28 (3), provided that they are received by the Federal Secretary:
    - (i) In relation to Annual Conference, not less than sixty days prior to the first day of Annual Conference; and

- (ii) in relation to a Special Conference, at least 14 days before such Conference.
- (e) Motions, together with amendments received in accord with paragraph (d) of this Sub-Rule, shall be forwarded by the Federal Secretary to all Branch Secretaries, Delegates and where applicable, Delegates elect:
  - (i) In relation to Annual Conference, not later than thirty days prior to the first day of Annual Conference; and
  - (ii) in relation to a Special Meeting of Federal Conference not less than one week prior to that Meeting.
- (4) No alteration shall be made to these Federal Rules except in the words and form contained in the motions and amendments thereto referred to in Sub-rule (3) of this Rule.
- (5) Amendments to these Federal Rules shall have effect when certified or consented to by the Registrar for the purposes of section 204 or section 205 of the Act.
- (6) Notwithstanding Sub-Rules (4) and (5) of this rule, the Federal Executive is empowered to, and shall where necessary, renumber rules and sub-rules and paragraphs of these Rules within two months of the rising of Federal Conference at which any amendments are made to the Rules, provided that the order and meaning of such Rules, Sub-Rules and paragraphs is not altered.
- (7) The Federal Conference shall not add to, amend or repeal a rule which may be added to, amended or repealed by National TAFE Council or limit the power of the National TAFE Council to add to, amend or repeal rules.

## **69 - FEDERAL BY-LAWS**

The Federal Conference but not the Federal Executive may make By-Laws not inconsistent with these Rules for the better management of the Union and may repeal, amend or add to any such By-Laws.

The National TAFE Council but not the National TAFE Council Executive may make By-Laws not inconsistent with these Rules for the better management of the TAFE Division and may repeal, amend or add to any such By-Laws.

### **I. REGISTERED OFFICE/SEAL**

## **70 - REGISTERED OFFICE**

The registered office of the Union shall be at 120 Clarendon Street, Southbank, Victoria or at such other location as may be determined by the Federal Executive from time to time.

## **71 - SEAL**

- (1) There shall be a common seal of the Union which shall be kept in the custody of the Federal Secretary.
- (2) Any industrial agreement or other document required to be or able to be executed under seal may be so executed by the affixing of the common seal by the Federal President or the Federal Secretary.
- (3) The common seal shall be affixed only on the authority of the Federal Conference or the Federal Executive.

73 - NATIONAL ABORIGINAL AND TORRES STRAIT ISLANDER EDUCATION COMMITTEE (GENERAL DIVISION)

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- (4) Documents not required to be executed under seal may be signed on behalf of the Union by the Federal President or the Federal Secretary or any other person authorised by the Federal Conference or Federal Executive.

J. SPECIAL RULES - ACT AND NT BRANCHES

**72 - ACT AND NT BRANCHES - LIFE MEMBERS**

Former members of:-

- (i) the Australian Capital Territory Teachers Federation pursuant to rules 7 B, C, D and E of the former Rules of the Australian Capital Territory Teachers Federation;
- (ii) the Northern Territory Teachers Federation pursuant to Rule 20 of the former Northern Territory Teachers Federation Rules shall become life members of the Union.

K. NATIONAL COMMITTEES

**73 - NATIONAL ABORIGINAL AND TORRES STRAIT ISLANDER EDUCATION COMMITTEE (GENERAL DIVISION)**

- (1) The National Aboriginal and Torres Strait Islander Education Committee (General Division) shall consist of up to eight (8) members. The Committee shall have the power to develop Aboriginal and Torres Strait Islander policy subject to Federal Rule 26.
- (2) The Committee shall be known as Yalukit Yulendj (General Division), meaning people of knowledge from the local Boon Wurrung language.
- (3) The powers and duties of the members of the Committee are to:
- (a) represent the interests of Aboriginal and Torres Strait Islander members in the General Division
- (b) attend meetings of the Committee.
- (4) Each Branch shall be entitled to elect one Aboriginal or Torres Strait Islander member to the National Aboriginal and Torres Strait Islander Education Committee (General Division).
- (5) (a) The Committee shall meet at a time and place determined by the Federal Secretary. Meetings of the Committee shall be convened whenever the Federal Executive so determines or by decision of the Federal Secretary.
- (b) The Federal Secretary shall give each Branch Secretary and each member of the Committee 14 days notice of any Committee meeting and shall include with that notice a copy of the agenda.
- (c) The Committee shall appoint a member to preside as chairperson.
- (d) The Committee may meet in person or conduct the business by post, by telephone or by any other electronic means.
- (6) The requirements of subrule (4) of this Rule as to notice are directory and not mandatory and the accidental omission to give any required notice or provide any agenda shall not in itself invalidate any subsequent resolution of the Committee.

74 - NATIONAL ABORIGINAL AND TORRES STRAIT ISLANDER EDUCATION COMMITTEE (TAFE DIVISION)

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- (7) National Aboriginal and Torres Strait Islander Education Committee (General Division) Members take up office on 1 January following their election and hold office for two years or until their successors are declared elected. Provided that the first elections for National Aboriginal and Torres Strait Islander Education Committee (General Division) Members shall be held as soon as practicable in 1998 and in any event no later than 30 September 1998 and the persons so elected shall hold office until 31 December 1999 or until their successors are elected.
- (8) Federal Branch Rules of each Branch shall make provision for the election of one (1) Aboriginal or Torres Strait Islander member to the National Aboriginal and Torres Strait Islander Education Committee (General Division).
- (9) Each Branch shall elect its National Aboriginal and Torres Strait Islander Education Committee (General Division) Member in accordance with a timetable which permits the declaration of the election on or before 31 October prior to the date on which they assume office. Provided that the Branch Returning Officer shall determine a timetable in 1998 which allows for the election of the first National Aboriginal and Torres Strait Islander Education Committee (General Division) Member by 30 September 1998.

**74 - NATIONAL ABORIGINAL AND TORRES STRAIT ISLANDER EDUCATION COMMITTEE  
(TAFE DIVISION)**

- (1) The National Aboriginal and Torres Strait Islander Education Committee (TAFE Division) shall consist of up to eight (8) members. The Committee shall have the power to develop Aboriginal and Torres Strait Islander policy subject to Federal Rule 26.
- (2) The Committee shall be known as Yalukit Yulendj (TAFE Division), meaning people of knowledge from the local Boon Wurrung language.
- (3) The powers and duties of the members of the Committee are to:
  - (a) represent the interests of Aboriginal and Torres Strait Islander members in the TAFE Division
  - (b) attend meetings of the Committee.
- (4) Each Branch shall be entitled to elect one Aboriginal or Torres Strait Islander member to the National Aboriginal and Torres Strait Islander Education Committee (TAFE Division).
- (5)
  - (a) The Committee shall meet at a time and place determined by the Federal Secretary. Meetings of the Committee shall be convened whenever the Federal Executive so determines or by decision of the Federal Secretary.
  - (b) The Federal Secretary shall give each Branch Secretary and each member of the Committee 14 days notice of any Committee meeting and shall include with that notice a copy of the agenda.
  - (c) The Committee shall appoint a member to preside as chairperson.
  - (d) The Committee may meet in person or conduct the business by post, by telephone or by any other electronic means.
- (6) The requirements of subrule (5) of this Rule as to notice are directory and not mandatory and the accidental omission to give any required notice or provide any agenda shall not in itself invalidate any subsequent resolution of the Committee

## 75 - NATIONAL PRINCIPALS' COMMITTEE

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- (7) National Aboriginal and Torres Strait Islander Education Committee (TAFE Division) Members take up office on 1 January following their election and hold office for two years or until their successors are declared elected. Provided that the first elections for National Aboriginal and Torres Strait Islander Education Committee (TAFE Division) Members shall be held as soon as practicable in 1998 and in any event no later than 30 September 1998 and the persons so elected shall hold office until 31 December 1999 or until their successors are elected.
- (8) Federal Branch Rules of each Branch shall make provision for the election of one (1) Aboriginal or Torres Strait Islander member to the National Aboriginal and Torres Strait Islander Education Committee (TAFE Division).
- (9) Each Branch shall elect its National Aboriginal and Torres Strait Islander Education Committee (TAFE Division) Member in accordance with a timetable which permits the declaration of the election on or before 31 October prior to the date on which they assume office. Provided that the Branch Returning Officer shall determine a timetable in 1998 which allows for the election of the first National Aboriginal and Torres Strait Islander Education Committee (TAFE Division) Member by 30 September 1998.

## 75 - NATIONAL PRINCIPALS' COMMITTEE

- (1) The National Principals' Committee shall consist of up to eight (8) members. The Committee shall have the power to develop policy in relation to Principal members subject to Federal Rule 26.
- (2) The powers and duties of the members of the Committee are to:
  - (a) represent the interests of Principal members
  - (b) attend meetings of the Committee.
- (3) Each Branch shall be entitled to elect one member to the National Principals' Committee.
- (4)
  - (a) The Committee shall meet at a time and place determined by the Federal Secretary. Meetings of the Committee shall be convened whenever the Federal Executive so determines or by decision of the Federal Secretary.
  - (b) The Federal Secretary shall give each Branch Secretary and each member of the Committee 14 days notice of any Committee meeting and shall include with that notice a copy of the agenda.
  - (c) The Committee shall appoint a member to preside as chairperson.
  - (d) The Committee may meet in person or conduct the business by post, by telephone or by any other electronic means.
- (5) The requirements of subrule (4) of this Rule as to notice are directory and not mandatory and the accidental omission to give any required notice or provide any agenda shall not in itself invalidate any subsequent resolution of the Committee
- (6) Subject to Federal Rule 75(4) National Principals' Committee members take up office on 1 January following their election and hold office for two years or until their successors are declared elected.
- (7) The first election for the National Principals' Committee members shall be held as soon as practicable. The first National Principals' Committee members shall hold office until their successors are declared elected at the conclusion of the next scheduled National Principals' Committee elections.

- (8) Federal Branch Rules of each Branch shall make provision for the election of one (1) National Principals' Committee member to the National Principals' Committee.
- (9) Each Branch shall elect its National Principals' Committee Member in accordance with a timetable which permits the declaration of the election on or before 31 October prior to the date on which they assume office.

### **76 - NATIONAL EARLY CHILDHOOD COMMITTEE**

- (1) The National Early Childhood Committee shall consist of up to eight (8) members. The Committee shall have the power to develop policy in relation to early childhood education subject to Federal Rule 26.
- (2) The powers and duties of the members of the Committee are to:
  - (a) represent the interests of Early Childhood members
  - (b) attend meetings of the Committee.
- (3) Each Branch shall be entitled to elect one Early Childhood member to the National Early Childhood Committee.
- (4)
  - (a) The Committee shall meet at a time and place determined by the Federal Secretary. Meetings of the Committee shall be convened whenever the Federal Executive so determines or by decision of the Federal Secretary.
  - (b) The Federal Secretary shall give each Branch Secretary and each member of the Committee 14 days notice of any Committee meeting and shall include with that notice a copy of the agenda.
  - (c) The Committee shall appoint a member to preside as chairperson.
  - (d) The Committee may meet in person or conduct the business by post, by telephone or by any other electronic means.
- (5) The requirements of subrule (4) of this Rule as to notice are directory and not mandatory and the accidental omission to give any required notice or provide any agenda shall not in itself invalidate any subsequent resolution of the Committee
- (6) Subject to Federal Rule 76(4) National Early Childhood Committee members take up office on 1 January following their election and hold office for two years or until their successors are declared elected.
- (7) The first elections for the National Early Childhood Committee members shall be held as soon as practicable. The first National Early Childhood Committee members shall hold office until their successors are declared elected at the conclusion of the next scheduled National Early Childhood Committee elections.
- (8) Federal Branch Rules of each Branch shall make provision for the election of one (1) National Early Childhood Committee member to the National Early Childhood Committee.
- (9) Each Branch shall elect its National Early Childhood Committee Member in accordance with a timetable which permits the declaration of the election on or before 31 October prior to the date on which they assume office.

**77 - REQUIREMENTS OF FAIR WORK (REGISTERED ORGANISATIONS) AMENDMENT ACT  
2012**

77(1) UNION POLICIES AND PROCEDURES

The Union shall develop and implement policies and procedures relating to the expenditure of the Union.

77(2) DISCLOSURE OF OFFICER'S RELEVANT REMUNERATION AND NON-CASH BENEFITS

- A. Each officer of the Union shall disclose to the Union any remuneration paid to the officer:
- a) because the officer is a member of a board, if:
    - i. the officer is a member of the board only because the officer is an officer of the Union; or
    - ii. the officer was nominated for the position as a member of the board by the Union, a branch of the Union, or a peak council; or
  - b) by any related party of the Union in connection with the performance of the officers' duties as an officer.
- B. The disclosure required by sub-rule (A) shall be made to the Union:
- a) as soon as practicable after the remuneration is paid to the officer; and
  - b) in writing.
- C. The Union shall disclose to the members of the Union and its branches:
- a) the identity of the officers who are the five highest paid in terms of relevant remuneration for the disclosure period, and
  - b) for those officers:
    - i. the actual amount of the officers' relevant remuneration for the disclosure period; and
    - ii. either the value of the officers' relevant non-cash benefits, or the form of the officers' relevant non-cash benefits, for the disclosure period.
- D. For the purposes of sub-rule (C), the disclosure shall be made:
- a) in relation to each financial year;
  - b) within six months after the end of the financial year; and
  - c) in writing.



77(3) DISCLOSURE OF OFFICER'S MATERIAL PERSONAL INTERESTS

- A. Each officer of the Union shall disclose to the Union any material personal interest in a matter that:
- a) the officer has or acquires; or
  - b) a relative of the officer has or acquires;
- that relates to the affairs of the Union.
- B. The disclosure required by sub-rule (A) shall be made to the Union:
- a) as soon as practicable after the interest is acquired; and
  - b) in writing.
- C. The Union shall disclose to the members of the Union and its branches any interests disclosed to the Union pursuant to sub-rule (A).
- D. For the purposes of sub-rule (C), the disclosures shall be made:
- a) in relation to each financial year;
  - b) within six months after the end of the financial year; and
  - c) in writing.

77(4) DISCLOSURE BY UNION OF PAYMENTS

- A. The Union shall disclose to the members of the Union and its branches either:
- a) each payment made by the Union, during the disclosure period:
    - i. to a related party of the Union or of a branch of the Union; or
    - ii. to a declared person or body of the Union or a branch of the Union; or
  - b) the total of the payments made by the Union, during the disclosure period:
    - i. to each related party of the Union; or
    - ii. to each declared person or body of the Union.
- B. Sub-rule (A) does not apply to a payment made to a related party if:
- a) the payment consists of amounts deducted by the Union from remuneration payable to officers or employees of the Union; or
  - b) the related party is an officer of the Union, and the payment:
    - i. consists of remuneration paid to the officer by the Union; or
    - ii. is reimbursement for expenses reasonably incurred by the officer in performing the officer's duties as an officer.

- C. For the purposes of sub-rule (A), the disclosures shall be made:
- a) in relation to each financial year;
  - b) within six months after the end of the financial year; and
  - c) in writing.

Rule 77(5) TRAINING

- A. Each person who holds an office in the Union (or a branch ) thereof (within the meaning of the Fair Work (Registered Organisations) Act 2009), whose duties include duties (financial duties) that relate to the financial management of the Union ( or the branch), must comply with all of the following:
- (a) The person must undertake training approved by the General Manager of the Fair Work Commission under section 154C of the Fair Work (Registered Organisations) Act 2009;
  - (b) The training so undertaken must cover each of the person's financial duties;
- B. The training so undertaken must be completed within 6 months after the person begins to hold the office.

APPENDIX A

FEDERAL BRANCH RULES

FEDERAL BRANCH RULES IN RELATION TO THE QUEENSLAND BRANCH

**1 - GOVERNMENT**

- (1) The affairs of the Queensland Branch shall be governed by a Branch Council which shall be the supreme governing body of the Branch.
- (2) Branch Council shall meet in either the month of June or July each year which meeting shall be the annual meeting of Branch Council and at such other times as provided in the Branch Rules or as Branch Council or Branch Executive shall deem necessary and shall be convened by notice signed by the Branch President or failing him/her the Branch Deputy President or failing him/her the Branch Secretary.
- (3) The Branch President shall have power to convene special meetings of Branch Council and to determine when where and for what stated purpose such meeting shall take place. At least seven clear days notice of any such meeting shall be given to each member of Branch Council.
- (4) Upon the request or requests in common form in that behalf signed by no less than 25% of the total number of members of Branch Council at any one time the Branch Secretary shall within 21 days after receipt thereof convene a special meeting of the Branch Council to consider the matter specified in the request. At least 7 days clear days notice in writing of any such meeting shall be given to each member of Branch Council.
- (5) At every meeting of Branch Council the quorum necessary for the transaction of the business of the Branch Council shall be a majority of those entitled to attend and vote thereat.
- (6) The agenda for any meeting of Branch Council convened pursuant to sub- rule (3) or sub-rule (4) of this rule shall be only that business set forth in the "stated purpose" or "specified in the request" referred to in those sub-rules respectively.

**2 - CONSTITUTION OF BRANCH COUNCIL**

- (1) The Branch Council shall consist of 34 members of whom four shall be elected as Branch Officers and the remainder of whom shall hereinafter be referred to as Branch Councillors.
- (2) At each election of members of the Branch Council all financial members of the Union who are attached to the Branch pursuant to sub-rule 21(2) of the Federal Rules and financial as at the close of the roll of voters for the ballot shall be eligible to vote for each candidate in that election.
- (3) The term of office of members of Branch Council shall commence on the 20th day of January and expire two years after the commencement thereof.
- (4) All members of Branch Council shall subject to these Rules and the Branch Rules hold office until their successors are elected and shall be eligible for re-election.
- (5) In the event of a casual or extraordinary vacancy in the office of a Branch Councillor:
  - (a) where the unexpired portion of the term of office is more than twelve months from the date of the vacancy arising the Branch Returning Office shall conduct an election in accordance with these Federal Branch Rules to fill that vacancy;

- (b) where the unexpired portion of the term of office is less than twelve months from the date of the vacancy arising the Branch Council may appoint another financial member attached to the Branch to fill that vacancy; and
  - (c) any person so elected or appointed shall hold office for the unexpired portion of the term of the Branch Councillor he or she is elected to replace.
- (6) On the appointment or election of a member of Branch Council to an office of Branch Officer the office of that member of Branch Council shall not become vacant by reason only of that appointment or election.

### **3 - POWERS OF BRANCH COUNCIL**

- (1) Branch Council shall have power to control and manage the business and affairs of the Union in relation to the Branch subject always to these Rules and to any lawful direction of Federal Conference or Federal Executive and without limiting the generality of this power shall have power to:
- (a) Make, amend or rescind the Federal Branch Rules in accord with the Act and the Federal Rules.
  - (b) Make amend and rescind the Branch Rules for the regulation and government of the Branch.
  - (c) Enrol as a member of the Union any person who pursuant to the Federal Rules is eligible to be attached to the Branch.
  - (d) Disburse monies from the Branch Fund for any purpose required by these Rules or the Branch Rules.
  - (e) Appoint or remove a Branch Returning Officer and Deputy Branch Returning Officer qualified to act in accordance with the Act, to conduct any election for which a 108 Returning Officer is required in connection with any Branch office in the Union.
  - (f) Appoint or remove a Branch Auditor qualified to act in accordance with the Act, for any purpose for which an auditor is required in connection with the Branch accounts.
  - (g) Dismiss from office any person elected to an office within the Branch who has been found guilty in accordance with the Rules of the Union of misappropriation of the funds of the Union, a substantial breach of the Rules of the Union, gross misbehaviour or gross neglect of duty in relation to his/her office or who has ceased according to the Rules of the Union to be eligible to hold the office.
  - (h) Submit industrial disputes to conciliation and arbitration in accordance with the policy and procedures of the Act.
  - (i) Subject to the Federal Rules seek and obtain or oppose the making of Awards by the Australian Conciliation and Arbitration Commission or by any successor to that body by whatever name called as the interests of members may from time to time require.
  - (j) To make contributions to the financing of superannuation schemes or retirement funds for the benefit of the elected, appointed or employed officers and employees and to enter into such arrangement as may be necessary for that purpose.

#### 4A - GENERAL MEETING OF BRANCH

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- (k) Determine entrance fees and subscriptions for members and persons eligible to be members of the Union attached to the Branch and impose levies on such members.
- (l) For the purpose of the conduct of the Branch's affairs, including elections to Branch Offices the Branch Council may make provision in the Branch Rules for the constitution, reform or dissolution of sub-branches, sections or local committees of members (howsoever named) and for the determination or variation of the offices, powers and duties of such bodies.
- (m) Participate in any system of conciliation and arbitration or of wages boards or like systems established under the laws of the State in which the Branch is established or any system established for the purpose of determining the terms and conditions of employment of any of its members and may delegate this power in accordance with the Branch Rules.
- (n) Do all things necessary or convenient to the exercise of the foregoing powers or any powers conferred by the Federal Rules of the Federal Branch Rules thereof.

#### **4 - MEETINGS OF BRANCH COUNCIL**

- (1) Branch Council other than when meeting as a special meeting called for a specified purpose shall unless otherwise determined by Branch Council proceed to the business of the Agenda.
- (2) No addition to or amendment or rescission of any Federal Branch Rule or any Branch Rule shall be made unless notice has been given to the Branch Secretary at least thirty (30) days prior to the meeting of Branch Council at which the Rule is to be considered specifying the new Rule amendment or rescission sought and each member of Branch Council has been given fourteen days written notice by the Branch Secretary by pre-paid registered post that such new Rule amendment or rescission is to be considered by Branch Council.
- (3) Subject to sub-rule 2 hereof any item may be placed on the agenda of any meeting of Branch Council by Branch Council, Branch Executive, Branch Officers or any Branch Councillor or as further provided in the Branch Rules. Unless otherwise provided in the Branch Rules and subject to sub-rule (2) hereof the Branch Secretary shall give each member of Branch Council not less than seven days written notice of any such item which he/she has received.
- (4) A member of Branch Council who wishes the Council to consider any matter not on the agenda for a meeting of Branch Council may have such matter, other than a matter that relates to amending any Federal Branch Rule or Branch Rule considered if the Council resolves to consider the matter by resolution carried by an absolute majority of the Councillors present at the meeting.
- (5) Any motion before Branch Council shall be carried if more than fifty per cent of the Branch Councillors present and entitled to vote thereat vote in favour but not otherwise.

#### **4A - GENERAL MEETING OF BRANCH**

- (1) The Branch Secretary shall convene a General Meeting of the Branch if directed to do so by Branch Council or on receipt of a written request therefore signed by at least 5% of the members attached to that Branch.
- (2) Where Branch Council directs that a general meeting of the Branch be convened it shall be convened on the date determined by the Branch Council and in the absence of such determination within three months of the date of the direction that it be convened.

## 5 - BRANCH EXECUTIVE

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- (3) Where a written request of the requisite number of members request a general meeting of the Branch that general meeting shall be convened within three months of the receipt of that request.
- (4) The agenda for a General Meeting shall be as directed by the Branch Council and/or as specified in the written request.
- (5) The Branch Secretary shall place a notice of the general meeting and the agenda in a metropolitan daily newspaper at least two months prior to the meeting.
- (6) At any General Meeting of the Branch a quorum shall be 20% of the financial members attached to the Branch. The number of financial members attached to the Branch shall be taken to be the financial members of the Branch as at 5.00 p.m. local time on the 30th June last preceding the meeting.

## 5 - BRANCH EXECUTIVE

- (1) Between meetings of the Branch Council the management of the Branch shall be vested in a Branch Executive which shall pending the first meeting of the Branch Council have all the powers of Branch Council and thereafter between meetings of the Branch Council shall have all such powers except the powers to amend the Federal Branch Rules or the Branch Rules or the power to determine entrance fees and subscriptions or impose a levy or any power expressly reserved to itself by decision of Branch Council.
- (2) Branch Council shall fix and from time to time vary the salaries and allowances or honoraria payable to Branch officers and to confer on named officers or the holders of any named offices authority to employ retain and terminate the employment of such research clerical and other staff as shall be specified in a resolution of Branch Council conferring such authority on such terms as Branch Council or, if so decided by Branch Council, as such Branch officers shall see fit.
- (3) Branch Executive shall meet at least 4 times in each calendar year at a time and place to be determined by the Executive and shall meet:
  - (a) Whenever the Branch Executive so determines.
  - (b) Whenever the Branch President or in his/her absence the Branch Deputy President so determines.
  - (c) Whenever a majority of members of the Executive so request in writing to the Branch Secretary.
- (4) The Branch Executive shall as expeditiously as possible give effect to the decisions of Branch Council.
- (5) Executive meetings shall be chaired by the Branch President or in his/her absence the Branch Deputy President or in the absence of both a member of Branch Executive elected by the persons assembled for the meeting.
- (6) The Branch President shall determine the agenda for any meeting of the Branch Executive. The Branch Secretary shall give each member of Branch Executive 3 days notice of any executive meeting and shall include with that notice a copy of such agenda.

## 6 - CONSTITUTION OF BRANCH EXECUTIVE

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- (7) The agenda of Branch Executive shall include the agenda determined pursuant to sub-rule (6) of this rule and any item:-
- (a) which the Branch Council or Branch Executive has previously determined should be included;
  - (b) of which notice has been given in writing by a member of the Executive at least 10 days prior to the meeting;
  - (c) which the Branch Executive determines be included.
- (8) The requirements of sub-rules (6) and (7) of this Rule as to notice are directory and not mandatory and the accidental omission to give any required notice or provide any agenda shall not itself invalidate any subsequent resolution of the Branch Executive.
- (9) (a) Where in the interests of the Branch it is necessary that there be a meeting of the Branch Executive but it is not practicable for the Branch Executive to assemble, the Branch President after consultation with the Branch Secretary may determine that the business of any such Branch Executive meeting for which the agenda has been determined for the purposes of sub-rule (6) of this rule shall be conducted by postal, telegraphic, telex or telephone vote.
- The Minutes of such meetings shall be taken and a copy thereof shall forthwith by certified or registered mail be forwarded to each member of Branch Executive.
- (b) Where in the interests of the Branch it is necessary that there be a meeting of the Branch Executive as a matter of urgency the Branch President after consultation with the Branch Secretary may forthwith convene a meeting of Branch Executive which meeting may be conducted by postal, telegraphic, telex or telephone vote and the minutes of which shall be taken and forwarded as provided in paragraph (a) of this sub-rule.
  - (c) Where one third of the members of the Executive request that an Executive meeting convened pursuant to this sub-rule be held only by the executive members meeting in person such a meeting shall be held within 5 days of such request and no decision on the business that was to be determined by the Executive pursuant to this sub-rule shall be made pending that meeting.
- (10) A majority of the members of the Branch Executive shall constitute a quorum.

## 6 - CONSTITUTION OF BRANCH EXECUTIVE

- (1) The Branch Executive shall be elected by and from the Branch Council in accordance with the Branch Rules and shall be the committee of management of the Branch and shall consist of:
- (a) The Branch President, the Branch Deputy President, the Branch Secretary and the Branch Deputy Secretary who shall be the Branch Officers.
  - (b) Nine Executive Members.
- (2) The Branch Officers and the Branch Executive shall hold office for 1 year from the 1st of March following their election by Branch Council which election shall be held between the 20th day of January and the 1st of March in each year.

## 8 - ELIGIBILITY FOR ELECTION

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- (3) In the event of any casual or extraordinary vacancy occurring in an office of Branch Officer, Branch Executive may appoint another financial member attached to the Branch to fill the vacancy and the member so appointed shall hold office for the unexpired portion of the term of the office of the Branch Officer he or she is appointed to replace.
- (4) In the event of a casual or extraordinary vacancy occurring in an office of Executive Member the Branch Executive may appoint another financial member to fill the vacancy and the Branch Councillor so appointed shall hold office for the unexpired term of the office of the Executive Member he/she was appointed to replace.

### **7.1 - DUTIES OF BRANCH PRESIDENT**

The provisions of Federal Rule 40 shall apply as appropriate to the Branch President and every reference therein to Federal President, Federal Conference, Federal Executive and Union shall for the purpose of this rule be deemed to be a reference to Branch President, Branch Council, Branch Executive and Branch respectively.

### **7.2 - DUTIES OF BRANCH DEPUTY PRESIDENT**

The provisions of Federal Rule 41 shall apply as appropriate to the Branch Deputy President and every reference therein to Federal President, Federal Deputy President, Federal Conference, Federal Delegate, Federal Executive and Union shall for the purpose of this rule be deemed to be a reference to Branch President, Branch Deputy President, Branch Council, Branch Councillor, Branch Executive and Branch respectively.

### **7.3 - DUTIES OF BRANCH SECRETARY**

The provisions of Federal Rule 43 shall apply as appropriate to the Branch Secretary and every reference therein to Federal President, Federal Secretary, Federal Conference, Federal Executive, Union and Federal Auditor shall for the purpose of this rule be deemed to be a reference to Branch President, Branch Secretary, Branch Council, Branch Executive, Branch and Branch Auditor respectively.

### **7.4 - DUTIES OF DEPUTY SECRETARY**

The provisions of Federal Rule 44 shall apply as appropriate to the Branch Deputy Secretary and every reference therein as to Federal Secretary, Federal Deputy Secretary, Federal Conference, Federal Executive shall for the purpose of this rule be deemed to be a reference to Branch Secretary, Branch Deputy Secretary, Branch Council, and Branch Executive respectively.

## **8 - ELIGIBILITY FOR ELECTION**

Any financial member attached to the Branch shall be eligible for election to Branch Council, and Federal Conference and any member of Branch Council shall be eligible for election to Branch Executive and Federal Executive provided that:

- (a) That member is nominated by two financial members attached to the Branch.
- (b) The nomination is received by the time and date and at the place fixed by the Branch Returning Officer.



**9 - ELECTION OF BRANCH COUNCIL AND BRANCH EXECUTIVE**

- (1) Nominations for election to Branch Council shall be called at least fourteen (14) days prior to the date on which nominations close by:
  - (a) placing a notice in a major capital city newspaper circulating in the State and, where the Returning Officer thinks fit, in any major regional newspaper in the State, and
  - (b) placing an advertisement in a Branch publication or in a publication of the Queensland Teachers' Union, provided that the publication in question is circulated to all members of the Branch.
- (2) Nominations for election as a member of Branch Executive shall be called by notification to all members of Branch Council at least seven days prior to the date on which nominations close.
- (3) Nominations shall be called by the Branch Returning Officer who shall fix the place at which and the date and time on which nominations close.
- (4) In consultation with the Branch Secretary and Branch President and subject to the Federal Rules and the Branch Rules the Branch Returning Officer shall fix the date on which the Branch Council is to elect the members of the Branch Executive and the date on which the members attached to the Branch are to elect the members of Branch Council.
- (5) Nominations shall be in writing and shall be signed by the person accepting nomination by two financial members of the Branch proposing him or her and specifying the office or offices for which he or she is a candidate.

**10 - ELECTION OF FEDERAL DELEGATES**

- (1) This rule is subject to rule 30 of the Federal Rules.
- (2) The Branch Returning Officer shall conduct an election of Federal Delegates to Federal Conference each two years or at such sooner time as the Federal Returning Officer shall notify him/her as is necessary for filling a casual or extraordinary vacancy or increased entitlement pursuant to Rule 24 of the Federal Rules.
- (3) The Branch Returning Officer shall call for nominations for election of Federal Delegates at least fourteen (14) days prior to the date on which nominations close and at least thirty (30) days before the date fixed for the election by:
  - (a) placing a notice in a major capital city newspaper circulating in the State and, where the Returning Officer thinks fit, in any major regional newspaper in the State, and
  - (b) placing an advertisement in a Branch publication or in a publication of the Queensland Teachers' Union, provided that the publication in question is circulated to all members of the Branch.

The Branch Returning Officer shall fix the place at which and the date and time on which nominations close and the dates between which the ballot, if any, shall be conducted.

- (4) Nominations shall be in writing and shall be signed by the person accepting nomination and two financial members of the Branch proposing him or her.

**11 - ELECTION OF FEMALE FEDERAL DELEGATES**

- (1) This Rule shall operate for all elections for Federal Delegates to Federal Conference conducted after the Annual Federal Conference in 1991 up to and including the normal two yearly election of Federal Delegates in 1993.
- (2) This Rule shall operate in conjunction with other Federal Branch Rules relating to the election of Federal Delegates to Federal Conference provided that where there is any inconsistency this Rule shall prevail over any inconsistent provision in any other Federal Branch Rule.
- (3) In addition to any other information required to be set out in the notification of the calling of nominations for the election of Federal Delegates to Federal Conference the notification shall include the following additional information:-
  - (a) the number of Federal Delegates to be elected and the number of female delegates to be elected; and
  - (b) advice that if the number of female candidates is less than the number of female delegates to be elected the remaining position or positions be filled by a male candidate or candidates.
- (4) In addition to any other information required to be set out on ballot papers for Federal Delegates the ballot paper shall include the following additional information:-
  - (a) the candidates full names and, in accordance with the candidate's preference, the title Mr., Mrs, M/s or Miss; and
  - (b) the number of Federal Delegates to be elected and the number of female Federal Delegates to be elected.
- (5) The Branch Returning Officer shall, having complied with Federal Branch Sub-Rule 13(5), determine in accordance with the next Sub-Rule whether it is necessary to hold an election.
- (6) The Branch Returning Officer shall conduct a ballot -
  - (i) for all positions - where the number of candidates for Federal Delegate positions exceeds the number of Federal Delegate positions to be filled; or
  - (ii) remaining positions - where the Branch Returning Officer has ascertained that the number of nominations from female candidates is less than or equal to the number of positions for female Federal Delegates and the number of male candidates is more than the number of remaining positions.
- (7)
  - (a) This Sub-Rule applies to the counting of votes where it is necessary to conduct an election to fill Federal Delegate positions required by this Rule to be filled by female candidates.
  - (b) The Branch Returning Officer shall count the votes and allocate preferences in accordance with the procedure set out in Schedule A and determine whether the minimum number of female Federal Delegates have been elected in accordance with this Rule.
  - (c) If the minimum number of female delegates have been elected in accordance with this Rule, the Branch Returning Officer shall declare all the successful candidates elected in accordance with Sub-Rule 13(29).

13 - CONDUCT OF ELECTION OF BRANCH COUNCILLORS, BRANCH EXECUTIVE, FEDERAL CONFERENCE DELEGATES REPRESENTING THE GENERAL DIVISION, FEDERAL CONFERENCE DELEGATES REPRESENTING THE TAFE DIVISION AND FEDERAL EXECUTIVE MEMBERS

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- (d) In the event that the minimum number of female Federal Delegates have not been elected, the Branch Returning Officer shall:-
- (i) eliminate such male candidate or candidates as are necessary to allow the election of the minimum number of female delegates. The male candidate or candidates to be eliminated shall be the last candidate or candidates elected during the counting of the votes and the allocation of preferences referred to in paragraph 11(7)(b), and
  - (ii) declare elected the female candidate or candidates last eliminated in counting of the votes and the allocation of preferences during the counting of the votes and the allocation of preferences referred to in paragraph 11(7)(b).

**12 - ELECTION OF FEDERAL EXECUTIVE MEMBERS**

- (1) At least once every two years the Branch Council shall elect to the Federal Executive such numbers of Federal Executive Members as the Branch is entitled to have pursuant to rule 18 of the Federal Rules.
- (2) Each such election shall be conducted in accordance with rule 13 of these Federal Branch Rules.
- (3) Nominations for election of Executive Members to Federal Executive shall be called by notification to all persons eligible to accept nomination for election at least seven days prior to the date on which nominations close and at least thirty days before the date fixed for election. Nominations shall be called by the Branch Returning Officer. The Branch Returning Officer shall fix the place at which and the date on which nominations close and the dates between which the ballot if any shall be conducted.
- (4) Nominations shall be in writing and shall be signed by the person accepting nomination and two financial members of the Branch proposing him or her.

**13 - CONDUCT OF ELECTION OF BRANCH COUNCILLORS, BRANCH EXECUTIVE, FEDERAL CONFERENCE DELEGATES REPRESENTING THE GENERAL DIVISION, FEDERAL CONFERENCE DELEGATES REPRESENTING THE TAFE DIVISION AND FEDERAL EXECUTIVE MEMBERS**

- (1) A Branch Returning Officer and Assistant Branch Returning Officer who need not necessarily be members of the Union shall be appointed by the Branch Council at each Annual Meeting of the Branch Council for the conduct of any Branch elections that may be held within the Branch throughout the ensuing year.
- (2) The Branch Returning Officer and Assistant Branch Returning Officer shall not during the term of their office be employees of or the holders of any office in the Union or in the Branch or any sub Branch or body thereof or candidates at any election within the Union other than an election for the appointment of Returning Officer for the following term, and shall not be eligible to nominate any candidate for any election under these Rules, and shall hold office until their successors are elected. If the Branch Returning Officer or Assistant Branch Returning Officer be unable or unwilling to act as and when required or if there is a casual vacancy in either of their offices the Branch Executive shall appoint an acting Branch Returning Officer and acting Assistant Branch Returning Officer. In default of such appointments the Federal Secretary shall appoint persons to those offices. Provided that no person so appointed shall be the holder of any other office or be an employee of or a candidate for any other office in the Union, a Branch, sub-branch, section or division thereof.

13 - CONDUCT OF ELECTION OF BRANCH COUNCILLORS, BRANCH EXECUTIVE, FEDERAL CONFERENCE DELEGATES REPRESENTING THE GENERAL DIVISION, FEDERAL CONFERENCE DELEGATES REPRESENTING THE TAFE DIVISION AND FEDERAL EXECUTIVE MEMBERS

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- (3) The Branch Returning Officer and/or Assistant Branch Returning Officer under the direction of the Branch Returning Officer shall take such actions and give such directions as are reasonably necessary in order to ensure that no irregularities occur in or in connection with such an election or in order to rectify any procedural defects and no person shall refuse or fail to comply with such directions or obstruct or hinder a Branch Returning Officer or any other person in the conduct of such election or in the taking of any such action.
- (4) The decision of the Branch Returning Officer shall be final and binding regarding any matter touching the validity or normality of any nomination or vote or any matter touching or concerning such an election and the conduct hereof. The decision of the Assistant Branch Returning Officer on any such question shall be subject to review by the Branch Returning Officer whose determination shall be final and binding.
- (5) The Branch Returning Officer shall consider all nominations and if, in his/her opinion, any nomination is defective, he/she shall immediately notify the person concerned of the defect by the most expeditious means and, where it is practicable to do so, give him/her the opportunity of remedying the defect, within seven days after notification.

Any person who has been duly nominated and who desires to retire from his/her candidature may, not more than five (5) clear days after the closing date for nominations, sign and deliver to the Returning Officer, a notification to that effect and thereupon the Returning Officer shall omit the name of such person from the list of names for that election.

- (6) If, at any time prior to the declaration of the election an irregularity should occur in the conduct of the election, which in the opinion of the Branch Returning Officer may affect the result of such election, the Branch Returning Officer shall declare void the election or, where appropriate, any step in or in connection with the election.
- (7) Where the Branch Returning Officer has made a declaration pursuant to sub-paragraph (6) he/she shall hold another election or take whatever steps are required to be taken again and then proceed with the uncompleted steps in the election.
- (8) In exercising powers pursuant to sub-paragraph (7) the Branch Returning Officer may, subject to the Act, waive the requirements of the rules to the extent necessitated by the practicalities of the situation.
- (9) Where the Branch Returning Officer has made a declaration pursuant to sub-paragraph (6) in respect to an election for an office the person holding that office immediately prior to that election shall remain in office until his/her successor is elected.
- (9A) The roll of voters for any election to be conducted pursuant to these rules is to be closed seven days before the day on which nominations are opened in relation to all elections by a direct voting system for offices in the Branch.
- (10) Where a member entitled to vote at a ballot will be absent during the conduct of the ballot from the State in which the Branch of which he/she is a member is organized, he/she may, during the period after the time for lodging nominations is closed and before the opening date of the ballot, apply in writing to the Branch Returning Officer for an absent vote stating that his/her absence from the State will otherwise prevent his/her voting at the ballot.

13 - CONDUCT OF ELECTION OF BRANCH COUNCILLORS, BRANCH EXECUTIVE, FEDERAL CONFERENCE DELEGATES REPRESENTING THE GENERAL DIVISION, FEDERAL CONFERENCE DELEGATES REPRESENTING THE TAFE DIVISION AND FEDERAL EXECUTIVE MEMBERS

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- (11) Where the Branch Returning Officer receives an application under sub-rule (10) and is satisfied that the member will be prevented from voting at the ballot he/she shall, by pre-paid post, forward to the member a ballot paper in accordance with this rule.
- (12) In any election each candidate shall be entitled to appoint any person whether a member of the Union or not, to act as scrutineer at the election and may appoint a substitute scrutineer in the event that the scrutineer is unable or unwilling to act as scrutineer at the election. All scrutineers shall in the case of a ballot be entitled to observe the admission and the counting of votes, the conduct of and determination of the election and the declaration of the poll. In every case a scrutineer shall observe the directions of the Branch Returning Officer who shall take all reasonable steps to enable each scrutineer to exercise his/her rights. No election shall be vitiated should a scrutineer not exercise any or all such rights if he/she had reasonable opportunity so to do.
- (13) The Branch Returning Officer shall nominate the address to which members shall post ballot papers.
- (14) For the purposes of each election the Branch Returning Officer shall maintain a locked and sealed ballot box in which he/she shall place from time to time ballot papers received by post.
- (15) Each candidate appointing a scrutineer shall hand to the Branch Returning Officer not later than 7 days after the day upon which nominations shall close a notice in writing specifying the name and address of such scrutineer.
- (16) Upon being notified of the appointment of a scrutineer the Branch Returning Officer shall inform such scrutineer of the steps he intends taking in the conduct of the ballot.
- (17) Immediately after the closing date and hour for receipt of the returned ballot papers the Branch Returning Officer shall, in the presence of such scrutineers as are present take steps to ensure that no further ballot papers are deposited in the ballot box. Thereupon, or in sufficient time to determine the result of the ballot he/she shall:-
  - (a) Open the ballot box and produce unopened all ballot paper envelopes.
  - (b) Determine, prima facie, the bona fides of the ballots by reference to the current Register of Members.
  - (c) Open the ballot paper envelopes and extract from them all the ballot papers in such manner as to preserve the secrecy of the ballot.
  - (d) Place the ballot paper envelopes and ballot papers in separate bundles.
  - (e) Proceed with the counting of the votes.
- (18) The Branch Returning Officer may, subject to these provisions delegate all or any of his/her functions to the Assistant Branch Returning Officer and may appoint other persons to assist him/her.

13 - CONDUCT OF ELECTION OF BRANCH COUNCILLORS, BRANCH EXECUTIVE, FEDERAL CONFERENCE DELEGATES REPRESENTING THE GENERAL DIVISION, FEDERAL CONFERENCE DELEGATES REPRESENTING THE TAFE DIVISION AND FEDERAL EXECUTIVE MEMBERS

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- (19) The Branch Returning Officer shall deliver to each person eligible to vote by pre-paid post a ballot paper no later than -
- (a) in the case of an election for Branch Council, Federal Conference Delegates representing the General Division and Federal Conference Delegates representing the TAFE Division - 28 days, or
  - (b) in the case of an election for Branch Executive and Federal Executive Members - 10 days prior to the date appointed for the close of the ballot.
- (20) The Branch Returning Officer shall provide with each ballot paper a declaration envelope in which the ballot paper is to be sealed after the voter has cast his/her vote and a further envelope which shall be pre-addressed to the Branch Returning Officer at a post office box and which shall be stamped, franked, pre-paid or endorsed such that postage thereon is not payable by the voter. Both envelopes shall be in the form prescribed by the regulations made under Schedule 1B of the Workplace Relations Act 1996.
- (21) The ballot paper shall list the titles of the offices for which the election is held and following each title the names of candidates in sequence determined by lot by the Branch Returning Officer. Opposite each name there shall be a box in which the voter is to be instructed to indicate his/her preference for the candidate for that position by inserting the numbers 1, 2, 3 ... etc, the number 1 indicating first preference. In the ballot for any particular position, if all boxes are not completed and/or there is any break in the sequence of numbers used by the voter such ballot shall be invalid provided that where the voter has indicated his first preference for one candidate and his contingent preference for all remaining candidates except one and the square opposite the name of that one candidate has been left blank it shall be deemed that the voter's preference for that candidate is his last and that accordingly he/she has indicated the order of his/her preference for all the candidates and further where there are two candidates only and the voter has indicated his vote by placing the figure "1" in the square opposite the name of one candidate and has left the other square blank the voter shall be deemed to have indicated the order of his/her preference for all the candidates. The voter shall be instructed after casting his/her vote to fold the ballot paper so that the marking thereof is not visible until unfolded, to seal the ballot paper in the declaration envelope provided and to then seal the declaration envelope inside the pre-addressed envelope provided after completing the declaration on the removable flap or label thereof.
- (22) The Branch Returning Officer shall advise all voters of the closing date and hour for the receipt of returned ballot papers which he/she shall fix and which shall be not less than 2 days before the date appointed for the declaration of the result of any election.
- (23) Voters must return the ballot papers by post to the Branch Returning Officer at the address shown on the envelope and referred to in sub-rule (13) so that the ballot paper is received no later than the notified hour on the closing date by the Branch Returning Officer. It is the voter's responsibility to ensure that his/her ballot is received by the Branch Returning Officer by the closing date and time and subject to his/her having exercised reasonable care the Branch Returning Officer shall not be responsible for the loss of any ballot.
- (24) Any vote in respect of the election of a person to an office shall be informal if:-
- (a) The ballot paper is received by the Branch Returning Officer after the notified hour on the closing date.

13A - CONDUCT OF ELECTION OF NATIONAL TAFE COUNCIL DELEGATES AND TAFE COUNCIL EXECUTIVE MEMBERS

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- (b) The ballot paper is not contained in a declaration envelope which in turn is contained in the prescribed outer envelope.
- (c) The content of the ballot paper does not comply with the instructions printed on it.
- (25) If the Branch Returning Officer is satisfied that a ballot paper has been destroyed, lost, damaged or misused he/she shall supply (in the place of the damaged or misused ballot paper on receipt thereof) to the person to whom the original ballot paper was supplied a substitute ballot paper.
- (26) The Branch Returning Officer shall collect the returned ballot papers and after rejecting those ballot papers which are informal shall count the votes. The Branch Returning Officer shall retain all ballot papers, envelopes and other documents used in connection with the election and keep them in safe custody at the Branch Office for a period of one (1) year after the date of the election.
- (27) The ballot shall be counted by the preferential voting system described in Schedule A to the Federal Branch Rules.
- (28) As between candidates receiving an equal number of votes the Branch Returning Officer shall determine by lot which candidate or candidates shall be elected.
- (29) The result of the ballot shall be declared by the Branch Returning Officer by not later than 8 p.m. on the day appointed for that purpose.

**13A - CONDUCT OF ELECTION OF NATIONAL TAFE COUNCIL DELEGATES AND TAFE COUNCIL EXECUTIVE MEMBERS**

- (1) Subject to sub-rule (2), the provisions of Rule 13 shall apply mutatis mutandis to the election of National TAFE Council Delegates and TAFE Council Executive Members.
- (2) The election of National TAFE Council Delegates and TAFE Council Executives Members shall be conducted in the following manner:-
  - (a) the elections for the National TAFE Council Delegates and TAFE Council Executive Members shall be simultaneously conducted;
  - (b) persons eligible to nominate may nominate for both the position of National TAFE Council Delegate and TAFE Council Executive Member;
  - (c) the votes for the position of TAFE Council Executive Member shall be counted first and the successful candidate determined;
  - (d) where a successful candidate has been determined in accordance with the previous paragraph, the successful candidate shall be eliminated from the election for the National TAFE Council Delegate position and the second and subsequent preference votes cast for the person shall be allocated as first and subsequent preference votes for the remaining candidates.

**13B - ELECTION OF NATIONAL ATSIEC MEMBERS REPRESENTING THE GENERAL DIVISION AND THE TAFE DIVISION**

- (1) This rule is subject to Rules 73 and 74 of the Federal Rules.
- (2) The Branch Returning Officer shall conduct an election for one (1) National ATSIEC (General Division) member and one (1) National ATSIEC (TAFE Division) member:
  - (i) each 2 years at the same time as the scheduled election of Federal Conference Delegates or in any event according to a timetable which permits the declaration of the election on or before 30 November of the year prior to taking office. Provided that the first elections for the National ATSIEC (General Division) member and the National ATSIEC (TAFE Division) member shall be held as soon as practicable; or
  - (ii) at such time as shall be notified by the Federal Returning Officer to the Branch Returning Officer as is necessary for filling a casual or extraordinary vacancy.
- (3) The National ATSIEC (General Division) member shall be elected by and from the General Division members of the Branch. The election shall be conducted in accordance with Federal Branch Rules 10 and 13 (the necessary changes being made) except that the member being nominated and the nominators must be Aboriginal or Torres Strait Islander members.
- (4) The National ATSIEC (TAFE Division) member shall be elected by and from the TAFE Division members of the Branch. The election shall be conducted in accordance with Federal Branch Rules 10 and 13 (the necessary changes being made) except that the member being nominated and the nominators must be Aboriginal or Torres Strait Islander members.

**13C - ELECTION OF NATIONAL PRINCIPAL COMMITTEE (GENERAL DIVISION) MEMBER**

- (1) This rule is subject to Rule 75 of the Federal Rules.
- (2) The Branch Returning Officer shall conduct an election for one (1) National Principal Committee (General Division) member:
  - (i) each 2 years at the same time as the scheduled election of Federal Conference Delegates or in any event according to a timetable which permits the declaration of the election on or before 30 November of the year prior to taking office. Provided that the first elections for National Principal Committee (General Division) member shall be held as soon as practicable; or
  - (ii) at such time as shall be notified by the Federal Returning Officer to the Branch Returning Officer as is necessary for filling a casual or extraordinary vacancy.
- (3) The National Principal Committee (General Division) member shall be elected by and from members of the Branch in the General Division. The election shall be conducted in accordance with the mode of election prescribed in the Federal and Branch Rules for Federal Conference delegates (the necessary changes being made) except that the member being nominated and the nominators must be current Principals.



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**13D - ELECTION OF NATIONAL EARLY CHILDHOOD COMMITTEE (GENERAL DIVISION) MEMBER**

- (1) This rule is subject to Rule 76 of the Federal Rules.
- (2) The Branch Returning Officer shall conduct an election for one (1) National Early Childhood Committee (General Division) member:
  - (i) each 2 years at the same time as the scheduled election of Federal Conference Delegates or in any event according to a timetable which permits the declaration of the election on or before 30 November of the year prior to taking office. Provided that the first elections for National Early Childhood Committee (General Division) member shall be held as soon as practicable; or
  - (ii) at such time as shall be notified by the Federal Returning Officer to the Branch Returning Officer as is necessary for filling a casual or extraordinary vacancy.
- (3) The National Early Childhood Committee (General Division) member shall be elected by and from the General Division members of the Branch. The election shall be conducted in accordance with the mode of election prescribed in the Federal and Branch Rules for Federal Conference delegates (the necessary changes being made) except that the member being nominated and the nominators must be a current teacher in a preschool, preparatory year, or an early special education setting.

**14 - REMOVAL FROM OFFICE**

- (1) The Branch Council may at a Special General Meeting by resolution of a majority of two thirds of the votes able to be cast by those present at that meeting:-
  - (a) suspend or remove from any office any Branch Councillor or member of Branch Executive or any Branch Officer if that person has ceased according to the rules to be eligible to hold such office; or
  - (b) reprimand, impose a fine not exceeding \$100.00, suspend or remove from any office or expel from membership any Branch Councillor or member of Branch Executive or any Branch Officer if that person has been found guilty of:-
    - (i) misappropriation of the funds of the Union;
    - (ii) substantial breach of the Union's rules;
    - (iii) gross misbehaviour in relation to his/her office; or
    - (iv) gross neglect of duty.
- (2) A person shall not be dealt with pursuant to sub-rule (1) unless that person has been given twenty-one days notice of the date and place of the Meeting and of the resolution to be passed together with particulars in writing of the evidence on which the allegation is based and has been given the opportunity to be heard by that meeting of Branch Council.

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**15 - OFFENCES BY BRANCH MEMBERS**

- (1) Subject to rule 33 of the Federal Rules Branch Executive may and at the request of the Branch Secretary who has submitted to the Branch Executive a prima facie case against a member shall by summons in writing call upon any member whom the Branch Executive or Branch Secretary alleges is acting or has within the preceding twelve months committed any offence against these Rules or the Rules of the Branch in which his/her membership lies to show cause why he/she should not be reprimanded, fined or expelled from the Union.
- (2) The summons shall:-
  - (a) state the allegation together with particulars thereof;
  - (b) disclose the evidence on which the allegation is based;
  - (c) be signed by the Branch President or Branch Secretary;
  - (d) state the time, date and place at which the member is to show cause;
  - (e) be delivered personally to the member concerned or posted by registered or certified mail to his/her last known address at least 21 days before the meeting at which the matter is to be determined;
  - (f) have attached to it a copy of this Rule.
- (3) Should any member against whom an allegation is made fail to appear at the hearing and fail to provide a satisfactory explanation for his/her non-attendance, the Branch Executive may proceed with the hearing of the allegation in his/her absence provided it is first satisfied that notice of the hearing in accordance with this Rule has been served on him/her.
- (4) The evidence relating to the alleged offence shall be heard by Branch Executive or by a committee of the members thereof appointed for that purpose and consisting of not less than three of its members and the member concerned shall be heard in his/her defence either personally or in writing.
- (5) If the evidence relating to the offence is heard by a committee that committee shall report its finding to the Branch Executive together with a recommendation as to penalty if any.
- (6) If in the opinion of the Branch Executive the member is guilty of the offence alleged the Branch Executive may reprimand him/her or may fine him/her a sum not exceeding One Hundred Dollars for any one offence or may suspend him/her for a period not exceeding 12 months or may expel him/her from the Union.
- (7) The Branch Secretary shall promptly inform the member by registered letter of the decision of the Branch Executive. In the event of expulsion the expulsion shall become effective 14 days after the date of posting such letter and in the event of a fine being imposed the fine subject to sub-rule 8 hereof shall become payable immediately and the member shall be deemed unfinancial if the fine is unpaid one month after the date of posting such letter and shall remain unfinancial until the fine is paid.
- (8) A member who is found guilty of an offence by the Branch Executive shall have a right of appeal to the next Branch Council against such finding and/or any penalty imposed by Branch Executive provided that he/she submits such appeal to the Branch Secretary in writing not more than 14 days after the date of posting of the letter informing him/her of the decision of the Branch Executive and pending the determination of any such appeal the finding and/or penalty shall not become effective. The Branch Council's determination of the appeal shall be final.

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- (9) Any member expelled pursuant to this Rule shall not be re-admitted to membership except by vote of the Branch Council.

### **16 - PLEBISCITE**

- (1) Where the Branch Council determines that any matter be submitted for determination by a plebiscite of all the financial members attached to the Branch the Branch Returning Officer shall submit the matter to a postal vote of all members whose names appear on the Branch register as at the date of the Branch Council's decision.
- (2) That plebiscite shall be conducted so far as is practicable in accord with the provisions of Federal rule 15(4)(a), (b), (c), (d), 15(5), 15(6), and 15(7)(a) and (b).
- (3) The motion shall be carried and have the effect of a decision of the Branch Council if a majority of members vote in favour of the motion provided that majority consists of not less than twenty-five per cent of persons entitled to vote.

### **16A - BRANCH COMMON SEAL**

- (1) There shall be a common seal of the Branch which shall be kept in the custody of the Branch Secretary.
- (2) Any industrial agreement or other document required to be or able to be executed under seal shall be so executed by the affixing of the common seal by the Branch President or Branch Secretary.
- (3) The Branch common seal shall be affixed only on the authority of the Branch Council or Branch Executive.
- (4) Documents not required to be executed under seal may be signed on behalf of the Branch by the Branch President or Branch Secretary or any other person authorised by the Branch Council or Branch Executive.

### **16B**

The Branch shall not make any loan, grant or donation of an amount exceeding \$1,000.00, unless the Branch Council or Branch Executive has:

- (a) satisfied itself:-
- (i) that the making of the loan, grant or donation would be in accordance with the Rules of the Branch; and
  - (ii) in relation to a loan that, in the circumstances, the security proposed to be given for the repayment of the loan is adequate and the proposed arrangements for the repayment of the loan are satisfactory; and
- (b) approved the making of the loan, grant or donation.

A. Preferential Voting - One vacancy to be filled

1. The Branch Returning Officer shall count first preference votes cast for each candidate and if any candidate has received an absolute majority of first preference votes he/she shall be declared elected.
2. (a) If no candidate has received an absolute majority of first preference votes, the candidate with the lowest number of first preference votes shall be eliminated and the second preference votes of the eliminated candidate shall be allocated to the remaining candidates in accord with the voter's preference. If, on a count of those votes, a candidate has an absolute majority of votes he/she shall be declared elected;
- (b) If no candidate then has an absolute majority of votes the process of eliminating the candidate with the lowest number of votes at that stage and allocating the next preference votes of that candidate shall be repeated until one candidate has received an absolute majority of votes; and
- (c) The candidate who has received an absolute majority of votes shall be declared elected.

B. Preferential Voting - More than one vacancy to be filled

1. The Branch Returning Officer shall count all first preference votes cast for each candidate and if any candidate has received an absolute majority of first preference votes he/she shall be declared elected.
2. If no candidate has received an absolute majority of first preference votes the Branch Returning Officer shall proceed to eliminate candidate(s) and distribute preference votes as provided in paragraph A(2) above until a candidate has an absolute majority of votes and is declared elected.
3. To determine the next successful candidate the Branch Returning Officer shall allocate the second preference votes of the candidate who has been elected to each of the other candidates in accord with the voter's preference including to the candidates eliminated pursuant to paragraph B(2) above.
4. If a candidate then has an absolute majority of votes he/she shall be declared elected but if no candidate then has an absolute majority of votes the count shall proceed as provided in subparagraph A(2)(b) above until one candidate has received an absolute majority of votes and is elected.
5. Any remaining vacancies shall be filled one by one in the manner provided above and as any candidate receives an absolute majority he/she shall be declared elected. Provided that where the second preference votes of an elected candidate are given to another elected candidate the Branch Returning Officer shall allocate the third preference vote of the first mentioned elected candidate to other candidates in accordance with the voters' third preference. This proviso applies equally where second and succeeding preference votes are given to two or more elected candidates.

C. Procedure where one or more candidates have an equal number of votes

If on any count of votes pursuant to paragraphs A or B above, two or more candidates have an equal number of votes and one or more of them has to be eliminated the Branch Returning Officer shall determine by lot which candidate or candidates shall be eliminated.

## **17 - BRANCH AUDITOR**

The provisions of Federal Rule 65 shall apply to the Branch and the reference therein to Auditor, Federal Conference, Federation and Federal Executive shall for the purposes of this Federal Branch Rule be deemed to be a reference to Branch Auditor, Branch Council, Branch and Branch Executive respectively.

## **17A - FINANCIAL YEAR**

The financial year of the Branch shall commence on 1 January each year and end on 31 December.

## **17B - DEFINITIONS**

For the purposes of rules 17C, 17D, 17E and 17F, the terms shall be as defined in rule 2 (Definitions) of the Federal Rules.

## **17C - BRANCH POLICIES AND PROCEDURES**

The branch shall develop and implement policies and procedures relating to the expenditure of the branch.

## **17D - DISCLOSURE OF OFFICER'S RELEVANT REMUNERATION AND NON-CASH BENEFITS**

- (1) Each officer of the branch shall disclose to the branch any remuneration paid to the officer:
  - a) because the officer is a member of a board, if:
    - i. the officer is a member of the board only because the officer is an officer of the branch; or
    - ii. the officer was nominated for the position as a member of the board by the organisation, branch or a peak council; or
  - b) by any related party of the branch in connection with the performance of the officer's details as an officer.
- (2) The disclosure required by sub-rule (1) shall be made to the branch:
  - a) as soon as practicable after the remuneration is paid to the officer; and
  - b) in writing.
- (3) A branch shall disclose to the members of the branch:
  - a) the identity of the officers who are the two highest paid officers of the branch in terms of relevant remuneration for the disclosure period; and
  - b) for those officers:
    - i. the actual amount of the officers' relevant remuneration for the disclosure period; and
    - ii. either the value of the officers relevant non-cash benefits, or the form of the officers' relevant non-cash benefits, for the disclosure period.

- (4) For the purposes of sub-rule (3), the disclosure shall be made:
- a) in relation to each financial year;
  - b) within six months after the end of the financial year; and
  - c) in writing.

#### **17E - DISCLOSURE OF OFFICER'S MATERIAL PERSONAL INTERESTS**

- (1) Each officer of a branch shall disclose to the branch any material personal interest in a matter that:
- a) the officer has or acquires; or
  - b) a relative of the officer has or acquires;
- that relates to the affairs of the organization.
- (2) The disclosure required by sub-rule (1) shall be made to the branch:
- a) as soon as practicable after the interest is acquired; and
  - b) in writing.
- (3) The branch shall disclose to the members of the branch any interest disclosed to the branch pursuant to sub-rule (1).
- (4) For the purposes of sub-rule (3), the disclosures shall be made:
- a) in relation to each financial year;
  - b) within six months after the end of the financial year;
  - c) in writing.

#### **17F - DISCLOSURE BY ORGANISATION/BRANCH OF PAYMENTS**

- (1) The branch shall disclose to the members of the branch either:
- a) each payment made by the branch, during the disclosure period:
    - i. to a related party of the branch; or
    - ii. to a declared person or body of the branch; or
  - b) the total of the payments made by the branch, during the disclosure period:
    - i. to each related party of the branch; or
    - ii. to each declared person or body of the branch.
- (2) Sub-rule (1) does not apply to a payment made to a related party if the payment consists of amounts deducted by the branch from remuneration payable to officers or employees of the branch.

## 19 - BRANCH REGISTERED OFFICE

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- (3) For the purposes of sub-rule (1), the disclosures shall be made:
- a) in relation to each financial year;
  - b) within six months after the end of the financial year; and
  - c) in writing.

## 17G - TRAINING

- (1) Each person who holds an office in the branch (within the meaning of the *Fair Work (Registered Organisations) Act 2009*, whose duties include (financial duties) that relate to the financial management of the branch, must comply with all of the following:
- a) The person must undertake training approved by the General Manager of the Fair Work Commission under Section 154C of the *Fair Work (Registered Organisations) Act 2009*.
  - b) The training so undertaken must cover each of the person's financial duties.
- (2) The training so undertaken must be completed within six (6) months after the person begins to hold office.

## 18 - PROXY VOTING

The Branch Council may in the Branch Rules make provision for proxy voting on Branch Council, Branch Executive and any other body created by the Branch.

## 19 - BRANCH REGISTERED OFFICE

The Registered Office of the Branch shall be at such place as the Branch Council shall from time to time determine and shall pending any such decision be 21 Graham Street, Milton, Qld., 4064.

APPENDIX A

FEDERAL BRANCH RULES

FEDERAL BRANCH RULES IN RELATION TO THE WESTERN AUSTRALIAN BRANCH

1. Government
2. Constitution of Branch Council
3. Powers of Branch Council
4. Meetings of Branch Council
- 4A General Meeting of Branch
- 4B General Meeting – Financial Reports
5. Branch Executive
- 5.1 Branch Emergency Committee
6. Constitution of Branch Executive
- 6.1 Branch Secretary
- 7.1 Duties of Branch President
- 7.2 Duties of Branch Senior Vice President
- 7.3 Duties of Branch Vice President
- 7.4 Duties of Branch Secretary
8. Eligibility for Election
9. Election of District Representatives to Branch Council
- 9.1 Election of Branch Senior Officers and Branch Executive
10. Election of Federal Delegates
11. Election of Female Federal Delegates
12. Federal Executive Member
13. Conduct of Election of Branch Senior Officers and Branch Executive
- 13.1 Conduct of Election of Branch Councillors, Federal Conference Delegates Representing the General Division, Federal Conference Delegates Representing the TAFE Division and Federal Executive Members.
- 13A Conduct of Election of National TAFE Council Delegates and TAFE Council Executive Members
- 13B Election of National ATSIEC Members Representing the General Division and TAFE Division
- 13C Election of National Principal Committee (General Division) Member
- 13D Election of National Early Childhood Committee (General Division) Member
14. Removal from Office
15. Offences by Branch Members
16. Plebiscite
- 16A. Branch Common Seal
- 16B. Loans, Grants and Donations
17. Branch Auditor
18. Proxy Voting
19. Branch Registered Office



20. Transitional Rule: 2013 Branch Executive
21. Transitional Rule: 2012-2014 Branch Council
22. Requirements of Fair Work (Registered Organisations) Amendment Act 2012

SCHEDULE A TO THE FEDERAL BRANCH RULES OF THE AUSTRALIAN EDUCATION  
UNION

APPENDIX B – SCHEDULE OF DISTRICTS

### **1 - GOVERNMENT**

- (1) The affairs of the Western Australian Branch shall be governed by a Branch Council which shall be the supreme governing body of the Branch.
- (2) Branch Council shall meet in the month of June each year which meeting shall be the annual meeting of Branch Council and at such other times as provided in the Branch Rules or as Branch Council or Branch Executive shall deem necessary and shall be convened by notice signed by the Branch President or failing him/her the Branch Senior Vice President or failing him/her the Branch Secretary.
- (3) The Branch President shall have power to convene special meetings of Branch Council and to determine when where and for what stated purpose such meeting shall take place. At least seven clear days notice of any such meeting shall be given to each member of Branch Council.
- (4) Upon the request or requests in common form in that behalf signed by no less than 25% of the total number of members of Branch Council at any one time the Branch Secretary shall within 21 days after receipt thereof convene a special meeting of the Branch Council to consider the matter specified in the request. At least 7 days clear days notice in writing of any such meeting shall be given to each member of Branch Council.
- (5) At every meeting of Branch Council the quorum necessary for the transaction of the business of the Branch Council shall be one third of those entitled to attend and vote thereat.
- (6) The agenda for any meeting of Branch Council convened pursuant to sub-rule (3) or sub-rule (4) of this rule shall be only that business set forth in the "stated purpose" or "specified in the request" referred to in those sub-rules respectively.

### **2 - CONSTITUTION OF BRANCH COUNCIL**

- (1) The Branch Council shall consist of:
  - (a) Members of the Branch Executive and the Branch Secretary; and
  - (b) Delegates whose place of work is within specified Districts, elected by financial members whose place of work is within the same District, on the basis of one delegate for every 100 members, or part thereof. The close off date for the calculation of district entitlements shall be the final gazetted date of the school year ending immediately prior to the conduct of the election of Branch Councillors.
- (2) The specified Districts shall be determined by Branch Council from time to time and shall be appended to these rules but shall not form part of these rules.
- (3) The term of office of those members of Branch Council who are elected from Districts shall commence on the 20th day of March and expire 12 months after the commencement thereof.
- (4) All members of Branch Council shall, subject to these Rules and the Branch Rules, hold office until their successors are elected and shall be eligible for re-election.
- (5) Vacancies which occur after the annual election for the office of a Branch Councillor elected from a District shall be filled by the Branch Executive appointing another financial member, attached to the District in which the vacancy has occurred, to fill the vacancy. The person so appointed shall hold office for the unexpired term of office remaining.

### 3 - POWERS OF BRANCH COUNCIL

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- (6) Where insufficient nominations for the number of positions to be filled are received, the Returning Officer shall conduct a supplementary election to fill those positions. Such election shall be conducted as soon as possible after the declaration of the original election and in accordance with the provisions of these rules.
- (7) On the appointment or election of a member of Branch Council to an office of Branch Officer the office of that member of Branch Council shall not become vacant by reason only of that appointment or election.

### 3 - POWERS OF BRANCH COUNCIL

- (1) Branch Council shall have power to control and manage the business and affairs of the Union in relation to the Branch subject always to these Rules and to any lawful direction of Federal Conference or Federal Executive and without limiting the generality of this power shall have power to:
  - (a) Make, amend or rescind the Federal Branch Rules in accord with the Act and the Federal Rules.
  - (b) Make amend and rescind the Branch Rules for the regulation and government of the Branch.
  - (c) Enrol as a member of the Union any person who pursuant to the Federal Rules is eligible to be attached to the Branch.
  - (d) Disburse monies from the Branch Fund for any purpose required by these Rules or the Branch Rules.
  - (e) Appoint or remove a Branch Returning Officer and Deputy Branch Returning Officer qualified to act in accordance with the Act, to conduct any election for which a 108 Returning Officer is required in connection with any Branch office in the Union.
  - (f) Appoint or remove a Branch Auditor qualified to act in accordance with the Act, for any purpose for which an auditor is required in connection with the Branch accounts of the Federation.
  - (g) Dismiss from office any person elected to an office within the Branch who has been found guilty in accordance with the Rules of the Union of misappropriation of the funds of the Union, a substantial breach of the Rules of the Union, gross misbehaviour or gross neglect of duty in relation to his/her office or who has ceased according to the Rules of the Union to be eligible to hold the office.
  - (h) Submit industrial disputes to conciliation and arbitration in accordance with the policy and procedures of the Act.
  - (i) Subject to the Federal Rules seek and obtain or oppose the making of Awards by the Australian Conciliation and Arbitration Commission or by any successor to that body by whatever name called as the interests of members may from time to time require.
  - (j) To make contributions to the financing of superannuation schemes or retirement funds for the benefit of the elected, appointed or employed officers and employees and to enter into such arrangement as may be necessary for that purpose.

#### 4A - GENERAL MEETING OF BRANCH

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- (k) Determine entrance fees and subscriptions for members and persons eligible to be members of the Union attached to the Branch and impose levies on such members.
- (l) For the purpose of the conduct of the Branch's affairs, including elections to Branch Offices the Branch Council may make provision in the Branch Rules for the constitution, reform or dissolution of sub-branches, sections or local committees of members (howsoever named) and for the determination or variation of the offices, powers and duties of such bodies.
- (m) Participate in any system of conciliation and arbitration or of wages boards or like systems established under the laws of the State in which the Branch is established or any system established for the purpose of determining the terms and conditions of employment of any of its members and may delegate this power in accordance with the Branch Rules.
- (n) Do all things necessary or convenient to the exercise of the foregoing powers or any powers conferred by the Federal Rules or the Federal Branch Rules thereof.

#### **4 - MEETINGS OF BRANCH COUNCIL**

- (1) Branch Council other than when meeting as a special meeting called for a specified purpose shall unless otherwise determined by Branch Council proceed to the business of the Agenda.
- (2) No addition to or amendment or rescission of any Federal Branch Rule or any Branch Rule shall be made unless notice has been given to the Branch Secretary at least thirty (30) days prior to the meeting of Branch Council at which the Rule is to be considered specifying the new Rule amendment or rescission sought and each member of Branch Council has been given fourteen days written notice by the Branch Secretary by either by regular post or electronic means that such new Rule amendment or rescission is to be considered by Branch Council.
- (3) Subject to sub-rule 2 hereof any item may be placed on the agenda of any meeting of Branch Council by Branch Council, Branch Executive, Branch Officers or any Branch Councillor or as further provided in the Branch Rules. Unless otherwise provided in the Branch Rules and subject to sub-rule (2) hereof the Branch Secretary shall give each member of Branch Council not less than seven days written notice of any such item which he/she has received.
- (4) A member of Branch Council who wishes the Council to consider any matter not on the agenda for a meeting of Branch Council may have such matter, other than a matter that relates to amending any Federal Branch Rule or Branch Rule considered if the Council resolves to consider the matter by resolution carried by an absolute majority of the Councillors present at the meeting.
- (5) Any motion before Branch Council shall be carried if more than fifty per cent of the Branch Councillors present and entitled to vote thereat vote in favour but not otherwise.

#### **4A - GENERAL MEETING OF BRANCH**

- (1) The Branch Secretary shall convene a General Meeting of the Branch if directed to do so by Branch Council or on receipt of a written request therefore signed by at least 5% of members attached to that Branch.
- (2) Where Branch Council directs that a general meeting of the Branch be convened it shall be convened on the date determined by the Branch Council and in the absence of such determination within three months of the date of the direction that it be convened.

#### 4B GENERAL MEETING - FINANCIAL REPORTS

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- (3) Where a written request of the requisite number of members request a general meeting of the Branch that general meeting shall be convened within three months of the receipt of that request.
- (4) The agenda for a General Meeting shall be as directed by the Branch Council and/or as specified in the written request.
- (5) The Branch Secretary shall place a notice of the general meeting and the agenda in a metropolitan daily newspaper at least two months prior to the meeting.
- (6) At any General Meeting of the Branch a quorum shall be 20% of the financial members attached to the Branch. The number of financial members attached to the Branch shall be taken to be the financial members of the Branch as at 5.00 p.m. local time on the 30th June last preceding the meeting.

#### 4B GENERAL MEETING - FINANCIAL REPORTS

- (1) The Branch Secretary may convene a General Meeting of the Branch for the purpose of considering the auditor's report, the general purpose financial statement, and the operating report (which are collectively referred to herein as "the full report") in relation to a financial year.
- (2) A General Meeting of the Branch convened for the purpose referred to in subrule 4B(1) ("financial reports purpose") must be convened
  - (a) in circumstances where the General Meeting has been called for pursuant to subrule (4) hereof – within 8 weeks of the receipt by the Branch Secretary of the petition referred to in subrule (6) hereof; and
  - (b) in all other circumstances - within 8 weeks of the provision to the members of the full report (or the concise report) pursuant to clause 266(3) of the *Fair Work (Registered Organisations) Act 2009*.
- (3) At any General Meeting of the Branch convened for the financial reports purpose, no other business may be considered by that General Meeting.
- (4) Subject to subrules (5), (6) and (7) hereof, the Branch Secretary must convene a General Meeting of the Branch for the financial reports purpose, if such a meeting is called for by not less than 5% of the members of the Branch.
- (5) For the purpose of subrule (4) hereof, the total number of members of the branch is to be determined as at the time such meeting is called.
- (6) For the purposes of subrule (4) hereof, the members of the Branch who call for the convening of a General Meeting for the financial reports purpose must, for their call to be effective for the purposes of subrule (4) hereof, deliver to the Branch Secretary a petition bearing the name, signature, membership number and date of signature of each of the members who participate in the call for the convening of the General Meeting for the financial reports purpose.
- (7) The petition referred to in subrule (6) hereof must, in order to be effective for the purposes of subrule (4) hereof, be delivered to the Branch Secretary within a period of four months after the provision to the members of the full report (or the concise report) pursuant to clause 265 of Schedule IB of the Workplace Relations Act.

## 5 - BRANCH EXECUTIVE

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- (8) A quorum for a General Meeting held for the financial reports purpose is 20 members of the Branch.
- (9) The Branch Secretary must give a minimum of three (3) weeks notice of a General Meeting of the Branch convened pursuant to subrule (1) hereof, and such notice may be given by way of a notice
  - (a) published in a daily metropolitan newspaper; or
  - (b) delivered by mail to the members of the Branch.

## 5 - BRANCH EXECUTIVE

- (1) Between meetings of the Branch Council the management of the Branch shall be vested in a Branch Executive which shall pending the first meeting of the Branch Council have all the powers of Branch Council and thereafter between meetings of the Branch Council shall have all such powers except the powers to amend the Federal Branch Rules or the Branch Rules or the power to determine entrance fees and subscriptions or impose a levy or any power expressly reserved to itself by decision of Branch Council.
- (2) Branch Executive shall fix and from time to time vary the salaries and allowances or honoraria payable to Branch officers and to confer on named officers or the holders of any named offices authority to employ retain and terminate the employment of such research clerical and other staff as shall be specified in a resolution of Branch Executive conferring such authority on such terms as Branch Executive or, if so decided by Branch Executive as such Branch officers shall see fit.
- (3) Branch Executive shall meet at least 4 times in each calendar year at a time and place to be determined by the Executive and shall meet:
  - (a) Whenever the Branch Executive so determines.
  - (b) Whenever the Branch President, or on his/her absence, the Branch Senior Vice President so determines.
  - (c) Whenever a majority of members of the Executive so request in writing to the Branch Secretary.
- (4) The Branch Executive shall as expeditiously as possible give effect to the decisions of Branch Council.
- (5) Executive meetings shall be chaired by the Branch President or in his/her absence, the Branch Senior Vice President or in the absence of both a member of Branch Executive elected by the persons assembled for the meeting.
- (6) The Branch President shall determine the agenda for any meeting of the Branch Executive. The Branch Secretary shall give each member of Branch Executive 3 days notice of any executive meeting and shall include with that notice a copy of such agenda.
- (7) The agenda of Branch Executive shall include the agenda determined pursuant to sub-rule (6) of this rule and any item:-
  - (a) which the Branch Council or Branch Executive has previously determined should be included;

## 5.1 - BRANCH EMERGENCY COMMITTEE

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- (b) of which notice has been given in writing by a member of the Executive at least 10 days prior to the meeting;
  - (c) which the Branch Executive determines be included.
- (8) The requirements of sub-rules (6) and (7) of this Rule as to notice are directory and not mandatory and the accidental omission to give any required notice or provide any agenda shall not itself invalidate any subsequent resolution of the Branch Executive.
- (9) Notwithstanding any other provision of these Rules, any meetings of the Branch Executive and Branch Council may be conducted in person, by post, by telephone or videoconference, or by a combination of these forms of meeting or communication. Where any such meeting is conducted other than by way of all of the participants being present in person, such meeting shall be as valid as if all participants had met in person provided that:
- (a) any such meeting is convened and conducted in accordance with the requirements of the rules applicable to the meeting concerned, including (without limitation) the relevant rules relating to notice and quorum for the meeting; and
  - (b) each of the members participating in the meeting must be able to hear each of the other members present at the meeting.
  - (c) where one third of the members of the Executive request that an Executive meeting convened pursuant to this sub-rule be held only by the executive members meeting in person such a meeting shall be held within 5 days of such request and no decision on the business that was to be determined by the Executive pursuant to this sub-rule shall be made pending that meeting.
- (10) A majority of the members of the Branch Executive shall constitute a quorum.

### **5.1 - BRANCH EMERGENCY COMMITTEE**

- (1) There shall be a Branch Emergency Committee for the purpose of dealing with any urgent issues which may arise between meetings of the Branch Executive or to complete any unfinished business from Branch Executive meetings.
- (2) The Branch Emergency Committee shall comprise the Branch President and four other Branch Executive Members who shall be elected by and from members of the Branch Executive.
- (3) Three members of the Branch Emergency Committee shall constitute a quorum.
- (4) Meetings of the Branch Emergency Committee shall be convened by decision of the President or at the request of three members of the Committee.
- (5) Meetings of the Branch Emergency Committee may be conducted in person or by telephone, and decisions of the Emergency Committee may also be taken by vote communicated by way of postal ballot, fax ballot or by email.
- (6) Subject to any express limitation on the powers of the Branch Emergency Committee, which may be imposed by Branch Council or Branch Executive, the Branch Emergency Committee may exercise all of the powers of the Branch Executive between meetings of Branch Executive.

## 7.1 - DUTIES OF BRANCH PRESIDENT

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- (7) The Branch Secretary shall attend all meetings of the Branch Emergency Committee where it is practicable to do so.
- (8) All business conducted and decisions taken by the Branch Emergency Committee must be reported to the next meeting of Executive by the President on behalf of the Committee.

## 6 - CONSTITUTION OF BRANCH EXECUTIVE

- (1) The Branch Executive shall be elected by and from the financial members of the Branch in accordance with the Branch Rules and shall be the committee of management of the Branch and shall consist of:
  - (a) The Branch President, the Branch Senior Vice President, and the Branch Vice President;
  - (b) Fourteen Ordinary Executive Members;
  - (c) An Aboriginal and Torres Strait Islander Executive member who shall be elected by and from Aboriginal and Torres Strait Islander members of the Branch;
- (2) The Branch Executive shall hold office for three years from the 1st of January following its election.
- (3) In the event of any casual or extraordinary vacancy occurring in an office of Branch Executive Member, at a time where more than half of the term of office remains unexpired, the vacancy shall be filled by the Branch Returning Officer conducting an election in accordance with these Federal Branch Rules to fill that vacancy. Any person so elected shall hold office for the unexpired portion of the term of the office of the Branch Executive Member he or she is appointed to replace.
- (4) In the event of a casual or extraordinary vacancy occurring in an office of Branch Executive Member within eighteen months of the expiration of the term of office being held, the Branch Executive may appoint another financial member attached to the Branch to fill the vacancy and the person so appointed shall hold office for the unexpired term of the office of the Branch Executive Member he or she was appointed to replace.

### 6.1 - BRANCH SECRETARY

- (1) The position of Branch Secretary shall be elected by and from the financial members of the Branch and shall have a term of office of three years. The incumbent shall be eligible for re-election.
- (2) The term of office for the Branch Secretary shall commence on 1st January in the year following the election.
- (3) In the event of any casual or extraordinary vacancy occurring in the office of Branch Secretary, at a time where more than half of the term of office remains unexpired, the vacancy shall be filled by the Branch Returning Officer conducting an election in accordance with these Federal Branch Rules to fill that vacancy. Any person so elected shall hold office for the unexpired portion of the term of office remaining.
- (4) In the event of a casual or extraordinary vacancy occurring in an office of Branch Secretary within eighteen months of the expiration of the term of office being held, the Branch Executive may appoint another financial member attached to the Branch to fill the vacancy and the person so appointed shall hold office for the unexpired term of office remaining.



### **7.1 - DUTIES OF BRANCH PRESIDENT**

The provisions of Federal Rule 40 shall apply as appropriate to the Branch President and every reference therein to Federal President, Federal Conference, Federal Executive and Union shall for the purpose of this rule be deemed to be a reference to Branch President, Branch Council, Branch Executive and Branch respectively.

### **7.2 - DUTIES OF BRANCH SENIOR VICE PRESIDENT**

The provisions of Federal Rule 41 shall apply as appropriate to the Branch Senior Vice President and every reference therein to Federal President, Federal Deputy President, Federal Conference, and Federal Executive shall, for the purpose of this rule be deemed to be a reference to Branch President, Branch Senior Vice President, Branch Council, and Branch Executive, respectively.

### **7.3 - DUTIES OF BRANCH VICE PRESIDENT**

The Branch Vice President shall exercise all the rights and powers and perform all the duties of the Branch President in the absence of the Branch President and Branch Senior Vice President and can carry out such other duties as are determined from time to time by the Branch Executive or Branch Council.

### **7.4 - DUTIES OF BRANCH SECRETARY**

The provisions of Federal Rule 43(1) shall apply as appropriate to the Branch Secretary and every reference therein to Federal President, Federal Secretary, Federal Conference, Federal Executive, Union and Federal Auditor shall for the purpose of this rule be deemed to be a reference to Branch President, Branch Secretary, Branch Council, Branch Executive, Branch and Branch Auditor respectively.

## **8 - ELIGIBILITY FOR ELECTION**

Any financial member attached to the Branch shall be eligible for election to Branch Council, Branch Executive and Federal Conference provided that:

- (a) That member is nominated by two financial members of the Branch.
- (b) The nomination is received by the time and date and at the place fixed by the Branch Returning Officer.

## **9 - ELECTION OF DISTRICT REPRESENTATIVES TO BRANCH COUNCIL**

- (1) Each District shall elect representatives to Branch Council annually at the commencement of each school year.
- (2) Where sufficient nominations have been received from women financial members, at least fifty per cent of Branch Councillors shall be women.
- (3) Where fewer than the number of nominations required to enable subrule (2) above to be complied with are received from women, any woman who so nominated shall be declared elected.
- (4) At each election of members of the Branch Council, all financial members of the Union whose place of work is within the relevant District pursuant to sub-rule 2(1) of the Federal Branch Rules and financial as at the close of the roll of voters for the ballot shall be eligible to vote for each candidate in that election.

## 9.1 - ELECTION OF BRANCH SENIOR OFFICERS AND BRANCH EXECUTIVE

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- (5)
  - (i) The term of office of District representatives to Branch Council shall commence on the 20th day of March and expire 12 months after the commencement thereof.
  - (ii) Where an elected District representative is transferred from that District during his/her term of office, he/she shall continue to hold that office for the remainder of the 12 month term.
- (6) All members of Branch Council shall subject to these Rules and the Branch Rules hold office until their successors are elected and shall be eligible for re-election.
- (7) In the event of a casual or extraordinary vacancy in the office of a Branch Councillor elected from a District, the Branch Executive may appoint another financial member attached to the District in which the vacancy has occurred to fill that vacancy. Any person so appointed shall hold office for the unexpired portion of the term of the Branch Councillor he or she is elected to replace.
- (8) Nominations for election to Branch Council shall be called at least fourteen days prior to the date on which nominations close by placing an advertisement in a branch publication or in a publication of the State School Teachers' Union of WA (Inc.), provided that the publication in question is circulated to all members of the Branch.

### **9.1 - ELECTION OF BRANCH SENIOR OFFICERS AND BRANCH EXECUTIVE**

- (1) For the purposes of this rule and Rule 13.1 - CONDUCT OF ELECTION OF BRANCH SENIOR OFFICERS AND BRANCH EXECUTIVE, Branch Senior Officers comprise the Branch President, Branch Senior Vice President, Branch Vice President and Branch Secretary.
- (2) Nominations for election as Branch Senior Officers and Branch Executive shall be called at least fourteen (14) days prior to the date on which nominations close by:
  - (a) placing a notice in "The West Australian" newspaper and, if possible,
  - (b) placing an advertisement in a branch publication or in a publication of The State School Teachers' Union of WA (Inc.), provided that the publication in question is circulated to all members of the Branch.
- (3) Nominations shall be called by the Branch Returning Officer who shall fix the place at which and the date and time on which nominations close.
- (4) In consultation with the Branch Secretary and Branch President, and subject to the Federal Rules and the Branch Rules, the Branch Returning Officer shall fix the date on which the financial members attached to the Branch are to elect members of Branch Executive and Branch Council.
- (5) Nominations shall be in writing and shall be signed by the person accepting nomination, by two financial members of the Branch proposing him or her and specifying the office or offices for which he or she is a candidate.
- (6) No person who has occupied the position of President, Senior Vice President or Vice President for three consecutive terms shall be eligible to nominate for, or be elected to, a fourth consecutive term in that office.

## 9.1 - ELECTION OF BRANCH SENIOR OFFICERS AND BRANCH EXECUTIVE

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- (7) (i) That in the AEUWA Branch election for Branch President, Branch Senior Vice President, Branch Vice President, Ordinary Executive members and Aboriginal and Torres Strait Islander Executive Member, scheduled for October 2013, the term of office shall be for a period of three years.
- (ii) That in the AEUWA Branch election for the position of Branch Secretary, scheduled for October 2014, the term of office shall be for a period of two years. Thereafter, commencing at the election in October 2016, the term of office for the Branch Secretary shall be for a period of three years.
- (8) (i) A group of eligible members may nominate as members of a "Team Nomination" which must have a name. A team may be a Senior Officers Team, or an Executive Team, or a Senior Officers and Executive Team.
- (ii) For the purposes of this rule and Rule 9.1 (12), the office of Aboriginal and Torres Strait Islander Executive member shall be an individual candidacy and excluded from the Executive Team.
- (9) The name of a Team Nomination must not be the same as or similar to the name of another Team Nomination or the name of any member of another Team Nomination or be deceptive in any other way.
- (10) In determining which Team Nomination may use a name (which is not a candidate's name), regard is to be had to all relevant factors including the history of use of the name in question.
- (11) If, in the view of the Branch Returning Officer, the name of any Team Nomination is the same as, or similar to, that of any other Team Nomination, or is deceptive in any other way, the Branch Returning Officer must:
- (a) approach the candidate for Branch President of the offending Team Nomination, and request him/her to make such changes to the Team Nomination's name as the Branch Returning Officer thinks necessary; and
- (b) if such changes are not made, decide whether to accept the Team Nomination.
- (12) A Team Nomination must nominate an eligible person (or the required number of people) for each position for which nominations have been called whereupon each person will be considered to have nominated for each position concerned.
- (13) A Team Nomination must be in writing and signed by the team leader.
- (14) No member of a Team Nomination may nominate in the election other than for that Team Nomination.
- (15) (i) Any candidate, whether an individual nomination or a member of a Team Nomination who withdraws from the ballot, must do so in writing, to the Returning Officer.
- (ii) The withdrawal from the ballot of a member of a Team Nomination after the close of nominations does not invalidate that Team Nomination.
- (16) In the event of a withdrawal in accordance with sub-rule (15), the person who has withdrawn can be replaced by another eligible person who has nominated as a candidate for any position, who is not a member of any other Team Nomination, and who consents to becoming a member of the Team Nomination. In such a case the Returning Officer must be notified of the change prior to the printing of ballot papers.
- (17) No candidate, whether an individual nominee or a member of a Team Nomination, can withdraw from the ballot once the ballot papers for the election have been printed.

## 10 - ELECTION OF FEDERAL DELEGATES

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- (18) The discovery of a candidate's ineligibility will not affect the validity of the election to office of any other member of a Team Nomination of which that candidate is a member.
- (19) If the Branch Returning Officer finds a nomination is defective before or after the close of nominations (whether a nomination of an individual candidate, or a nomination of a member of a Team Nomination), the Branch Returning Officer must:
  - (a) in the case of an individual candidate, notify that candidate of the defect and, if it is practicable to do so, give the candidate the opportunity of remedying the defect within 7 days; or
  - (b) in the case of a Team Nomination, notify the Team Leader of that Team Nomination of the defect and, if it is practicable to do so, give the Team Nomination the opportunity of remedying the defect within 7 days.
- (20) If a candidate fails to remedy a defect in accordance with sub-rule (19), the Branch Returning Officer must reject the nomination.
- (21)
  - (a) If no more nominations for election to a position referred to in sub-rule (2) are received than the number of such positions available, the Branch Returning Officer must immediately declare the person or persons nominated elected to the position.
  - (b) If more nominations for election to a position referred to in sub-rule (2) are received than the number of such positions available, a ballot must be conducted by the Branch Returning Officer.

## 10 - ELECTION OF FEDERAL DELEGATES

- (1) The Branch Returning Officer shall conduct elections for Federal Conference Delegates in accordance with this rule and rule 30 of the Federal Rules.
- (2) Delegates to Federal Conference shall take office on 1 January following their election and hold office for two years or until their successors take office.
- (3)
  - (a) The Federal Conference delegates representing the general division shall each be elected by a secret postal ballot by and from financial members of the Branch attached to the General Division.
  - (b) The Federal Conference delegates representing the TAFE Division shall each be elected by a secret postal ballot by and from financial members of the Branch attached to the TAFE Division.
- (4) The Branch Returning Officer shall conduct an election of Federal Delegates to Federal Conference each two years or at such sooner time as the Federal Returning Officer shall notify him/her as is necessary for filling a casual or extraordinary vacancy or increased entitlement pursuant to Rule 24 of the Federal Rules.
- (5) The Branch Returning Officer shall call for nominations for election of Federal Delegates at least fourteen (14) days prior to the date on which nominations close and at least thirty days before the date fixed for the election by:
  - (a) placing a notice in "The West Australian" newspaper and, if possible,
  - (b) placing an advertisement in a branch publication or in a publication of The State School Teachers' Union of WA (Inc.), provided that the publication in question is circulated to all members of the Branch.

- (6) Nominations shall be in writing and shall be signed by the person accepting nomination and two financial members of the Branch proposing him or her.

### **11 - ELECTION OF FEMALE FEDERAL DELEGATES**

- (1) This Rule shall operate in conjunction with other Federal Branch Rules relating to the election of Federal Delegates to Federal Conference provided that where there is any inconsistency this Rule shall prevail over any inconsistent provision in any other Federal Branch Rule.
- (2) In addition to any other information required to be set out in the notification of the calling of nominations for the election of Federal Delegates to Federal Conference the notification shall include the following additional information:
- (a) the number of Federal Delegates to be elected and the number of female delegates to be elected; and
  - (b) advice that if the number of female candidates is less than the number of female delegates to be elected the remaining position or positions in question will be filled by a male candidate or candidates.
- (3) In addition to any other information required to be set out on ballot papers for Federal Delegates the ballot paper shall include the following additional information:
- (a) the candidates full names and, in accordance with the candidate's preference, the title Mr, Mrs, Ms or Miss; and
  - (b) the number of Federal Delegates to be elected and the number of female Federal Delegates to be elected.
- (4) The Branch Returning Officer shall, having complied with Federal Branch Sub-Rule 13(5), determine in accordance with the next Sub-Rule whether it is necessary to hold an election.
- (5) The Branch Returning Officer shall conduct a ballot:
- (i) for all positions - where the number of candidates for Federal Delegates positions exceeds the number of Federal Delegate positions to be filled; or.
  - (ii) remaining positions - where the Branch Returning Officer has ascertained that the number of nominations from female candidates is less than or equal to the number of positions for female Federal Delegates and the number of male candidates is more than the number of remaining positions.

### 13 - CONDUCT OF ELECTION OF BRANCH SENIOR OFFICERS AND BRANCH EXECUTIVE

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- (6) (a) This Sub-Rule applies to the counting of votes where it is necessary to conduct an election to fill Federal Delegates positions required by this Rule to be filled by female candidates.
- (b) The Branch Returning Officer shall count the votes and allocate preferences in accordance with the procedure set out in Schedule A and determine whether the minimum number of female Federal Delegates have been elected in accordance with this Rule.
- (c) If the minimum number of female delegates have been elected in accordance with this Rule, the Branch Returning Officer shall declare all the successful candidates elected in accordance with Sub-Rule 13(29).
- (d) In the event that the minimum number of female Federal Delegates have not been elected, the Branch Returning Officer shall:
  - (i) eliminate such male candidate or candidates as are necessary to allow the election of the minimum number of female delegates. The male candidate or candidates to be eliminated shall be the last candidate or candidates elected during the counting of the votes and the allocation of preferences referred to in Rule 11(6)(b), and
  - (ii) declare elected the female candidate or candidates last eliminated in counting of the votes and the allocation of preferences during the counting of the votes and the allocation of preferences referred to in Rule 11(6)(b).

### 12 - FEDERAL EXECUTIVE MEMBERS

- (1) The first Federal Executive Member position shall be held by the Branch President.
- (2) In the event that the Branch President does not come from within the General Division, the Branch Senior Vice President shall be the Federal Executive Member.
- (3) In the event that neither the Branch President nor the Branch Senior Vice President comes from within the General Division, the Branch Vice President shall be the Federal Executive Member.
- (4) The term of office for the Federal Executive Members shall be two years.
- (5) In the event that the Branch becomes entitled to further positions of Federal Executive Member, pursuant to rule 35 of the Federal Rules, these will be elected by and from the members of the Branch Executive.
- (6) Each such election will be conducted in accordance with Rule 13.1 of these Federal Branch Rules.

### 13 - CONDUCT OF ELECTION OF BRANCH SENIOR OFFICERS AND BRANCH EXECUTIVE

- (1) A Branch Returning Officer and Assistant Branch Returning Officer who need not necessarily be members of the Union shall be appointed by the Branch Council at each Annual Meeting of the Branch Council for the conduct of any Branch elections that may need to be held within the Branch throughout the ensuing year.

- (2) The Branch Returning Officer and Assistant Branch Returning Officer shall not during the term of their office be employees of or the holders of any office in the Union or in the Branch or any sub Branch or body thereof or candidates at any election within the Union other than an election for the appointment of Returning Officer for the following term, and shall not be eligible to nominate any candidate for any election under these Rules, and shall hold office until their successors are elected. If the Branch Returning Officer or Assistant Branch Returning Officer be unable or unwilling to act as and when required or if there is a casual vacancy in either of their offices the Branch Executive shall appoint an acting Branch Returning Officer and acting Assistant Branch Returning Officer. In default of such appointments the Federal Secretary shall appoint persons to those offices. Provided that no person so appointed shall be the holder of any other office or be an employee of or a candidate for any other office in the Union, a Branch, sub-branch, section or division thereof.
- (3) The Branch Returning Officer and/or Assistant Branch Returning Officer under the direction of the Branch Returning Officer shall take such actions and give such directions as are reasonably necessary in order to ensure that no irregularities occur in or in connection with such an election or in order to remedy any procedural defects and no person shall refuse or fail to comply with such directions or obstruct or hinder a Branch Returning Officer or any other person in the conduct of such election or in the taking of any such action.
- (4) The decision of the Branch Returning Officer shall be final and binding regarding any matter touching the validity or normality of any nomination or vote or any matter touching or concerning such an election and the conduct hereof. The decision of the Assistant Branch Returning Officer on any such question shall be subject to review by the Branch Returning Officer whose determination shall be final and binding.
- (5) The Branch Returning Officer shall consider all nominations and if, in his/her opinion, any nomination is defective, he/she shall immediately notify the person concerned of the defect by the most expeditious means and, where it is practicable to do so, give him/her the opportunity of remedying the defect, within seven days after notification.
- (6) If, at any time prior to the declaration of the election an irregularity should occur in the conduct of the election, which in the opinion of the Branch Returning Officer may affect the result of such election, the Branch Returning Officer shall declare void the election or, where appropriate, any step in or in connection with the election.
- (7) Where the Branch Returning Officer has made a declaration pursuant to subparagraph (6) he/she shall hold another election or take whatever steps are required to be taken again and then proceed with the uncompleted steps in the election.
- (8) In exercising powers pursuant to sub-paragraph (7) the Branch Returning Officer may, subject to the Act, waive the requirements of the rules to the extent necessitated by the practicalities of the situation.
- (9) Where the Branch Returning Officer has made a declaration pursuant to sub-paragraph (6) in respect to an election for an office the person holding that office immediately prior to that election shall remain in office until his/her successor is elected.
- (9A) The roll of voters for any election to be conducted pursuant to these rules is to be closed seven days before the day on which nominations are opened in relation to all elections by a direct voting system for offices in the Branch.

- (10) Where a member entitled to vote at a ballot will be absent during the conduct of the ballot from his or her usual address he/she may, during the period after the time for lodging nominations is closed and before the opening date of the ballot, apply in writing to the Branch Returning Officer for an absent vote stating that his/her absence will otherwise prevent his/her voting at the ballot.
- (11) Where the Branch Returning Officer receives an application under sub-rule (10) and is satisfied that the member will be prevented from voting at the ballot he/she shall, by pre-paid post, forward to the member a ballot paper in accordance with this rule.
- (12) In any election each candidate shall be entitled to appoint any person whether a member of the Union or not, to act as scrutineer at the election and may appoint a substitute scrutineer in the event that the scrutineer is unable or unwilling to act as scrutineer at the election. All scrutineers shall in the case of a ballot be entitled to observe the admission and the counting of votes, the conduct of and determination of the election and the declaration of the poll. In every case a scrutineer shall observe the directions of the Branch Returning Officer who shall take all reasonable steps to enable each scrutineer to exercise his/her rights. No election shall be vitiated should a scrutineer not exercise any or all such rights if he/she had reasonable opportunity so to do.
- (13) The Branch Returning Officer shall nominate the address to which members shall post ballot papers.
- (14) For the purposes of each election the Branch Returning Officer shall maintain a locked and sealed ballot box in which he/she shall place from time to time ballot papers received by post.
- (15) Each candidate appointing a scrutineer shall hand to the Branch Returning Officer not later than 7 days after the day upon which nominations shall close a notice in writing specifying the name and address of such scrutineer.
- (16) Upon being notified of the appointment of a scrutineer the Branch Returning Officer shall inform such scrutineer of the steps he intends taking in the conduct of the ballot.
- (17) Immediately after the closing date and hour for receipt of the returned ballot papers the Branch Returning Officer shall, in the presence of such scrutineers as are present take steps to ensure that no further ballot papers are deposited in the ballot box. Thereupon, or in sufficient time to determine the result of the ballot he/she shall:-
  - (a) Open the ballot box and produce unopened all ballot paper envelopes.
  - (b) Determine, prima facie, the bona fides of the ballots by reference to the current Register of Members.
  - (c) Open the ballot paper envelopes and extract from them all the ballot papers in such manner as to preserve the secrecy of the ballot.
  - (d) Place the ballot paper envelopes and ballot papers in separate bundles.
  - (e) Proceed with the counting of the votes.
- (18) The Branch Returning Officer may, subject to these provisions delegate all or any of his/her functions to the Assistant Branch Returning Officer and may appoint other persons to assist him/her.



- (19) The Branch Returning Officer shall deliver to each person eligible to vote by pre-paid post a ballot paper no later than 21 days prior to the date appointed for the close of the ballot
- (20) The Branch Returning Officer shall provide with each ballot paper a declaration envelope in which the ballot paper is to be sealed after the voter has cast his/her vote and a further envelope which shall be pre-addressed to the Branch Returning Officer at a post office box and which shall be stamped, franked, pre-paid or endorsed such that postage thereon is not payable by the voter. Both envelopes shall be in the form prescribed by the regulations made under the Fair Work (Registered Organisations) Act 2009.
- (21) The position of all candidates' names and Team Nomination names on the ballot paper must be determined by drawing lots.
- (22) If there is at least one Team Nomination, the ballot papers must have two parts divided by a horizontal line.
- (23) The ballot papers must contain a clear instruction, in a prominent position, to the effect that a member voting in the election may vote in one of two ways:
- (a) by completing the first part of the ballot paper (voting "above the line"), by voting for each member of a Team Nomination by marking each team box with a member according to the voter's preference; or
  - (b) by completing the second part of the ballot paper (voting "below the line"), by voting for individual candidates (including members of a Team Nomination if so desired) by marking the box next to the name of the candidate which the member voting wishes to vote for in the election in respect of each of the positions for which an election is being conducted.

If there are not two parts to the ballot paper, then the instructions (as appropriately modified) referred to in paragraph (b) will appear on the ballot paper.

- (24) The Ballot papers must also contain:
- (a) the date and time of closing of the ballot; and
  - (b) the Branch Returning Officer's initials.
- (25) The ballot papers must contain on the first part:
- (a) the name of each Team Nomination; and
  - (b) boxes beside the names of the Team Nominations;
- but otherwise be unmarked in that part.
- (26) The ballot papers must contain on the second part (or on the ballot paper itself in the event there is no Team Nomination):
- (a) the name of the position being elected;
  - (b) the name of each candidate, as each name appears on the nomination form, for election to the position;

- (c) the name of the Team Nomination of each candidate (where applicable); and
  - (d) boxes beside the names of the candidates;
- but otherwise be unmarked.
- (27) A vote for a Team Nomination counts as a vote for each member of the Team Nomination remaining in the ballot.
  - (28)
    - (a) Where a member voting in the ballot completes the ballot paper by voting both above and below the line, any inconsistency which might arise will be resolved in favour of the expression of the member's preference which constitutes a valid vote.
    - (b) If the expression of the member's preference in both parts of the ballot paper constitutes a valid vote the inconsistency will be resolved in favour of the expression of the member's preference indicated above the line.
  - (29) The Branch Returning Officer shall advise all voters of the closing date and hour for the receipt of returned ballot papers which he/she shall fix and which shall be not less than 2 days before the date appointed for the declaration of the result of any election.
  - (30) Voters must return the ballot papers by post to the Branch Returning Officer at the address shown on the envelope and referred to in sub-rule (13) so that the ballot paper is received no later than the notified hour on the closing date by the Branch Returning Officer. It is the voter's responsibility to ensure that his/her ballot is received by the Branch Returning Officer by the closing date and time and subject to his/her having exercised reasonable care the Branch Returning Officer shall not be responsible for the loss of any ballot.
  - (31) Any vote in respect of the election of a person to an office shall be informal if:-
    - (a) The ballot paper is received by the Branch Returning Officer after the notified hour on the closing date.
    - (b) The ballot paper is not contained in a declaration envelope which in turn is contained in the prescribed outer envelope.
    - (c) The content of the ballot paper does not comply with the instructions printed on it.
  - (32) If the Branch Returning Officer is satisfied that a ballot paper has been destroyed, lost, damaged or misused he/she shall supply (in the place of the damaged or misused ballot paper on receipt thereof) to the person to whom the original ballot paper was supplied a substitute ballot paper.
  - (33) The Branch Returning Officer shall collect the returned ballot papers and after rejecting those ballot papers which are informal shall count the votes. The Branch Returning Officer shall retain all ballot papers, envelopes and other documents used in connection with the election and keep them in the safe custody of the Australian Electoral Commission for a period of one (1) year after the date of the election.
  - (34) The ballot shall be counted by the preferential voting system described in Schedule A to the Federal Branch Rules.

**13A - CONDUCT OF ELECTION OF NATIONAL TAFE COUNCIL DELEGATES AND TAFE COUNCIL EXECUTIVE MEMBERS**

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- (35) As between candidates receiving an equal number of votes a candidate who, at the date of nominating, holds the office in question, shall be declared elected by the Returning Officer. If there is no such candidate, the Branch Returning Officer shall determine by lot which candidate or candidates shall be elected.
- (36) The result of the ballot shall be declared by the Branch Returning Officer by not later than 8 p.m. on the day appointed for that purpose.

**13.1 CONDUCT OF ELECTION OF BRANCH COUNCILLORS, FEDERAL CONFERENCE DELEGATES REPRESENTING THE GENERAL DIVISION, FEDERAL CONFERENCE DELEGATES REPRESENTING THE TAFE DIVISION AND FEDERAL EXECUTIVE MEMBERS.**

- (1) The provisions of Rule 13 - CONDUCT OF ELECTION OF BRANCH SENIOR OFFICERS AND BRANCH EXECUTIVE - (1) - (20) and (29) - (36) shall apply for the purposes of this rule.
- (2) The ballot paper shall list the titles of the offices for which the election is held and following each title the names of candidates in sequence determined by lot by the Branch Returning Officer. Opposite each name there shall be a box in which the voter is to be instructed to indicate his/her preference for the candidate for that position by inserting the numbers 1, 2, 3 ... etc, the number 1 indicating first preference. In the ballot for any particular position, if all boxes are not completed and/or there is any break in the sequence of numbers used by the voter such ballot shall be invalid provided that where the voter has indicated his first preference for one candidate and his contingent preference for all remaining candidates except one and the square opposite the name of that one candidate has been left blank it shall be deemed that the voter's preference for that candidate is his last and that accordingly he/she has indicated the order of his/her preference for all the candidates and further where there are two candidates only and the voter has indicated his vote by placing the figure "1" in the square opposite the name of one candidate and has left the other square blank the voter shall be deemed to have indicated the order of his/her preference for all the candidates. The voter shall be instructed after casting his/her vote to fold the ballot paper so that the marking thereof is not visible until unfolded, to seal the ballot paper in the declaration envelope provided and to then seal the declaration envelope inside the pre-addressed envelope provided after completing the declaration on the removable flap or label.

**13A - CONDUCT OF ELECTION OF NATIONAL TAFE COUNCIL DELEGATES AND TAFE COUNCIL EXECUTIVE MEMBERS**

- (1) Subject to sub-rule (2), the provisions of Rule 13 shall apply mutatis mutandis to the election of National TAFE Council Delegates and TAFE Council Executive Members.
- (2) The election of National TAFE Council Delegates and TAFE Council Executive Members shall be conducted in the following manner:
- (a) the elections for the National TAFE Council Delegates and TAFE Council Executive Members shall be simultaneously conducted;

### 13C - ELECTION OF NATIONAL PRINCIPAL COMMITTEE (GENERAL DIVISION) MEMBER

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- (b) persons eligible to nominate may nominate for both the position of National TAFE Council Delegate and TAFE Council Executive Member;
- (c) the votes for the position of TAFE Council Executive Member shall be conducted first and the successful candidate determined;
- (d) where a successful candidate has been determined in accordance with the previous paragraph, the successful candidate shall be eliminated from the election for the National TAFE Council Delegate position and the second and subsequent preference votes cast for the person shall be allocated as first and subsequent preference votes for the remaining candidates.

### **13B - ELECTION OF NATIONAL ATSIEC MEMBERS REPRESENTING THE GENERAL DIVISION AND TAFE DIVISION:**

- (1) This rule is subject to Rules 73 and 74 of the Federal Rules.
- (2) The Branch Returning Officer shall conduct an election for one (1) National ATSIEC (General Division) member and one (1) National ATSIEC (TAFE Division) member
  - (i) each 2 years at the same time as the scheduled election of Federal Conference Delegates or in any event according to a timetable which permits the declaration of the election on or before 30 November of the year prior to taking office. Provided that the first elections for the National ATSIEC (General Division) member and the National ATSIEC (TAFE Division) member shall be held as soon as practicable; or
  - (ii) at such time as shall be notified by the Federal Returning Officer to the Branch Returning Officer as is necessary for filling a casual or extraordinary vacancy.
- (3) The National ATSIEC (General Division) member shall be elected by and from the General Division members of the Branch. The election shall be conducted in accordance with Federal Branch Rules 10 and 13 (the necessary changes being made) except that the member being nominated and the nominators must be Aboriginal or Torres Strait Islander members.
- (4) The National ATSIEC (TAFE Division) member shall be elected by and from the TAFE Division members of the Branch. The election shall be conducted in accordance with Federal Branch Rules 10 and 13 (the necessary changes being made) except that the member being nominated and the nominators must be Aboriginal or Torres Strait Islander members.

### **13C - ELECTION OF NATIONAL PRINCIPAL COMMITTEE (GENERAL DIVISION) MEMBER**

- (1) This rule is subject to Rule 75 of the Federal Rules.
- (2) The Branch Returning Officer shall conduct an election for one (1) National Principal Committee (General Division) member:
  - (i) each 2 years at the same time as the scheduled election of Federal Conference Delegates or in any event according to a timetable which permits the declaration of the election on or before 30 November of the year prior to taking office. Provided that the first elections for National Principal Committee (General Division) member shall be held as soon as practicable; or

#### 14 - REMOVAL FROM OFFICE

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- (ii) at such time as shall be notified by the Federal Returning Officer to the Branch Returning Officer as is necessary for filling a casual or extraordinary vacancy.
- (3) The National Principal Committee (General Division) member shall be elected by and from members of the Branch in the General Division. The election shall be conducted in accordance with the mode of election prescribed in the Federal and Branch Rules for Federal Conference delegates (the necessary changes being made) except that the member being nominated and the nominators must be current Principals.

#### **13D - ELECTION OF NATIONAL EARLY CHILDHOOD COMMITTEE (GENERAL DIVISION) MEMBER**

- (1) This rule is subject to Rule 76 of the Federal Rules.
- (2) The Branch Returning Officer shall conduct an election for one (1) National Early Childhood Committee (General Division) member:
  - (i) each 2 years at the same time as the scheduled election of Federal Conference Delegates or in any event according to a timetable which permits the declaration of the election on or before 30 November of the year prior to taking office. Provided that the first elections for National Early Childhood Committee (General Division) member shall be held as soon as practicable; or
  - (ii) at such time as shall be notified by the Federal Returning Officer to the Branch Returning Officer as is necessary for filling a casual or extraordinary vacancy.
- (3) The National Early Childhood Committee (General Division) member shall be elected by and from the General Division members of the Branch. The election shall be conducted in accordance with the mode of election prescribed in the Federal and Branch Rules for Federal Conference delegates (the necessary changes being made) except that the member being nominated and the nominators must be a current early childhood practitioners.

#### **14 - REMOVAL FROM OFFICE**

- (1) The Branch Council may at a Special General Meeting by resolution of a majority of two thirds of the votes able to be cast by those present at that meeting:-
  - (a) suspend or remove from any office any Branch Councillor or member of Branch Executive or any Branch Officer if that person has ceased according to the rules to be eligible to hold such office; or
  - (b) reprimand, impose a fine not exceeding \$100.00, suspend or remove from any office or expel from membership any Branch Councillor or member of Branch Executive or any Branch Officer if that person has been found guilty of:-
    - (i) misappropriation of the funds of the Union;
    - (ii) substantial breach of the Union's rules;
    - (iii) gross misbehaviour in relation to his/her office; or
    - (iv) gross neglect of duty.

- (2) A person shall not be dealt with pursuant to sub-rule (1) unless that person has been given twenty-one days notice of the date and place of the Meeting and of the resolution to be passed together with particulars in writing of the evidence on which the allegation is based and has been given the opportunity to be heard by that meeting of Branch Council.

### 15 - OFFENCES BY BRANCH MEMBERS

- (1) Subject to rule 13 of the Federal Rules Branch Executive may, and at the request of the Branch Secretary who has submitted to the Branch Executive a prima facie case against a member shall, by summons in writing, call upon any member whom the Branch Executive or Branch Secretary alleges is acting or has within the preceding twelve months committed any offence against these Federal Branch Rules, or the Rules of the Branch in which his/her membership lies to show cause why he/she should not be reprimanded, fined or expelled from the Union.
- (2) The summons shall:-
- (a) state the allegation together with particulars thereof;
  - (b) disclose the evidence on which the allegation is based;
  - (c) be signed by the Branch President or Branch Secretary;
  - (d) state the time, date and place at which the member is to show cause;
  - (e) be delivered personally to the member concerned or posted by registered or certified mail to his/her last known address at least 21 days before the meeting at which the matter is to be determined;
  - (f) have attached to it a copy of this Rule.
- (3) Should any member against whom an allegation is made fail to appear at the hearing and fail to provide a satisfactory explanation for his/her non-attendance, the Branch Executive may proceed with the hearing of the allegation in his/her absence provided it is first satisfied that notice of the hearing in accordance with this Rule has been served on him/her.
- (4) The evidence relating to the alleged offence shall be heard by Branch Executive or by a committee of the members thereof appointed for that purpose and consisting of not less than three of its members and the member concerned shall be heard in his/her defence either personally or in writing.
- (5) If the evidence relating to the offence is heard by a committee that committee shall report its finding to the Branch Executive together with a recommendation as to penalty if any.
- (6) If in the opinion of the Branch Executive the member is guilty of the offence alleged the Branch Executive may reprimand him/her or may fine him/her a sum not exceeding One Hundred Dollars for any one offence or may suspend him/her for a period not exceeding 12 months or may expel him/her from the Union.
- (7) The Branch Secretary shall promptly inform the member by registered letter of the decision of the Branch Executive. In the event of expulsion the expulsion shall become effective 14 days after the date of posting such letter and in the event of a fine being imposed the fine subject to sub-rule 8 hereof shall become payable immediately and the member shall be deemed unfinancial if the fine is unpaid one month after the date of posting such letter and shall remain unfinancial until the fine is paid.

- (8) A member who is found guilty of an offence by the Branch Executive shall have a right of appeal to the next Branch Council against such finding and/or any penalty imposed by Branch Executive provided that he/she submits such appeal to the Branch Secretary in writing not more than 14 days after the date of posting of the letter informing him/her of the decision of the Branch Executive and pending the determination of any such appeal the finding and/or penalty shall not become effective. The Branch Council's determination of the appeal shall be final.
- (9) Any member expelled pursuant to this Rule shall not be re-admitted to membership except by vote of the Branch Council.

### **16 - PLEBISCITE**

- (1) Where the Branch Council determines that any matter be submitted for determination by a plebiscite of all the financial members attached to the Branch the Branch Returning Officer shall submit the matter to a postal vote of all members whose names appear on the Branch register as at the date of the Branch Council's decision.
- (2) That plebiscite shall be conducted so far as is practicable in accord with the provisions of Federal rule 29(4)(a), (b), (c), (d), 29(5), 29(6), and 29(7)(a) and (b).
- (3) The motion shall be carried and have the effect of a decision of the Branch Council if a majority of members vote in favour of the motion provided that majority consists of not less than twenty-five per cent of persons entitled to vote.

### **16A - BRANCH COMMON SEAL**

- (1) There shall be a common seal of the Branch which shall be kept in the custody of the Branch Secretary.
- (2) Any industrial agreement or other document required to be or able to be executed under seal shall be so executed by the affixing of the common seal by the Branch President or Branch Secretary.
- (3) The Branch common seal shall be affixed only on the authority of the Branch Council or Branch Executive.
- (4) Documents not required to be executed under seal may be signed on behalf of the Branch by the Branch President or Branch Secretary or any other person authorised by the Branch Council or Branch Executive.

### **16B – LOANS, GRANTS AND DONATIONS**

The Branch shall not make any loan, grant or donation of an amount exceeding \$1,000.00, unless the Branch Council or Branch Executive has:

- (a) satisfied itself:-
  - (i) that the making of the loan, grant or donation would be in accordance with the Rules of the Branch; and
  - (ii) in relation to a loan that, in the circumstances, the security proposed to be given for the repayment of the loan is adequate and the proposed arrangements for the repayment of the loan are satisfactory; and
- (b) approved the making of the loan, grant or donation.

## **17 - BRANCH AUDITOR**

The provisions of Federal Rule 65 shall apply to the Branch and the reference therein to Auditor, Federal Conference, Federation and Federal Executive shall for the purposes of this Federal Branch Rule be deemed to be a reference to Branch Auditor, Branch Council, Branch and Branch Executive respectively.

## **17A - FINANCIAL YEAR**

The financial year for the AEU WA Branch shall commence on the first day of January and conclude on the last day in December each year.

## **18 - PROXY VOTING**

The Branch Council may in the Branch Rules make provision for proxy voting on Branch Council, Branch Executive and any other body created by the Branch.

## **19 - BRANCH REGISTERED OFFICE**

The Registered Office of the Branch shall be at such place as the Branch Council shall from time to time determine and shall pending any such decision be 150-152 Adelaide Terrace, Perth, WA 6000.

## **20 - TRANSITIONAL RULE: 2013 BRANCH EXECUTIVE**

- (1) Notwithstanding anything elsewhere contained in these Federal Branch Rules there shall be an election in 2013 for the following offices in the Branch:
  - (a) Branch President,
  - (b) Branch Senior Vice President
  - (c) Branch Vice President
  - (d) Branch Secretary
  - (e) Fourteen (14) Executive Members
  - (f) An Aboriginal and Torres Strait Islander Member
- (2) During their term of office, the abovementioned officers, with the exception of the Branch Secretary, shall comprise the Branch Executive.
- (3) The Branch Executive shall be elected by and from the members of Branch Council who commenced office on 20 January 2012 and any persons subsequently elected or appointed to fill a casual vacancy on Branch Council.
- (4) The Branch Officers and the Branch Executive shall hold office from the 1<sup>st</sup> of March 2013 until midnight on 31 December 2013.
- (5) In the event of a casual or extraordinary vacancy occurring in an office of the Branch Executive, the Branch Executive may appoint another financial member to fill the vacancy and the Branch Councillor so appointed shall hold office for the unexpired term of the office of the Branch Executive Member he/she was appointed to replace.
- (6) The Branch Secretary shall be elected by and from the members of Branch Council who commenced office on 20<sup>th</sup> January 2012 and any persons subsequently elected or appointed to fill a casual vacancy on Branch Council.



- (7) The Branch Secretary shall hold office from the 1<sup>st</sup> of March 2013 until midnight on 31<sup>st</sup> December 2014.
- (8) In the event of a casual or extraordinary vacancy occurring in the office of Branch Secretary the Branch Executive may appoint another Branch Councillor to fill the vacancy. Provided that if the unexpired term of office exceeds half the term of office then the vacancy shall instead be filled by an election held in accordance, mutatis mutandis, with the provisions of this Federal Branch Rule. A Branch Councillor so appointed or elected shall hold office for the unexpired term of the office.
- (9) The election for the offices listed in sub-rule (1) of this Federal Branch Rule shall be held between the 20<sup>th</sup> day of January and the 1<sup>st</sup> of March 2013.
- (a) The election shall be conducted by the Branch Returning Officer and Assistant Branch Returning Officer who were appointed at the preceding Branch Annual General Meeting. If the Branch Returning Officer or Assistant Branch Returning Officer be unable or unwilling to act as and when required or if there is a casual vacancy in either of their offices the Branch Executive shall appoint an acting Branch Returning Officer and acting Assistant Branch Returning Officer. In default of such appointments the Federal Secretary shall appoint persons to those offices. Provided that no person so appointed shall be the holder of any other office or be an employee of or a candidate for any other office in the Union, a Branch, sub-branch, section or division thereof.
- (b) The Branch Returning Officer and/or Assistant Branch Returning Officer under the direction of the Branch Returning Officer shall take such actions and give such directions as are reasonably necessary in order to ensure that no irregularities occur in or in connection with such an election or in order to rectify any procedural defects and no person shall refuse or fail to comply with such directions or obstruct or hinder a Branch Returning Officer or any other person in the conduct of such election or in the taking of any such action.
- (c) The decision of the Branch Returning Officer shall be final and binding regarding any matter touching the validity or normality of any nomination or vote or any matter touching or concerning such an election and the conduct hereof. The decision of the Assistant Branch Returning Officer on any such question shall be subject to review by the Branch Returning Officer whose determination shall be final and binding.
- (d) The Branch Returning Officer shall consider all nominations and if, in his/her opinion, any nomination is defective, he/she shall immediately notify the person concerned of the defect by the most expeditious means and, where it is practicable to do so, give him/her the opportunity of remedying the defect, within seven days after notification.
- (e) If, at any time prior to the declaration of the election an irregularity should occur in the conduct of the election, which in the opinion of the Branch Returning Officer may affect the result of such election, the Branch Returning Officer shall declare void the election or, where appropriate, any step in or in connection with the election.
- (f) Where the Branch Returning Officer has made a declaration pursuant to sub-paragraph (e) he/she shall hold another election or take whatever steps are required to be taken again and then proceed with the uncompleted steps in the election.
- (g) In exercising powers pursuant to sub-paragraph (f) the Branch Returning Officer may, subject to the Act, waive the requirements of the rules to the extent necessitated by the practicalities of the situation.
- (h) Where the Branch Returning Officer has made a declaration pursuant to sub-paragraph (e) in respect to an election for an office the person holding that office immediately prior to that election shall remain in office until his/her successor is elected.

- (i) The roll of voters for any election to be conducted pursuant to this rule is to be closed seven days before the day on which nominations are opened.
- (j) Where a member entitled to vote at a ballot will be absent during the conduct of the ballot from the State of Western Australia, he/she may, during the period after the time for lodging nominations is closed and before the opening date of the ballot, apply in writing to the Branch Returning Officer for an absent vote stating that his/her absence from the State will otherwise prevent his/her voting at the ballot.
- (k) Where the Branch Returning Officer receives an application under sub-rule (j) and is satisfied that the member will be prevented from voting at the ballot he/she shall, by pre-paid post, forward to the member a ballot paper in accordance with this rule.
- (l) In any election each candidate shall be entitled to appoint any person whether a member of the Union or not, to act as scrutineer at the election and may appoint a substitute scrutineer in the event that the scrutineer is unable or unwilling to act as scrutineer at the election. All scrutineers shall in the case of a ballot be entitled to observe the admission and the counting of votes, the conduct of and determination of the election and the declaration of the poll. In every case a scrutineer shall observe the directions of the Branch Returning Officer who shall take all reasonable steps to enable each scrutineer to exercise his/her rights. No election shall be vitiated should a scrutineer not exercise any or all such rights if he/she had reasonable opportunity so to do.
- (m) The Branch Returning Officer shall nominate the address to which members shall post ballot papers.
- (n) For the purposes of each election the Branch Returning Officer shall maintain a locked and sealed ballot box in which he/she shall place from time to time ballot papers received by post.
- (o) Each candidate appointing a scrutineer shall hand to the Branch Returning Officer not later than 7 days after the day upon which nominations shall close a notice in writing specifying the name and address of such scrutineer.
- (p) Upon being notified of the appointment of a scrutineer the Branch Returning Officer shall inform such scrutineer of the steps he intends taking in the conduct of the ballot.
- (q) Immediately after the closing date and hour for receipt of the returned ballot papers the Branch Returning Officer shall, in the presence of such scrutineers as are present take steps to ensure that no further ballot papers are deposited in the ballot box. Thereupon, or in sufficient time to determine the result of the ballot he/she shall:-
  - (i) Open the ballot box and produce unopened all ballot paper envelopes.
  - (ii) Determine, prima facie, the bona fides of the ballots by reference to the current Register of Members.
  - (iii) Open the ballot paper envelopes and extract from them all the ballot papers in such manner as to preserve the secrecy of the ballot.
  - (iv) Place the ballot paper envelopes and ballot papers in separate bundles.
  - (v) Proceed with the counting of the votes.

- (r) The Branch Returning Officer may, subject to these provisions delegate all or any of his/her functions to the Assistant Branch Returning Officer and may appoint other persons to assist him/her.
- (s) The Branch Returning Officer shall deliver to each person eligible to vote by pre-paid post a ballot paper no later than 10 days prior to the date appointed for the close of the ballot.
- (t) The Branch Returning Officer shall provide with each ballot paper a declaration envelope in which the ballot paper is to be sealed after the voter has cast his/her vote and a further envelope which shall be pre-addressed to the Branch Returning Officer at a post office box and which shall be stamped, franked, pre-paid or endorsed such that postage thereon is not payable by the voter. Both envelopes shall be in the form prescribed by the regulations made under Fair Work (Registered Organisations) Act 2009.
- (u) The ballot paper shall list the titles of the offices for which the election is held and following each title the names of candidates in sequence determined by lot by the Branch Returning Officer. Opposite each name there shall be a box in which the voter is to be instructed to indicate his/her preference for the candidate for that position by inserting the numbers 1, 2, 3 ...etc, the number 1 indicating first preference. In the ballot for any particular position, if all boxes are not completed and/or there is any break in the sequence of numbers used by the voter such ballot shall be invalid provided that where the voter has indicated his first preference for one candidate and his contingent preference for all remaining candidates except one and the square opposite the name of that one candidate has been left blank it shall be deemed that the voter's preference for that candidate is his last and that accordingly he/she has indicated the order of his/her preference for all the candidates and further where there are two candidates only and the voter has indicated his vote by placing the figure "1" in the square opposite the name of one candidate and has left the other square blank the voter shall be deemed to have indicated the order of his/her preference for all the candidates. The voter shall be instructed after casting his/her vote to fold the ballot paper so that the marking thereof is not visible until unfolded, to seal the ballot paper in the declaration envelope provided and to then seal the declaration envelope inside the pre-addressed envelope provided after completing the declaration on the removable flap or label.
- (v) The Branch Returning Officer shall advise all voters of the closing date and hour for the receipt of returned ballot papers which he/she shall fix and which shall be not less than 2 days before the date appointed for the declaration of the result of any election.
- (w) Voters must return the ballot papers by post to the Branch Returning Officer at the address shown on the envelope and referred to in sub-rule (m) so that the ballot paper is received no later than the notified hour on the closing date by the Branch Returning Officer. It is the voter's responsibility to ensure that his/her ballot is received by the Branch Returning Officer by the closing date and time and subject to his/her having exercised reasonable care the Branch Returning Officer shall not be responsible for the loss of any ballot.
- (x) Any vote in respect of the election of a person to an office shall be informal if:-
  - (i) The ballot paper is received by the Branch Returning Officer after the notified hour on the closing date.
  - (ii) The ballot paper is not contained in a declaration envelope which in turn is contained in the prescribed outer envelope.
  - (iii) The content of the ballot paper does not comply with the instructions printed on it.

- (y) If the Branch Returning Officer is satisfied that a ballot paper has been destroyed, lost, damaged or misused he/she shall supply (in the place of the damaged or misused ballot paper on receipt thereof) to the person to whom the original ballot paper was supplied a substitute ballot paper.
  - (z) The Branch Returning Officer shall collect the returned ballot papers and after rejecting those ballot papers which are informal shall count the votes. The Branch Returning Officer shall retain all ballot papers, envelopes and other documents used in connection with the election and keep them in safe custody at the Branch Office for a period of one (1) year after the date of the election.
  - (aa) The ballot shall be counted by the preferential voting system described in Schedule A to the Federal Branch Rules.
  - (bb) As between candidates receiving an equal number of votes the Branch Returning Officer shall determine by lot which candidate or candidates shall be elected.
  - (cc) The result of the ballot shall be declared by the Branch Returning Officer by not later than 8 p.m. on the day appointed for that purpose.
- (10) The first election of the Branch Executive constituted under Federal Branch Rule 6 shall be conducted so as to allow the persons declared elected to commence office on 1 January 2014.
- (11) The first election of the Branch Secretary referred to in Federal Branch Rule 6.1 shall be conducted so as to allow the person declared elected to commence office on 1 January 2015.

**21 - TRANSITIONAL RULE: 2012 - 2014 BRANCH COUNCIL**

- (1) Notwithstanding anything elsewhere contained in these Federal Branch Rules, members of Branch Council who commenced office on 20<sup>th</sup> January 2012 and any persons subsequently elected or appointed to fill a casual vacancy on Branch Council shall remain in office until their successors commence on 20<sup>th</sup> March 2014.

**22 - REQUIREMENTS OF FAIR WORK (REGISTERED ORGANISATIONS) AMENDMENT ACT 2012**

22(1) BRANCH POLICIES AND PROCEDURES

The Branch shall develop and implement policies and procedures relating to the expenditure of the Branch.

22(2) DISCLOSURE OF OFFICER'S RELEVANT REMUNERATION AND NON-CASH BENEFITS

A. Each officer of the Branch shall disclose to the Branch any remuneration paid to the officer:

- a) because the officer is a member of a board, if:
  - i. the officer is a member of the board only because the officer is an officer of the Branch; or
  - ii. the officer was nominated for the position as a member of the board by the Branch or a peak council; or

- b) by any related party of the Branch in connection with the performance of the officer's duties as an officer.
- B. The disclosure required by sub-rule (A) shall be made to the Branch:
- a) as soon as practicable after the remuneration is paid to the officer; and
  - b) in writing.
- C. The Branch shall disclose to the members of the Branch:
- a) the identity of the officers who are the two highest paid officers of the Branch in terms of relevant remuneration for the disclosure period, and
  - b) for those officers:
    - i. the actual amount of the officers' relevant remuneration for the disclosure period; and
    - ii. either the value of the officers relevant non-cash benefits, or the form of the officers' relevant non-cash benefits, for the disclosure period.
- D. For the purposes of sub-rule (C), the disclosure shall be made:
- a) in relation to each financial year;
  - b) within six months after the end of the financial year; and
  - c) in writing.

22(3) DISCLOSURE OF OFFICER'S MATERIAL PERSONAL INTERESTS

- A. Each officer of the Branch shall disclose to the Branch any material personal interest in a matter that:
- a) the officer has or acquires; or
  - b) a relative of the officer has or acquires;
- that relates to the affairs of the organisation.
- B. The disclosure required by sub-rule (A) shall be made to the Branch:
- a) as soon as practicable after the interest is acquired; and
  - b) in writing.
- C. The Branch shall disclose to the members of the Branch any interests disclosed to the branch pursuant to sub-rule (A).
- D. For the purposes of sub-rule (C), the disclosures shall be made:
- a) in relation to each financial year;

- b) within six months after the end of the financial year; and
- c) in writing.

22(4) DISCLOSURE BY BRANCH OF PAYMENTS

A. The Branch shall disclose to the members of the branch either:

- a) each payment made by the Branch, during the disclosure period:
  - i. to a related party of the Branch; or
  - ii. to a declared person or body of the Branch; or
- b) the total of the payments made by the Branch, during the disclosure period:
  - i. to each related party of the Branch; or
  - ii. to each declared person or body of the Branch.

B. Sub-rule (A) does not apply to a payment made to a related party if the payment consists of amounts deducted by the Branch from remuneration payable to officers or employees of the Branch.

C. For the purposes of sub-rule (A), the disclosures shall be made:

- a) in relation to each financial year;
- b) within six months after the end of the financial year; and
- c) in writing.

22(5) TRAINING

A. Each person who holds an office in the Branch, within the meaning of the Fair Work (Registered Organisations ) Act 2009, whose duties include financial duties that relate to the financial management of the Branch, must comply with all of the following:

- (a) The person must undertake training approved by the General Manager of the Fair Work Commission under section 154C of the Fair Work Registered Organisations Act 2009;
- (b) The training so undertaken must cover each of the person's financial duties;

B. The training so undertaken must be completed within six months after the person begins to hold the office.

**SCHEDULE A TO THE FEDERAL BRANCH RULES OF THE AUSTRALIAN EDUCATION UNION**

A. Preferential Voting - One vacancy to be filled

1. The Branch Returning Officer shall count first preference votes cast for each candidate and if any candidate has received an absolute majority of first preference votes he/she shall be declared elected.
2. (a) If no candidate has received an absolute majority of first preference votes, the candidate with the lowest number of first preference votes shall be eliminated and the second preference votes of the eliminated candidate shall be allocated to the remaining candidates in accord with the voter's preference. If, on a count of those votes, a candidate has an absolute majority of votes he/she shall be declared elected;
- (b) If no candidate then has an absolute majority of votes the process of eliminating the candidate with the lowest number of votes at that stage and allocating the next preference votes of that candidate shall be repeated until one candidate has received an absolute majority of votes; and
- (c) The candidate who has received an absolute majority of votes shall be declared elected.

B. Preferential Voting - More than one vacancy to be filled

1. The Branch Returning Officer shall count all first preference votes cast for each candidate and if any candidate has received an absolute majority of first preference votes he/she shall be declared elected.
2. If no candidate has received an absolute majority of first preference votes the Branch Returning Officer shall proceed to eliminate candidate(s) and distribute preference votes as provided in paragraph A(2) above until a candidate has an absolute majority of votes and is declared elected.
3. To determine the next successful candidate the Branch Returning Officer shall allocate the second preference votes of the candidate who has been elected to each of the other candidates in accord with the voter's preference including to the candidates eliminated pursuant to paragraph B(2) above.
4. If a candidate then has an absolute majority of votes he/she shall be declared elected but if no candidate then has an absolute majority of votes the count shall proceed as provided in sub-paragraph A(2)(b) above until one candidate has received an absolute majority of votes and is elected.
5. Any remaining vacancies shall be filled one by one in the manner provided above and as any candidate receives an absolute majority he/she shall be declared elected. Provided that where the second preference votes of an elected candidate are given to another elected candidate the Branch Returning Officer shall allocate the third preference vote of the first mentioned elected candidate to other candidates in accordance with the voters' third preference. This proviso applies equally where second and succeeding preference votes are given to two or more elected candidates.

C. Procedure where one or more candidates have an equal number of votes

If on any count of votes pursuant to paragraphs A or B above, two or more candidates have an equal number of votes and one or more of them has to be eliminated the Branch Returning Officer shall determine by lot which candidate or candidates shall be eliminated.

**APPENDIX B - SCHEDULE OF DISTRICTS<sup>1</sup>**

In November 2011, AEU WA Branch Council endorsed the following Branch Council Districts, with application from the commencement of 2012:

1. **BELMONT**- comprising the electorates of Bassendean, Belmont and Forrestfield.
2. **BUNBURY** - comprising the electorates of Bunbury, Vasse and Collie-Preston.
3. **BUTLER** - comprising the electorates of Burns Beach, Joondalup and Butler.
4. **FREMANTLE** – comprising the electorates of Fremantle, Bicton and Willagee.
5. **GOLDFIELDS** – comprising the electorates of Kalgoorlie and Roe.
6. **HILLARYS** – comprising the electorates of Wanneroo, Hillarys and Kingsley.
7. **JANDAKOT** – comprising the electorates of Cockburn, Jandakot and Southern River.
8. **KALAMUNDA** - comprising the electorates of Armadale, Darling Range and Kalamunda.
9. **KIMBERLEY- PILBARA**- comprising the electorates of Kimberley, Pilbara and North-West Central.
10. **MAYLANDS** - comprising the electorates of Maylands, Balcatta and Mount Lawley.
11. **MOORE** - comprising the electorates of Moore, Geraldton and Central Wheatbelt.
12. **MORLEY**- comprising the electorates of Morley, Girrawheen and Mirrabooka.
13. **MURRAY**- comprising the electorates of Mandurah, Dawesville and Murray-Wellington.
14. **PERTH** - comprising the electorates of Cottesloe, Nedlands and Perth.
15. **RIVERTON** - comprising the electorates of Bateman, Riverton and Thornlie.
16. **ROCKINGHAM** - comprising the electorates of Rockingham, Kwinana, Warnbro and Baldivis.
17. **SCARBOROUGH** - comprising the electorates of Churchlands, Scarborough and Carine.
18. **STIRLING** - comprising the electorates of Albany and Warren-Blackwood.
19. **SWAN** - comprising the electorates of West Swan, Swan Hills and Midland.
20. **VICTORIA PARK** - comprising the electorates of South Perth, Victoria Park and Cannington.

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<sup>1</sup> Note: These Districts are current as at 10 June 2016. This Appendix B shall not form part of the Western Australian Federal Branch Rules - see Federal Branch Rule (2)(2).



APPENDIX A

FEDERAL BRANCH RULES

FEDERAL BRANCH RULES IN RELATION TO THE NEW SOUTH WALES TEACHERS  
FEDERATION (NSWTF) BRANCH

**SECTION 1 - GENERAL**

**1 - NAME AND REGISTERED OFFICE**

- (1) The name of the Branch shall be the Australian Education Union New South Wales Teachers Federation (NSWTF) Branch.
- (2) In the event that the Union successfully makes an application for registration under the IR Act and the New South Wales Teachers Federation, is de-registered, the Branch may operate under the name “New South Wales Teachers Federation” or “NSWTF”.
- (3) The registered office of the Branch shall be at 23-33 Mary Street, Surry Hills, New South Wales or at such other location as may be determined by the Branch Council.

**2 - DEFINITIONS**

- (1) A reference in the Rules to “ATSI Members’ Roll” means the Aboriginal and Torres Strait Islander Members’ Roll.
- (2) A reference in the Rules to “the Act” means the Fair Work Act 2009 (Cth).
- (3) A reference in the Rules to “the FW (RO) Act” means the Fair Work (Registered Organisations) Act 2009 (Cth).
- (4) A reference in the Rules to the IR Act means the Industrial Relations Act 1996 (NSW).
- (5) A reference to the Federation means the New South Wales Teachers Federation, an Industrial Organisation registered under the IR Act.
- (6) A reference in the Branch Rules to the Branch Secretary means the General Secretary of the AEU New South Wales Teachers Federation (NSWTF) branch.

**3 - ARRANGEMENT OF MEMBERSHIP**

- (1) To facilitate the effective representation of members of the Branch, the members shall be assigned to:
  - (a) A Division in accordance with Federal Rule 7 namely:
    - (i) The General Division; or
    - (ii) The TAFE Division; and
  - (b) An association in accordance with this rule.

- (2) Members assigned to the General Division shall be assigned to an association as follows:
  - (a) The Officers, Consultants and Advisers Association which shall comprise members employed as officers, consultants, advisers or professional assistants within the portfolio of the Minister for Education and Communities (with the exception of those employed in the TAFE Commission of NSW) and other such persons employed under awards, agreements and determinations negotiated for them by the Branch or applied to them.
  - (b) The Corrective Services Teachers Association which shall comprise members employed by the New South Wales Department of Corrective Services; or
  - (c) Regional associations in the area in which a member's school or place of employment is situated or an association in a geographic area through which he or she passes when travelling to or from work.
- (3) Members assigned to the TAFE Division and members employed in adult migrant education shall be assigned to the Technical and Further Education Teachers' Association.
- (4) A casual or temporary teacher shall be allocated to the regional association covering the area in which his or her residence is situated or, on application to the Branch Secretary, be allocated to the regional association covering the work places in which he or she performs the substantial part of his or her work;
- (5) Notwithstanding sub-rules (2) and (3) above:
  - (a) A member allocated to a regional association may apply to the Branch Secretary to be allocated to another regional association on the grounds that by reason of the member's place of residence, it is more convenient for that member to be allocated to a regional association which covers the area in which the member resides.
  - (b) Applications received by the Branch Secretary in accordance with the previous sub-rule shall be submitted to the Branch Executive for approval.
  - (c) In determining whether or not to approve an application, the Branch Executive must be satisfied that an application has been made to facilitate the member's participation in the activities of a regional association and is not a device to increase the entitlement of a regional association to additional Branch Council or Branch Conference Delegates.
- (6) In the event that a member is elected to an office within the Union or appointed as a Branch Professional Officer, he or she may elect to:
  - (a) remain in the association he or she was allocated to immediately prior to his or her election or appointment; or
  - (b) be allocated to an association which covers the geographic area in which he or she works or a geographic area through which he or she passes when travelling to and from work; or
  - (c) in the case of a Branch Professional Officers, an association the members of which fall within his or her responsibilities.

- (7) (a) A member who wishes to be on the ATSI Members' Roll may, when seeking admission to membership, or at any other time, elect to be included on the roll by making a request in writing to the Branch Secretary.
- (b) A member who has elected to be included on the ATSI Members' Roll may, at any time, request to have his or her name removed from the roll.
- (8) (a) In the event that a member is dissatisfied with his or her allocation to an association, the member may: within 21 days of receipt of notification of his or her allocation, appeal in writing to the Branch Executive.
- (b) On receipt of an appeal made in accordance with this sub-rule, the Branch Executive will, at the earliest opportunity, having considered all the material before it, determine the appeal.
- (c) A determination made by the Branch Executive in accordance with this sub-rule, shall be final.

#### **4 - SUBSCRIPTIONS AND LEVIES**

- (1) The Branch Executive may, in accordance with the Federal Rules, determine subscriptions and, subject to sub-rule (2), levies.
- (2) Notwithstanding the generality of Federal Rule 22, the Branch Executive shall not impose a levy for the purposes of supporting candidates in parliamentary elections or supporting political parties.
- (3) Until otherwise determined by the Branch Executive and reported to the Branch Council, membership subscriptions shall be as follows:
  - (a) Subject to this sub-rule, for members not otherwise provided for in sub-rules below an amount equivalent to 0.76% of the maximum salary of a teacher accredited at proficient applicable for teachers in the Education Teaching Service of New South Wales at the salary level payable on or before 31 January in the relevant year.
  - (b) In respect of members employed:
    - (i) on a permanent part-time basis;
    - (ii) a part-time leave without pay basis; or
    - (iii) a part-time maternity leave basis,a pro-rata subscription based on the number of hours or days worked when compared with the time worked by a full-time member or the annual subscription payable by a casual school teacher as determined in accordance with this sub-rule, whichever is the greater.
  - (c) For members employed on a full time temporary basis, the annual membership subscription shall be two-thirds of the annual membership subscription determined in accordance with paragraph (a).
  - (d) For members employed on a temporary part-time basis, the subscription shall be the subscription for temporary teachers pro-rated on the basis of the number of hours or days worked compared to the time worked by a full time member or the subscription paid by a casual teacher, whichever is greater.

- (e) For members employed as casual school teachers or permanent teachers leave without pay undertaking relief duty, a membership subscription which is one-third of the annual membership subscription set in accordance with paragraph (a).
  - (f) A member who is employed as a part time/casual TAFE teacher shall be deemed to be financial provided that he or she has authorised his or her employer to deduct membership subscriptions from his or her salary being an amount, for each hour worked, calculated by dividing the amount referred to in paragraph (a) by 720.
  - (g) A member who has paid membership subscriptions in accordance with paragraph (b), (c) or (d) of this sub-rule will not be liable to pay additional membership subscriptions, should that member undertake casual school teacher work in the relevant period.
- (4) (a) Until otherwise determined by Branch Executive and reported to the Branch Council, 0.035 of the revenue received from membership subscriptions shall be paid into the New South Wales Teachers Federation Public Education Fund for the purpose of promoting and advertising the professional achievements of public school and college teachers in the public education system.
- (b) The Branch Executive shall determine how money held in the New South Wales Teachers Federation Public Education Fund shall be expended and report on the expenditure of that money each year in the Federation's journal "Education".
- (5) Where the Branch Executive establishes membership subscriptions for particular categories of membership, and a member moves from one category of membership to another, the member shall be liable to make contributions at the higher contribution rate on and from the date the member moves to the new category of membership.
- (6) A member may elect to pay membership subscriptions by annual, half yearly or quarter yearly payments or by a method of periodic payment approved by the Branch Executive.
- (7) Subject to sub-rule (6), a member shall become unfinancial if his or her subscriptions, levies or fines remain unpaid for a period in excess of sixty (60) days after the subscription, levy or fine becomes payable.
- (8) (a) The Branch Executive may exempt a member from the obligation to pay subscriptions and levies, either fully or in part, or allow a member to defer the payment of subscriptions and levies.
- (b) A claim by a member for an exemption or deferral of his or her obligation to pay subscriptions or levies shall be made in writing to the Branch Secretary.
- (c) The Branch Executive in considering a request under this sub-rule, may take into account:
- (i) Any health issue which prevents the member from working;
  - (ii) Any period of leave without pay taken by the member;
  - (iii) Any period of military service undertaken by the member;
  - (iv) Any period of half pay leave taken by the member for more than a month; or
  - (v) Any other circumstances.

- (9) An unfinancial member shall not be entitled to nominate for or to be elected to a position within the Branch or as a Branch Professional Officer, to nominate another member for an elected office or Branch Professional Office position, vote in any election or receive any other benefit of membership, in particular, in the form of assistance whether industrial or otherwise.
- (10) Membership pursuant to this rule does not of itself confer on the member the right to hold office within the Union or vote in any election or on any question put at a meeting or in a plebiscite.

### **5 - ASSOCIATE MEMBERSHIP**

- (1) Notwithstanding Federal Rule 8, the Branch may admit persons in the following categories as Associate Members of the Union:
  - (a) Students undertaking a course that will lead to a teaching qualification recognised in New South Wales;
  - (b) Members who have retired;
  - (c) Teachers who are otherwise eligible for membership of the Union but are currently not employed but retain registration with the Board of Studies, Teaching and Educational Standards, New South Wales or any successor body;
  - (d) With the approval of the Branch Executive, members of at least 5 years standing who are no longer eligible to be members; and
  - (e) With the approval of Branch Executive, members of other unions who are employed as teachers, supervisors, lecturers or educational officers within New South Wales.
- (2) Notwithstanding Federal Rule 8(3), an Associate Member will have all rights of membership of the Union other than the right to hold office within the Union or vote in any election or on any question put at a meeting or in a plebiscite.
- (3) A membership subscription for Associate Members will be determined annually by the Branch Executive for the following year.

### **6 - BRANCH LIFE AND HONORARY MEMBERS**

- (1) Subject to this rule, the Branch Conference may admit a member, or a former member, as a Branch Life Member or admit a person who is not eligible to be, or has not been a member of the Union, as an Branch Honorary member.
- (2) Before the Branch Conference considers a proposal that a member, or a former member, be admitted a Branch Life Member, it must have a recommendation from the Branch Executive and be satisfied that the member has had a minimum of 15 years cumulative membership and rendered outstanding and distinguished service to the Union or the Federation.
- (3) Before the Branch Conference considers a proposal for the admission of a person as Branch Honorary Member, it must have a recommendation from the Branch Executive and be satisfied that the person has rendered exemplary service to the Federation, the Union or to education.

## 7 - COMPOSITION OF BRANCH CONFERENCE

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- (4) A member who has been made a Branch Life Member by the Branch Conference, and remains eligible for membership of the Union, may elect to be an active Branch Life Member.
- (5) A member who elects to be an active Branch Life Member, will have all the obligations of members including the obligation to pay membership subscriptions and shall have all the benefits of membership including the right to stand for election to offices of the Union and vote in elections.
- (6) Any member of the Branch may nominate a person for admission as a Branch Life Member or Branch Honorary Member by making an application in writing to the Branch Secretary not later than 31 March in any year.
- (7) The Branch Council may admit a person to Branch Honorary Membership for a period not exceeding 12 months on the basis that the person in question is a visiting teacher or a person interested in education.
- (8) A person admitted to membership in accordance with this rule, other than an active Branch Life Member, will have all the rights of membership of the Union other than the right to hold office within the Union or vote in any election or on any question put at a meeting or in a plebiscite.

## SECTION 2 - GOVERNANCE

### 7 - COMPOSITION OF BRANCH CONFERENCE

- (1) There shall be a Branch Conference which shall consist of:
  - (a) the Branch Presidential officers;
  - (b) Branch Council representatives of associations or groups of associations;
  - (c) Branch Conference Delegates elected by and from members of associations; and
  - (d) Conference Delegates elected by and from members on the ATSI Members' Roll.
- (2) For the purposes of this rule, the entitlement of an Association to Conference Delegates shall be calculated in accordance with the following table:

<b>Number of Financial Members</b>	<b>Conference Delegate entitlement</b>
<b>15-250</b>	<b>1</b>
<b>251-500</b>	<b>2</b>
<b>501-750</b>	<b>3</b>
<b>751-1000</b>	<b>4</b>
<b>1001-1300</b>	<b>5</b>
<b>1301-1600</b>	<b>6</b>
<b>1601-1900</b>	<b>7</b>
<b>1901-2200</b>	<b>8</b>
<b>2201-2500</b>	<b>9</b>
<b>2501-2800</b>	<b>10</b>
<b>2801-3100</b>	<b>11</b>
<b>3101-3400</b>	<b>12</b>
<b>3401-3700</b>	<b>13</b>
<b>3701-4000</b>	<b>14</b>

- (a) for every additional 300 financial members (or part thereof) in excess of 4000, Associations will be entitled to 1 additional Conference Delegate.

- (3) A quorum for a Branch Conference shall be 150 members.
- (4) The Branch Secretary, the Branch Deputy Secretaries and the Branch Professional Officers are entitled to attend meetings of the Branch Conference, but are not entitled to vote or to be counted in determining whether a quorum is present.
- (5) The representatives of members on the ATSI Members' Roll shall comprise:
  - (a) the representatives of members on the ATSI Members' Roll on the Branch Council; and
  - (b) five Conference Delegates elected by and from members on ATSI Members' Roll;
  - (c) where the number of members on the ATSI Members' Roll exceeds 1300, the formula set out in Rule 7(2) will be applied.
- (6) The representation of members on the ATSI Members' Roll on the Branch Conference and in other decision making forums shall be reviewed if the number of members reaches a number which would create an entitlement, on the application of the formula set out in this rule, to more than 10 representatives.
- (7) In this rule, where it is necessary to determine a number of financial members of an association, the date shall be a date prescribed by the Branch Council.
- (8) In the event that a Branch Council Representative, Conference Delegate or Conference Delegate representing members on the ATSI Members' Roll is unable to attend a meeting of the Branch Conference, or part of a meeting, he or she may appoint another member of his or her association, or another member on the ATSI Members' Roll, as his or her proxy provided that the appointee is not an existing representative on the Branch Conference.

## **8 - BRANCH CONFERENCE – POWERS**

- (1) Subject to this rule, the Branch Conference shall be the supreme governing authority of the Branch have the power to control and manage the business and affairs of the Branch in accordance with the Rules and objects of the Union. Without limiting the generality of this power, the Branch Conference shall have power to:
  - (a) exercise powers conferred on Branch Conference elsewhere in these Rules;
  - (b) direct all other decision making bodies in the Branch and any officer, member or employee of the Branch; and
  - (c) make, amend or rescind the Federal Branch Rules in accord with the FW (RO) Act and the Federal Rules.
- (2) Decisions of the Branch Conference shall be binding on associations and members.
- (3) Notwithstanding sub-rule (1), the Branch Conference does not have power to control or manage the finances of the Branch.

## **9 - BRANCH CONFERENCE – MEETINGS**

- (1) There shall be convened, in accordance with this Rule:
  - (a) Annual Branch Conferences; and
  - (b) Special Branch Conferences.

- (2) The Annual Branch Conference shall be held each year on a date determined by the Branch Council at its October meeting in the year prior to the Conference.
- (3) The business for the Annual Branch Conference shall include:
  - (a) the annual report, the preparation of which shall be the responsibility of Executive;
  - (b) presentation of the Branch financial statements prepared in accordance with the requirements of the FW (RO) Act and as accepted by the Branch Executive;
  - (c) rule amendments;
  - (d) motions submitted by associations;
  - (e) urgent business submitted by the Executive; and
  - (f) any matter of urgency submitted to the Conference by a delegate on a motion for the "Suspension of Standing Orders" being carried.
- (4) The Branch Secretary shall provide each Association and Conference Delegate with 14 days notice in writing of the time, date and place of the Annual Branch Conference together with a copy of the agenda.

### **10 - SPECIAL CONFERENCES**

- (1) A Special Conference may be called at any time by the Branch Secretary, the Branch President, the Branch Council or on the request of Associations representing a majority of members of the Branch.
- (2) The Branch Secretary shall provide each association and each Conference member with 14 days notice in writing of the calling of a Special Branch Conference, The notice shall specify the business to be transacted at the Special Branch Conference and the time, date and place of the Special Branch Conference.
- (3) No business other than that specified in the notice calling the Special Conference shall be transacted at a Special Conference.



**11 - COMPOSITION OF BRANCH COUNCIL**

- (1) There shall be a Branch Council which shall consist of:
- (a) The Branch Presidential Officers;
  - (b) Representatives elected by and from members of associations or groups of associations;  
and
  - (c) Representatives elected by and from members on the ATSI Members' Roll.
- (2) For the purposes of sub-rule 1, the entitlement of an association or a group of association shall be calculated in accordance with the following table:

<b>Number of Financial Members</b>	<b>Branch Council Representative Entitlement</b>
<b>90-250</b>	<b>1</b>
<b>251-500</b>	<b>2</b>
<b>501-750</b>	<b>3</b>
<b>751-1000</b>	<b>4</b>
<b>1001-1250</b>	<b>5</b>
<b>1251-1500</b>	<b>6</b>
<b>1501-1750</b>	<b>7</b>
<b>1751-2000</b>	<b>8</b>
<b>2001-2250</b>	<b>9</b>
<b>2251-2500</b>	<b>10</b>
<b>2501-2750</b>	<b>11</b>
<b>2751-3000</b>	<b>12</b>
<b>3001-3250</b>	<b>13</b>
<b>3251-3500</b>	<b>14</b>
<b>3501-3750</b>	<b>15</b>
<b>3751-4000</b>	<b>16</b>

- (a) for every additional 250 financial members (or part thereof) in excess of 4000, associations will be entitled to 1 additional representative;
  - (b) for the purposes of sub-rule 1, in the case of the ATSI members' roll there will be five representatives elected by and from those financial members listed on the ATSI roll;
  - (c) where the number of members on the ATSI members' roll exceeds 1250, the formula set out in Rule 11(2) will be applied.
- (3) For the purpose of electing representatives to the Branch Council, the Branch Council shall group associations with less than 90 financial members with other associations in the year in which Branch Council elections are held.
- (4) A quorum for a meeting of the Branch Council shall be 100.
- (5) The Branch Secretary, the Branch Deputy Secretaries and the Branch Professional Officers are entitled to attend meetings of the Branch Council but are not entitled to vote or be counted in determining whether a quorum is present.

- (6) During any period that a Branch Professional Officer is deemed to be on leave from the Branch Council, the eligible alternative representative will be a member of the Branch Council in his or her stead with all the powers and responsibilities of a member of the Branch Council including the right to nominate in and vote in collegiate elections conducted within the Branch Council.
- (7) In the event that a representative of an association, group of associations or representative of members on the ATSI Members' Roll is going to be absent from a meeting of the Branch Council, he or she shall nominate in writing an alternative association representative who is not, for the time being a Branch Professional Officer, or, if an alternative association representative is not available, a financial member of the Union as his or her proxy.

## **12 - BRANCH COUNCIL POWERS**

- (1) Subject to this rule, and to decisions of the Branch Conference, the Branch Council shall have power to control and manage the business and affairs of the Branch in accordance with the Rules and Objects of the Union. Without limiting the generality of this power, the Branch Council shall have power to:
  - (a) Deal with matters submitted to it by the Branch Conference, Branch Executive or Associations.
  - (b) Elect and dismiss from their employment Branch Professional Officers and determine their duties;
  - (c) Employ, and dismiss, such employees as may be necessary for the conduct of the business of the Branch and determine their duties;
  - (d) Delegate to officers, or the holders of any named offices, the authority to employ, retain or terminate the employment of employees of the Branch;
  - (e) Appoint or remove a Branch Returning Officer and Deputy Branch Returning Officer qualified to act in accordance with the FW (RO) Act, to conduct any election for which a Returning Officer is required in connection with any Branch office in the Union;
  - (f) Investigate complaints by members of the Branch and take such action as may be deemed necessary;
  - (g) Dismiss from office any person elected to an office within the Branch who has been found guilty in accordance with the Rules of the Union of misappropriation of the funds of the Union, a substantial breach of the Rules of the Union, gross misbehaviour or gross neglect of duty in relation to his/her office or who has ceased according to the Rules of the Union to be eligible to hold the office;
  - (h) Authorise an application for the registration of the Union under Chapter 5 the IR Act;
  - (i) Participate in systems for regulating workplace relations created by the Act and the IR Act;
  - (j) Act as a medium of communication between the associations or individual members on the one hand and employing authorities or the government on the other;
  - (k) Frame standing orders for the Branch Council for the control of meetings; and
  - (l) Do all things necessary or convenient to the exercise of the foregoing powers or any powers conferred by the Federal Rules or the Federal Branch Rules.

- (2) Decisions of the Branch Council shall be binding on the Branch Executive, associations and members.
- (3) Notwithstanding sub-rule (1), the Branch Council does not have power to control or manage the finances of the Branch.

### **13 - MEETINGS OF BRANCH COUNCIL**

- (1) The Branch Council shall meet on a minimum of 8 occasions in each calendar year on dates determined by the Branch Council on or before 31 October in the preceding year and on such other occasions as it may determine by resolution.
- (2) The Branch Executive may summon a meeting of the Branch Council in the event that a scheduled meeting of the Branch Council does not take place for any reason.
- (3) A special meeting of the Branch Council shall be convened by the Branch Secretary if:
  - (a) The Branch President or the Branch Secretary consider that circumstances have arisen to justify a meeting of the Branch Council; or
  - (b) On the receipt of requests from no less than 6 associations with a combined membership of not less than 1,000 members provided that the request from each association is evidenced by a resolution carried at a properly constituted meeting and the request is conveyed to the Branch Secretary in writing with a copy of the resolution.
- (4) At a special meeting of the Branch Council, the only business to be conducted will be that business specified in the notice calling for the meeting.
- (5) The Branch Secretary shall provide each association and each Branch Council member with 10 days notice in writing of the Branch Council meeting. The notice shall specify the time, date and place of the meeting and, in the case of an ordinary meeting, the agenda for the meeting and in the case of a special Branch Council meeting, the business to be conducted at the special Branch Council meeting.

### **14 - COMPOSITION OF BRANCH EXECUTIVE**

- (1) There shall be a Branch Executive which shall consist of:
  - (a) The Branch Presidential Officers, namely, the Branch President, the Branch Deputy President and the Branch Senior-Vice President;
  - (b) The 4 Branch Vice-Presidents;
  - (c) The 2 Branch Custodians;
  - (d) One Member of the Branch Council who is a representative of members on the ATSI Members' Roll; and
  - (e) 8 Association representatives.
- (2) The 4 Branch Vice-Presidents, the 2 Branch Custodians, the representative of members on the ATSI Members' Roll and the 8 association representatives shall be elected annually by and from the Branch Council at the first Branch Council meeting of the year in accordance with rule 38.

- (3) The Branch Secretary and the Branch Deputy Secretaries shall attend meetings of the Branch Executive but shall not be entitled to vote or be counted in determining whether a quorum is present.

### **15 - BRANCH EXECUTIVE POWERS**

- (1) The Branch Executive shall be the committee of management of the Branch and, subject to sub-rule (2), shall, between meetings of the Branch Council, be responsible for the management to the Branch.
- (2) Prior to the first meeting of the Branch Council, the Branch Executive shall have all the powers of the Branch Council and, thereafter, between meetings of the Branch Council, shall have all the powers except the powers to amend the Federal Branch Rules.
- (3) The Branch Executive shall, as soon as practicable, give effect to any resolution of the Branch Council.
- (4) The Branch Executive shall, in addition, have power to:
- (a) Determine the remuneration and conditions of employment of Branch Professional Officers and Branch employees;
  - (b) Determine the remuneration conditions of employment of full time elected officers and the honoraria payable to other elected officers;
  - (c) Purchase, lease, hire or otherwise acquire any real or personal property, and disburse monies from the Branch Fund for the conduct of the business of the Branch;
  - (d) Make contributions to superannuation schemes, or retirement funds for the benefit of elected, appointed or employed officers and employees to enter into such arrangements as may be necessary for that purpose;
  - (e) Appoint as a Branch auditor persons qualified to act in accordance with the FW (RO) Act, for any purpose for which an auditor is required in connection with the Branch accounts and, if appropriate, remove that person;
  - (f) Demand or cause to be made an audit of the books and accounts of any association, and for that purpose take possession of all property, books, bank books, documents and correspondence from any association; and
  - (g) Raise funds by subscriptions, levies, loans, mortgages, commercial bank bills, donations and in any other manner approved by the Branch Council and to spend the monies so raised for the purpose of carrying out all or any of the objects of the Union.
- (5) Decisions of the Branch Executive shall be binding on associations and members.

## 16 - MEETINGS OF THE BRANCH EXECUTIVE

- (1) The Branch Executive shall meet at least once each month other than in January and December.
- (2) In addition to monthly meetings of the Branch Executive, the Branch Executive shall meet whenever:
  - (a) The Branch Executive determines;
  - (b) The Branch President or, in his/her absence, the Branch Deputy-President so determines; or
  - (c) A majority of the members of the Branch Executive make a request in writing to the Branch Secretary.
- (3) Branch Executive meetings shall be chaired by the Branch President or in his/her absence the Branch Deputy President or the Branch Senior Vice President, or in the absence of all three, a member of Branch Executive elected by the persons assembled for the meeting.
- (4) The Branch President shall, subject to sub-rule (5), determine the agenda for any meeting of the Branch Executive. The Branch Secretary shall give each member of Branch Executive three days notice of any Branch Executive meeting and shall include with that notice a copy of the agenda.
- (5) The agenda of Branch Executive shall also include any item:
  - (a) which the Branch Council or Branch Executive has previously determined should be included;
  - (b) of which notice has been given in writing by a member of the Branch Executive 10 days prior to the meeting; and
  - (c) which the Branch Executive determines should be included.
- (6) The requirements of sub-rules (4) and (5) of this Rule as to notice are directory and not mandatory and the accidental omission to give any required notice or provide any agenda shall not of itself invalidate any subsequent resolution of the Branch Executive.
- (7)
  - (a) Subject to sub-rule (7)(c), where in the interests of the Branch it is necessary that there be a meeting of the Branch Executive but it is not practicable for the Branch Executive to assemble, the Branch President may, after consultation with the Branch Secretary, determine that the business of the Branch Executive meeting, for which the agenda has been determined for the purposes of sub-rule (5), of this rule shall be conducted by video-conference and/or telephone conference vote.
  - (b) Subject to sub-rule (7)(c), where, in the interests of the Branch, it is necessary that there be an urgent a meeting of the Branch Executive, the Branch President, may after consultation with the Branch Secretary, forthwith convene a meeting of Branch Executive which meeting may be conducted by video-conference and/or telephone conference vote.
  - (c) When an urgent meeting of the Branch Executive is required to be convened, the Branch Secretary shall provide each member of the Branch Executive by email two days notice of the meeting and the business to be conducted at that meeting.

- (d) Where a Branch Executive meeting has been convened pursuant to this sub-rule, a member of the Branch Executive may request that the meeting be a face to face meeting.
  - (e) If a face to face meeting has been requested by one third of the members, that meeting shall be held within 5 days of such request and no decision on the business that was to be determined by the Branch Executive pursuant to this sub-rule shall be made pending that meeting.
  - (f) Where a meeting of the Branch Executive has been conducted by video conference and/or telephone conference vote, the Minutes of such meetings shall be taken and a copy thereof shall forthwith be forwarded by email to each member of Branch Executive.
- (8) A majority of the members of the Branch Executive shall constitute a quorum.

### **SECTION 3 – BRANCH OFFICERS AND BRANCH PROFESSIONAL OFFICERS**

#### **17 - PRESIDENTIAL OFFICERS OF THE BRANCH**

- (a) The Branch Presidential Officers shall be:
  - (i) The Branch President;
  - (ii) The Branch Deputy President; and
  - (iii) The Branch Senior Vice President.
- (b) The Presidential Officers and the Branch Secretary shall be Senior Officers and full time officers of the Branch.

#### **18 - DUTIES OF BRANCH PRESIDENT**

The Branch President shall:-

- (a) be responsible for making public statements on behalf of the Branch;
- (b) preside at meetings of the Branch Executive, Branch Council and Branch Conference;
- (c) preside at all meetings arranged by the Branch Executive which are open to members;
- (d) preside at meetings of committees other than committees chaired by another member of the Executive;
- (e) when presiding at a meeting referred to in this sub-rule, have a casting vote;
- (f) if the Branch President believes it is appropriate, summon a special meeting of the Branch Executive or Branch Council;
- (g) represent the Branch, at meetings with a minister or senior officials of a Government department, board, committee, commission or other body set up under an Act of Parliament;
- (h) be responsible for all correspondence with a minister, head of a Government department, board, committee or commission; and
- (i) perform such other duties as may from time to time be determined by the Branch Executive.

### **19 - DUTIES OF BRANCH DEPUTY PRESIDENT**

The Branch Deputy-President shall:-

- (a) be responsible for making public statements on behalf of the Branch;
- (b) exercise all the powers and duties of the Branch President when appointed by the Branch Executive as acting Branch President in the absence of the Branch President, or in the event that the Branch President is unable to perform the duties prescribed by these Rules;
- (c) perform all duties imposed on them by these Rules; and
- (d) perform such other duties as may from time to time be determined by the Branch Executive.

### **20 - DUTIES OF BRANCH SENIOR VICE-PRESIDENT**

The Branch Senior Vice-President shall:-

- (a) be responsible for making public statements on behalf of the Branch;
- (b) exercise all the powers and perform all the duties of the Branch Deputy President when appointed by the Branch Executive as acting Branch Deputy President in the absence of the Branch Deputy President, or in the event that the Branch Deputy President is unable to perform the duties prescribed by these Rules;
- (c) perform all duties imposed on them by these Rules; and
- (d) perform such other duties as may from time to time be determined by the Branch Executive.

### **21 - DUTIES OF THE BRANCH VICE-PRESIDENT**

The Branch Vice-Presidents shall;

- (a) be honorary officers other when they are acting in the position of Senior Vice-President or Deputy President;
- (b) in accordance with the order of seniority determined in accordance with Rule 38(8), act in the position of Senior Vice President or Deputy President; and
- (c) attend meetings of the Branch Executive.

## 22 - DUTIES OF THE BRANCH SECRETARY

- (1) The Branch Secretary shall be a Senior Officer of the Branch and a full time officer. The Branch Secretary will be known as the General Secretary of the AEU New South Wales Teachers Federation (NSWTF) branch.
- (2) In addition to the duties imposed on the Branch Secretary by these rules, the Branch Secretary shall perform the following duties:
  - (a) Attend all meetings of the Branch Conference, Branch Council and Branch Executive and such other meetings as directed, and be responsible for the keeping of correct minutes of the proceedings of such meetings;
  - (b) Keep all documents, vouchers and papers belonging to the Branch;
  - (c) Carry out the instructions of the Branch Conference, Branch Council and Branch Executive and exercise a general control over the affairs of the Branch;
  - (d) Call meetings of the Branch Conference, Branch Council and Branch Executive in accordance with these rules and convene the first meeting of any committee appointed by the Branch Conference, Branch Council or Branch Executive as soon as is practicable;
  - (e) Be the public officer of the Branch;
  - (f) Prepare all returns required by the Act, the FW (RO) Act and the IR Act;
  - (g) Keep a register of the members of the Branch ensuring each member's financial status is recorded and a register of members on the ATSI Members' Roll;
  - (h) Have the control and supervision of the paid officers and employees of the Branch;
  - (i) Perform the role of Returning Officer for all Branch Council ballots unless the Branch Deputy Secretary is directed to perform this role;
  - (j) Be responsible for the financial management of the Branch;
  - (k) Be responsible for ensuring that all Branch policies for the elimination of discrimination and sexual harassment are adhered to for the benefit of Branch officers, employees and members;
  - (l) Notify the association secretaries of the names of members allocated to associations;
  - (m) Inform association secretaries, as soon as practicable, where casual vacancies occur in the offices of association representatives on Branch Council or additional association representatives to Branch Conference;
  - (n) Inform associations of the business set down for Branch Council and Branch Conference;
  - (o) Delegate any duty under this rule to any Branch Professional Officer other than the power to delegate or a duty required by statute to be performed by the Branch Secretary or an elected officer; and
  - (p) Perform such other duties as the Branch Council or the Branch Executive may determine from time to time.



### **23 - DUTIES OF DEPUTY BRANCH SECRETARIES**

- (1)
  - (a) There shall be 4 Deputy Branch Secretaries who shall be full-time officers.
  - (b) Branch Council before 31<sup>st</sup> May in the year of the election shall determine the role statement and nomenclature title of each of the Deputy Secretary positions.
  - (c) Each Deputy Secretary position will be elected separately. The order of the Deputy Secretary elections will be determined by the Branch Council before the 31<sup>st</sup> May in the year of the election.
  - (d) A nominee may nominate for more than one Deputy Secretary position.
  - (e) Where a nominee for a Deputy Secretary has nominated for more than one position:-
    - (i) the ballot, shall be counted in the order determined by the Branch Council; and
    - (ii) where a nominee for more than one Deputy Secretary position is declared elected to a Deputy Secretary position, his or her votes for the remaining positions will be discarded and his or her preferences distributed to remaining candidates.
- (2) The Deputy Branch Secretaries shall:
  - (a) Assist the Branch Secretary in the performance of his or her duties;
  - (b) On being designated by the Branch Secretary, or the Branch President, if the Branch Secretary has not done so, or is not able to do so, perform the duties of the Branch Secretary in his or her absence; and
  - (c) At the direction of the Branch Secretary, be responsible for the control and supervision of designated Branch Professional Officers or Branch employees.

### **24 - DUTIES OF BRANCH CUSTODIAN**

There shall be 2 Branch custodians who shall be responsible for ensuring that:

- (1) Monies received by the Branch are deposited and funds invested in accordance with the rules of the Branch and the directions, if any, of Branch Conference or Branch Council; and
- (2) That all payments out of the funds of the Branch have been duly authorised.

### **25 - BRANCH PROFESSIONAL OFFICERS**

- (1) The Branch shall employ Branch Professional Officers to fill Branch Professional Officer positions established in accordance with this rule.
- (2) The Branch Council may, on the recommendation of the Branch Executive, or on a notice of motion supported by at least 20 association representatives on the Branch Council, establish new Branch Professional Officer positions provided that 14 days notice has been given to all members of the Branch Council.

- (3) The Branch Conference, or the Branch Council, may, on the recommendation of the Branch Executive or on a notice of motion supported by at least 20 association representatives on Branch Council, establish Branch Professional Officer positions provided that 14 days notice has been given to all members of the Branch Council.
- (4) The Branch Council may, at any time, abolish a Branch Professional Officer position provided that notice of the proposal to abolish the position appears on the Notice paper of the Branch Council meeting at which the proposal is to be considered.
- (5) Branch Professional Officers will be responsible for implementing the policies of the Union and the Branch, performing any other duties as are determined by the Branch Council and will be subject to the day to day control and direction of the Branch Secretary.
- (6) The Branch Secretary may, notwithstanding the statement of duties of a Branch Professional Officer, assign the Branch Professional Officer, on a temporary basis, to an area of need.
- (7) Where a Branch Professional Officer is assigned to an area of need, and is dissatisfied with the nature of the duties assigned to him or her, he or she may appeal against that decision to the Branch Executive.

## **26 - EMPLOYMENT OF BRANCH PROFESSIONAL OFFICERS**

- (1) Any financial member of the Branch may nominate for election to a position as a Branch Professional Officer provided that the nomination is made in writing, is signed by at least two financial members of the Branch and is endorsed with the written consent of the nominee.
- (2) The Branch Professional Officers shall be elected by members of the Branch Council at a meeting held in the second half of the calendar year in every third year commencing in 2015.
- (3) Nominations for the position of Branch Professional Officer shall open no later than 6 weeks prior to the date of the Branch Council meeting at which the election will be conducted, and shall close no later than a date 10 days prior to the Branch Council meeting at which the ballot is to be conducted.
- (4) The members of the Branch Council entitled to vote in an election for Branch Professional Officers will be the members of the Branch Council as at the date of the close of nominations.
- (5)
  - (a) A nominee for a Branch Professional Officer position may nominate for more than one position.
  - (b) The Branch Council shall, prior to each election, in order to permit a member to nominate for more than one position, determine the order in which ballots will be counted.
  - (c) Where a nominee for a Branch Professional Officer has nominated for more than one position:
    - (i) the ballots shall be counted in the order determined by the Branch Council; and
    - (ii) where a nominee for more than one position is declared elected to a position, his or her votes for the remaining positions will be discarded and his or her preferences distributed to remaining candidates.

- (6) In the event that a person who is elected as a Branch Professional Officer is, at the time of his or her election, a member of the Branch Council or the Branch Executive:
- (a) he or she will be deemed to be on leave from his or her position on the Branch Council; and
  - (b) if he or she holds a position on the Branch Executive, he or she will no longer be eligible to hold the position on the Branch Executive.
- (7) A Branch Professional Officer may nominate for and be elected to a position on the Branch Council provided that, if he or she is elected, he or she shall be deemed to be on leave from the Branch Council while he or she remains a Branch Professional Officer.
- (8) Where a member of the Branch Council is deemed to be on leave from the Branch Council:
- (a) he or she will have none of the rights of a member of a Branch Council other than the right to nominate for and vote in elections for the offices of Branch Secretary and Branch Deputy Secretary; and
  - (b) the duties of his or her position on the Branch Council shall be performed by an eligible alternative association representative.
  - (c) For the purposes of this sub-rule, the eligible alternative representative will be an alternative representative from the association which the Branch Professional Officer was elected to the Branch Council, or if the Branch Professional Officer was elected to the Branch Council by members on the ATSI Members' Roll, an alternate representative of members on that Roll.
  - (d) An alternative representative who is performing the duties of a member of the Branch Council in accordance with this sub-rule shall have the right to nominate for and vote in elections for offices elected by and from members of the Branch Council.
  - (e) In the event that a Branch Professional Officer who is deemed to be on leave from the Branch Council ceases to be a Branch Professional Officer before the expiration of his or her term of office as a member of the Branch Council, he or she shall resume his or her former position on the Branch Council and the alternative representative who has replaced him or her shall cease being a member of the Branch Council unless he or she has been elected to an office elected by and from members of the Branch Council.
- (9) A Branch Professional Officer on being elected, will be deemed to be an employee of the Union and remain an employee until the expiration of his or her term of employment or until he or she has been removed from his or her employment in accordance with sub-rule (10).
- (10) The Branch Council may terminate the employment of a Branch Professional Officer in the event that:
- (a) the position held by the Branch Professional Officer has been abolished in accordance with rule 25(4) and there is no suitable alternative position available;
  - (b) the Branch Professional Officer ceases to be a member of the Union; or
  - (c) the Branch Professional Officer has misappropriated funds of the Union, has substantially breached the Union's Rules, has engaged in gross misbehaviour in relation to his or her position or has grossly neglected his or her duties.

- (11) In the event that there are allegations against a Branch Professional Officer of conduct referred to in sub-rule 10(c) above, the processes set out in rule 65 shall apply, mutatis mutandis to the process of removing a Branch Professional Officer.

### **27 - BRANCH PROFESSIONAL OFFICERS' COMMITTEE**

- (1) There shall be a Branch Professional Officers' Committee which shall be comprised of the Branch President and 4 members of the Branch Council appointed by the Branch Council at its first meeting each year.
- (2) The function of the Branch Professional Officers' Committee shall be to:
- (a) Consider all nominations for the position of a Professional Officer and to investigate the qualifications and credentials of candidates for election as a Professional Officer;
  - (b) To report to the Branch Council on the suitability of candidates for election to Professional Officer positions; and
  - (c) To recommend to the Branch Council whether or not a vacancy for a position of a Professional Officer should be filled.

### **28 - FILLING CASUAL VACANCIES FOR BRANCH PROFESSIONAL OFFICERS**

Where a casual vacancy in the office of Branch Professional Officer arises, the Branch Council will determine whether to fill such casual vacancy and if it decides to fill the vacancy, the manner in which the casual vacancy will be filled.

### **29 - RELIEF BRANCH PROFESSIONAL OFFICERS**

- (1) The Branch Council may establish a pool of Relief Branch Professional Officers who will be elected by a secret exhaustive preferential ballot of the Branch Council.
- (2) Persons elected as Relief Branch Professional Officers shall be eligible to be appointed by the Branch Secretary as Relief Branch Professional Officers in the calendar year following their election.
- (3) The Branch Secretary shall determine the period of appointment of the Relief Branch Professional Officer.
- (4) A Relief Branch Professional Officer who is appointed by the Branch Secretary shall have, for the period of such appointment, the rights, duties and entitlements of a Branch Professional Officer.
- (5) A Relieving Branch Professional Officer who is also a member of the Branch Executive or the Branch Council shall be granted leave from such positions during the period he or she is a Relieving Branch Professional Officer.

## SECTION 4 – ELECTIONS

### 30 - BRANCH RETURNING OFFICER

- (1) A reference in these Rules to the Branch Returning Officer shall be a reference to the returning officer appointed by the Australian Electoral Commission or a Returning Officer or Assistant Returning Officer appointed by the Branch Council at its first meeting each year to conduct elections in accordance with an exemption given in accordance with section 186 of the FW (RO) Act, or to perform functions allocated to a Returning Officer or an Assistant Returning Officer not undertaken by the Australian Electoral Commission.
- (2)
  - (a) A Returning Officer or Assistant Returning Officer appointed by the Branch Council shall not, during the term of his or her office, be an employee of or holder of any office within the Union or the Branch or a candidate in any election within the Union or the Branch and shall not be eligible to nominate any candidate for any election under the Federal Rules or the Federal Branch Rules and shall hold office until his or her successor is appointed.
  - (b) If the Returning Officer is unable to undertake his or her duties as and when required or if there is a casual vacancy in his or her office, the Branch Executive shall appoint an acting Returning Officer provided that no person so appointed shall be the holder of any other office or be an employee of, or a candidate for any other office in the Union or a Branch, Section or Division of the Union.
- (3) The Branch Returning Officer, and/or Assistant Branch Returning Officer under the direction of the Branch Returning Officer, shall take such actions and give such directions as are reasonably necessary in order to ensure that no irregularities occur in or in connection with an election or in order to rectify any procedural defects and no person shall refuse or fail to comply with such directions or obstruct or hinder a Branch Returning Officer or any other person in the conduct of an election or in the taking of any such action.
- (4) The decision of the Branch Returning Officer shall be final and binding regarding any matter touching the validity or normality of any nomination or vote or any matter touching or concerning such an election and the conduct hereof. The decision of the Assistant Branch Returning Officer on any such question shall be subject to review by the Branch Returning Officer whose determination shall be final and binding.
- (5) If, at any time prior to the declaration of the election an irregularity should occur in the conduct of the election, which in the opinion of the Branch Returning Officer may affect the result of such election, the Branch Returning Officer shall declare void the election or, where appropriate any step in or in connection with the election.
- (6) Where the Branch Returning Officer has made a declaration pursuant to sub-rule (5) he/she shall hold another election or take whatever steps are required to be taken again and then proceed with the uncompleted steps in the election.
- (7) In exercising powers pursuant to sub-rule (6) the Branch Returning Officer may, subject to the FW (RO) Act, waive the requirements of the rules to the extent necessitated by the practicalities of the situation.
- (8) Where the Branch Returning Officer has made a declaration pursuant to sub-rule (5) in respect to an election for an office the person holding that office immediately prior to that election shall remain in office until his/her successor is elected.

### 31 - CONDUCT OF SECRET POSTAL BALLOTS

- (1) Elections conducted by a secret postal ballot shall be conducted in accordance with this rule.
- (2) The Branch Returning Officer shall prepare a roll of voters which shall close 7 days before the day on which nominations are opened.
- (3) The Branch Returning Officer shall, on the close of nominations, check all nominations received for compliance with the requirements of the Rules, and where the Branch Returning Officer considers that any nomination is defective, he or she shall immediately notify the person concerned of the defect by the most expeditious means and, where it is practicable to do so, give him or her the opportunity of remedying the defect, allowing, if practicable, at least 7 days after notification.
- (4)
  - (a) A nominee in a ballot conducted in accordance with this Rule may withdraw their nomination at any time before the close of nominations and after nominations have closed, provided that such withdrawal is exercised within seven (7) days after the date on which nominations are advised to the Branch.
  - (b) Such withdrawal of nomination shall be by notice in writing to the Returning Officer signed by the nominee and submitted by hand, post or facsimile or any other electronic means.
- (5) The Branch Returning Officer shall, where there is no more than one valid nomination for a position, declare the nominated person elected.
- (6) The Branch Returning Officer shall, where there are more nominations than there are vacancies for a position:
  - (a) have the ballot papers prepared and delivered to him or her containing the names of the candidates for each position in an order chosen by lot, indicating the number to be elected to each position, the manner in which votes shall be recorded and the date and time fixed for the closing of the ballot;
  - (b) initial each ballot paper or cause each ballot paper to bear a facsimile of his or her initials;
  - (c) cause to be delivered to each member, who is financial as at the date of the closure of the roll of voters, a pre-paid reply envelope, a ballot paper and declaration envelope with a removable flap/label upon which the voter shall be required to sign as an eligible voter, such removable flap/label shall be detached or separated from the declaration envelope by the Branch Returning Officer and placed in separate piles so as to ensure that the ballot paper cannot be identified with the removable flap/label. Both envelopes shall be in the form prescribed by Regulation 6 of the Fair Work (Registered Organisations) Regulations 2009;
  - (d) at the request of a candidate or group of candidates, forward with each ballot paper electoral material lodged by the candidate or groups of candidates. That material must be lodged within seven days of the close of nominations, be provided in the form of an electronic file, be restricted to a maximum of 400 words per candidate and may include a passport sized photograph. The material may include an indication of preference provided that all candidates are shown in the order they appear on the ballot paper and there is a preference allocated to each candidate;

- (d) upon receipt of an application for an absentee vote from a member who is entitled to vote at a ballot and will be absent during the conduct of the ballot, issue that member with a ballot paper provided that the application is received in the period after the nominations have closed and before the opening of the ballot; and
  - (e) arrange for the use of a post office box or other receptacle into which ballot papers may be returned;
- (7) The Returning Officer shall, on the closing of the ballot and in the presence of such scrutineers as are present:
- (a) Take steps to ensure that all of the ballot papers are deposited in the ballot box;
  - (b) Open the ballot box to produce unopened declaration envelopes;
  - (c) Determine, prima facie, the bona fides of the ballots by reference to the roll of voters and the removable flap/label;
  - (d) Open the ballot paper envelope and extract from them all ballot papers in such manner as to preserve the secrecy of the ballot;
  - (e) Place the ballot paper envelopes and ballot papers in separate bundles;
  - (f) Proceed with the counting of the votes in accordance with Rule 34 and declare the result of the ballot.
- (8) Any vote in a ballot shall be informal if:
- (a) The ballot paper is received by the Branch Returning Officer after the notified hour on the closing date;
  - (b) The ballot paper is not contained in a declaration envelope which in turn is contained in the prescribed outer envelope;
  - (c) The removable flap/label is not signed; or
  - (d) The content of the ballot paper does not comply with the instructions printed on it.
- (9) If the Branch Returning Officer is satisfied that a ballot paper has been destroyed, lost, damaged or misused he/she shall supply (in the place of the damaged or misused ballot paper on receipt thereof) to the person to whom the original ballot was supplied a substitute ballot paper.

### **32 - CONDUCT OF ELECTIONS AT MEETINGS**

- (1) An election conducted by a secret ballot at a meeting shall be conducted in accordance with this rule.
- (2) The Branch Returning Officer shall, on the close of nominations, check all nominations received for compliance with the Rules. Where the Branch Returning Officer considers that any nomination is defective, he or she shall immediately notify the person concerned of the defect by the most expeditious means and, where it is practicable to do so, give him or her the opportunity of remedying the defect, allowing, if practicable, at least 7 days after the notification.

- (3)
  - (a) A nominee in a ballot conducted in accordance with this Rule may withdraw their nomination at any time before the close of nominations, and after nominations have closed, provided that such withdrawal is exercised within seven (7) days after the date on which nominations are advised to the Branch.
  - (b) Such withdrawal of nomination shall be by notice in writing to the Returning Officer signed by the nominee and submitted by hand, post or facsimile or any other electronic means.
- (4) If there is no more than one nomination for a position, the Branch Returning Officer shall declare the nominated person elected to the position.
- (5)
  - (a) at the request of a candidate or group of candidates, electoral material may be lodged by the candidate or groups of candidates. That material must be lodged within seven days of the close of nominations, be provided in the form of an electronic file, be restricted to a maximum of 400 words per candidate and may include a passport sized photograph. The material may include an indication of preference provided that all candidates are shown in the order they appear on the ballot paper and there is a preference allocated to each candidate. The candidates' statements are to be lodged by the means determined by the Returning Officer at the address notified by the Returning Officer.
  - (b) The candidates' statements will be provided to eligible voters on the day of the election prior to the conduct of the election.
- (6) If more nominations are received than there are vacancies for a position, the Branch Returning Officer shall:
  - (a) have the ballot papers prepared containing the names of the candidates for each position in an order chosen by lot indicating the number to be elected to each position and the manner in which the votes shall be recorded;
  - (b) be responsible for the safe custody of the ballot papers and ensure that voters can cast a secret vote;
  - (c) initial each ballot paper or have each ballot paper bear a facsimile of his or her initials;
  - (d) issue a ballot paper to each member present at the meeting entitled to receive a vote;
  - (e) on the closing of the ballot, in the presence of scrutineers, count all the votes in accordance with Rule 34 and declare the result of the ballot.
- (7)
  - (a) Where a person eligible to vote in an election to be conducted at a meeting in accordance with this Rule is unable to attend the meeting, he or she may appoint another person eligible to vote in the election vote in his or her stead.
  - (b) An appointment made in accordance with this sub-rule must be in writing and be provided to the Branch Returning Officer before the time appointed for the conduct of the ballot.
  - (c) A person appointed in accordance with this sub-rule shall exercise the vote of the person he or she replaces as he or she sees fit.



### 33 - SCRUTINEERS

- (1) A candidate in any election conducted under these Rules may appoint a scrutineer to represent his or her interests in counting of the ballot.
- (2) A scrutineer shall be a financial member of the Union but shall not be a candidate in the same ballot nor a candidate in any ballot being currently conducted pursuant to these Rules.
- (3) It is the responsibility of the candidate appointing a scrutineer to ensure that the scrutineer's nomination form reaches the Branch Returning Officer before the commencement of the count.
- (4) A scrutineer shall be entitled to be present throughout the ballot and may query the inclusion of any vote in the count but the Branch Returning Officer shall have the final determination of any votes so queried.
- (5) A scrutineer shall not remove, mark, alter or deface any ballot paper or other document used in connection with the election and shall not interfere with or attempt to influence any member at the time such member is casting a vote.

### 34 - SYSTEM OF VOTING

- (1)
  - (a) In any ballot conducted pursuant to these Rules in which only one candidate is to be elected, the system of voting shall be the preferential system of voting set out in this sub-rule.
  - (b) The Branch Returning Officer shall count first preference votes cast for each candidate and if any candidate has received an absolute majority of first preference votes he or she shall be declared elected.
  - (c)
    - (i) If no candidate has received an absolute majority of first preference votes, the candidate with the lowest number of first preference votes shall be eliminated and the second preference votes of the eliminated candidate shall be allocated to the remaining candidates in accord with the voter's preference. If, on a count of those votes, a candidate has an absolute majority of votes he/she shall be declared elected.
    - (ii) If no candidate then has an absolute majority of votes, the process of eliminating the candidate with the lowest number of votes at that stage and allocating the next preference votes of that candidate shall be repeated until one candidate has received an absolute majority of votes; and
    - (iii) The candidate who has received an absolute majority of votes shall be declared elected.
- (2)
  - (a) In any ballot conducted pursuant to these Rules in which more than one candidate is to be elected, the system of voting shall be the preferential system set out in this sub-rule.
  - (b) The Branch Returning Officer shall count all first preference votes cast for each candidate and if any candidate has received an absolute majority of first preference votes he or she shall be declared elected.
  - (c) If no candidate has received an absolute majority of first preference votes, the Branch Returning Officer shall proceed to eliminate candidate(s) and distribute preference votes, as provided in sub-rule (1)(c) above, until a candidate has an absolute majority of votes and is declared elected.

- (d) To determine the next successful candidate, the Branch Returning Officer shall allocate the second preference votes of the candidate who has been elected to each of the other candidates in accord with the voter's preference including to the candidates eliminated pursuant to sub-rule (1)(c) above.
  - (e) If a candidate then has an absolute majority of votes he or she shall be declared elected but if no candidate then has an absolute majority of votes the count shall proceed as provided in sub-rule (1)(c)(ii) above.
  - (f) Any remaining vacancies shall be filled one by one in the manner provided above and as any candidate receives an absolute majority he/she shall be declared elected. Provided that where the second preference votes of an elected candidate are given to another elected candidate the Branch Returning Officer shall allocate the third preference vote of the first mentioned elected candidate to other candidates in accordance with the voters' third preference. This proviso applies equally where second and succeeding preference votes are given to two or more elected candidates.
- (3) If on any count of votes pursuant to sub-rule (1) or (2) above, two or more candidates have an equal number of votes and one or more of them has to be eliminated, Branch Returning Officer shall determine by lot which candidates shall be eliminated.

### **35 - ELECTION OF PRESIDENTIAL OFFICERS**

- (1) The Presidential Officers shall be financial members of the Branch and be elected by a secret postal ballot of all financial members of the Branch.
- (2) A Presidential Officer shall take office on the first school day in the year following his or her election and hold office for 2 years or until his or her successor takes office. For the purposes of this sub-rule, the first election conducted under this rule will be conducted in the second half of 2015 and in the second half of every second year thereafter.
- (3) The Branch Returning Officer shall:
  - (a) determine a date for the opening of nominations which shall be a date not less than 7 days prior to the date upon which nominations close and at least 30 days before the date fixed for the election;
  - (b) call for nominations for Presidential Officer positions by sending a notice to each association and by publishing a notice in a publication of the Branch distributed to all Branch members specifying the date of the opening of the nominations and the date of the closing of the nominations.
- (4) Nominations for Presidential Officers shall be:
  - (a) in writing; and
  - (b) signed by at least two members of the Branch who shall at the date of nomination be financial members of the Branch and bear the written consent of the nominee;

- (5) (a) This sub-rule applies where a person has nominated for more than one of the positions of Presidential Officer.
- (b) For the purposes of this sub-rule, there shall be a hierarchy of positions as follows:
- (i) Branch President;
  - (ii) Branch Deputy President;
  - (iii) Branch Senior Vice President.
- (c) If only one person has nominated for a position listed in paragraph (b) and that person has also nominated for another position listed in paragraph (b), the nomination for the first listed position shall stand and the other nomination(s) shall lapse.
- (d) If two or more persons have nominated for an office listed in paragraph (b), and any of them have also nominated for any other position listed in paragraph (b), the ballot listed for the first listed position shall be counted first, and if the successful candidate has also nominated for any other position listed in paragraph (b), his or her name and the first preference votes gained by him or her shall be omitted in the counting of the ballot for the other positions and the second and subsequent preference votes of the person omitted from the ballot shall be allocated to the remaining candidates.
- (6) A member shall be qualified to vote in the election of Presidential Officers if he or she is shown in the records of the Branch as being financial as at the date on which the roll of voters closes.
- (7) The method of voting shall be the preferential method set out in Rule 34.
- (8) (a) Subject to paragraph (b), a casual vacancy (howsoever occurring) in a position of Presidential Officer shall be filled by a secret postal ballot by and from all the financial members of the Branch as soon as practicable following the occurrence of the vacancy.
- (b) If the unexpired term of the position in which the casual vacancy occurs does not exceed half of the term of the position, the Branch Council may appoint a financial member of the Branch to fill the position.
- (c) The person elected or appointed to fill a casual vacancy will take office from the declaration of his or her election or on his or her appointment and hold office until the expiration of the term of the person replaced or until a successor takes office.
- (d) Where an election is to be conducted to fill a casual vacancy, Branch Executive may appoint a financial member of the Branch to fill the position until the election is declared.

**36 - ELECTION OF ASSOCIATION REPRESENTATIVES ON BRANCH COUNCIL**

- (1) There shall, in 2016, and every 2 years thereafter, be elections for:
  - (a) Representatives elected by and from members of associations or groups of associations;
  - (b) Alternative representatives of associations elected by and from members of associations or groups of associations; and
  - (c) Representatives elected by and from members on the ATSI Members' Roll.
- (2) Representatives elected in accordance with this rule shall hold office for 2 years commencing at the first Branch Council meeting in the year following their election.
- (3) The Branch Returning Officer shall:
  - (a) determine a date for the opening of nominations which shall be a date not less than 7 days prior to the date upon which nominations close and at least 30 days before the date fixed for the election; and
  - (b) call for nominations for the positions referred to in sub-rule (1) by sending a notice to each association and by publishing a notice in a publication of the Branch distributed to all Branch members specifying the date of the opening of the nominations and the date of the closing of the nominations.
  - (c) where insufficient nominations have been received in respect to the elections being conducted, any eligible person(s) who have nominated shall be declared elected and the Returning Officer shall by notice to members recall for nominations for any remaining unfilled positions within 14 days of the declaration of the ballot. A further election shall be held for that position and as far as practicable be conducted pursuant to the Branch rules.
- (4) A nomination for the positions referred to in sub-rule (1) shall be in writing, be signed by at least two financial members of the relevant association, group of associations or on the ATSI Members' Roll, as the case may be, and bear the written consent of the nominee who shall also be a financial member of the relevant association, group of associations or on the ATSI Members' Roll, as the case may be.
- (5) Notwithstanding that the Branch Council has authorised the formation of a new association, the renaming of an association, the amalgamation or dissolution of associations or adjusted the boundaries of associations, no changes will be made to representation on the Branch Council until the next biennial election.
- (6) In the event that a member on the ATSI Members' Roll is contesting a position as an association representative on Branch Council, the election for the association representative position on Branch Council shall take precedence, that is, if the nominee for the ATSI Members' Roll position is successful in the election for an association representative, his or her first preference votes for the ATSI Members' Roll position shall be discarded and second and subsequent preferences allocated to remaining candidates.
- (7)
  - (a) The Returning Officer shall, in consultation with the relevant association, group of associations or members on the ATSI Members' Roll determine the number of alternative association representatives to be elected by the association, group of associations or members of the ATSI Member's Roll, as the case may be.
  - (b) The alternative association representatives or alternative representatives of members on the ATSI Members' Roll will be the next person or persons elected after the association

- representatives or the representatives elected by and from the members on the ATSI Members' Roll, as the case may be, have been declared elected.
- (8) (a) Subject to paragraph (b), a casual vacancy in a position referred to in sub-rule (1) shall be filled by a secret postal ballot of financial members of the relevant association, group of associations or members on the ATSI Members' Roll, as the case may be.
- (b) If the unexpired term of the position does not exceed three quarters of the term, the association, or group of associations which the vacancy has occurred may, at a meeting of members, appoint a financial member from the association or group of associations to fill the casual vacancy.
- (c) Where an election is required to fill a casual vacancy, the election shall be conducted in accordance with this rule subject to any modifications necessary to meet the circumstances.
- (d) A person elected or appointed, to fill a casual vacancy shall take office from the declaration of his or her election or on his or her appointment and hold office until the expiration of the term of the person replaced or until a successor takes office.

### **37 - ELECTION OF BRANCH CONFERENCE DELEGATES**

- (1) There shall, for the Branch Conference to be held in 2021, and every two years thereafter, be elections for::
- (a) Conference Delegates elected by and from members of Associations.;
- (b) Conference Delegates elected by and from members on the ATSI Members' Roll. .
- (2) Conference Delegates elected in accordance with this rule shall hold office for 2 years from the commencement of the first Branch Conference meeting following their election.
- (3) Notwithstanding that the Branch Council has authorised the formation of a new association, the renaming of an association, the amalgamation or dissolution of associations, or adjusted the boundaries of associations, no changes will be made to the representation on the Branch Conference until the next biennial election.
- (4) Sub-rules 36(3), 36(4) and 36(8) apply, mutatis mutandis, to elections conducted in accordance with this rule.

### **38 - ELECTION OF BRANCH EXECUTIVE**

- (1) Apart from the election of the Branch Secretary and the Branch Deputy Secretaries, members of the Branch Executive shall be elected annually by and from the members of the Branch Council.
- (2) Subject to Federal Branch Rule 38(10)(b) a Branch Professional Officer, who is deemed to be on leave from the Branch Council in accordance with Rule 26(6) shall not be entitled to nominate and vote in Branch Executive elections.

- (3) Nominations for the position of Branch Executive member shall, in years following elections of representatives to the nomination to Branch Council, shall open 10 days after the election of representatives of the Branch Council have been declared and, in other years, nominations shall open at the final Branch Council meeting of each year, and close no later than a date 10 days prior to the first regular Branch Council meeting of the year.
- (4) The Branch Returning Officer shall call for nominations by sending Branch Councillors, or Branch Councillors Elect, as the case may be, a notice specifying the positions to be filled, date of the opening of nominations and the date of the closing of nominations.
- (5) A nomination for election to Branch Executive position shall be made in writing, be signed by at least 2 financial members of the Branch Council, and bear the written consent of the nominee.
- (6) The order and seniority of election for Branch Executive members shall be:
  - (a) The 4 Branch Vice Presidents;
  - (b) The 2 Branch Custodians;
  - (c) One member of the Branch Council who is a representative of members on the ATSI Members' Roll; and
  - (d) 8 Association Representatives on the Branch Council.
- (7) In Branch Executive elections, a Branch Councillor may nominate for more than one office provided that a candidate who has nominated for more than one office is to be excluded from any uncounted ballots following the candidate's election to an office.
  - (a) If a candidate elected in a higher ranked ballot has nominated for more than one office then their name will be omitted from the ballot paper by the Returning Officer before any voting takes place in any subsequent ballot on the day
- (8) Where in an election for the position of Vice President, the number of candidates does not exceed the number of positions, such candidates shall be declared elected, provided that a ballot shall be conducted to determine the order of seniority of the Vice Presidents.
- (9)
  - (a) Branch Secretary and Branch Deputy Secretary elections shall be conducted in the second half of each third calendar year commencing in 2015.
  - (b) The Branch Secretary and Deputy Branch Secretaries shall take office on the first school day in the year following their election and hold office for 3 years or until the successors take office.
- (10)
  - (a) Subject to this sub-rule, the provisions of this Rule relating to Branch Executive elections shall apply mutatis mutandis to elections for the Branch Secretary and the Branch Deputy Secretaries.
  - (b) A Branch Professional Officer who is deemed to be on leave as a member of the Branch Council in accordance with Rule 26(6) and a person who holds office as Branch Secretary or Branch Deputy Secretary, may nominate in and vote in elections for Branch Secretary and Branch Deputy Secretary.
  - (c) Nominations for the positions of Branch Secretary and Branch Deputy Secretary shall open no later than 6 weeks prior to the Branch Council meeting designated by the Branch Returning Officer for the conduct of the election and close no later than a date 10 days prior to designated meeting.

- (11) (a) Subject to paragraph (b), a casual vacancy in a position referred to in this rule shall be filled by a secret ballot by and from the members of the Branch Council which shall be conducted as soon as practicable following the occurrence of the vacancy.
- (b) Where the unexpired portion of the term of the position in which the casual vacancy occurs does not exceed one half of the term of the position, the Branch Council may appoint a financial member of the Branch to fill the position.
- (c) The person elected, or appointed, to fill a casual vacancy shall take office from the declaration of his or her election or on his or her appointment and hold office until the expiration of the term of the person replaced or until a successor takes office.
- (d) Where an election is to be conducted to fill a casual vacancy in a position of Branch Secretary or Deputy Branch Secretary, the Branch Executive may appoint a financial member of the Branch to fill the position until an election is conducted and the successful candidate is declared elected.

### **39 - ELECTION OF FEDERAL DELEGATES**

- (1) This rule is subject to rule 30 of the Federal Rules.
- (2) The Branch Returning Officer shall conduct an election of Federal Delegates to Federal Conference each two years or at such earlier time as the Federal Returning Officer shall notify him/her as is necessary for filling a casual or extraordinary vacancy or increased entitlement pursuant to Rule 24 of the Federal Rules.
- (3) The Branch Returning Officer shall:
  - (a) call for nominations for election of Federal Delegates at least 14 days prior to the date on which nominations close and at least 30 days before the date fixed for the election by placing a notice in a printed or electronic publication of the Branch, provided that the publication in question is circulated to all members of the Branch; and
  - (b) fix the place at which and the date and time on which nominations close and the dates between which the ballot, if any, shall be conducted.
- (4) Nominations shall be in writing and shall be signed by the person accepting the nomination and two financial members of the Branch proposing him or her.

### **40 - ELECTION OF FEMALE FEDERAL DELEGATES**

- (1) This Rule shall operate for all elections for Federal Delegates to Federal Conference.
- (2) This Rule shall operate in conjunction with other Federal Branch Rules relating to the election of Federal Delegates to Federal Conference provided that where there is any inconsistency, this Rule shall prevail over any inconsistent provision in any other Rule.

- (3) In addition to any other information required to be set out in the notification of the calling of nominations for the election of Federal Delegates to Federal Conference, the notification shall include the following additional information:
  - (a) the number of Federal Delegates to be elected and the number of female delegates to be elected; and
  - (b) advice that, if the number of female candidates is less than the number of female delegates to be elected, the remaining position or positions in question will be filled by a male candidate or candidates.
- (4) In addition to any other information required to be set out on ballot papers for Federal Delegates, the ballot paper shall include the following additional information:
  - (c) the candidates full names and, in accordance with the candidate's preference, the title Mr, Mrs, Ms or Miss; and
  - (d) the number of Federal Delegates to be elected and the number of female Federal Delegates to be elected.
- (5) The Branch Returning Officer shall having determined the validity of the nominations received, determine in accordance with this Sub-Rule whether it is necessary to conduct a ballot.
- (6) The Branch Returning Officer shall conduct a ballot for all positions if the number of candidates for Federal Delegate positions exceeds the number of Federal Delegate positions to be filled.
- (7) The Branch Returning Officer shall conduct a ballot for remaining positions with the Branch Returning Officer has ascertained that the number of nominations from female candidates is less than or equal to the number of positions for female Federal Delegates and the number of male candidates is more than the number of remaining positions.
- (8) The Branch Returning Officer shall conduct a ballot -
  - (a) for all positions - where the number of candidates for Federal Delegate positions exceeds the number of Federal Delegate positions to be filled; or
  - (b) for remaining positions - where the Branch Returning Officer has ascertained that the number of nominations for female candidates is less than or equal to the number of positions for female Federal Delegates and the number of male candidates is more than the number of remaining positions.
- (9)
  - (a) This Sub-Rule applies to the counting of votes where it is necessary to conduct an election to fill Federal Delegate positions required by this Rule to be filled by female candidates.
  - (b) The Branch Returning Officer shall count the votes and allocate preferences in accordance with the procedure set out in Rule 34 and determine whether the minimum number of female Federal Delegates have been elected in accordance with this Rule.
  - (c) If the minimum number of female Delegates have been elected in accordance with this Rule, the Branch Returning Officer shall declare all the successful candidates elected.



- (d) In the event that the minimum number of female Federal Delegates have not been elected, the Branch Returning Officer shall:
  - (i) eliminate such male candidate or candidates as are necessary to allow the election of the minimum number of female delegates. The male candidate or candidates to be eliminated shall be the last candidate or candidates elected during the counting of the votes and the allocation of preferences referred to in sub-rule (9)(b); and
  - (ii) declare elected the female candidate or candidates last eliminated in counting of the votes and the allocation of preferences during the counting of the votes and the allocation of preferences referred to in sub-rule (9)(b).

#### **41 - ELECTION OF FEDERAL EXECUTIVE MEMBERS**

- (1) The Branch Council shall, by a secret ballot at its first meeting following the election of Branch Council members, elect the number of Federal Executive members provided for in the Federal Rule 35.
- (2) Federal Executive Members elected in accordance with this rule shall take office on 1 March following his or her election and hold office for 2 years or until his or her successor takes office.
- (3) Nominations for the positions of the Branch Federal Executive members shall:
  - (a) be called by the Branch Returning Officer in a notice sent to all members of the Branch Council. The notice shall specify the date of the opening of the nominations, the closing date of the nominations which shall be a date not later than 12 noon on a day which is 10 days before the date of the Branch Council meeting at which the election will be conducted and provide that nominations should be open for at least 14 days;
  - (b) be in writing, signed by the nominee and two nominators all of whom shall be members of the Branch Council; and
  - (c) be delivered to the Branch Returning Officer prior to the time and date of the closing of nominations.
- (4) In the event of a casual vacancy arising in the position of Branch Federal Executive member, the casual vacancy shall be filled in accordance with the Federal Rules.

#### **42 - CONDUCT OF ELECTION FOR NATIONAL TAFE COUNCIL DELEGATES AND TAFE COUNCIL EXECUTIVE MEMBERS**

- (1) National TAFE Council Delegates and TAFE Council Executive Members are elected by and from members of the Branch assigned to the TAFE Division. Subject to sub-rule (3), the provisions of Branch Rule 31 shall apply mutatis mutandis to the election of National TAFE Council Delegate and TAFE Council Executive Members.
- (2) A National TAFE Council delegate and TAFE Council Executive member elected in accordance with this Rule shall take office on 1 January following his or her election and hold office for 2 years or until his or her successor takes office.

- (3) The election of National TAFE Council Delegates and TAFE Council Executive Members shall be conducted in the following manner:-
  - (a) The elections for the National TAFE Council Delegates and TAFE Council Executive Members shall be simultaneously conducted;
  - (b) Persons eligible to nominate may nominate for both the position of National TAFE Council Delegate and TAFE Council Executive Member;
  - (c) The votes for the position of TAFE Council Executive Member shall be counted first and the successful candidate determined;
  - (d) Where a successful candidate has been determined in accordance with the previous paragraph, the successful candidate shall be eliminated from the election for the National TAFE Council Delegate position and the second and subsequent preference votes cast for the person shall be allocated as first and subsequent preference votes for the remaining candidates.
- (4) Nominations for the positions of National TAFE Council delegates and TAFE Council Executive members shall:
  - (a) be called by the Branch Returning Officer, in a notice sent to all members of the Branch in the TAFE Division. The notice shall specify the date of the opening of the nominations, and the closing date of the nominations and provide nominations shall be open for at least 14 days;
  - (b) be in writing, signed by the nominee and two nominators all of whom shall be TAFE Division members of the Branch; and
  - (c) be delivered to the Branch Returning Officer prior to the time and the date of the closing of nominations. Nominations can be made by hand, post, facsimile or other electronic means.
- (5) National TAFE Council Delegates and TAFE Executive members take office on 1 January following their election and cease to hold office on 31 December in the following year provided that where there is a delay in the completion of the ballot, the outgoing Delegates shall hold office until their successors are elected and their successors shall hold office until the next normal election of National TAFE Council Delegates and TAFE Executive members.

#### **43 - ELECTION OF NATIONAL YALUKIT YULENDJ MEMBERS REPRESENTING THE GENERAL DIVISION AND TAFE DIVISION**

- (1)
  - (a) This Rule is subject to Federal Rule 73 and 74.
  - (b) A reference to “Yalukit Yulendj” is a reference to the National Aboriginal and Torres Strait Islander Education Committee.
- (2) The Branch Returning Officer will conduct an election for one National Yalukit Yulendj (General Division) member and one national Yalukit Yulendj (TAFE Division) member:
  - (a) each 2 years at the same time as the scheduled election of Federal Conference delegates or, in any event, according to a time table which permits the declaration of the election on or before 30 November in the year prior to taking office; or
  - (b) at such time as shall be notified by the Federal Returning Officer to the Branch Returning Officer as is necessary for filling a casual vacancy.

- (3) The National Yalukit Yulendj (General Division) member shall be elected by and from General Division members on the ATSI Members' Roll.
- (4) National Yalukit Yulendj (TAFE Division) member shall be elected by and from TAFE Division members on the ATSI Members' Roll.
- (5) Elections conducted for the purposes of this Rule shall be conducted in accordance with the rules for conducting elections for Federal Conference Delegates provided that nominators, nominees and electors must be members on the ATSI Members' Roll.

#### **44 - ELECTION OF NATIONAL PRINCIPAL COMMITTEE (GENERAL DIVISION) MEMBER**

- (1) This Rule is subject to Federal Rule 75.
- (2) The Branch Returning Officer shall conduct an election for one National Principal Committee (General Division) member:
  - (a) each 2 years at the same time as the scheduled election of Federal Conference delegates or, in any event, according to a time table which permits the declaration of the election on or before 30 November in the year prior to taking office; or
  - (b) at such time as shall be notified by the Federal Returning Officer to the Branch Returning Officer as is necessary for filling a casual vacancy.
- (3) The National Principal Committee (General Division) member shall be elected by and from members of the Branch in the General Division. The election shall be conducted in accordance with Rules for conducting elections for Federal Conference Delegates except that the nominee and the nominators must be current principals.

### **SECTION 5 – FINANCIAL MANAGEMENT**

#### **45 - BRANCH FUND**

There shall be a Branch Fund which shall consist of:-

- (a) any real or personal property of which the Branch Executive by the Rules or by any established practice not inconsistent with the Rules, has or in the absence of any limited term lease, bailment, or arrangement, would have, the right of custody, control or management;
- (b) any interest, rents, dividends or other income derived from the investment or use of the Branch Fund;
- (c) any superannuation or long service leave or other fund operated or controlled in accordance with the Rules relating to the Union for the benefit of the officers or employees of the Branch;
- (d) any sick pay fund, accident pay fund, general fund, or like fund operated in accordance with these Rules for the benefit of the members attached to the Branch;
- (e) any property acquired wholly or mainly by expenditure of monies of the Branch Fund or derived from the assets of the Branch Fund; or
- (f) the proceeds of any disposal of parts of the Branch Fund.

#### **46 - APPLICATION OF FUNDS**

- (1) Subject to sub-rule 2, the funds of the Branch may be applied and used for, or in connection with, any lawful object or purpose authorised by these rules.
- (2) Without limiting the generality of sub-rule 1, the funds of the Branch may be used to promote public education through political campaigns to provided that no donations or other payments shall be made in support of particular candidates or political parties in elections to parliament.
- (3) The funds of the Branch may be obtained from contributions, levies and fines determined in accordance with these Rules together with borrowings, profits from investments and any other lawful activity authorised by these Rules.

#### **47 - MANAGEMENT OF BRANCH FUNDS**

The Branch Executive shall manage the funds of the Branch and shall approve the application thereof.

#### **48 - EXECUTION OF DOCUMENTS AND BRANCH SEAL**

- (1) All documents required to be executed on behalf of the Branch shall be executed by the Branch Secretary.
- (2) There shall be a seal of the Branch which will bear the words: “Seal of the Australian Education Union New South Wales Teachers Federation (NSWTF) Branch”.
- (3) The seal of the Branch shall be affixed to a document only in the presence of the Branch Secretary and at least two members of the Branch Executive who by their signatures, attest to the act of the affixing of the seal.
- (4) The affixing the common seal of the Branch maybe authorised by the Branch Executive and the affixing of the common seal to a document in accordance with this Rule shall, for the purposes of any transaction referred to in the document involving property which forms part of the Branch fund, be sufficient to give effect to the transaction on behalf of the Union.
- (5) Where the Branch Council or Branch Executive authorises the affixing of the common seal the Minutes shall record that the affixing of the common seal was authorised.

#### **49 - EXPENDITURE OF FUNDS**

- (1) All expenditure made by or on behalf of the Branch shall be authorised in accordance with these rules.
- (2) An expenditure of funds may be made by cheque or by a bank facility for transferring funds electronically.
- (3)
  - (a) Where the payment is made by cheque, the cheque shall be signed by any two of the following persons: the Branch Secretary, a Branch Deputy Secretary, a Custodian or another member of the Branch Executive authorised to do so.
  - (b) Where the Branch has a facility with a bank for making payments by electronic means, the Branch Executive may authorise the use of that facility provided that any payment is first authorised by any two of the following persons – Branch Secretary, a Branch Deputy Secretary, a Custodian or another member of the Branch Executive authorised to do so and the payment is separately activated by two persons holding the positions referred to in this sub-rule.

## 50 - LOANS, GRANTS AND DONATIONS

No loan, grant or donation for an amount exceeding \$1,000.00 shall be paid unless the Branch Executive has:

- (a) satisfied itself;
  - (i) that the making of the loan, grant or donation would be in accordance with the Federal Branch Rules; and
  - (ii) in the case of a loan - that, in the circumstances, the security proposed to be given for the repayment of the loan is adequate and the proposed arrangements for the repayment of the loan are satisfactory; and
- (b) approved the making of the loan, grant or donation.

## 51 - BRANCH AUDITOR

- (1) The Branch Council shall, at the commencement of each financial year, appoint an auditor who is competent to be an auditor in accordance with the requirements of the FW (RO) Act.
- (2) Unless determined otherwise, the financial year for the Branch shall commence on 1 January in each year and end on 31 December in that year.
- (3) The auditor shall perform all the duties required to be performed by an auditor pursuant to the provisions of the FW (RO) Act.
- (4) The Auditor shall:
  - (a) audit the records of the Branch at least annually; and
  - (b) immediately report to the Branch Executive any irregularities that may come under his or her notice.
- (5) The Branch Executive may request the auditor to inspect and audit the financial and accounting records of the Branch, or a sub-branch, or an association and make a report of that inspection and audit to the Branch Executive, as the case may be.
- (6) The auditor, in undertaking his or her duties under this Rule, shall have access to all books, papers, deeds, documents and financial and accounting records and be entitled to address questions to any officer or employee of the Branch, or Association and obtain from any bank or other financial institution at which the funds of the Branch, or an Association are deposited or invested and such other information as may be required.
- (7) In addition to the powers set out in the previous sub-rules, the auditor may place before the Branch Executive any suggestion the auditor may wish to make concerning the financial affairs of the Branch
- (8) The financial records of the Branch shall be closed for the purpose of the annual audit on 31 December each year. The balance sheet and statement of income and expenditure for the previous year shall be presented to the Branch Council at its March meeting in each year.

## **52 - BRANCH POLICIES AND PROCEDURES**

The Branch Executive shall develop and implement policies and procedures relating to the expenditure of the Branch.

### **53 - DISCLOSURE OF OFFICER'S MATERIAL PERSONAL INTERESTS**

- (1) Each Officer of the Branch shall disclose to the Branch any material personal interest in a matter that:
  - (a) the officer has or acquires; or
  - (b) a relative of the officer has or acquires; that relates to the affairs of the Branch.
- (2) The disclosure required by sub-rule (1) shall be made to the Branch:
  - (a) as soon as practicable after the interest is acquired; and
  - (b) in writing.
- (3) The Branch shall disclose to the members of the Branch any interests disclosed to the Branch pursuant to sub-rule (1).
- (4) For the purposes of sub-rule (3), the disclosures shall be made:
  - (a) in relation to each financial year;
  - (b) within six months after the end of the financial year; and
  - (c) in writing.

### **54 - DISCLOSURE BY BRANCH OFFICERS OF REMUNERATION AND NON CASH BENEFITS**

- (1) Each officer of the Branch shall disclose to the Branch any remuneration paid to the officer:
  - (a) because the officer is a member of a board, if:
    - (i) the officer is a member of the board only because the officer is an officer of the Branch; or
    - (ii) the officer was nominated for the position as a member of the board by the, Federal Union, Union, Branch or a peak council; or
  - (b) by any related party of the Branch in connection with the performance of the officers' duties as an officer.
- (2) The disclosure required by sub-rule (1) shall be made to the Branch:
  - (a) as soon as practicable after the remuneration is paid to the officer; and
  - (b) in writing

- (3) The Branch shall disclose to the members of the Branch:
- (a) the identity of the officers who are the two highest paid in terms of relevant remuneration for the disclosure period, and
  - (b) for those officers:
    - (i) the actual amount of the officers' relevant remuneration for the disclosure period; and
    - (ii) either the value of the officers' relevant non-cash benefits, or the form of the officers' relevant non-cash benefits, for the disclosure period
- (4) For the purpose of sub-rule (3), the disclosure shall be made:
- (a) in relation to each financial year;
  - (b) within six months after the end of the financial year; and
  - (c) in writing.

**55 - DISCLOSURE BY BRANCH OF PAYMENTS**

- (1) The Branch shall disclose to the members of the Branch either:
- (a) Each payment made by the Branch, during the disclosure period:
    - (i) to a related party of the Branch; or
    - (ii) to a declared person or body of the Branch; or
  - (b) the total of the payments made by the Branch, during the disclosure period:
    - (i) to each related party of the Branch; or
    - (ii) to each declared person or body of the Branch.
- (2) Sub-rule (1) does not apply to a payment made to a related party if:
- (a) the payment consists of amounts deducted by the Branch from remuneration payable to officers or employees of the Branch; or
  - (b) the related party is an officer of the Branch, and the payment:
    - (i) consists of remuneration paid to the officer by the Branch; or
    - (ii) is reimbursement for expenses reasonably incurred by the officer in performing the officer's duties as an officer.

- (3) For the purposes of sub-rule (1), the disclosure shall be made:
  - (a) in relation to each financial year;
  - (b) within six months after the end of the financial year; and
  - (c) in writing.

## **56 - TRAINING**

Each person who holds an office in the Branch with duties which include or relate to the financial management of the Branch must undertake training:

- (a) approved by the General Manager of the Fair Work Commission under section 154C of the FW (RO) Act;
- (b) that covers each of the person's financial duties; and
- (c) the training must be completed within 6 months of the person taking up the office.

## **SECTION 6 – ASSOCIATIONS**

### **57 - FORMATION AND DISSOLUTION OF ASSOCIATIONS**

- (1) The Branch Council may authorise the formation of new regional associations, the dissolution of regional associations, the amalgamation of a regional association or adjustments to the boundaries of regional associations.
- (2) A decision of the Branch Council in accordance with this rule shall operate from 1 January in the following year unless the Branch Council, by a vote of not less than 3/5ths of the members present determines otherwise.
- (3) The Branch Council shall not establish a new association unless it is satisfied that the association will have at least 15 financial members.
- (4) If the membership of an association falls below 15 financial members, the Branch Council may dissolve the association, or amalgamate it with another association or adjust the boundaries of another association to include the members of the association which has been dissolved.
- (5) Where the Branch Council has made a decision to dissolve an association:
  - (a) The Branch Secretary shall, as soon as possible, reallocate the members to an appropriate association; and
  - (b) The Branch Executive shall distribute the assets of the dissolved association to appropriate associations having regard to reallocation of members.

## **58 - GOVERNMENT OF ASSOCIATIONS**

- (a) Associations shall adopt, and operate in accordance with, a set of rules.
- (b) For the purposes of this rule, the Branch Council shall adopt a model set of association rules.



- (c) An association, in adopting a set of rules, or in altering its rules, shall have regard to the model association rules adopted by the Branch Council, and any directions given by the Branch Council and the content of these Rules.
- (d) An association shall, in addition to operating in accordance with its rules, abide by decisions and policies for the Branch Conference, Branch Council and Branch Executive.

### **59 - HONORARY LIFE MEMBERS OF ASSOCIATIONS**

- (1) Associations may admit to Honorary Life Membership of the association persons who have rendered valuable service to the association. Admission to Honorary Life Membership of an association shall in the case of a Regional association be by resolution of a General Meeting of the association or in the case of a State-wide association by resolution on notice at its State Council meeting.
- (2) Where a person is admitted to Honorary Life Membership of an association, the Branch Secretary shall be informed within 28 days.
- (3) A person admitted to Honorary Life Membership of an association is not exempted from the payment of any fees, levies or fines set in accordance with these rules.

### **60 - POWERS OF ASSOCIATIONS**

Associations may co-operate with other organisations in the holding of public meetings or conferences. Delegates and representatives to, or at, any such meetings or conferences shall act in conformity with Branch policy as determined by these rules and the decisions of Branch Conference, Branch Council and Branch Executive and shall oppose resolutions which conflict with such policy.

### **61 - CORRESPONDENCE BETWEEN ASSOCIATIONS**

Should any association propose to send material dealing with matters of Branch policy to any other association, it shall forward a copy of all material to be circulated to the Branch Secretary. Upon receiving the material the Branch Secretary shall acknowledge the receipt thereof within seven days. The association secretary shall not without the prior approval of the Branch Secretary post the material to other associations until seven days after the date on the Branch Secretary's acknowledgment.

### **62 - PAYMENTS TO ASSOCIATIONS**

- (1) The Branch Executive provide for the payment of funds to associations on an annual basis. The payment to associations in any year shall consist of:
  - (a) a fixed amount for each association being not less than \$100 together with,
  - (b) amounts calculated by multiplying such amounts as Branch Executive may consider appropriate for each Association by the number of financial members of the association at 31 December in the previous year. The Branch Executive may fix different per capita amounts for regional and state-wide associations, but all regional associations shall receive the same per capita amount.

- (2) (a) Associations shall, within three months of the end of each calendar year, provide the Branch Secretary with a financial statement providing details of the income, expenses, assets and liabilities of the association as at 31 December.
- (b) The Branch Secretary shall ensure that no allocation of funds is made to an association unless and until the financial statements for the previous calendar year have been provided and the Branch Secretary is reasonably satisfied that the financial statements reflect the true financial position of the association.
- (c) In the event that financial statements, required to be provided by an association under this sub-rule, have not been provided by 31 December in the following year, that association shall forfeit its rights to receive any monies in accordance with this rule for the calendar year following the year in respect of which financial statements have not been provided.

### **63 - EXPENDITURE OF ASSOCIATION FUNDS**

- (1) The funds of an association may only be applied to further the objects of the Union and the expenses of its operation and management.
- (2) The Branch Executive shall from time to time adopt guidelines for the expenditure of association funds. Associations may expend funds only in accordance with such guidelines.
- (3) Associations shall not make any loan, grant or donation from their funds without having first obtained the approval of the Branch Executive.
- (4) Associations shall not make any donation or other payment from their funds for political objects.

## **SECTION 7 – MISCELLANEOUS**

### **64 - ALTERATION OF BRANCH RULES**

- (1) Federal Branch rules may be added to, amended, rescinded or new rules made in accordance with this rule.
- (2) In the event that the Branch Conference exercises its powers in accordance with this rule, the proposed rule change must be submitted as an agenda item 28 days before the Annual Branch Conference or Special Branch Conference and be forwarded with the Agenda paper for the meeting to each Conference member 14 days before the Branch Conference meeting.
- (3) In the event that the Branch Council exercises its powers in accordance with this rule:
  - (a) the Branch Secretary shall give notice of the proposed amendment to each association and all members of the Branch Council not less than 14 days prior to the meeting at which the proposal is to be considered; and
  - (b) the proposal must be adopted by a vote of not less than 3/5ths of the Branch Council Members present.

### **65 - RESIGNATION AND REMOVAL FROM OFFICE**

- (1) A person may resign from any office within the Branch by giving notice in writing to the Branch Secretary.
- (2) No person shall be eligible to hold or continue to hold any office within the Branch if such person ceases to be a financial member of the Union.

- (3) The Branch Council may, by resolution of a majority of two thirds of the votes able to be cast by those present at a meeting:
  - (a) suspend or remove any person from any office within the Branch who has ceased, according to the Rules, to be eligible to hold or continue to hold his or her office;
  - (b) reprimand, impose a fine not exceeding \$100.00, suspend from office for a period not exceeding 6 months, or remove any person elected to any office within the Branch if that person has been found guilty of:
    - (i) misappropriation of the funds of the Union;
    - (ii) a substantial breach of the Union's rules;
    - (iii) gross misbehaviour in relation to their office; or
    - (iv) gross neglect of duty.
- (4) The Branch Council shall hear and determine matters arising under this rule as soon as practicable after an allegation is received by the Branch President or the Branch Secretary provided that the person against whom the allegations have been made is given notice in accordance with sub-rule (5) 14 days prior to the meeting of Branch Council.
- (5)
  - (a) A person shall not be dealt with under this rule unless that person has been given notice of:
    - (i) the allegations made against him or her;
    - (ii) particulars of the evidence on which the allegations are based; and
    - (iii) the time, date and place at which the Branch Council will consider the allegations.
  - (c) A notice in accordance with this sub-rule shall be signed by the Branch President or the Branch Secretary, have attached to it a copy of this rule and shall be delivered personally to the person concerned or posted by Registered Post to his or her last known address.
- (6) At the meeting of the Branch Council, referred to in the previous sub-rule, the person concerned shall be given the opportunity to be heard by the meeting of the Branch Council personally, through another member or in writing.
- (7) In the event that a complaint has been made against a Presidential Officer or the Branch Secretary or a Deputy Branch Secretary, the Branch Executive may suspend the holder of that office pending a meeting of the Branch Council to deal with the complaint and make any necessary appointment(s) to fill the position during the period of the suspension.
- (8) In the event that a person, who is charged in accordance with this rule, fails to appear at the hearing and fails to provide a satisfactory explanation for his or her non attendance, the Branch Council may proceed with the hearing of the charge in his or her absence provided that it is first satisfied that the person has received notice in accordance with sub rule (5).
- (9) Notwithstanding the preceding sub-rules, the Branch Executive may, by a resolution of a majority of two-thirds of the votes able to be cast by those present at a meeting, suspend or remove any person from any office within the Branch who has ceased, according to the rules, to be eligible to hold or continue to hold his or her office. Sub-rules (4), (5) and (6) and (7) shall apply mutatis mutandis to any action taken under this sub-rule.

**66 - OFFENCES BY BRANCH MEMBERS**

- (1) Subject to Federal Rule 13, the Branch Executive may, or shall at the request of the Branch Secretary where the Branch Secretary has submitted to the Branch Executive a prima facie case against a member, by summons, in writing call upon any member the Branch Executive or the Branch Secretary alleges is committing or has within the preceding 12 months committed, an offence against these Rules to show cause why he or she should not be reprimanded, fined or expelled from the Union.
- (2) The summons shall:-
  - (a) state the allegation together with the particulars thereof;
  - (b) disclose the evidence on which the allegation is based;
  - (c) be signed by the Branch President or Branch Secretary;
  - (d) state the time, date and place at which the member is to show cause;
  - (e) be delivered personally to the member concerned or posted by registered or certified mail to his or her last known address at least 21 days before the meeting at which the matter is to be determined; and
  - (f) have attached to it a copy of this rule.
- (3) If a member against whom an allegation is made fails to appear at the hearing and fails to provide a satisfactory explanation for his or her non-attendance, the Branch Executive may proceed with the hearing of the allegation in his or her absence provided it is first satisfied that notice of the hearing in accordance with this rule has been served on him or her.
- (4) The evidence relating to the alleged offence shall be heard by the Branch Executive or by a committee of members thereof appointed for that purpose and consisting of not less than 3 of its members and the member concerned shall be heard in his or her defence either personally or in writing.
- (5) If the evidence relating to the offence is heard by a committee, that committee shall report its finding to the Branch Executive together with a recommendation as to penalty if any.
- (6) If, in the opinion of the Branch Executive, the member is guilty of the offence as alleged, the Branch Executive may reprimand him or her, fine him or her a sum not exceeding \$100.00 for any one offence or suspend him or her for a period not exceeding 12 months or expel him or her from the Union.
- (7) The Branch Secretary shall promptly inform the member by registered letter of the decision of the Branch Executive. In the event of expulsion, the expulsion shall become effective 14 days after the date of posting such letter and in the event of a fine being imposed, the fine, subject to sub-rule (8) hereof, shall become payable immediately.
- (8) A member who is found guilty of an offence by the Branch Executive shall have a right of appeal to the next Branch Council meeting against such finding and/or any penalty imposed by the Branch Executive provided that he or she submits such appeal to the Branch Secretary in writing not more than 14 days after the date of posting the letter informing him or her of the decision of the Branch Executive and, pending the determination of any such appeal, the finding and/or penalty shall not become effective. The Branch Council's determination of the appeal shall be final.

- (9) Any member expelled pursuant to this rule shall not be readmitted to membership except by vote of the Branch Council.

### **67 - GENERAL MEETING OF BRANCH MEMBERS**

- (1) General meetings of Branch members may be convened to consider:
- (a) Decisions of the Branch Conference, Branch Council or Branch Executive; or
  - (b) The Auditor's Report, the General Purpose Financial Report and the Operating Report.
- (2) A General meeting of Branch members shall be convened by the Branch Secretary:
- (a) If he or she is directed to do so by the Branch Executive; or
  - (b) On receipt of a petition of not less than 5% of the members of the Branch calling for a General meeting to consider a decision of the Branch Conference, Branch Council or Branch Executive, or to consider the Auditor's Report, the General Purpose Financial Report and the Operating Report.
- (3) The Branch Secretary shall, if directed to by the Branch Executive or on receipt of a petition, call a General meeting, or a series of General meetings within 30 days of receiving the direction from the Branch Executive or the petition, as the case may be.
- (4) The Branch Secretary shall determine the most effective way to conduct a General meeting having regard to the need to ensure that members of the Branch are able to participate in the General meeting and receive reports from Senior Officers of the Branch. To this end, the General meeting may consist of a series of General meetings conducted at different locations at different times to allow for the participation of Senior Officers in the General meetings.
- (5) Where the General meeting consists of a series of meetings the General Meeting will be taken to have occurred at the time of the last of the meetings in the series. A General Meeting may be conducted in person, by telephone or videoconference, or by a combination of these forms of meeting or communication, provided where the meeting is conducted other than by way of all of the participants being present in person such meeting is convened and conducted in accordance with the requirements of the Federal Branch Rules and each of the members participating in the meeting must be able to hear each of the other members present at the meeting.
- (6) The Branch Secretary shall call a General meeting or General meetings by placing a notice in a publication of the Branch distributed to all members 14 days prior to the General meeting or General meetings.
- (7) The Notice of a General meeting shall set out the business to be conducted and the times, dates and places where the General meeting or General meetings will be conducted.

### **68 - PLEBISCITE**

- (1) Where the Branch Council determines that any matter should be submitted for determination by a plebiscite of all the financial members attached to the Branch, the Branch Returning Officer shall submit the matter to a postal vote of all members whose names appear on the Branch membership register as at the date of the Branch Council's decision.

- (2) That plebiscite shall be conducted so far as practicable in accord with the provisions of Federal rule 29(4)(a), (b), (c), (d), 29(5), 29(6), and 29(7)(a) and (b).
- (3) The motion shall be carried and have the effect of a decision of the Branch Council provided that a majority of members vote in favour of the motion and that majority consists of not less than 25 percent of persons entitled to vote.

## **69 - WORKPLACE REPRESENTATIONS, WOMEN'S CONTACTS AND COMMITTEES**

- (1) Members employed in a school, department, sector or location may conduct meetings from time to time to deal with workplace matters.
- (2) The first workplace meeting in each school year shall elect:
  - (a) an AEU Representative;
  - (b) a Women's Contact who shall be a woman; and
  - (c) Workplace Committee members.
- (3) The Workplace Committee, which shall be comprised of the persons referred to in the previous sub-rule, shall deal with workplace matters on behalf of the AEU members.
- (4) The Women's Contact will keep members in the workplace informed of AEU policies affecting women.
- (5) The Branch Executive may suspend or remove the AEU Representative, the Women's Contact or a member of the Workplace Committee on the grounds that he or she has not complied with the rules or policies of the AEU.

## **SECTION 8 – TRANSITIONAL PROVISIONS**

### **70 - TRANSITIONAL RULE**

- (1) The purpose of this rule is to facilitate the reconstitution of the Australian Education Union New South Wales (NSW Branch) under new rules which replicate the rules of the New South Wales Teachers Federation and enable the deregistration of the Federation and the registration under the IR Act of the AEU as a federal organisation of employees.
- (2) In this rule:
  - (i) A reference to the "old rules" shall mean the Federal Branch rules for the New South Wales Branch as at 26 March 2014;
  - (ii) A reference to the "new rules", is a reference to the rules adopted by the Branch Council on 10 December 2014 to replace the old rules, and any amendment to those rules; and
  - (iii) A reference to the date of registration means the date of registration under the IR Act of the AEU as a Federal organisation of employees and the date of the deregistration of the Federation.

- (3) The new rules will come into operation on 1 January 2015, or the date of certification of the new rules by the Fair Work Commission whichever is later.
- (4) (a) On and from the date when the new rules come into operation there shall be:
- (i) An Interim Branch Council should be comprised of members of the Branch Council holding office under the old rules on the day preceding the date on which the new rules came into operation, and members of the Council of the NSWTF; and
- (ii) An Interim Branch Executive which shall be comprised of the members of the Branch Executive holding office under the old rules on the day preceding the date on which the new rules came into operation.
- (b) The Interim Branch Council shall operate until the completion of the first election for the Branch Council in accordance with sub-rule (6).
- (c) The Interim Branch Executive shall operate until the completion of first elections for members of the Branch Executive in accordance with sub-rule (7)
- (5) On and from the later of 1 January 2015 and the date of certification of the new rules by the Fair Work Commission, the persons holding the office in column 1 of Table A shall be deemed to hold the office referred to in column 2 until the date set out in column 3.

**Table A**

Column 1	Column 2	Column 3
Branch President, AEU	Branch President	First school day in 2016 following elections conducted in accordance with rule 35.
Branch Deputy President, AEU	Branch Deputy President	First school day in 2016 following elections conducted in accordance with rule 35.
Branch Senior Vice President, AEU	Branch Senior Vice President	First school day in 2016 following elections conducted in accordance with rule 35.
Branch Secretary, AEU	Branch Secretary	The first school day in 2016 following elections conducted in accordance with rule 38.
Branch Deputy Secretaries, AEU	Branch Deputy Secretaries	The first school day in 2016 following elections conducted in accordance with rule 38.
Branch Executive members	Branch Executive members	The day of the declaration of the elections for Branch Executive members conducted at a Branch council meeting in March 2015.
Branch Councillor, AEU	Association representatives on the Branch Council	The day on which association representatives to the Branch Council take office in 2017.
Representatives of associations or groups of associations on Council, NSWTF	Representatives of associations or groups of associations on Branch Council	The day of the declaration of first elections for representatives of associations or groups of associations on Branch Council
Representatives from the ATSI Members' Roll on Council, NSWTF	Representatives from the ATSI Members' Roll on Branch Council	The day of the declaration of first elections for representatives from the ATSI Members' roll on Branch Council.
Additional representatives of associations on Conference, NSWTF	Additional Representatives of associations on Branch Conference	The day of the declaration of first elections for additional representatives of associations on Branch Conference.

- (6) (a) The first election for:
- (i) Association representatives on Branch Council;
  - (ii) Alternative association representatives on Branch Council;
  - (iii) Representatives elected to Branch Council by and from members on the ATSI Members' Roll; and
  - (iv) additional association representatives and representatives elected by and from members on the ATSI Members' Roll on Branch Conference shall be conducted in accordance with rule 36 and 37, as the case may be, provided that the Returning Officer shall vary the dates for taking steps in the election to enable the election to be completed by 30 April 2015.
- (b) Representatives elected in accordance with this sub rule shall:
- (i) in the case of representatives on Branch Council, take up office at the first Branch Council meeting following their election and hold office until the first Branch Council meeting in 2017; and
  - (ii) in the case of additional representatives, take up office at the first Branch Conference meeting following their election.
- (c) For the purposes of first elections for representatives to the Branch Council, a Branch Councillor, elected under the old rules in Branch Council elections in 2014 shall continue to hold the office which they were elected to and, shall be deemed to be a member of the Branch Council representing the association or group of associations to which he or she has been allocated or members on the ATSI Members' Roll and shall hold that position until the first Branch Council meeting in 2017.
- (d) Where a person is deemed to be a representative on the Branch Council in accordance with this sub-rule, the entitlement of his or her association or group of associations or the entitlement of members on the ATSI Members' Roll, as the case may be, to representatives on Branch Council shall be reduced by one.
- (7) (a) The first elections for:
- (i) Branch Vice Presidents;
  - (ii) Branch Custodians;
  - (iii) Branch Executive members; and
  - (iv) The Branch Executive member representing members on the ATSI Members' Roll shall be conducted in accordance with rule 38 provided that the Returning Officer shall vary the dates for taking steps in the election so as to permit the election to be conducted at a Branch Council meeting in March 2015.
- (b) The first elections in accordance with this rule shall be conducted by and from members of the Interim Branch Council.
- (c) Persons elected in first elections under this sub rule shall hold office until elections are conducted for these positions in accordance with the timetable set out in rule 38.



- (8) On the date of registration, the Professional Officers of the Federation shall become Branch Professional Officers and continue to be employed for the balance of the terms of those positions on, subject to these Rules, the same remuneration and conditions of employment as they were employed under by the Federation.
  
- (9) (a) On the date of registration:
  - (i) All associations formed under the rules of the Federation, and in existence on 31 December 2014, will cease to exist under the rules of the Federation and become Associations for the purposes of the new rules.
  - (ii) All members of the Branch will be allocated to the Association which is the counterpart of the association which previously operated under the rules of the Federation.
  - (iii) All associate members of the Federation shall be deemed to be associate members of the Union.
  
- (b) If the date of registration occurs before the elections are conducted in accordance with this sub-rule, members will be allocated to associations in accordance with this rule for the purposes of conducting the elections.

### **New South Wales Registration**

- (1) The purpose of this rule is to facilitate the registration of the AEU under Chapter 5 of the IR Act.
- (2) Following the certification of the new rules by the Fair Work Commission, the Branch Council may direct that an application be made for registration under Chapter 5 of the IR Act and authorise the Branch officers to take all necessary steps to make the application and achieve registration.
- (3) On the date of registration, the assets of the Federation shall become the assets of the AEU and form part of the Branch fund of the New South Wales Teachers Federation (NSWTF) Branch.
- (4) Prior to the date of registration, the New South Wales Teachers Federation (NSWTF) Branch will enter into an amalgamation agreement with the Federation which will address the following issues:
  - (a) The transfer of employees from the Federation to the New South Wales Teachers Federation (NSWTF) Branch;
  - (b) The transfer of assets and liabilities from the Federation to the New South Wales Teachers Federation (NSWTF) Branch;
  - (c) Guarantee that members of the Federation will continue to be financial members of the New South Wales Teachers Federation (NSWTF) Branch provided that they continue to pay fees, subscriptions or levies formerly payable to the Federation to the New South Wales Teachers Federation (NSWTF) Branch;
  - (d) On a date following the de-registration of the Federation and the transfer of all assets and liabilities to the New South Wales Teachers Federation (NSWTF) Branch, the Council will, by resolution, determine that the Federation is dissolved.
- (5) On and from the date of registration, the AEU Branch Executive will be responsible for the giving effect to the terms of the amalgamation agreement provided that the Branch Council may, where it is lawful to do so, vary the agreement, where it is in the interests of the Branch to do so.

APPENDIX A

FEDERAL BRANCH RULES

FEDERAL BRANCH RULES IN RELATION TO THE TASMANIAN BRANCH

**FEDERAL BRANCH RULES**

RULE 1	ARRANGEMENT OF MEMBERSHIP
RULE 2	BRANCH MANAGEMENT
RULE 3	BRANCH COUNCIL
RULE 4	BRANCH COUNCIL AND BRANCH EXECUTIVE POWERS IN RELATION TO TAFE DIVISION AND SECTORS
RULE 5	COMPOSITION OF BRANCH COUNCIL
RULE 6	MEETINGS OF BRANCH COUNCIL
RULE 7	BRANCH EXECUTIVE
RULE 8	MEETINGS OF BRANCH EXECUTIVE
RULE 9	GENERAL MEETINGS OF THE BRANCH
RULE 10	PLEBISCITES OF MEMBERS
RULE 11	POWERS OF TAFE DIVISION COUNCIL (TDC), SECTOR COUNCILS AND THE SECONDARY COLLEGES COMMITTEE OF MANAGEMENT
RULE 12	COMPOSITION OF DEPARTMENT OF EDUCATION (DoE) SECTOR COUNCIL
RULE 13	COMPOSITION OF SUPPORT STAFF SECTOR COUNCIL
RULE 14	COMPOSITION OF TAFE DIVISION COUNCIL (TDC)
RULE 15	COMPOSITION OF SECONDARY COLLEGE COMMITTEE OF MANAGEMENT (SCCOM)
RULE 16	MEETINGS OF THE SCCOM
RULE 17	MEETINGS OF SECTOR COUNCILS
RULE 18	MEETINGS OF TAFE DIVISION COUNCIL (TDC)
RULE 19	SECTOR EXECUTIVES
RULE 20	TAFE DIVISION EXECUTIVE (TDE)
RULE 21	MEETINGS OF SECTOR AND TAFE DIVISION MEMBERS
RULE 22	SUB BRANCHES
RULE 23	BRANCH OFFICERS
RULE 24	STATE MANAGER
RULE 25	BRANCH EMPLOYEES
RULE 26	ALTERATION OF RULES
RULE 27	BRANCH FUND
RULE 28	BRANCH COMMON SEAL
RULE 29	INDUSTRIAL AGREEMENTS AND OTHER DOCUMENTS
RULE 30	OFFENCES BY Elected OFFICIALS
RULE 31	OFFENCES BY BRANCH MEMBERS
RULE 32	ELECTIONS - GENERAL PROVISIONS
RULE 33	ELECTIONS CODE OF CONDUCT
RULE 34	ELECTION OF NATIONAL ATSIEC MEMBERS REPRESENTING THE GENERAL DIVISION AND TAFE DIVISION
RULE 35	ELECTION OF NATIONAL EARLY CHILDHOOD COMMITTEE (GENERAL DIVISION) MEMBER RULE
RULE 36	ELECTION OF NATIONAL PRINCIPAL COMMITTEE (GENERAL DIVISION) MEMBER
RULE 37	ALTERNATE DELEGATES TO FEDERAL CONFERENCE (GENERAL DIVISION)
RULE 38	ELECTION BY A DIRECT VOTING SYSTEM
RULE 39	COLLEGIATE ELECTIONS

RULE 40	ELECTION OF WOMEN FEDERAL DELEGATES
RULE 41	CASUAL VACANCIES
RULE 42	REGISTERED OFFICE
RULE 43	IMPLEMENTATION RULE
RULE 44	TRANSITION RULE & AMALGAMATION AGREEMENT
RULE 45	FAIR WORK (REGISTERED ORGANISATIONS) AMENDMENT ACT 2012
SCHEDULE A	ELECTION COUNTING PROCEDURE
SCHEDULE B	LIST OF OFFICES FOR ELECTION IN ACCORDANCE WITH RULE 38 (15)
SCHEDULE C	MEMBER SUBSCRIPTIONS

**RULE 1 - ARRANGEMENT OF MEMBERSHIP**

- (1) (a) To facilitate articulation and liaison with the Union's Federal Structure and participation in its activities, the members shall be assigned to the Federal General Division or the Federal TAFE Division in accordance with Federal Rule 7 and this rule.
- (b) Members who work in the Department of Education, but excluding the TasTAFE and those members in the LINC whose work is incidental to the provision of Adult Education programs, shall be assigned to the Federal General Division
- (c) Members who work in either:-
- (i) TasTAFE; or
  - (ii) the LINC whose work is incidental to the provision of Adult Education programs, shall be assigned to the Federal TAFE Division.
- (d) Further, as provided for in Sub-Rule (2), members in the General Division will be assigned to a Sector.
- (2) (a) Members who are in the General Division shall be allocated to one of three Sectors:
- the DoE Sector
  - the Secondary Colleges Sector
  - the Support Staff Sector
- (b) DoE Sector members are those whose conditions of employment are regulated in part by the *Teaching Service (Tasmanian Public Sector) Award* and who are not based in a Secondary College. These members will be assigned to a sub-branch within one of the following regions:
- South;
  - North;
  - North West
- (c) (i) Secondary College Sector members are teacher members who are based in Don College, Hellyer college, Elizabeth College, Rosny College, Claremont College, Hobart College, Newstead College, Launceston College.
- (ii) Within the Secondary Colleges Sector, members will be assigned to a sub-branch.

- (d) (i) Support Staff Sector members are those in the General Division whose conditions of employment are not regulated by the Teaching Service (Tasmanian Public Sector) Award.
- (ii) Within the Support Staff Sector, members will be assigned to a sub-branch within one of the following regions;
- South;
  - North;
  - North West
- (e) (i) The TAFE Division will consist of those members who are members of the TAFE Division as provided for in sub-rule 1(1)(c).
- (ii) Within the TAFE Division members will be assigned to a sub-branch
- (3) In the event that there is a dispute as to the assignment of a member to a Division, Sector, Region or Sub-Branch, the State Manager or the member concerned may request the Branch Executive to determine the matter. The decision of the Branch Executive shall be binding on the member.
- (4) Where, as a result of action taken by the Tasmanian Government, changes are made in respect of the arrangement of Early Learning, Schools, Secondary Colleges, TasTAFE and other work places which affect the assignment of members to a Division or a Sector, the members concerned shall remain in the Division or Sector they were assigned to until the Branch Council amends, rescinds or makes new rules to reflect the new arrangements.
- (5) The Branch Council may amend, rescind or make new rules relating to a Sector or the TAFE Division within the Branch provided that where an amendment, rescission or new rule substantially affects the composition of a Sector or the TAFE Division or the powers of or composition of a body established to manage a Sector or the TAFE Division, the amendment, rescission or new rule must be supported by three-fifths of the total number of members of the Branch Council at the meeting and three-fifths of the Delegates to Branch Council at the meeting representing the TAFE Division or the Sector affected.
- (6) The previous sub-rule may only be amended, rescinded or its effect altered by a new rule if the amendment, rescission or new rule is supported by three-fifths of the total number of members of the Branch Council at the meeting and three-fifths of the Delegates to Branch Council at the meeting representing the TAFE Division or Sector affected.
- (7) (a) The Branch Council may, from time to time, establish new Sub-branches or abolish existing Sub-branches or amalgamate existing Sub-branches.
- (b) Without limiting the power of the Branch Council under paragraph (a) a Sector or the TAFE Division Council or the SCCOM may from time to time, establish new Sub-branches or abolish existing Sub-branches or amalgamate existing Sub-branches within that Sector or the TAFE Division.
- (8) The Branch Council may abolish existing Regions, establish new Regions or alter the boundaries of Regions.

- (9) Until the Branch Council determines otherwise, members of the Branch in the Department of Education and the Support Staff Sectors shall be allocated as follows:-
- (a) To the South Region where the telephone area code of the member's workplace is 03 62;
  - (b) To the North Region where the telephone area code of the member's workplace is 03 63; and
  - (c) To the North West Region where the telephone area code of the member's workplace is 03 64.

For the purposes of this sub-rule the Telephone area code boundaries shall be the boundaries that existed as at 1 July 2012.

### **RULE 2 - BRANCH MANAGEMENT**

Subject to the Federal Branch Rules, the affairs of the Branch shall be managed by the following bodies:-

- (a) The Branch Council;
- (b) The Branch Executive;
- (c) General Meetings of the Branch;
- (d) The TAFE Division Council and Executive (TDC and TDE)
- (e) Sector Councils;
- (f) Secondary College Committee of Management (SCCOM)
- (g) Sector Executives when established by a relevant Sector Council; and
- (h) Meetings of sub-branches.

### **RULE 3 - BRANCH COUNCIL**

- (1) The Branch Council shall be the supreme governing authority of the Branch.
- (2) The Branch Council shall, subject to these rules, have power to control and manage the business and affairs of the Branch. Without limiting the generality of this power, Branch Council shall have power to:-
  - (a) Develop policies for the advancement of the industrial and professional interests of members;
  - (b) Make, amend or rescind Federal Branch rules;
  - (c) Expend monies from the Branch Fund for any purpose required by these Federal Branch rules;
  - (d) Allocate monies from the Branch Fund;

RULE 4 - BRANCH COUNCIL AND BRANCH EXECUTIVE POWERS IN RELATION TO SECTORS AND TAFE DIVISION

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- (e) Appoint or remove a Returning Officer and an Assistant Returning Officer who shall not, during the term of their office be employees of or holders of any office in the Union or candidates at any election within the Union;
  - (f) Appoint or remove an auditor provided that the person appointed shall be an approved auditor under the Fair Work (Registered Organisations) Regulations 2009;
  - (g) Determine the entrance fees and subscriptions for members and persons eligible to be members of the Union and impose levies on such members.
  - (h) Submit industrial disputes to conciliation and arbitration under the *Industrial Relations Act 1984* (Tasmania) or, subject to the Federal Rules, submit industrial disputes to conciliation and arbitration in accordance with the Act;
  - (i) Seek and obtain or oppose the making of Awards by the Tasmanian Industrial Commission or, subject to the Federal Rules, *Fair Work Australia*;
  - (j) Subject to the Federal Rules, enter into industrial agreements;
  - (k) Make contributions for the financing of superannuation schemes or retirement funds for the benefit of the elected, appointed or employed officers or employees of the Union and to enter into such arrangements as made necessary for that purpose; and
  - (l) Do all things necessary or convenient to the exercise of the foregoing powers or any powers conferred by the Federal Rules or the Federal Branch Rules.
- (3) The Branch Council shall, in managing the business and affairs of the Branch, ensure that all members have, as far as is practicable, the same access to the services provided by the Branch regardless of their Division, Sector or geographic location.

**RULE 4 - BRANCH COUNCIL AND BRANCH EXECUTIVE POWERS IN RELATION TO SECTORS AND TAFE DIVISION**

- (1) Branch Council may in relation to a decision of a Sector Council or Sector Executive or the SCCOM or the TDC or the TDE:-
  - (a) Where the decision affects members outside the Sector or the TAFE Division - declare that the decision affects members outside the Sector or the TAFE Division and rescind, amend or affirm the decision; and
  - (b) In relation to any other decision, rescind or amend the decision provided that the majority in favour of amending or rescinding the decision includes a majority of Delegates representing the Sector or TAFE Division.
- (2) Branch Executive may in relation to a decision by a Sector Executive, the TDE or the SCCOM, which affects members outside the TAFE Division or the Sector, declare the decision affects members outside the TAFE Division or the Sector and rescind, amend or affirm the decision.



- (3) Where a matter, only affecting one Sector or the TAFE Division is being considered by Branch Council, which has not previously been dealt with by the Sector or the TAFE Division, Branch Council shall, if called upon by a majority of the Sector's or the TAFE Division's Delegates to Branch Council, either:-
  - (a) Defer a decision on the matter until the matter has been considered by the Sector's Council or Executive or the SCCOM or the TDC or the TDE; or
  - (b) Not implement the decision unless and until a meeting of the Sector's Council or Executive, the SCCOM or the TDC or the TDE has endorsed the decision.
- (3) Where a matter is referred to a Sector or the TAFE Division in accordance with this rule, the Branch Council may impose on the Sector Council or Sector Executive or the SCCOM or the TDC or the TDE a time limit in which to make a decision.
- (4) For the purposes of the previous sub-rule, the time limit in the case of a matter which is referred to in sub-rule (3) shall be not less than 4 weeks.
- (5) If a decision is not made within the time limit determined in accordance with sub-rule (3), Branch Council may determine the matter or implement the decision as the case may be.

**RULE 5 - COMPOSITION OF BRANCH COUNCIL**

- (1) The Branch Council shall consist of:-
  - (a) The Branch President who shall be elected by all members of the Branch;
  - (b) The following Branch Deputy Presidents:-
    - (i) The Deputy President - DoE Sector;
    - (ii) The Deputy President – Secondary Colleges Sector;
    - (iii) The Deputy President – TAFE Division; and
    - (vi) The Deputy President - Support Staff Sector.

Each Deputy President shall be elected by and from the members in the Sector or the TAFE Division.

- (c) The six Executive members of the Branch Executive.
- (d) A representative of Indigenous members who shall be elected by and from Indigenous Members of the Branch. For the purposes of this rule, Indigenous Members of the Branch are members who have informed the Branch in writing that they are an Aboriginal or Torres Strait Islander.
- (e) Delegates from each Sector or the TAFE Division determined in accordance with the sub-rule 5(2)(a).

(2) (a) The number of Delegates elected by and from each Sector or the TAFE Division shall be determined in accordance with the following formula:-

- Up to and including the first 100 members - 3 delegates.
- For each 100 members or part thereof in addition to the first 100 members, up to 800 members, an additional delegate.
- For each 150 members, or part thereof in addition to the first 800 members, an additional 1 delegate.

For the purposes of this sub-rule, in determining the number of members in a Sector or the TAFE Division, regard shall be had to the number of financial members attached to the Sector or the TAFE Division on 30 June prior to the opening of nominations.

(3) Delegates to Branch Council from each Sector or the TAFE Division will be:

(a) **In the case of the DoE Sector:** those elected by and from the DoE Sector members in each geographic Region

- (i) In each geographic Region sub-branches will be classified as Urban or Non-Urban. Of the Delegates elected from each region, at least two Delegates must be from Urban sub-branches and at least two Delegates from Non-Urban sub-branches, so long as sufficient Delegates have been nominated from either classification or sub-branch.
- (ii) The number of Delegates to be elected from each Region will coincide with the percentage of Department of Education members who work in each Region. In cases where the number of Delegates determined for a Region is not a whole number, the quotient will be rounded up to the next whole number when the fraction is 0.5 or higher.

PROVIDED THAT in cases where this would result in the election of a greater or lesser number of delegates than the formula in Rule 5(2) allows, the quotients for each Region will be adjusted as follows:

- Should the number of Delegates need to be increased the Region with the highest fraction will be increased by one Delegate; or
- Should the number of Delegates need to be decreased the Region with the lowest fraction will be decreased by one Delegate.

(b) **In the case of the Support Staff Sector:** those elected by and from the Support Staff Sector members in each geographic Region.

- (i) The number of Delegates to be elected from each Region will coincide with the percentage of Support Staff members who work in each Region. In cases where the number of delegates determined for a Region is not a whole number, the quotient will be rounded up to the next whole number when the fraction is 0.5 or higher.

## RULE 6 - MEETINGS OF BRANCH COUNCIL

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PROVIDED THAT in cases where this would result in the election of a greater or lesser number of Delegates than Rule 5(2) allows, the quotients for each Region will be adjusted as follows:

- Should the number of Delegates need to be increased the Region with the highest fraction will be increased by one Delegate; or
  - Should the number of Delegates need to be decreased the Region with the lowest fraction will be decreased by one Delegate.
- (c) In the case of the Secondary Colleges Sector and the TAFE Division those elected by and from the members of either the Division or Sector as the case may be.
- (4) Branch Council Delegates shall hold office for 3 years.
- (5) Branch Council Delegates shall, subject to these rules, hold office until their successors are elected and shall be eligible for re-election.
- (6) A Branch Council Delegate cannot concurrently be an employee of the Branch.

### **RULE 6 - MEETINGS OF BRANCH COUNCIL**

- (1) The Branch Council shall meet at least 4 times in each calendar year at such time and place as the Branch Executive or Branch Council may determine.
- (2) Each year there shall be a meeting of the Branch Council which shall be called the "Annual Branch Council Meeting" which shall be held in August or September or at such other time as may be determined by the Branch Council or the Branch Executive.
- (3) The State Manager shall prepare for each Branch Council meeting an agenda which shall be sent to all members of the Branch Council at their last nominated address at least 14 days prior to the meeting of the Branch Council.
- (4) Meetings of the Branch Council shall be convened:-
- (a) Whenever determined by the Branch Council or Branch Executive;
  - (b) Whenever the Branch President or a person acting in the position of Branch President determines that a Branch Council Meeting shall be convened; or
  - (c) Where by a notice in writing addressed to the State Manager signed by at least 10% of the members of the Branch Council requests that a meeting be convened.
- (5) A Sector Council/Executive or the SCCOM or the TDC/TDE may have a matter included on the agenda for the Branch Council by notifying the State Manager at least 21 days before the date of the Branch Council meeting provided that the Branch Executive may determine a later date for submission of matters to be included on the agenda.
- (6) The Branch Executive, the Branch President, the State Manager or a workplace Sub-branch may submit a matter for inclusion on the agenda for the Branch Council.

## RULE 7 - BRANCH EXECUTIVE

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- (7) A quorum for a meeting of Branch Council shall consist of three fifths of the members of the Branch Council provided that, where a person appoints a proxy, the person who appoints a proxy shall be counted in determining a quorum.
- (8) A member of Branch Council may appoint another member of the Branch Council or a member of her/his Sector or Division Council to act as his or her proxy at a meeting of the Branch Council.
- (9) An appointment of a proxy shall be in writing and must reach the State Manager by 12 noon on the last working day before the meeting of the Branch Council commences.
- (10) A person holding a proxy shall have all the powers of the person he or she represents but in exercising a vote he or she shall act in accordance with any direction given by the person for whom he or she acts as proxy.
- (11)
  - (a) The Branch President may, in consultation with the State Manager, determine that it is not practicable for the Branch Council to assemble and that the business of a Branch Council meeting shall be conducted by postal, facsimile or electronic vote.
  - (b) The State Manager shall give each member of the Branch Council at least 3 days' notice of the business to be conducted by a meeting convened in accordance with this sub-rule.
  - (c) Where the business of a Branch Council meeting has been conducted in accordance with this sub-rule, the minutes shall be taken and a copy thereof forwarded forthwith to each member of the Branch Council at his or her last nominated address.

### **RULE 7 - BRANCH EXECUTIVE**

- (1) There shall be a Branch Executive which shall control the affairs of the Branch in accordance with these rules between meetings of Branch Council.
- (2) The Branch Executive shall consist of:-
  - (a) The Branch President;
  - (b) The Branch Deputy Presidents; and
  - (c) Six Executive members who shall hold office for 3 years and be elected by the full membership on a State wide basis.
- (3) The Branch Executive shall, subject to decisions of the Branch Council, and these rules, have power:-
  - (a) Between Branch Council Meetings to make policy consistent with the policies made by Branch Council;
  - (b) Between Branch Council meetings, to exercise any of the powers of the Branch Council other than the powers set out in paragraphs (b), (e) or (g) of sub-rule 3(2);
  - (c) To appoint or remove employees of the Branch including the State Manager;

- (d) To determine the terms and conditions of employment of employees of the Branch including the State Manager and President; and
  - (e) In accordance with Rule 27 to suspend or remove from office any person elected to an office within the Branch (including an officer in a Division, a Sector or TAFE Division, Region or Sub-branch within the Branch) who has been found guilty in accordance with the Federal Branch Rules of misappropriation of the funds of the Union *including those controlled by the Branch*, a substantial breach of the rules of the Union, gross misbehaviour or gross neglect of duty in relation to his/her office or has ceased in accordance with the Rules of the Union to be eligible to hold the office.
- (4) The Branch Executive shall abide by and conform to the decisions of Branch Council.

### **RULE 8 - MEETINGS OF BRANCH EXECUTIVE**

- (1) Branch Executive meetings shall be held at least 11 times each calendar year at a time and place determined by the Branch Executive provided that:
- (a) Not more than 6 weeks shall elapse without a meeting of the Branch Executive being held other than between the last meeting held in one calendar year and the first meeting held in the following calendar year;
  - (2) A meeting of the Branch Executive shall be convened:-
    - (a) Whenever determined by the Branch Executive;
    - (b) Whenever the Branch President or a person acting in the position of Branch President determines that a Branch Executive meeting shall be convened; or
    - (c) By the State Manager within 7 days of receiving a request in writing signed by not less than 4 members of the Branch Executive.
  - (3) The State Manager shall prepare for each Branch Executive Meeting an agenda which shall be sent to all members of the Branch Executive at their last nominated address at least 5 days prior to the meeting of the Branch Executive.
  - (4) A quorum for a meeting of the Branch Executive shall be 6 persons.
  - (5)
    - (a) The Branch President may, in consultation with the State Manager, determine that, in the interests of the Branch, it is necessary that there be a meeting of the Branch Executive and as it is not practicable for the Branch Executive to assemble, determine that the business for the Branch Executive meeting shall be conducted by postal, telephone, electronic or facsimile vote.
    - (b) The State Manager shall give each member of the Branch Executive at least 3 days' notice of the business to be conducted at a meeting conducted in accordance with this sub-rule.
    - (c) Where the business of a Branch Executive meeting has been conducted in accordance with this sub-rule, the minutes shall be taken and a copy thereof forwarded forthwith to each member of the Branch Executive.

- (6) The Branch President may, in consultation with the State Manager, determine that a matter is urgent and that a meeting of the Branch Executive should be convened in accordance with the previous sub-rule without the requirement for notice set out in sub-rule (5)(b).

### **RULE 9 - GENERAL MEETINGS OF THE BRANCH**

- (1) The State Manager shall convene a General Meeting of the Branch if directed to do so by the Branch Council or Branch Executive or on receipt of a written request signed by at least 5% of the members attached to the Branch.
- (2) Where the Branch Council or the Branch Executive directs that a General Meeting of the Branch be convened, it shall be convened on the date determined by the Branch Council or Branch Executive or in the absence of such determination, within 3 months of the date of the direction that a General Meeting be convened.
- (3) Where a written request for a General Meeting is received from the requisite number of members the General Meeting shall be convened within 3 months of the receipt of that request.
- (4) The agenda for a General Meeting shall be as determined by the Branch Council or Branch Executive or as specified in the written request.
- (5) The State Manager shall place a notice of the General Meeting and the Agenda in a major daily newspaper circulating in each region of the Branch at least 21 days prior to the meeting.
- (6) At any General Meeting of the Branch a quorum shall be 20% of the financial members attached to the Branch. The number of financial members attached to the Branch shall be taken to be the financial members of the Branch as at 5.00 p.m. on the 30 June last preceding the meeting.
- (7) A decision of a General Meeting of members of the Branch convened in accordance with this Rule shall be binding on any subsequent meeting of the Branch Council, the Branch Executive and any Sector Council, the SCCOM or the TDC dealing with the subject matter dealt with by the General Meeting.

### **RULE 10 - PLEBISCITES OF MEMBERS**

- (1) The Branch Council or Branch Executive may determine that any matter should be submitted to the members by a plebiscite of all the financial members or a specified class of financial members attached to the Branch.
- (2) Subject to sub-rule (3), where a member of the Branch Council or Branch Executive proposes to move a motion requesting that a plebiscite be held, the person shall give notice of the motion to all the members of the Branch Council or Branch Executive, as the case may be, at least 14 days before the meeting of the Branch Council or Branch Executive as the case may be.
- (3) A Delegate to the Annual Branch Council may, notwithstanding sub-rule (2), move a motion calling for a plebiscite if the request is signed by at least 30 Delegates and the motion shall be moved in a subsequent session not later than one hour before the closing of such session.
- (4) A matter shall be submitted to the members by a plebiscite of all financial members of the Branch or a specified class of financial members of the Branch on receipt by the State Manager of a written request signed by at least 10% of the members of the Branch or where a request for a plebiscite of members of a specified class is received, a request signed by at least 10% of the members of that class.

- (5) The State Manager shall within 14 days of the decision of the Branch Council or Branch Executive to refer a matter to a plebiscite or following receipt of a written request for a plebiscite in accordance with this rule, inform all Sub-branches of the plebiscite.
- (6) Sub-branch Secretaries or, where there is no Sub-branch Secretary, the workplace representative, shall, on receipt of advice of a plebiscite in accordance with the previous sub-rule, convene a meeting of Sub-branch members at which a secret ballot shall be held on the matters referred to the members in the plebiscite.
- (7) The members present at the meeting shall elect a Returning Officer who shall conduct the secret ballot and be in charge of the counting of the votes.
- (8) The Sub-branch Secretary shall advise the State Manager, within 7 days of the meeting of Sub-branch members, of the number of votes cast in favour of the motion and the number of votes cast against it.
- (9) On receipt of advice from Sub-branches in accordance with the previous paragraph the State Manager shall declare the result of the plebiscite.
- (10) The Branch Council or Branch Executive, on a written request for a plebiscite, may specify that the plebiscite shall be conducted by a secret postal ballot.
- (11) Where a secret postal ballot is to be conducted, sub-rules (4), (5), (6) and (7) of Federal Rule 29 shall apply mutatis mutandis to the conduct of the ballot where this rule is silent.
- (12) A motion shall be deemed to be carried by a plebiscite if the majority of members vote in favour of the motion provided that not less than 25% of the members of the Branch entitled to vote exercise that vote, or 25% of the class of members entitled to vote exercise that vote, as the case may be.
- (13) The result of a plebiscite taken in accordance with this rule shall be binding on any subsequent meeting of the Branch Council, Branch Executive or Sector or the TDC meetings dealing with the subject matter of the plebiscite.

**RULE 11 –THE ROLE AND POWERS OF: SECTOR COUNCILS; TAFE COUNCIL AND THE SCCOM**

- (1) Subject to these Federal Branch Rules, the affairs of the TAFE Division and Sectors within the Branch shall be governed by the TDC or the SCCOM or Sector Council.
- (2) The TDC, the SCCOM or Sector Councils shall, subject to these Federal Branch Rules, have power to control and manage the business and affairs of members of the Division or Sector in the Branch. Without limiting the generality of this power, the TDC, the SCCOM or Sector Councils shall have power to:-
  - (a) develop policies for the advancement of the industrial and professional interests of members in the Division or Sector;
  - (b) submit industrial disputes relating only to TAFE Division or Sector members to conciliation and arbitration in accordance with the Industrial Relations Act 1984 (Tasmania) or subject to the Federal Rules, submit industrial disputes relating only to members in the TAFE Division or Sector to conciliation and arbitration in accordance with the Act;

- (c) seek and obtain or oppose the making of Awards affecting TAFE Division or Sector members only by the Tasmanian Industrial Commission or subject to the Federal Rules seek and obtain or oppose the making of Awards affecting TAFE Division or Sector members only by the Australian Industrial Relations Commission;
- (d) subject to the Federal Rules, enter into industrial agreements only applicable to TAFE Division or Sector members;
- (e) make recommendations to the Branch Council on matters which relate to the TAFE Division and General Division Sectors
- (f) In the TAFE Division, there shall be a maximum of .5FTE staffing allocation to undertake duties on behalf of members in the TAFE Division. Additional funding may be provided for the part-time employment of the TAFE President consistent with an “time release” arrangements negotiated with the TAFE President’s employer, and the ability of the AEU Tasmanian Branch to meet the costs of such employment from the subscription income of members in the TAFE Division.
- (g) In the Secondary Colleges Sector there shall be one .5FTE person undertaking duties on behalf of members in the Secondary Colleges Sector, together with appropriate administrative support.
- (h) The duties of employees responsible for TAFE Division and Secondary Colleges Sector members will be allocated by the State Manager in consultation with the relevant President.
- (i) The TAFE Division President and Secondary Colleges Sector President may have access to media representatives in order to maintain an adequate profile on matters specifically affecting their respective sector/division. AEU media policy and procedures must be adhered to.
- (j) Where it is necessary to replace an employee allocated to work with the TAFE Division or the Secondary Colleges Sector, the AEU agrees that an interview panel shall be constituted by the State Manager with a representative from the relevant Division (TAFE Division President or nominee or Secondary Colleges Sector President or nominee). The selection panel shall make a recommendation to the TAFE division Executive or Secondary Colleges Sector Committee of Management, which in turn, shall make a recommendation to the Branch Executive.

**RULE 12 - COMPOSITION OF DOE SECTOR COUNCIL**

- (1) The DoE Sector Council shall consist of:
  - (a) The Branch Deputy President – DoE who shall be elected by and from the members of the Branch in the DoE Sector;
  - (b) Executive members who are from the DoE Sector
  - (c) Branch Council Delegates elected by and from DoE Sector members from each of the geographic regions referred to in rule 1(2)(b)
- (2) The DoE Sector Vice-President shall be elected by and from the members of the DoE Sector Council and will assist the DoE Sector’s Branch Deputy President in the performance of his/her duties;



- (3) DoE Sector office holders shall hold office for 3 years.
- (4) DoE Sector office holders shall, subject to these rules, hold office until their successors are elected and shall be eligible for re-election.
- (5) DoE Sector Council Delegates shall hold office for 3 years.

**RULE 13 - COMPOSITION OF SUPPORT STAFF SECTOR COUNCIL**

- (1) The Support Staff Sector Council shall consist of:
  - (a) The Branch Deputy President – Support Staff who shall be elected by and from the members of the Branch in the Support Staff Sector;
  - (b) Executive members who are from the Support Staff Sector
  - (c) Branch Council Delegates elected by and from Support Staff Sector members from each of the geographic regions referred to in Rule 1(2) (d) (ii).
  - (d) A Support Staff Sector Vice-President who shall be elected by and from members of the Support Staff Sector Council and who shall assist the Support Staff Sector’s Branch Deputy President in the performance of his/her duties.
- (4) Support Staff Sector Council delegates shall hold office for 3 years.
- (5) Sector office holders shall, subject to these rules, hold office until their successors are elected and shall be eligible for re-election.

**RULE 14 - COMPOSITION OF THE TDC**

- (1) The TDC shall consist of:-
  - (a) the TAFE Division President who shall also be the Branch Deputy President - TAFE who shall be elected by and from members of the Branch in the TAFE Division;
  - (b) 2 TAFE Division Vice-Presidents who shall be elected by and from members of the Branch in the TAFE Division;
  - (c) the TAFE Division Women's Officer who shall be elected by and from women members of the Branch in the TAFE Division;
  - (d) the representative elected to TAFE Division Executive by and from the members of the TAFE Division in the Community Knowledge Network, whose work is incidental to the provision of Adult Education programs;
  - (e) the representative elected to TAFE Division Executive by and from the Support Staff members of the TAFE Division;
  - (f) TAFE Division Sub-branch Secretaries elected by and from the members in each of the Sub-branch;
  - (g) sub-branch delegates as elected in accordance with Rule 20(2)(g); and
  - (h) delegates elected by and from members in TAFE Division Sub-branches elected on the basis of one Delegate for each 25 members or part thereof attached to the Sub-branch in excess of 25 members.

- (2) In determining the number of members in a Sub-branch for the purposes of the previous sub-rule, regard shall be had to the number of financial members in the Sub-branch on 30 June prior to the opening of nominations.
- (3) TAFE Division office holders shall hold office for 3 years.
- (4) TAFE Division office holders shall, subject to these rules, hold office until their successors are elected and shall be eligible for re-election.
- (5) The TAFE Division Vice-Presidents shall assist the TAFE Division President in the performance of his/her duties.
- (6) The TAFE Division Women's Officer shall, in addition to her responsibilities as a member of the TDC and TDE, be responsible for advising the TDC and the TDE on issues affecting the interests of women.

**RULE 15 - COMPOSITION OF SECONDARY COLLEGES SECTOR COMMITTEE OF MANAGEMENT (SCCOM)**

- (1) The SCCOM shall consist of the:-
  - (a) Secondary Colleges Sector Branch Deputy President elected by and from members of the Branch in the Secondary Colleges Sector;
  - (b) Secondary Colleges Sector Vice-President elected by and from members of the Branch in the Secondary Colleges Sector; and
  - (c) Secondary Colleges Sector Sub-branch Secretaries elected by and from members of each of the Sub-branches.
- (2) Secondary Colleges Sector Office holders shall hold office for 3 years.
- (3) Secondary Colleges Sector office holders shall, subject to these rules, hold office until their successors are elected and shall be eligible for re-election.
- (4) The immediate past Secondary Colleges Sector President may attend and participate in meetings of the Secondary Colleges Sector Committee of Management but shall not be entitled to vote.
- (5) The Secondary Colleges Sector Vice-President shall assist the Secondary Colleges Sector President in the performance of his/her duties.

**RULE 16 - MEETINGS OF THE SCCOM**

- (1) The SCCOM shall meet not less than eight times each year.
- (2) A meeting of the SCCOM may be called by the Secondary Colleges Deputy President or on receipt by the Secondary Colleges Sector Deputy President of a requisition signed by 3 members of the SCCOM.
- (3) A quorum for a meeting of the SCCOM shall be not less than half of the members on the Committee.

- (4) (a) The Secondary Colleges Sector Deputy President may determine that it is not practicable for the SCCOM to assemble and that the business of the Committee meeting shall be conducted by telephone, postal or facsimile vote.
  - (b) The Secondary Colleges Sector Deputy President shall give each member of the SCCOM at least 3 days' notice of the business to be conducted by a meeting convened in accordance with this sub- rule.
  - (c) Where the business of a SCCOM meeting has been conducted in accordance with this sub-rule, the minutes shall be taken and a copy thereof forwarded forthwith to each member of the Committee.
- (5) The Secondary Colleges Sector Deputy President may determine that a matter is urgent and that a meeting should be convened in accordance with the previous sub-rule without the requirement for notice set out in sub-rule (4)(b).

**RULE 17 - MEETINGS OF SECTOR COUNCILS**

- (1) Sector Councils may meet up to four times per calendar year.
- (2) The appropriate Branch Deputy President shall prepare for Sector Council meetings an agenda which shall be sent to all members of the Sector Council at least 14 days prior to the meeting of the Sector Council.
- (3) Meetings of Sector Councils shall be convened:-
  - (a) Whenever determined by each Sector Council; or
  - (b) On receipt by the Sector President of a request from at least one third of the members of the Sector Council.
- (4) Deputy Presidents, Sector Sub-branches, the Branch Executive and Sector Executive may submit matters for inclusion on the agenda for the Sector Council.
- (5) A quorum for a meeting of the Sector Council shall consist of fifty per cent plus one of the members of the Sector Council provided that, where a person appoints a proxy, the person appointing the proxy shall be counted in determining whether there is a quorum.
- (6) A member of Sector Council may appoint another member of the Sector Council to act as his or her proxy at a meeting of the Sector Council.
- (7) An appointment of a proxy shall be in writing and must reach the appropriate Deputy President by 12.00 noon on the last working day before the meeting of the Sector Council.
- (8) A person holding a proxy shall have all the powers of the person he or she represents but in exercising a vote, he or she shall act in accordance with any direction given by the person for whom he or she acts as proxy.
- (9) (a) The appropriate Deputy President may determine that it is not practicable for the Sector Council to assemble and that the business of the Sector Council meeting shall be conducted by postal, electronic or facsimile vote.

- (b) The appropriate Deputy President shall give each member of the Sector Council at least 3 days' notice of the business to be conducted by a meeting convened in accordance with this sub-rule.
  - (c) Where the business of a Sector Council meeting has been conducted in accordance with this sub-rule the minutes shall be taken and a copy thereof forwarded forthwith to each member of the Sector Council, the State Manager and the Branch Executive.
- (10) There shall be each year a meeting of each Sector Council which shall be known as the "Annual Sector Council Meeting".
- (11) The Annual Sector Council Meeting shall be conducted so as to conclude not later than 21 days before the commencement of the Annual Branch Council Meeting on a date and at a place determined by the Sector-Council.

**RULE 18 – MEETINGS THE TDC**

- (1) The TDC shall meet at least four times per calendar year.
- (2) The appropriate Branch Deputy President shall prepare for the TDC meetings an agenda which shall be sent to all members of the TDC at least 14 days prior to the meeting of the TDC.
- (3) Meetings of the TDC shall be convened:-
- (a) Whenever determined by the TDC; or
  - (b) On receipt by the TAFE Division President of a request from at least one third of the members of the TDC.
- (4) The Deputy President, TAFE Division Sub-branches, the Branch Executive and the TDE may submit matters for inclusion on the agenda for the TDC meeting.
- (5) A quorum for a meeting of the TDC shall consist of fifty per cent plus one of the members of the Council provided that, where a person appoints a proxy, the proxy shall be counted in determining whether there is a quorum.
- (6) A member of the TDC may appoint another member of the TDC to act as his or her proxy at a meeting of the TDC.
- (7) An appointment of a proxy shall be in writing and must reach the TAFE Deputy President by 12.00 noon on the last working day before the meeting of the TDC.
- (8) A person holding a proxy shall have all the powers of the person he or she represents but in exercising a vote he or she shall act in accordance with any direction given by the person for whom he or she acts as proxy.
- (9) (a) The Deputy President may determine that it is not practicable for the TDC to assemble and that the business of the TDC meeting shall be conducted by postal, electronic or facsimile vote.
- (b) The Deputy President shall give each member of the TDC at least 3 days' notice of the business to be conducted by a meeting convened in accordance with this sub-rule.
  - (c) Where the business of the TDC meeting has been conducted in accordance with this sub-rule the minutes shall be taken and a copy thereof forwarded forthwith to each member of the TDC, the State Manager and the Branch Executive.

- (10) There shall be each year a meeting of the TDC which shall be known as the "Annual Meeting".
- (11) The Annual Meeting shall be conducted so as to conclude not later than 21 days before the commencement of the Annual Branch Council Meeting on a date and at a place determined by the TDC.

### **RULE 19 - SECTOR EXECUTIVES**

- (1) The Support Staff and the DoE Sector Councils may each, at their first meeting following the election of the Sector Council, where considered necessary for the efficient discharge of the business of the Sector Council, establish a Sector Executive comprised of the relevant Branch Deputy President, Sector Vice-President(s) and at least five persons elected by and from the Sector Council.
- (2) The Sector Council, in establishing a Sector Executive, may delegate to the Sector Executive all of its powers to manage the sector between meetings of the Sector Council or delegate responsibilities for particular matters specified in the resolution creating the sector executive.
- (3) The Sector Executive shall meet at least four times per annum and whenever necessary, at a time and place determined by the Sector Executive.
- (4) Deleted.
- (5) A quorum for a meeting of a Sector Executive shall be 50% of the members of the Sector Executive plus one.
- (6) Senior Executive Office holders shall hold office until the subsequent elections are held for the Sector Council.

### **RULE 20 - TAFE DIVISION EXECUTIVE**

- (1) There shall be a TDE which shall have control of the affairs of the TAFE Division in accordance with these rules between meetings of the TDC.
- (2) The TAFE Executive shall consist of the:-
  - (a) the TAFE Division President;
  - (b) the TAFE Division Vice-Presidents;
  - (c) the TAFE Division Women's Officer;
  - (d) a representative elected by and from members who work in the LINC and whose work is incidental to the provision of Adult Education programs.

- (e) a representative elected by and from the Support Staff members of the TAFE Division;
  - (f) TAFE Division Sub-branch Secretaries elected by and from the members in each Sub-branch; and
  - (g) where the membership of the Sub-branch exceeds 100, such number of Delegates from Sub-branches determined on the basis of one Delegate for each additional 100 members or part thereof.
- (3) The immediate past TAFE Division President may attend and participate in meetings of the TDE but shall not be entitled to vote.
- (4) The TDE shall abide by and conform with all decisions of the Branch Council, Branch Executive or TDC.
- (5) TDE meetings shall be held at least 8 times in each calendar year at a time and place determined by the TDE provided that no more than 6 weeks shall elapse without a meeting of the TDE being held other than between the last meeting held in one calendar year and the first meeting held in the following calendar year.
- (6) A meeting of the TDE shall be convened:-
- (a) whenever determined by the TDE;
  - (b) whenever the TAFE Division President or a person acting in the position of TAFE Division President determines that a TDE Meeting shall be convened; or
  - (c) by the TAFE Division President within 7 days of receiving a request in writing signed by not less than 4 members of the TDE.
- (7) The TAFE Division President shall prepare for each TDE Meeting an agenda which shall be sent to each member of the at their last nominated address at least 5 days prior to the meeting of the TDE.
- (8) A quorum for a meeting of the TDE shall be 50% of the members of the TDE, other than the immediate past TAFE Division President, plus one.
- (9)
- (a) The TAFE Division President may determine that, in the interests of the TAFE Division, it is necessary that there be a meeting of the TDE and it is not practicable for the TDE to assemble and that the business for the TDE meeting shall be conducted by postal, telephone, electronic or facsimile vote.
  - (b) The TAFE Division President shall give each member of the TDE at least 3 days' notice of the business to be conducted at a meeting convened in accordance with this sub-rule.
  - (c) Where the business of a TDE meeting has been conducted in accordance with this sub-rule, the minutes shall be taken and a copy thereof forwarded forthwith to each member of the TDE, the State Manager and Branch Executive.
- (10) The TAFE Division President may determine that a matter is urgent and that a meeting of the TDE should be convened in accordance with the previous sub-rule without the requirement for notice set out in sub-rule (9)(b).

**RULE 21 - GENERAL MEETINGS OF SECTOR OR TAFE DIVISION MEMBERS**

- (1) A general meeting of a Sector's or TAFE Division members in the Branch may be convened by a resolution of the relevant Sector Council, TDC or SCCOM.
- (2) The date, time, place and agenda for a general meeting convened in accordance with the previous sub-rule shall be as directed by the relevant Sector Council, TDC or SCCOM.
- (3) The appropriate Deputy President shall cause a notice of the meeting to be placed at each workplace where a Sector or TAFE Division Sub-branch has been established and in a major daily newspaper circulating in each region of the Branch at least 21 days prior to the meeting.
- (4) At any general meeting convened in accordance with this rule a quorum shall be 20% of the financial members of the Sector or TAFE Division in the Branch. The number of financial members shall be taken to be those attached to the Sector or TAFE Division as at 5.00 p.m. on 30 June last preceding the meeting.
- (5) A decision of a General Meeting convened in accordance with this rule shall be binding on any subsequent meeting of the Sector Council and Executive, the TDC and TDE or the SCCOM dealing with the subject matter dealt with by the General Meeting.

**RULE 22 - SUB-BRANCHES**

- (1) Subject to Rule 1(3), Branch members will be allocated to the Sub-Branch established at the member's workplace or where the member does not have a workplace, to a Sub-Branch determined by the State Manager
- (2) The affairs of Sub-branches shall be governed by:-
  - (a) General meetings of members of the Sub-branch; and
  - (b) In the TAFE Division and Secondary Colleges Sector Sub-branches and other Sub-branches where there are more than 10 members - a Sub-branch Committee which shall consist of a President, a Secretary and such other Committee members as may be determined by the rules of the Sub-branch.
- (3)
  - (a) Elections for members of Sub-branch Committees shall be conducted every 3 years in accordance with this sub-rule.
  - (b) A Sub-branch Returning Officer shall be appointed by a General Meeting of members of the Sub-branch.
  - (c) The Sub-branch Returning Officer shall every 3 years call for nominations for:
    - (i) Workplace Representatives; and
    - (ii) Members of the Sub-branch Committee, other than Sub-branch Secretaries in the TAFE Division and Secondary Colleges Sector Sub-branches, who shall hold office until his or her successor is elected.
  - (d) Each Sub-branch shall elect at least one Workplace Representative who may also hold a position on the Sub-branch Committee.
  - (e) Elections for the purposes of this sub-rule shall be conducted at a General Meeting of members conducted between 1 November and 14 March every 3 years.

- (f) The Workplace Representative(s) shall advise the State Manager of the names of the Sub-branch Office Holders, Committee members and Workplace Representative(s) before the last working day of March following the election and any changes to the holders of those positions which occur between elections.
- (g) Sub-branch Committee members and Workplace Representatives:
  - (i) will take up office on their election and hold office until their successors are elected at elections conducted three years later; and
  - (ii) be eligible for re-election.
- (4) Sub-branch Secretaries in TAFE Division Sub-branches and Secondary Colleges Sector Sub-branches:
  - (a) will take up office on 1 February following their election and hold office until their successors take up office; and
  - (b) be eligible for re-election.
- (5) A General Meeting of a Sub-branch or a Committee of a Sub-branch may make recommendations to and provide advice to the various committees of the Branch but shall not exercise any management powers or functions in respect of the Branch.
- (6) Workplace Representatives shall;
  - (a) Attend an introductory Workplace Representatives' training course and regularly attend subsequent training provided by the Branch.
  - (b) Attend and participate in regional or Sectoral or TAFE Divisional meetings of Workplace Representatives or arrange for the workplace to be represented.
  - (c) Maintain and/or improve membership levels at the workplace.
  - (d) Provide updated membership data to the State Manager.
  - (e) Inform and advise members of the services offered by the Branch.
  - (f) Be a contact point for members wishing to communicate with Branch Officers or Branch Officers wishing to communicate with members.
  - (g) Be a contact point for the distribution of Branch information and publications.
  - (h) Encourage members to help and support the Workplace Representative in the running of the sub-branch.
  - (i) Liaise with Branch Officers on local issues with management and solve these at the workplace level where possible.
  - (j) Refer issues unable to be handled locally to Branch Officers.
  - (k) Facilitate workplace discussion on possible agenda items for Branch Council meetings.
  - (l) Call a sub-branch meeting prior to Branch Council meetings to discuss agenda items.
  - (i) Liaise with Branch Officers on local issues with management and solve these at the workplace level where possible.





- (j) Refer issues unable to be handled locally to Branch Officers.
- (k) Facilitate workplace discussion on possible agenda items for Branch Council meetings.
- (l) Call a sub-branch meeting prior to Branch Council meetings to discuss agenda items.

**RULE 23 - BRANCH OFFICERS**

- (1) The Branch President is the Chief Executive Officer of the Branch and shall:-
  - (a) Hold office for 3 years but shall not be entitled to be elected for a third consecutive term;
  - (b) Carry out the instructions of Branch Council and Branch Executive and exercise general control over the affairs of the Branch and be a full time paid officer of the Branch;
  - (c) Preside over all meetings, other than meetings of Branch Sector Councils, the TDC or the SCCOM and Sub-branches unless asked to do so by the meeting;
  - (d) Be an ex officio member of all Branch committees;
  - (e) Present a report to Branch Council meetings;
  - (f)
    - (i) Manage the financial affairs of the Branch
    - (ii) Keep, or cause to be kept, in appropriate records, a correct statement of all monies received and expended on behalf of the Branch; and
    - (iii) As a member of the budget sub-committee prepare, or cause to be prepared, for the approval of Branch Council, an annual budget.
  - (g) Act as the political officer of the Branch liaising with members of both State and Federal parliaments, as well as parent and other organisations related to the education industry;
  - (h) Be responsible for developing and, in conjunction with other officers, executing political campaigns designed to advance the welfare of the member and the objectives of the Branch;
  - (i) Provide leadership in curriculum and professional issues;
  - (j) Be responsible for developing relationships, maintaining close contact with and provide information to all sections of the media;
  - (k) Act as the public spokesperson for the Branch;
  - (l) Ensure that all constitutional requirements pertaining to this position are met;
  - (m) In conjunction with the State Manager, Executive and Accounts Manager, develop the Branch annual budget;
  - (n) Report to Branch Council on current political and professional matters affecting the Branch membership; and
  - (o) Develop and maintain an active dialogue with the membership.

- (2) (a) The Branch Deputy Presidents shall:
- (i) hold office for 3 years;
  - (ii) unless otherwise determined by the Branch Executive, be an honorary officer of the Branch and be entitled to an honorarium, the amount of which shall be determined from time-to-time by Branch Executive ;
  - (iii) assist the Branch President in the performance of his/her duties;
  - (iv) preside over all meetings of his/her Sector Council or the TDC or the SCCOM and general meetings of his/her Sector or TAFE Division members;
  - (v) be a spokesperson for the Branch on matters relating to members of his/her Sector or the TAFE Division provided that any media comments shall be in line with Union or Branch policy, any media release is authorised by the Branch President and the Branch President is informed of any other media contact as soon as possible after that contact;
  - (vi) be entitled to attend, or be represented at, industrial negotiations on matters discrete to the members in his/her Sector or the TAFE Division;
  - (vii) perform all duties conferred on him/her by these Rules;
  - (viii) carry out the instructions of the Branch Council, Branch Executive, Sector or the TDC or Branch President; and
  - (ix) if so directed by the Branch Executive, perform the duties of the Branch President in his/her absence.
- (b) The Branch Executive may determine that a position of Branch Deputy President should be a part-time paid officer of the Branch and determine, in place of the honorarium for that position, the remuneration for the position.

### **RULE 23A - BRANCH FEDERAL EXECUTIVE MEMBERS**

- (1) The Branch Federal Executive members shall be determined in accordance with this rule.
- (2) Until such time that the Branch's entitlement to Federal Executive members as determined in the Federal Rules exceeds one member, the office of Branch Federal Executive member shall be held by the Branch President provided that the Branch President is a member assigned to the General Division.
- (3) In the event that the Branch President is not a member assigned to the General Division, the Office of Branch Federal Executive member shall be held by the Deputy President – DoE Sector.
- (4) The Branch President, or the Deputy President – DoE Sector, as the case may be, shall become a Branch Federal Executive member on the date on which he or she takes office as Branch President or Branch Deputy President – DoE Sector and continue to be a Branch Federal Executive member until he or she ceases to hold office as a Branch President or Branch Deputy President – DoE Sector.
- (5) In the event that the Branch gains an entitlement to more than 1 member on the Federal Executive, that additional member or members shall be elected by and from members of the Branch Council assigned to the General Division,

- (6) An additional Branch Federal Executive member elected in accordance with sub-rule (5) shall take up office on 1 March following his or her successor takes up office following elections conducted 3 years after his or her election.

### **RULE 24 - STATE MANAGER**

- (1) The State Manager shall, in accordance with the directions given to him or her by the Branch Council or Branch Executive, and in close liaison with the Branch President, be responsible for the industrial and administrative leadership of the Branch. As part of his/her administrative duties, the State Manager shall:
  - (a) Under the direction of the Branch President manage the financial affairs of the Tasmanian Branch by receiving or causing to be received all monies on behalf of the Tasmanian Branch, including membership subscriptions plus such compulsory charges as are levied by the Federal Government; and
  - (b) Supervise and manage the employees of the Branch.
- (2) The State Manager shall carry out his or her duties in accordance with a position description provided by the Branch Executive.
- (3) The State Manager's terms and conditions of employment shall be as decided by the Branch Executive.
- (4) The State Manager may attend *and speak at* meetings of the Branch Council and Branch Executive but shall not be allowed to move, second or vote on motions.

### **25 - BRANCH EMPLOYEES**

- (1) Subject to this rule, the Branch shall employ such number of employees as are affordable and necessary to discharge the business and affairs of the Branch effectively and efficiently.
- (2) Other than the Branch President and the Branch TAFE President, holders of elected offices under the rules shall not be eligible to be employed or able to continue to be employed by the Branch.
- (3) Subject to the decisions of the Branch Council or Branch Executive, the State Manager shall allocate employees to work exclusively for a Sector or the TAFE Division or to perform duties for more than one Sector or the TAFE Division.
- (4) In respect of an employee allocated to work exclusively for one Sector or the TAFE Division, the State Manager shall direct the employee in the performance of his or her duties after determining the duties of that position in consultation with that Sector's or TAFE Division's Branch Deputy President.
- (5) Employees assigned to work with members in a Sector or the TAFE Division may, as needed and determined by the State Manager in consultation with the Branch Deputy President from that Sector or the TAFE Division, be assigned to work for members in another Sector or the TAFE Division or on different tasks for specified projects or fixed periods of time. When a position is to be vacant for at least 10 working days, the Employer shall, wherever possible, arrange for a person or persons to perform the duties normally performed by the Employee working in that position.
- (6) Where an employee position allocated to a particular Sector or the TAFE Division is to be filled, there shall be an interview panel consisting of the State Manager and at least 2 persons nominated by either the relevant Sector Council or Executive, the TDC or the TDE or the SCCOM. The interview panel will make a recommendation to the Sector Council or Executive or the TDC or

Executive or the SCCOM which will, if endorsed by relevant governing body, be recommended to the Branch Executive which may authorise the Branch Manager to make the appointment\

### **RULE 26 - ALTERATION OF RULES**

- (1) Subject to rule 1, the Branch Council may amend or rescind or make new Federal Branch Rules or Branch Rules in accordance with this Rule.
- (2) Proposals to amend or rescind or make new rules may be submitted by the State Manager, Sub-branches, members of the Branch Executive or members of the Branch Council provided such amendments are provided to the State Manager not later than 28 days prior to the meeting at which the amendment is to be proposed.
- (3) Notice of proposals to amend, rescind or make new rules must be forwarded by the State Manager to all Branch Councillors at least 14 days prior to the meeting at which the proposals are to be considered.
- (4) A motion to amend or rescind or make new rules shall, subject to Rule 1 require a majority vote of three fifths of the members of the Council present at the meeting.

### **RULE 27 - BRANCH FUND**

- (1) There shall be a Branch Fund which shall consist of:-
  - (a) Any real or personal property of which the Branch Council or Branch Executive by the Rules or by any established practice not inconsistent with the Rules, has or in the absence of any limited term lease, bailment, or arrangement, would have, the right of custody, control or management;
  - (b) Any interests, rents, dividends or other income derived from the investment or use of the Branch Fund;
  - (c) Any superannuation or long service leave or other fund operated or controlled in accordance with the Rules relating to the Union for the benefit of the officers or employees of the Branch;
  - (d) Any sick pay fund, accident pay fund, general fund, or like fund operated in accordance with the Rules for the benefit of members attached to the Tasmanian Branch;
  - (e) Any property acquired wholly or mainly by expenditure of monies of the Branch Fund or derived from assets of the Branch Fund; or
  - (f) The proceeds of any disposal of parts of the Branch Fund.
- (2) The Branch Council shall adopt an annual budget prior to the commencement of each financial year, which shall contain allocations of funds for expenditure by the Branch including funds to be allocated to Sectors or the TAFE Division. In adopting the annual budget, the Branch Council shall have regard to a proposed annual budget prepared by a budget sub-committee which shall be constituted by the Branch President and the Branch Deputy Presidents.
- (3) Any expenditure which is within the budget approved for expenditure by the Branch Council may be authorised by the Branch Council, Branch Executive, Branch President, Branch Deputy Presidents, the State Manager or his/her delegate.
- (4) Any proposal for expenditure which falls outside of the budget approved for expenditure by the Branch must be approved by the Branch Council or Branch Executive.

- (5) The Branch Council may, at any time during a financial year, vary the allocation of funds for expenditure by the Branch, a Sector or the TAFE Division.
- (6) Where the expenditure of funds is authorised in accordance with this rule, the amount in question shall be paid by cheque or Electronic Funds Transfer.
  - (a) Where the payment is made by cheque shall be signed by any two of the following persons:- the Branch President, a Branch Deputy President, the State Manager or an employee of the Branch authorised by the Branch President and the State Manager;
  - (b) Where the expenditure is made by electronic funds transfer the payment shall be authorised in writing by any two of the following persons:- the Branch President, a Branch Deputy President, the State Manager or an employee of the Branch authorised by the Branch President and the State Manager
- (7) The financial year for the Branch shall be 1 July to 30 June in the following year.

### **RULE 28 - BRANCH COMMON SEAL**

- (1) There shall be a Common Seal for the Tasmanian Branch which shall be identified by the words "Australian Education Union - Tasmanian Branch".
- (2) The Common Seal of the Branch shall only be affixed with the authority of the Branch Council or Branch Executive and shall be counter-signed by any 2 of the following persons:-
  - (a) The Branch President;
  - (b) A Branch Deputy President;
  - (c) A Branch Executive member; or
  - (d) The State Manager.
- (3) Affixing the Common Seal of the Branch to a document in accordance with this Rule shall, for the purposes of any transaction involving property which forms part of the Branch Fund of the Tasmanian Branch, be sufficient to give effect to the transaction on behalf of the Union.

### **RULE 29 - INDUSTRIAL AGREEMENTS AND OTHER DOCUMENTS**

- (1) Industrial agreements and other documents not required to be executed under seal, may be executed by or on behalf of the Branch by any 2 of the following:- the Branch President, a Branch Deputy President or the State Manager.
- (2) An industrial agreement applicable only to members in a Sector or TAFE Division which has been approved by the Sector Council or Executive, the TDC or the TDE or the SCCOM, shall be signed by the Branch Deputy President and Vice President from that Sector or the TAFE Division.
- (3) A copy of an industrial agreement referred to in sub-rule (2) shall be provided to the State Manager by close of business on the day the industrial agreement has been executed.

**RULE 30 – OFFENCES BY ELECTED OFFICIALS**

- (1) The Branch Executive may by resolution supported by two thirds of the votes able to be cast by those present at a meeting:-
  - (a) Suspend or remove any person from an office within the Branch who has ceased according to the Rules to be eligible to hold that office;
  - (b) Reprimand, suspend or remove from any office or expel from membership any person elected to an office within the Branch if that person has been found guilty of:-
    - (i) Misappropriation of the funds of the Union;
    - (ii) A substantial breach of the Union's Rules;
    - (iii) Gross misbehaviour in relation to his/her office; or
    - (iv) Gross neglect of duty.
- (2) (a) A person shall not be dealt with under sub-rule (1), unless that person has been given 21 days written notice of:-
  - (i) The allegations made against that person;
  - (ii) Particulars of the evidence on which the allegation is based; and
  - (iii) The time, date and place at which the Executive will consider the allegations.
- (b) A notice in accordance with this sub-rule shall be signed by the Branch President or a Branch Deputy President and have attached to it a copy of this Rule.
- (3) The notice referred to in the previous sub-rule shall be delivered personally to the member concerned or posted by registered or certified mail to his/her last known address.
- (4) At the meeting of the Branch Executive, the person concerned shall be given the opportunity to be heard by the meeting of the Branch Executive personally or through another person or in writing.
- (5) (a) The Branch President, a Branch Deputy President or Branch Executive member may be suspended from office by the Branch Executive if the Branch Executive is satisfied that the Branch Officer has a case to answer in relation to matters referred to in sub-rule (1).
- (b) If the Branch Executive suspends the Branch President or a Branch Deputy President pursuant to paragraph (a) of this sub-rule, it shall forthwith appoint a financial member of the Union to act in the place of the officer who has been suspended.
- (c) The Branch Executive shall within 48 hours of the suspension provide the suspended Branch Officer with a notice in writing advising him/her of the suspension.
- (d) The Branch Executive shall within 7 days of the suspension convene a Special Branch Executive for a date not less than 21 days and not more than 35 days after the date on which the Branch President, Branch Deputy President or Branch Executive member was suspended to deal with him/her pursuant to sub-rule (1).





- (e) The provisions of sub-rules (1) and (2) apply in like manner insofar as they are capable of applying in relation to the person suspended pursuant to paragraph (a) of this sub-rule and the Branch Executive convened in pursuance of paragraph (d) of this sub-rule.
- (f) If a meeting of the Branch Executive is not convened in accordance with paragraph (d) of this sub-rule, the person suspended from office shall be deemed to be reinstated in his/her office from the expiration of the period for convening such a meeting of the Branch Executive. On reinstatement the person suspended shall receive all the entitlements to which he/she would have been entitled if he/she had not been suspended.
- (g) If the Branch Executive does not resolve to remove the person suspended from office that person shall be reinstated into his/her office subject to such terms and conditions as the Branch Executive subject to the Act and Rules may impose.
- (h) A member appointed to act in place of an officer suspended shall continue to act in that position until the person suspended from office has been reinstated pursuant to paragraph (f) or (g) of this sub-rule or, where the suspended officer is removed from office, until the position is filled in accordance with the rules for filling casual vacancies.
- (i) Any person dealt with under sub-rule (1) may lodge an appeal with Branch Council against any finding and/or penalty imposed by Branch Executive provided that he/she submits such appeal to the State Manager in writing not more than 14 days after the date of posting of the letter informing him/her of the decision of the Branch Executive. The Council shall convene within 25 working days, not inclusive of periods of school closure, to consider the matter.
- (j) Pending the determination of any such appeal the finding and/or penalty shall remain effective.

### **RULE 31 - OFFENCES BY BRANCH MEMBERS**

- (1) Subject to Federal Rule 13, Branch Executive may or, on the request of the State Manager who has submitted to the Branch Executive a prima facie case against a member, shall by summons in writing call upon any member whom the Branch Executive or State Manager alleges is committing or has within the preceding 12 months committed any offence against these Rules or the Branch Rules to show cause why he/she should not be reprimanded, fined or expelled from the Branch.
- (2) The summons shall:-
  - (a) State the allegation together with particulars thereof;
  - (b) Disclose the evidence on which the allegation is based;
  - (c) Be signed by the Branch President or State Manager;
  - (d) State the time, date and place at which the member is to show cause;
  - (e) Be delivered personally to the member concerned or posted by registered or certified mail to his/her last known address at least 21 days before the meeting at which the matter is to be determined; and
  - (f) Have attached to it a copy of this Rule.

- (3) Should any member against whom an allegation is made fail to appear at the hearing and fail to provide a satisfactory explanation for his/her non-attendance, the Branch Executive may proceed with the hearing of the allegation in his/her absence provided it is first satisfied that notice of the hearing in accordance with this Rule has been served on him/her.
- (4) The evidence relating to the alleged offence shall be heard by Branch Executive or by a committee of the members thereof appointed for that purpose and consisting of not less than three of its members and the member concerned shall be heard in his/her defence either personally and/or in writing.
- (5) If the evidence relating to the offence is heard by a committee that committee shall report its finding to the Branch Executive together with a recommendation as to penalty if any.
- (6) If in the opinion of the Branch Executive the member is guilty of the offence alleged, the Branch Executive may reprimand him/her for any one offence or may suspend him/her for a period not exceeding 12 months or may expel him/her from the Union.
- (7) The State Manager shall promptly inform the member by registered letter of the decision of the Branch Executive.  
In the event of expulsion the expulsion shall become effective 14 days after the date of posting such letter.
- (8) A member who is found guilty of an offence by the Branch Executive shall have a right of appeal to the next meeting of Branch Council against such finding and/or any penalty imposed by Branch Executive provided that he/she submits such appeal to the State Manager in writing not more than 14 days after the date of posting of the letter informing him/her of the decision of the Branch Executive and pending the determination of any such appeal the finding and/or penalty shall not become effective. The Branch Council determination of the appeal shall be final.
- (9) Any member expelled pursuant to this Rule shall not be re-admitted to membership except by vote of the Branch Council.

**RULE 32 - ELECTIONS - GENERAL PROVISIONS**

(1) Elections in accordance with this Rule shall be conducted by the Australian Electoral Commission (AEC) Returning Officer.

(2) The AEC Returning Officer will conduct elections for the following offices in accordance with the following timetable:

(a) **Elections by a direct voting system:**

Offices

Branch Positions

- Branch President;
- Branch Deputy President – DoE Sector;
- Branch Deputy President – Support Staff Sector
- Branch Deputy President – TAFE Division;
- Branch Deputy President - Secondary College Staff Sector;
- Branch Executive Members;
- Branch Council Delegates,
- TAFE Division Vice-Presidents;
- TAFE Division Women's Officer;
- Sub-branch Delegates to TDC;
- LINC representative on TDE;
- Support Staff representative on TDE;
- Sub-branch Delegates to TDE;
- Sub-branch Secretaries TAFE Division;
- Sub-branch Secretaries Secondary Colleges Sector;
- Secondary Colleges Sector Vice-President;
- Representative of Indigenous members on Branch Council;

Federal Positions:

- National TAFE Council Delegates;
- National TAFE Council Executive Members;
- Federal Conference Delegates;
- Alternate Delegates to Federal Conference;
- National ATSIEC (General Division) member;
- National ATSIEC (TAFE Division) member;
- National Early Childhood Committee (General Division) member;
- National Principal Committee (General Division) member.

Timetable

- (i) Nominations for the Branch positions shall open on the first day of school term 3 in the relevant calendar year and close at 5.00pm 2 weeks later.
- (ii) Nominations for the Federal positions shall open on first day of term 3 in the relevant calendar year and close at 5.00pm 2 weeks later:

If required, ballot papers shall be posted 3 weeks after the close of nominations, and the ballot will close at 5.00p.m 3 weeks after opening.

Date of taking up office

- (iii) Federal Conference Delegates; National ATSIEC (General Division) member; National ATSIEC (TAFE Division) member; National TAFE Council Delegates; National TAFE Council Executive Members; National Early Childhood Committee (General Division) member; National Principal Committee (General Division) member - 1 January in the year following the elections; all others 1 February in the year following the election.

Date of taking up office

- (iv) Branch President; Branch Deputy Presidents; Branch Executive Members; Sector or TAFE Division Vice Presidents; Branch Council Delegates; DoE Sector Council members and Support Staff Sector members, TDC or SCCOM Delegates; TAFE Executive; Sub-Branch Secretaries TAFE; Sub-Branch Secretaries Secondary Colleges – 1 February in the year following the election.

**(b) Elections by a collegiate voting system:**

Positions

- (i) Vice President of the Support Staff Sector
- (ii) Vice-President of the DoE Sector
- (iii) Sector Executive members in the DoE Sector and the Support Staff Sector
- (iv) Additional Branch Federal Executive Members.

Timetable

- (v) Nominations for:
  - (a) Vice President of the Support Staff Sector;
  - (b) Vice-President of the DoE Sector; and
  - (c) Federal Executive Member(s)

shall open 2 weeks after the closure of the ballots for direct elections, and close at 5.00pm 2 weeks later.

If required, ballot papers shall be posted 2 weeks after the close of nominations, and the ballot will close at 5.00 p.m. 2 weeks after opening.

Date of taking up office

- (ix) Vice President of the Support Staff Sector –immediately following the declaration of the ballot.
  - (x) Vice-President of the DoE Sector – immediately following the declaration of the ballot.
  - (xi) Federal Executive Member(s) - 1 March in the year following the election, as per Federal Rule 35(1A).
  - (xii) Support Staff and the DoE Sector Executive members; immediately following the declaration of the ballot.
- (3) (a) A Branch Returning Officer and a Branch Assistant Returning Officer, who need not necessarily be members of the Union, may be appointed by Branch Council at each Annual Branch Council Meeting for the conduct of any elections not conducted by the Australian Electoral Commission throughout the ensuing year.
- (b) A Branch Returning Officer and Assistant Branch Returning Officer so appointed shall not, during the term of their office, be employees of or the holder of any office in the Union or the Branch or candidates for any election within the Union or Branch, and shall not be eligible to nominate any candidate for any election under these Rules.
- (c) The Branch Returning Officer and the Assistant Branch Returning Officer shall hold office until his/her successor is appointed.
- (d) If the Branch Returning Officer or Assistant Branch Returning Officer is unable or unwilling to act as or when required, the Branch Executive may appoint an Acting Branch Returning Officer or acting Assistant Branch Returning Officer, as the case may be, provided that no persons so appointed shall be the holder of any other office or be an employee of or candidate for any other office in the Union.
- (4) AEC Returning Officer shall take such actions and give such directions as are reasonable and necessary to ensure that no irregularities occur in or in connection with any election or in order to rectify any procedural defects in any election and, no person shall refuse or fail to comply with such directions or obstruct or hinder the AEC Returning Officer or any other person in the conduct of any election or in the taking of any such action.

- (5) The decision of the AEC Returning Officer shall be final and binding regarding any matter affecting the validity or normality of any nominations, vote or any matter affecting or concerning any election and the conduct thereof.
- (6) The AEC Returning Officer shall consider all nominations and if, in his/her opinion, any nomination is defective, he/she shall immediately notify the person concerned of the defect by the most expeditious means and, where it is practicable to do so, give him/her the opportunity of remedying the defect, allowing, if practicable, at least 7 days after notification.
- (7) In an election conducted by secret postal ballot pursuant to this rule, each candidate may, not later than seven days from the time fixed by or pursuant to this rule for the close of nominations, submit to the AEC Returning Officer a statement (together with a passport-size photograph of the candidate if desired) in support of the candidature. Such statement (together with any photograph so supplied) must not exceed 200 words. The Returning Officer shall reject any statement or photograph which does not comply with this rule and may reject any statement or photograph the publication of which may be defamatory or in breach of law. A candidate whose statement or photograph is rejected shall be given not more than three days from such rejection to supply a replacement statement or photograph that complies with this rule and remedies the defect. The AEC Returning Officer shall arrange the printing of the statement and/or photograph in an Election Bulletin and their publication on the Union's Web Site for each candidate. The Returning Officer shall include with the ballot paper delivered to each voter a copy of the Bulletin. Where no statement or photograph has been submitted to the Returning Officer by a candidate, the Returning Officer shall indicate this in the Election Bulletin
- (8) Each candidate shall be entitled to appoint, in writing, any person, whether a member of the Union or not, to act as a scrutineer at the election and may appoint a substitute scrutineer in the event that the scrutineer is unable or unwilling to act as scrutineer at the election. All scrutineers shall, in the case of a ballot, be entitled to observe the admission and counting of votes, the conduct of and determination of the election and the declaration of the poll. In every case a scrutineer shall observe the directions of the AEC Returning Officer who shall take all reasonable steps to enable such a scrutineer to exercise his/her rights. No election shall be invalidated should a scrutineer not exercise any or all such rights provided that he/she has reasonable opportunity to so do.
- (9) Nominations for all offices shall be in writing, signed by the nominee and endorsed by two financial members proposing and seconding the nomination.
- (10) A candidate for election must be financial at the time of nomination.
- (11) Notices calling for nominations shall, in the case of offices to be filled by a direct voting system, be published in an official publication and on the Web Site of the Tasmanian Branch of the Union and, in the case of offices to be filled by a collegiate election, by sending a notice in writing to each person eligible to nominate.
- (12) If there is only one valid nomination for a single office or only sufficient valid nominations for multiple offices, the AEC Returning Officer shall report the nominations to the State Manager and such nominees shall be declared duly elected to the office or offices concerned.
- (13) If there are more than sufficient nominations for an office, then the AEC Returning Officer shall report the nominations to the State Manager and proceed to conduct an election in accordance with these Rules to determine the person or persons who shall be declared elected to such office or offices.
- (14) Where a member entitled to vote at a ballot will be absent from his/her normal workplace during the conduct of the ballot, he/she may make a request in writing to the AEC Returning Officer to forward a ballot paper and other ballot material as described in the following Rule to a nominated alternative address, and the AEC Returning Officer shall comply with that request.

### 33 – ELECTIONS: CODE OF CONDUCT

- (1)
  - (a) Written statements by candidates in support of their candidature may not refer to another candidate by name or their position unless the written consent of that candidate is received by the Returning Officer with the notice of nomination;
  - (b) Candidate statements may include:
    - age, personal and family information;
    - qualifications;
    - experience - union, community, business, administration, work etc.;
    - personal philosophy;
    - goals to be pursued if elected;
    - the candidate's photograph; and
    - any other information considered relevant.
  - (c) Candidates are required to sign a declaration taking responsibility for the accuracy of the information contained in the statements they provide. The Electoral Commission will publish candidate statements on the basis that it bears no liability for any of the information contained within them.
  - (d) In line with any directions from the Australian Electoral Commission the Branch will publish the statements on its web site.
- (2)
  - (a) All articles/letters/statements relating to an election that are printed or published between the notice of election and the end of the polling period, must contain the true name and address of the person taking responsibility for the article, at the end of the article/letter/statement.
  - (b) "Address" means an address, other than a post office box or an electronic address—
    - at which the responsible person resides; or
    - at or through which the responsible person may be readily contacted;
  - (c) These requirements apply to any advertisement, direct mail item, sign, circular, pamphlet, handbill, poster, sticker, dodger, and report. However they do not apply to the printing or publication of -
    - a leading article;
    - an article that consists solely of a report of a meeting. Such an article will not contain any comment or opinion on a candidate at an election or on the issues being submitted to the electors at the election.
- (3)
  - (a) It is a breach of the Rules to distribute electoral advertising which contains the name, photograph or likeness of a candidate without their written consent.
  - (b) "Publishing" includes making available on the internet (or sending messages via email).



**RULE 34 - ELECTION OF NATIONAL ATSIEC MEMBERS REPRESENTING THE GENERAL DIVISION AND TAFE DIVISION**

- (1) This rule is subject to Rules 73 and 74 of the Federal Rules.
- (2) The Branch Returning Officer shall conduct an election for one (1) National ATSIEC (General Division) member and one (1) National ATSIEC (TAFE Division) member
  - (a) Each 2 years at the same time as the election of Federal Conference Delegates or in any event according to a timetable which permits the declaration of the election on or before 30 November of the year prior to taking office; or
  - (b) At such time as shall be notified by the Federal Returning Officer to the Branch Returning Officer as is necessary for filling a casual or extraordinary vacancy.
- (3) The National ATSIEC (General Division) member shall be elected by and from the General Division members of the Branch. The election shall be conducted in accordance with the mode of election prescribed in the federal rules for Federal Conference delegates (the necessary changes being made) except that the member being nominated must be an Aboriginal or Torres Strait Islander member.
- (4) The National ATSIEC (TAFE Division) member shall be elected by and from the TAFE Division members of the Branch. The election shall be conducted in accordance with the mode of election prescribed in the federal rules for Federal Conference delegates (the necessary changes being made) except that the member being nominated must be an Aboriginal or Torres Strait Islander member.

**RULE 35 - ELECTION OF NATIONAL EARLY CHILDHOOD COMMITTEE (GENERAL DIVISION) MEMBER**

- (1) This rule is subject to Rule 76 of the Federal Rules.
- (2) The Branch Returning Officer shall conduct an election for one (1) Early Childhood Committee (General Division) member.
  - (a) Each 2 years at the same time as the election of Federal Conference Delegates or in any event according to a timetable which permits the declaration of the election on or before 30 November of the year prior to taking office: or
  - (b) At such time as shall be notified by the Federal Returning Officer to the Branch Returning Officer as is necessary for filling a casual or extraordinary vacancy.
- (3) The National Early Childhood (General Division) member shall be elected by and from the General Division members of the Branch. The election shall be conducted in accordance with the mode of election prescribed in the Federal and Branch Rules for Federal Conference delegates (the necessary changes being made) except that the member being nominated must be a current early childhood practitioner in schools.

**RULE 36 - ELECTION OF NATIONAL PRINCIPAL COMMITTEE (GENERAL DIVISION) MEMBER**

- (1) This rule is subject to Rule 75 of the Federal Rules.
- (2) The Branch Returning Officer shall conduct an election for one (1) National Principal Committee (General Division) member.
  - (a) Each 2 years at the same time as the election of Federal Conference Delegates or in any event according to a timetable which permits the declaration of the election on or before 30 November of the year prior to taking office: or
  - (b) At such time as shall be notified by the Federal Returning Officer to the Branch Returning Officer as is necessary for filling a casual or extraordinary vacancy.
- (3) The National Principal (General Division) member shall be elected by and from members of the Branch in the General Division who are employed under Band 3 of the Teaching Service (Tasmanian Public Sector or TAFE Division) Award 1995. The election shall be conducted in accordance with the mode of election prescribed in the Federal and Branch Rules for Federal Conference delegates (the necessary changes being made) except that the member being nominated must be a current Band 3 employee.

**RULE 37 - ALTERNATE DELEGATES TO FEDERAL CONFERENCE (GENERAL DIVISION)**

- (1) This Rule must be applied subject to Federal Rules 30(1A) and 32(7) and consistent with the proportion of female delegates set out in Federal Rule 24(3A)
- (2) Alternate Federal Delegates shall be elected within the same ballot that elects the Tasmanian Branch Federal Delegates under Tasmanian Federal Branch Rule 32(2)(a).
- (3) After the Returning Officer has decided who, in accordance with the relevant Federal and Tasmanian Branch Rules, has been elected as the Tasmanian Branch Federal Conference Delegates, counting of votes will continue to determine who will be the Alternate Delegates.
- (4) If sufficient candidates are standing, the next three candidates elected will be the Federal Conference Alternate Delegates.
- (5) An Alternate Delegate shall be selected to act as a delegate's proxy in the order they were elected, provided this maintains the proportion of female delegates set out in Federal Rule 24(3A).

**RULE 38 - ELECTION BY A DIRECT VOTING SYSTEM**

- (1) Elections for offices requiring a direct voting system shall be conducted in accordance with this Rule.
- (1A) In any election for an office in the Branch which is conducted by a direct voting system, the roll of voters shall be closed seven days before nominations for the relevant office opens.
- (2) The AEC Returning Officer shall nominate the address to which voters may post ballot papers.
- (3) The AEC Returning Officer shall for the purpose of each election maintain a locked and sealed ballot box in which he/she shall place from time to time ballot papers received by post.

- (4) The AEC Returning Officer shall cause to be delivered to each member who is financial as at the date of the closure of the roll of voters by pre-paid post a ballot paper. With each ballot paper there shall be provided a prepaid return envelope and a declaration envelope in which the ballot paper is to be sealed after the voter has cast his/her vote. The removable flap/label attached to the declaration envelope upon which the voter shall be required to sign as an eligible voter, shall be detached or separated from the declaration envelope by the AEC Returning Officer and placed in separate piles so as to ensure that the ballot paper cannot be identified with the removable flap/label. Both envelopes shall be in the form prescribed by the regulations made under Fair Work (Registered Organisations) Act 2009.
- (5) The ballot paper shall list the title of the office for which an election is to be held and following each title shall list the names of candidates in sequence determined by lot by the AEC Returning Officer. Opposite each name there shall be a box in which the voter is to be instructed to indicate his/her preference for the candidate for that position by inserting the numbers 1, 2, 3 ... etc, the number 1 indicating the first preference.
- (6) In the ballot for any particular position, if all boxes are not completed and/or there is any break in the sequence of numbers used by the voter, the ballot paper shall be invalid provided that where the voter has indicated his/her preference for one candidate and his/her contingent preference for remaining candidates except one and the square opposite the name of that one candidate has been left blank, it shall be deemed that the voters preference for that candidate is his/her last and that accordingly he/she has indicated the order of his/her preferences for all candidates and further, where there are two candidates only and the voter has indicated his/her vote by placing the figure "1" in the square opposite the name of one candidate and has left the other square blank, the voter shall be deemed to have indicated the order of his/her preference for all the candidates.
- (7) The voter shall be instructed after casting his/her vote to fold the ballot paper so that the marking thereof is not visible until unfolded and to seal the ballot paper and the declaration envelope inside the pre-addressed envelope provided.
- (8) The AEC Returning Officer shall advise all voters of the closing date and hour for the receipt of returned ballot papers.
- (9) Voters must return ballot papers to the AEC Returning Officer either by posting them to the address shown on the envelope or otherwise so that the ballot paper is received no later than the notified hour on the closing date by the AEC Returning Officer. It is the voter's responsibility to ensure that his/her ballot paper is received by the AEC Returning Officer by the closing date and time and subject to his/her having exercised reasonable care the AEC Returning Officer shall not be responsible for the loss of any ballot paper.
- (10) Any vote in respect of the election of a person to an office shall be informal if:-
  - (a) The ballot paper is received by the AEC Returning Officer after the notified hour on the closing date;
  - (b) The content of the ballot paper does not comply with the instructions printed on it;  
or
  - (c) The ballot paper is received in a declaration envelope without the removable flap or label or with the flap or label unsigned.

- (11) If the AEC Returning Officer is satisfied that a ballot paper has been destroyed, lost, damaged, or misused he/she shall supply (in the place of the damaged or misused ballot paper on receipt thereof) to the person to whom the original ballot paper was supplied a substitute ballot paper.
- (12) Immediately after the time determined for the close of the ballot the AEC Returning Officer shall, in the presence of the scrutineers as are present, take steps to ensure that no further ballot papers are deposited in the ballot box and then proceed to:-
  - (a) Open the ballot box and remove unopened ballot paper envelopes;
  - (b) Remove the declaration envelope from the return envelope without separating the declaration from the declaration envelope;
  - (c) Determine, prima facie, the bona fides of the ballot papers by examining the declaration and if in order marking off the voter's name on the roll of voters;
  - (d) Open the ballot paper envelopes and extract from them all the ballot papers in such a manner as to preserve the secrecy of the ballot;
  - (e) Place the declarations and ballot papers in separate bundles; and
  - (f) Proceed with the counting of the votes.
- (13) The AEC Returning Officer shall retain all ballot papers, envelopes, declarations and other documents used in connection with the election and keep them in safe custody for the period of one year after the date of the declaration of the election.
- (14) The ballot shall be counted by the preferential voting system set out in Schedule A.
- (15)
  - (1)
    - (a) This sub-rule applies where a person nominates for more than one of the offices shown on List 1 of Schedule B to these Rules.
    - (b) If only one person is nominated for an office shown on List 1 and that person has also nominated for another office listed on List 1, the nomination for the first listed office shall stand and the other nomination(s) shall lapse.
    - (c) If two or more persons are nominated for an office shown on List 1, and any of them are also nominated for any other office shown on List 1, the ballot for the first listed office shall be counted first, and if the successful candidate is also nominated for any other office shown on List 1, his/her name and the first preference votes gained by him/her shall be omitted in counting the ballot for the other offices, and the second and subsequent preference votes of the person omitted from the ballot shall be allocated to the remaining candidates.
  - (2) The provisions of sub-rule (1) shall also apply to Lists 2, 3, 4, 5, 6 and 7 of Schedule B.
- (16) The elections for National TAFE Council Delegates and National TAFE Council Executive Members shall be conducted in accordance with Federal Rule 54.
- (17) At the conclusion of the count the AEC Returning Officer shall issue to the State Manager a declaration of the count which is to bear his/her signature.

**RULE 39 - COLLEGIATE ELECTIONS**

- (1) Collegiate elections shall be conducted in accordance with this rule.
- (2) For the purposes of this rule:-
  - (a)
    - (i) Additional Branch Executive members shall be elected by and from members of the General Division as defined in Rule 1 Arrangement of Membership and who are members on the Branch Council as listed in Rule 5(1) Composition of Branch Council.
    - (ii) The persons eligible to hold the offices and vote in elections for the offices referred to in paragraph (i) shall be the persons elected as Branch Council members or Delegates to Branch Council, as the case may be, at elections conducted immediately prior to the elections conducted in accordance with this Rule.
  - (b)
    - (i) If DoE Sector Council or the Support Staff Sector Council decides at its first meeting to have a Sector Executive, the Council shall determine in line with Rule 19 how many delegates shall form the Sector Executive.
    - (ii) The persons eligible to be elected to a Sector Executive and vote in elections for the offices referred to in (c)(i) shall be the members of the Sector Council following the elections conducted immediately prior to the initial meeting of the Sector Council.
  - (c) The DoE Sector Vice President shall be elected by and from the members of the DoE Sector Council.
  - (d) The Support Staff Sector Vice President shall be elected by and from the members of the Support Staff Sector Council.
- (3) Subject to sub-rule (4), the provisions of rule 32 shall apply mutatis mutandis to the conduct of collegiate elections.
- (4) For the purposes of this rule, votes shall be counted and preferences allocated in accordance with the Hare-Clarke System set out in Schedule A.

**RULE 40 - ELECTION OF WOMEN FEDERAL DELEGATES AND ALTERNATIVE FEDERAL DELEGATES**

- (1) This Rule shall operate in conjunction with other Federal Branch Rules relating to the election of General Division Federal Delegates to Federal Conference and General Division Alternate Delegates to Federal Conference provided that where there is any inconsistency this Rule shall prevail over any inconsistent provision in any other Federal Branch Rule.
- (2) In addition to any other information required to be set out in the notification of the calling of nominations for the election of Federal Delegates to Federal Conference the notification shall include the following additional information:
  - (a) The number of Federal Delegates to be elected and the number of women Delegates to be elected; and
  - (b) Advice that if the number of women candidates is less than the number of women Delegates to be elected the remaining position or positions in question will be filled by a male candidate or candidates.

- (3) In addition to any other information required to be set out on ballot papers for Federal Delegates the ballot paper shall include the following additional information:
  - (a) The candidate's full name and, in accordance with each candidate's preference, the title Mr., Mrs., Ms. or Miss; and
  - (b) The number of Federal Delegates to be elected and the number of women Federal Delegates to be elected.
- (4) The AEC Returning Officer shall, having complied with sub-rule 32(6), determine in accordance with the next sub-rule whether it is necessary to conduct a ballot.
- (5) The AEC Returning Officer shall conduct a ballot -
  - (a) For all positions - where the number of candidates exceeds the of Federal Delegate positions to be filled and the number of women candidates is more than the number of women Federal Delegate positions to be filled; or
  - (b) For remaining positions only - where the AEC Returning Officer has ascertained that the number of nominations from women candidates is less than or equal to the number of positions for women Federal Delegates and the number of male candidates is more than the number of remaining positions.
- (6) Any ballots necessary in accordance with this rule will be conducted under the Hare-Clarke system as determined in Schedule A to these Rules; counting methodology to be determined by the Branch Executive in consultation with the Australian Electoral Commission.

#### **RULE 41 - CASUAL VACANCIES**

- (1) Where a vacancy occurs, other than at the expiration of the term of the office in question, the consequential casual vacancy shall be filled in accordance with this Rule.
- (2) Where the unexpired term of office is more than 12 months, the AEC Returning Officer shall conduct an election for that office using, mutatis mutandis, the same mode of election as is prescribed by these Federal Branch Rules for the conduct of normal elections.
- (3) Where a casual vacancy arises and the unexpired term of office is less than 12 months, the office may be filled by:-
  - (a) In the case of the Branch President by the appointment by the Branch Executive of a Branch Deputy President from a Sector or the TAFE Division or a member of the Branch Executive;
  - (b) In the case of a Branch Deputy President from a Sector or TAFE Division, by the appointment by the Sector Council or the TDC of a Delegate to Branch Council from the Sector or TAFE Division involved;
  - (c) In the case of a Branch Councillor, by the appointment by the Sector Council or the TDC involved of a financial member from the relevant Sector or TAFE Division;
  - (d) In the case of a Branch Executive member, by the appointment by the Branch Executive of a financial member of the Branch;

- (e) In the case of a member of a Sector Council or the TDC who is not on Branch Council a financial member from the Sector or the TAFE Division, selected by the Sector Council or the TDC;
- PROVIDED THAT: where a retiring member of a Sector Council or the TDC represents a specific group or sub-branch the replacement councillor will come from the same group or sub-branch
- (f) In the case of a member of a Sector Council Executive, the TDE or the SCCOM, by the appointment by the Sector Executive, the TDE or the SCCOM of a financial member from the relevant Sector or the TAFE Division.
- PROVIDED THAT: where a retiring member of the TDE or SCCOM represents a specific group or sub-branch the replacement member will come from the same group or sub-branch
- (g) in the case of Sub-branch Secretaries - TAFE Division or Secondary Colleges Sector - a financial member appointed by a General Meeting of the Sub-branch.
- (h) in the case of an Indigenous Representative, a financial member registered as an Aboriginal or Torres Strait Island member of the Branch appointed by Branch Executive.
- (4) Subject to Federal Branch Rule 1(4) the holders of the offices of Sector or TAFE Division Deputy President; Sector or TAFE Division Delegates to Branch Council; Sector Council or the TDC, shall cease to hold office in the event that the holder ceases to be a member of the Sector or TAFE Division or Sub-branch, as the case may be, to which he/she was elected, and a casual vacancy shall occur.

#### **RULE 42 - REGISTERED OFFICE**

The Registered Office of the Tasmanian Branch of the Union shall be at:-

32 Patrick Street,  
HOBART. TAS. 7000;

or such other place as Branch Council from time to time determines

#### **RULE 43 – TRANSITIONAL RULE**

- (1) This rule is intended to provide:
- (a) For the transition from 2 year terms to 3 year terms for Branch Officers;
- (b) For the transition from 1 year terms to 3 year terms for Sub-branch positions;
- (c) For the operation of new sub-rule 25(2);
- (d) For the transition to a new rule for determining Branch members on the Federal Executive; and
- (e) For the transition to 3 year terms to commence with elections scheduled in 2017.

- (2) For the purposes of introducing 3 year terms for Branch Officers, the new 3 year terms will apply to candidates elected at elections conducted in 2017 and 2018 and the persons elected shall be deemed to hold office until the expiration of their terms following elections conducted 3 years later.
- (3) For the purposes of introducing 3 year terms for Sub-branch positions, the new 3 year term will apply to candidates elected in elections conducted at the Annual General Meetings of Subbranches held between 1 November 2017 and 14 March 2018 and the candidates elected at those elections shall be deemed to hold office until the expiration of their terms following elections conducted 3 years later.
- (4) New sub-rule 25(2) will apply to employment by the Branch after 1 January 2018.
- (5) For the purposes of Rule 23(1)(a), a 2 year term as Branch President under the old rule will constitute a term in calculating the number of consecutive terms.
- (6) New sub-rule 23A(2) will commence operation at the end of the term of office of the Branch Federal Executive member elected in 2016, provided that the Federal Rules have been amended to permit new rule 23A to operate. In the event that the Federal Rule to enable new sub-rule 23A to operate has not been made at the time elections are conducted for Branch Federal Executive members in 2018, and are made at any time during the term of the office of the Federal Branch Executive members elected in 2018

## **RULE 44 - FAIR WORK (REGISTERED ORGANISATIONS) AMENDMENT ACT 2012**

### **1. *UNION POLICY AND PROCEDURES***

The Branch shall develop and implement policies and procedures relating to the expenditure of the Branch.

### **2. *DISCLOSURE OF OFFICER'S RELEVANT REMUNERATION AND NON-CASH BENEFITS***

A. Each officer of the Branch shall disclose to the Branch any remuneration paid to the officer:

a. because the officer is a member of a board, if:

- i. the officer is a member of the board only because the officer is an officer of the Branch; or
- ii. the officer was nominated for the position as a member of the board by the Branch, or a peak council; or

b. by any related party of the Branch in connection with the performance of the officers' duties as an officer.

B. The disclosure required by sub-rule (A) shall be made to the Branch:

- a. as soon as practicable after the remuneration is paid to the officer; and
- b. in writing.



C. The Branch shall disclose to the members of the Branch:

- a. the identity of the officers who are the two highest paid in terms of relevant remuneration for the disclosure period, and
- b. for those officers:
  - i. the actual amount of the officers' relevant remuneration for the disclosure period; and
  - ii. either the value of the officers' relevant non-cash benefits, or the form of the officers' relevant non-cash benefits, for the disclosure period.

For the purposes of sub-rule (C), the disclosure shall be made:

- c. in relation to each financial year;
- d. within six months after the end of the financial year; and
- e. in writing.

3. *DISCLOSURE OF OFFICER'S MATERIAL PERSONAL INTERESTS*

A. Each officer of an Branch shall disclose to the Branch any material personal interest in a matter that:

- a. the officer has or acquires; or
- b. a relative of the officer has or acquires;

that relates to the affairs of the Branch.

B. The disclosure required by sub-rule (A) shall be made to the Branch:

- a. as soon as practicable after the interest is acquired; and
- b. in writing.

C. The Branch shall disclose to the members of the Branch any interests disclosed to the Branch pursuant to sub-rule (A).

D. For the purposes of sub-rule (C), the disclosures shall be made:

- a. in relation to each financial year;
- b. within six months after the end of the financial year; and
- c. in writing.

4. *DISCLOSURE BY THE BRANCH OF PAYMENTS*

A. The Branch shall disclose to the members of the Branch either:

a. each payment made by the Branch during the disclosure period:

- i. to a related party of the Branch; or
- ii. to a declared person or body of the Branch; or

b. the total of the payments made by the Branch, during the disclosure period:

- i. to each related party of the Branch; or
- ii. to each declared person or body of the Branch.

B. Sub-rule (A) does not apply to a payment made to a related party if the payment consists of amounts deducted by the Branch from remuneration payable to officers or employees of the Union.

C. For the purposes of sub-rule (A), the disclosures shall be made:

- a. in relation to each financial year;
- b. within six months after the end of the financial year; and
- c. in writing.

5. *TRAINING*

A. Each person who holds an office in the Branch (within the meaning of the Fair Work Registered Organisations Act 2009), whose duties include duties (financial duties) that relate to the financial management of the Branch, must comply with all of the following:

- a. The person must undertake training approved by the General Manager of the Fair Work Commission under section 154C of the Fair Work Registered Organisations Act 2009;
- b. The training so undertaken must cover each of the person's financial duties.

B. The training so undertaken must be completed within 6 months after the person begins to hold the office.

**SCHEDULE A TO THE FEDERAL BRANCH RULES OF THE AUSTRALIAN EDUCATION  
UNION (TASMANIAN BRANCH)**

**A. Preferential Voting - One vacancy to be filled**

1. The AEC Returning Officer shall count first preference votes cast for each candidate and if any candidate has received an absolute majority of first preference votes he/she shall be declared elected.
2.
  - (a) If no candidate has received an absolute majority of first preference votes, the candidate with the lowest number of first preference votes shall be eliminated and the second preference votes of the eliminated candidate shall be allocated to the remaining candidates in accord with the voter's preference. If, on a count of those votes, a candidate has an absolute majority of votes he/she shall be declared elected;
  - (b) If no candidate then has an absolute majority of votes the process of eliminating the candidate with the lowest number of votes at that stage and allocating the next preference votes of that candidate shall be repeated until one candidate has received an absolute majority of votes; and
  - (c) The candidate who has received an absolute majority of votes shall be declared elected.
  - (d) If, in the final count, 2 candidates have an equal number of votes, the candidate who, at the last count at which they had an unequal number of votes, had the greater number shall be elected, and if there was no such count, the AEC Returning Officer shall decide by lot which candidate shall be elected.

**B. Preferential Voting - More than one vacancy to be filled**

1. All informal ballot papers shall be rejected. Each ballot paper admitted to the count shall be given the value of ten votes and the number of votes expressing a first preference for each candidate shall be counted.
2. The aggregate number of such first preferences shall be divided by one more than the number of candidates required to be elected, and the quotient increased by one (excluding any fractional remainder) shall be the quota and (except as hereinafter provided in Clause 10) no candidate shall be elected until that candidate obtains a number of votes equal to or greater than the quota.
3. Any candidate, who has upon the first preferences being counted, a number of such votes equal to or greater than the quota, shall be declared elected.
4. Where the number of such votes obtained by any candidate is equal to the quota, the whole of the ballot papers on which a first preference is recorded for such elected candidate shall be set aside as finally dealt with.
5. Where the number of votes obtained by any candidate is in excess of the quota, the number of votes in excess of the quota (the "surplus") shall be transferred to the other candidates not yet declared elected, next in order of the voters' respective preferences, in the following manner:-
  - I. All the ballot papers on which a first preference is expressed for the elected candidate shall be re-examined, and the number of second preferences, or (in the case provided for in Clause 12) third or next consecutive preferences, expressed for each unelected candidate thereon shall be counted.

- II. The surplus votes of the elected candidate shall be divided by the total number of the ballot papers expressing a first preference for the candidate, and the resulting number shall be the transfer value.
  - III. The number of ballot papers expressing a second (or other) preference for each unelected candidate, ascertained according to paragraph I, shall be multiplied by the transfer value.
  - IV. The resulting number, disregarding any fractional remainder, shall be credited to each unelected candidate, and added to the number of votes previously obtained by the candidate on the counting of the first preferences.
6. (a) Where, on the counting of the first preferences or on any transfer, more than one candidate has a surplus, the largest surplus shall be dealt with first. If then more than one candidate has a surplus, the then largest surplus shall be dealt with, and so on; provided that, if one candidate has obtained a surplus at a count or transfer previous to that at which another candidate obtains a surplus the surplus of the former shall be dealt with first.
    - (b) Where two or more surpluses are equal, the surplus of the candidate who was the highest on the poll at the count or transfer at which they last had an unequal number of votes shall be dealt with first, and, if they have had an equal number of votes at all preceding counts or transfers, the Returning Officer shall decide which candidate's surplus shall be dealt with first.
  7. (a) Where the number of votes obtained by a candidate is raised up to or above the quota by a transfer, the candidate shall be declared elected. In such a case, notwithstanding the fact that the candidate may have reached the quota during the progress of the transfer, the candidate shall not cease to become entitled to receive further votes until the conclusion of that transfer.
    - (b) Where the number of votes obtained by a candidate is raised up to but not above the quota by a transfer, the whole of the associated ballot papers shall be set aside as finally dealt with.
    - (c) Where the number of votes obtained by a candidate is raised above the quota by a transfer, the surplus shall be transferred to the candidates next in the order to the voters' respective preferences, in the following manner:-
      - I. The ballot papers on which are recorded the votes obtained by the elected candidate in the last transfer shall be re-examined, and the number of second preferences, or (in the case provided for in Clause 12) third or next consecutive preferences, expressed for each unelected candidate thereon shall be counted.
      - II. The surplus votes of the elected candidate shall be divided by the total number of the ballot papers mentioned in paragraph I, and the resulting number shall be the transfer value.
      - III. The number of ballot papers expressing a second (or other) preference for each unelected candidate, ascertained according to paragraph I, shall be multiplied by the last mentioned transfer value.
      - IV. The resulting number, disregarding any fractional remainder, shall be credited to each unelected candidate, and added to the number of votes previously obtained by the candidate.

8.
  - (a) Where, after the first preferences have been counted and all surpluses, if any, have been transferred in the manner prescribed above, no candidate, or less than the number of candidates required to be elected, has or have obtained the quota, the candidate who is lowest on the poll shall be excluded, and all the votes obtained by that candidate shall be transferred to the candidates next in the order of the voters' respective preferences in the same manner as is directed in Clause 5.
  - (b) The votes obtained by such excluded candidate in the counting of the first preferences shall first be transferred, the transfer value of each ballot paper in this case being 10.
  - (c) The other votes of such excluded candidate shall then be dealt with in the order of the transfers at which the candidate received them, and each corresponding ballot paper shall be transferred at the transfer value at which the candidate received it.
  - (d) Each of the transfers which take place under the two previous sub-clauses of this Clause shall be deemed for all purposes to be a separate transfer.
  - (e) In calculating the number of votes to be credited to a continuing candidate as a result of such transfer, any fractional remainder shall be disregarded.
9.
  - (a) Where the number of votes obtained by a candidate is raised up to or above the quota by a transfer, that candidate shall thereupon be declared elected. In such a case, notwithstanding the fact that the candidate may have reached the quota during the progress of the transfer, the candidate shall not cease to become entitled to receive further votes until the conclusion of that transfer.
  - (b) Where the number of votes obtained by a candidate is raised up to, but not above, the quota by any transfer, the whole of the associated ballot papers shall be set aside as finally dealt with.
  - (c) Where the number of votes obtained by a candidate is raised above the quota by a transfer, the surplus shall be transferred to the candidates next in the order of the voters' preferences in the same manner as is directed in sub-clause (e) of Clause 8; provided that such surplus shall not be dealt with until all the votes of the excluded candidate have been transferred.
  - (d) Where any surplus exists it shall be dealt with before any other candidate is excluded.
10. The same process of excluding the candidate lowest on the poll and transferring the votes to other candidates shall be repeated until all the candidates, except the number required to be elected, have been excluded, and the unexcluded candidates who have not already been so declared, shall then be declared elected.
11. Where at any time it becomes necessary to exclude a candidate, and two or more candidates have the same number of votes and are lowest on the poll, then whichever of such candidates was lowest on the poll at the last count or transfer at which they had an unequal number of votes shall be first excluded, and if such candidates have had an equal number of votes at all preceding counts or transfers the AEC Returning Officer shall decide which candidate shall be first excluded.
12. In determining which candidate is next in the order of the voter's preference, any candidates who have been declared elected or who have been excluded shall not be considered, and the order of the voter's preference shall be determined as if the names of such candidates had not been on the ballot paper.
13. Where on any transfer it is found that a ballot paper expresses no preference, other than for candidates who have already been declared elected or been excluded, that ballot paper shall be set aside as exhausted.

14. Where, in these rules, an order amongst the candidates is called for, the order shall be: those elected at the first count, in descending order of their votes; those elected at the second count, in descending order of their total votes after that count; and so on down; followed by the unsuccessful candidates in the reverse order of their exclusion from the count.

SCHEDULE B - LIST OF OFFICES FOR ELECTION IN ACCORDANCE WITH RULE 38(15)

List 1 - Branch Council

- Branch President
- Branch Deputy President TAFE Division
- Branch Deputy President Support Staff
- Branch Deputy President Secondary Colleges Sector
- Branch Deputy President DoE Sector
- Six Branch Executive Members
- Branch Council Delegates from the TAFE Division and Secondary College Sector
- A representative of Indigenous members

List 2 - Branch Executive

- Branch President
- Branch Deputy President from each Sector
- TAFE Division President
- Branch Executive Members

List 3 - TDC

- TAFE Division Deputy President
- TAFE Division Vice-President
- TAFE Division Women's Officer
- Community Knowledge Network representative on TAFE Division Executive
- Support Staff representative on TAFE Division Executive
- Sub-branch Secretaries, TAFE Division
- Sub-branch Delegates elected to TAFE Division Executive
- Sub-branch Delegates to the TAFE Division Council

List 4 - TDE

- TAFE Division Deputy President
- TAFE Division Vice-President
- TAFE Division Women's Officer
- Community Knowledge Network representative on TAFE Division Executive
- Support Staff representative on TAFE Division Executive
- Sub-branch Secretaries, TAFE Division
- Sub-branch Delegates to the TAFE Division Executive

List 5 - SCCOM

- Secondary Colleges Sector Deputy President
- Secondary Colleges Sector Vice-President
- Sub-branch Secretaries, Secondary Colleges Sector

List 6 - DoE Sector Council

- DoE Sector Deputy President
- Delegates elected to the DoE Sector Council

List 7 – Support Staff Sector Council

- Support Staff Sector Deputy President
- Support Staff Sector Vice President
- Delegates elected to the Support Staff Sector Council



SCHEDULE C

SCHEDULE C TO THE FEDERAL: BRANCH RULES OF THE AUSTRALIAN EDUCATION UNION  
(TASMANIAN BRANCH)

**Membership contributions to be paid by members of the Australian Education Union Tasmanian Branch.**

**Definitions**

‘Associate’ members are retired union members who are no longer employed by the state government and are not entitled to voting rights or membership services.

‘Leadership’ is defined as members who are employed under the Teaching Service (Tasmanian Public Sector) Award or the TasTAFE Teaching Service Award and who hold a promoted position.

‘Non-teaching’ is defined as members who are not employed under the Teaching Service (Tasmanian Public Sector) Award or the TasTAFE Teaching Service Award.

‘Nurse educator’ is defined as a teacher employed under the TasTAFE Teaching Service Award who teaches nursing and holds dual union membership for nursing registration purposes.

‘Teaching’ is defined as members who are employed under the Teaching Service (Tasmanian Public Sector) Award or the TasTAFE Teaching Service Award.

‘Promoted position’ is defined as a position which is not base grade.

‘Relief’ is a member who is employed as such under the Teaching Service (Tasmanian Public Sector) Award.

‘Sessional’ is a member who is employed under the TasTAFE Teaching Service Award.

‘Student’ is a non-financial member who is undertaking an education qualification in a tertiary institution and are not entitled to voting rights.



**MEMBERS CONTRIBUTIONS TABLE**

<b>Non-Teaching Annual Salary</b>	<b>Per Fortnight</b>
<\$24,999	\$9.62
\$25,000 - \$39,999	\$15.38
\$40,000 - \$59,999	\$23.08
\$60,000 - \$79,999	\$30.77
\$80,000 - \$99,999	\$30.77
\$100,000 - \$119,999	\$30.77
\$120,000 +	\$30.77
<b>Leadership Annual Salary</b>	<b>Per Fortnight</b>
<\$59,999	\$23.08
\$60,000 - \$79,999	\$30.77
\$80,000 - \$99,999	\$38.46
\$100,000 - \$119,999	\$41.73
\$120,000 - \$139,999	\$41.73
\$140,000 - \$159,999	\$41.73
\$160,000 - \$179,999	\$41.73
\$180,000 - \$199,999	\$41.73
\$200,000 +	\$41.73
<b>Teaching Annual Salary</b>	<b>Per Fortnight</b>
<\$24,999	\$9.62
\$25,000 - \$39,999	\$15.38
\$40,000 - \$59,999	\$23.08
\$60,000 - \$79,999	\$30.77
\$80,000 - \$99,999	\$38.46
\$100,000 - \$119,999	\$41.73
\$120,000 +	\$41.73
	<b>Per Fortnight</b>
Relief/Sessional	\$9.62
Nurse Educator	\$12
Associate	\$1.54
Student	No charge

**New Educators**

Members employed under the Teaching Service (Tasmanian Public Sector) Award or the TasTAFE teaching Service Award who are in their first year of employment and first year of financial AEU membership, are able to seek reimbursement from the Union for the costs associated with initial Teacher Registration.

APPENDIX A

FEDERAL BRANCH RULES

FEDERAL BRANCH RULES - SOUTH AUSTRALIAN BRANCH

PART I - PRELIMINARY

**1 - ARRANGEMENT OF MEMBERSHIP**

- (1) To facilitate the effective representation of members of the Branch, the members shall be assigned:-
- (a) in accordance with Federal Rule 7, to a Division being:-
    - (i) the General Division; or
    - (ii) the TAFE Division;
  - (b) to a sub-branch;
  - (c) in respect of members in the General Division employed pursuant to the Children's Services Act 1985 (South Australia), to the Children's Services Sub-Division (the "CS Sub-Division");
  - (d) in respect of School Services Officers in the General Division employed pursuant to the School Services Officers Award being an award made pursuant to the provisions of the Industrial and Employee Relations Act 1994 (South Australia) or any award which replaces this award, to the SSO Sub-Division; and
  - (e) in respect of all members in the General Division to an Area.
- (2)
- (a) Subject to paragraph (b), there shall be deemed to be a sub-branch in every workplace having 7 or more members as at 31 October in a particular year.
  - (b) The Branch Executive may approve the establishment of a sub-branch comprised of members from 2 or more workplaces provided that the workplaces are located within one Area.
  - (c) In the event that on 31 October the number of members of a sub-branch falls below 7, the sub-branch shall be dissolved by the Branch Executive and the members allocated to another sub-branch.
  - (d) Any property acquired by a sub-branch shall be the property of the Union and form part of the Branch fund. In the event that a sub-branch is dissolved, the control and management of the property shall pass to the Branch Executive.
  - (e) The Branch Executive may establish a sub-branch comprised of members who have no permanent workplace or no permanent employment provided that there shall be at least 7 members in the sub-branch.

- (3) (a) The Branch Executive shall group sub-branches within the General Division into Areas in accordance with this sub-rule.
- (b) In determining the grouping of sub-branches or reviewing the grouping of sub-branches for the purposes of this sub-rule the Branch Executive shall:-
- (i) ensure that no sub-branch is allocated to more than one Area;
  - (ii) have regard to the geographic proximity of sub-branches within the Area;
  - (iii) ensure that there are no more than 40 Areas and that no Area shall comprise more than 50 sub-branches or represent more than 2,000 members; and
  - (iv) have regard to the views expressed by members of sub- branches.

For the purposes of sub-paragraph (iii), the relevant date for determining the number of members in an Area is 31 October.

## **2 - BRANCH REPRESENTATIVE BODIES**

Subject to the Federal Rules and the Federal Branch Rules, the interests of the members of the Branch shall be represented by the following bodies:-

- (a) Branch Council;
- (b) Branch Executive;
- (c) Meetings of Branch Members;
- (d) Divisional Councils;
- (e) in relation to the TAFE Division, the TAFE Divisional Executive;
- (f) deleted;
- (g) Meetings of General Division members in Areas; and
- (h) Sub-Branch Committees.

## **PART II - BRANCH ORGANISATION**

### **3 - BRANCH COUNCIL - POWERS**

- (1) Subject to the Federal Rules and the Federal Branch Rules, the Branch Council shall be the supreme governing authority of the Branch.
- (2) The Branch Council shall, subject to the Federal policies of the Union, determine Branch policy and direction.
- (3) Without limiting the generality of the foregoing, the Branch Council shall have power to:-
- (a) determine, for the purposes of Federal Rule 11, entrance fees and subscriptions payable by each member and the time and amounts for the payment of subscriptions by instalments;
  - (b) exercise powers conferred upon the Branch Council elsewhere in the Federal Branch Rules;
  - (c) direct all other decision making bodies in the Branch and any officer, member or employee of the Branch;

- (d) interpret the Federal Branch Rules;
  - (e) where appropriate, refer matters to the Branch Executive for determination;
  - (f) determine matters referred to it by the Branch Executive or by a Branch Council Delegate;
  - (g) appoint Administrative Officers in accordance with the Federal Branch Rules;
  - (h) where appropriate, refer matters for decision by Branch members by plebiscite;
  - (i) where appropriate, make recommendations to the Branch Executive as to Branch representation at meetings of affiliated bodies, organisations or institutions;
  - (j) establish and appoint members to committees in accordance with the Federal Branch Rules;
  - (k) establish guidelines for the conduct of Divisional Councils, and sub-branches;
  - (l) in accordance with the rules, fill extraordinary vacancies on Standing Committees;
  - (m) determine standing orders for conduct of all meetings of bodies established under these Federal Branch Rules; and
  - (n) appoint delegates to represent the Branch on the UTLC and nominate a delegate as the Branch endorsed candidate for the UTLC Executive.
- (4) Branch Council may, in relation to a decision of a Divisional Council:-
- (a) where the decision affects members outside the Division, declare that the decision affects members other than the members of that Division, as the case may be, and rescind, amend or affirm the decision; or
  - (b) in relation to any other decision, rescind or amend the decision provided that the majority in favour of amending or rescinding the decision includes a majority of delegates to Branch Council from that Division, as the case may be.

#### **4 - BRANCH COUNCIL - COMPOSITION**

- (1) The Branch Council shall consist of:-
- (a) the Branch Executive Officers;
  - (b) General Division delegates who shall be elected by and from General Division members in Areas and also hold the position of General Divisional Council Delegates; and
  - (c) delegates elected by and from members of the TAFE Divisional Council;

(2) For the purposes of the previous sub-rule, the number of delegates to the Branch Council shall be determined as follows:-

(a) in respect of delegates from Areas in the General Division:

<b>Number of members in Area</b>	<b>Number of Delegates</b>	<b>Minimum Number of Female Delegates</b>
Up to 300	2	1
301 to 400	3	2
401 to 500	4	2
501 to 600	5	3
601 to 700	6	3
701 to 800	7	4
801 to 900	8	4
901 to 1000	9	5
1001 to 1100	10	5
1101 to 1200	11	6
1201 to 1300	12	6
1301 to 1400	13	7

(b) in respect of delegates from the TAFE Divisional Council:

<b>Number of Members of TAFE Division Council</b>	<b>Number of Delegates</b>	<b>Minimum Number of Female Delegates</b>
15 or less	2	1
16 to 25	4	2
26 to 35	6	3
36 to 45	8	4

For each additional 10 members or part thereof    2 additional delegates one of whom must be a woman

(c) For the purposes of this rule, the number of members assigned to an Area or Division shall be the number of financial members of the Branch assigned to the Area or Division on 31 October in the previous year.

- (3) (a) Where a delegate to Branch Council can not attend a meeting of the Branch Council, the delegate shall nominate an alternate delegate to attend the meeting of Branch Council in his or her place. An alternate Branch Council delegate shall, in respect of the Branch Council meeting he or she is nominated to attend, have the same rights and powers as other Branch Council delegates.
- (b) The number of Alternate Delegates and minimum number of female Alternate Delegates to Branch Council from each Division shall be the same as the number of Delegates and minimum number of female Delegates each Division has to Branch Council.

### **5 - MEETINGS OF BRANCH COUNCIL**

- (1) (a) Voting at meetings of Branch Council shall be in accordance with the standing orders of the Branch provided that any 10 Branch Council delegates may request that a "card vote" be conducted in accordance with this sub-rule.

- (b) Where 10 Branch Council delegates have requested a "card vote", a poll of members of the Branch Council present and eligible to vote shall be taken and the voting strength of each delegate shall be determined as follows:-
    - (i) in the case of delegates from the General Division, the number of members in the delegate's Area shall be divided by the number of delegates that Area is entitled to have on Branch Council; and
    - (ii) in the case of delegates from the TAFE Division, the number of members in the TAFE Division shall be divided by the number of TAFE Division delegates on the Branch Council;
- For the purposes of this sub-rule, the number of members in an Area, in the TAFE Division and in the CS Sub-Division shall, from 20 March in one year until 19 March in the next year, be the number of members as at 31 October in the previous year.
- (c) The Branch Executive Officers shall each have one vote at meetings of the Branch Council.
- (2) (a) Subject to paragraph (b), the Branch Council shall meet not less than 4 times each year at times and dates determined by the Branch Council or, in the absence of a decision by Branch Council, by the Branch President.
  - (b) One of the meetings of the Branch Council referred to in this paragraph shall be known as the Annual Branch Council Meeting which shall be held at a time and date in August or September of each year determined by the Branch Council.
  - (c) A special meeting of Branch Council may be called at any time by:-
    - (i) the Branch President;
    - (ii) the Branch Executive; or
    - (iii) the Branch Secretary on receipt of a requisition signed by not less than 10% of the delegates to the Branch Council.
  - (d) A requisition for a special meeting of Branch Council must specify the matter that is to be discussed at the Special Branch Council meeting.
  - (e) At a special meeting of Branch Council only the business which is set out in the requisition may be dealt with.
- (3) (a) The Branch President may, in consultation with the Branch Secretary, determine that it is not practicable for the Branch Council to assemble and that the business of a Branch Council meeting shall be conducted by postal or facsimile vote.
  - (b) The Branch Secretary shall give each member of the Branch Council at least 3 days notice of the business to be conducted by a meeting convened in accordance with this sub-rule.
  - (c) Where the business of a Branch Council meeting has been conducted in accordance with this sub-rule, the minutes shall be taken and a copy thereof forwarded forthwith to each member of the Branch Council at his or her last nominated address.
- (4) A quorum for a meeting of the Branch Council shall be at least one third of the members of the Branch Council.

## 6 - BRANCH EXECUTIVE - POWERS

- (1) The Branch Executive shall be the committee of management of the Branch and shall have the power to conduct and manage the affairs of the Branch between meetings of the Branch Council.
- (2) Without limiting the generality of the foregoing, the Branch Executive shall:-
  - (a) give effect to decisions of Branch Council;
  - (b) deal with matters referred by a general meeting of General Division members in an Area, a Consultative Committee, Divisional Council or a sub-branch as follows:-
    - (i) refer the matter to the next meeting of Branch Council;
    - (ii) determine the matter;
    - (iii) refer the matter back to Area delegates, a Consultative Committee, Divisional Council, or sub-branch, as the case may be, together with the reasons for such decision.

For the purposes of this paragraph the next meeting of Branch Council shall be the meeting of Branch Council occurring not less than 7 days from the decision of the Branch Executive;

- (c) delegate matters to a Standing Committee or a Sub-Committee;
- (d) refer any matter to Branch Council for determination which the Branch Executive believes should be determined by Branch Council;
- (e) appoint a delegate or delegates to represent the Branch at meetings of an affiliated body, organisation or institution other than a delegate or delegates appointed to represent the Branch by the Branch Council;
- (f) employ persons whose services are necessary for carrying out the functions of the Branch;
- (g) determine the duties and terms and conditions of employment of persons employed by the Branch or appointed as Administrative Officers;
- (h) terminate the employment of persons referred to in paragraph (g) of this sub-rule;
- (i) deal with applications for membership of the Union;
- (j) consistent with the objects of the Union, administer and control the Branch Funds;
- (k) provide from Branch funds monies for the relief of members of the Branch;
- (l) provide from Branch funds monies for the legal defence of members of the Branch;
- (m) take any action considered necessary in any state of emergency affecting the interests of members of the Branch;

- (n) initiate and carry out an investigation into the books and records of the Branch or into the conduct of any employee;
  - (o) in relation to the paid Branch Executive Officers, determine the terms and conditions of their employment and in relation to other Executive Officers of the Branch determine, if appropriate, the amount of any honorarium;
  - (p) in accordance with the Federal Branch Rules remove from office any person holding an elected position within the Branch;
  - (q) produce a regular Branch journal and other publications of interest to members;
  - (r) in special circumstances, waive the whole or any part of subscriptions;
  - (s) in the absence of the Branch President or, where the Branch President is unable to perform his or her duties, appoint one of the Branch Vice-Presidents as acting Branch President or, where both Branch Vice-Presidents are unavailable to perform the duties of Branch President, appoint a member of the Branch Executive as acting Branch President;
  - (t) from time to time to determine the groupings of sub-branches into Areas; and
  - (u) notify the relevant Commission of industrial disputes and take all necessary steps to deal with the matter in the Commission.
- (3) (a) The Branch Executive may suspend from duty persons referred to in paragraph (2)(g) of this Rule where Branch Executive considers the suspension is in the interests of the Branch.
- (b) Where the Branch Executive suspends a person from duty the suspension shall remain in force only until the next meeting of the Branch Executive at which time the Branch Executive shall exonerate, reprimand or caution the employee concerned or terminate his or her employment.

### **7 - COMPOSITION OF BRANCH EXECUTIVE**

- (1) The Branch Executive shall be comprised of:
- (a) the Branch President;
  - (b) the Branch Female Vice-President;
  - (c) the Branch Male Vice-President;
  - (d) the Branch Secretary;
  - (e) one member who is elected by and from SSO Sub-Division members of the Branch (the SSO member);
  - (f) one member who is elected by and from CS Sub-Division members of the Branch (the CS member);



- (g) one TAFE member elected by and from TAFE Division members in the Branch (the TAFE member);
  - (h) 12 Branch Executive Officers; and
  - (i) one Aboriginal or Torres Strait Islander member elected by all members of the Branch.
- (2) The Branch President, the 2 Branch Vice-Presidents and the Branch Secretary shall be paid officers of the Branch.
  - (3) The persons who comprise the Branch Executive shall be known as the Branch Executive Officers. The Branch Executive Officers referred to in paragraphs (1)(e), (1)(f), (1)(g), (1)(h) and (1)(i) shall be known as the ordinary Branch Executive Officers.
  - (4) The Branch Treasurer shall be elected by all Branch Executive officers from the ordinary Branch Executive Officers.
  - (5) The 12 Branch Executive Officers shall include at least 6 women.

### **8 - MEETINGS OF BRANCH EXECUTIVE**

- (1) The Branch Executive shall meet at least once each month except in January and December at a time and place determined by Branch Executive.
- (2) The Branch Executive or the Branch President may call such further meetings of the Branch Executive as are necessary for the conduct of the business of the Branch.
- (3)
  - (a) The Branch Secretary shall call a special meeting of the Branch Executive on receipt of a requisition signed by 8 Branch Executive Officers requesting a meeting to deal with the matter specified in the requisition.
  - (b) The Branch Secretary shall convene the special meeting of the Branch Executive within 3 working days of the receipt of a requisition.
  - (c) A special meeting of the Branch Executive shall only deal with the matter specified in the requisition, a copy of which shall be provided to each Branch Executive Officer by the Branch Secretary when convening the meeting.
- (4)
  - (a) The Branch President may, in consultation with the Branch Secretary, determine that, in the interests of the Branch, and the practicality of the situation, the business of the Branch Executive shall be conducted by postal, telephone or facsimile vote.
  - (b) The Branch Secretary shall give each member of the Branch Executive at least 3 days notice of the business to be conducted at the meeting conducted in accordance with this sub-rule.
  - (c) Where the business of the Branch Executive has been conducted in accordance with this sub-rule, the minutes shall be taken and a copy thereof forwarded forthwith to each Branch Executive Officer.

- (d) The Branch President may, in consultation with the Branch Secretary, determine that a matter is urgent and that a meeting of the Branch Executive should be conducted in accordance with the previous paragraph without the requirement for notice set out in sub-rule (4)(b).
- (5) A quorum for a meeting of the Branch Executive shall be at least 50% of the Branch Executive Officers.

### **9 - GENERAL MEETINGS OF THE BRANCH**

- (1) The Branch Secretary shall convene a general meeting of the Branch if directed to do so by the Branch Council or Branch Executive or on receipt of a written requisition signed by at least 5 per cent of the members of the Branch.
- (2) Where the Branch Council or the Branch Executive directs that a general meeting of the Branch be convened, it shall be convened on the date determined by the Branch Council or Branch Executive, or, where a date has not been determined, within 3 months of the date of the direction that a general meeting be convened.
- (3) Where a requisition for a general meeting is received from the requisite number of members, a general meeting shall be convened within 3 months of the receipt of the requisition.
- (4) The business of a general meeting shall be as determined by the Branch Council or Branch Executive or be as specified in the requisition.
- (5) The Branch Secretary shall place a notice of the general meeting and the agenda in a publication of the Union circulating to all members at least 21 days prior to the meeting.
- (6) A quorum for a general meeting of members shall be 10% of the financial members of the Branch. The number of financial members attached to the Branch shall be taken to be the number of financial members of the Branch as at 31 October last preceding the meeting.

### **10 - GENERAL MEETINGS OF GENERAL DIVISION MEMBERS IN AN AREA**

- (1) General meetings of General Division members in an Area may be convened by:-
  - (a) the Branch Executive; or
  - (b) a majority of the General Divisional Council delegates from the Area.
- (2) The Branch Secretary shall, on receipt of a request from not less than 30% of the sub-branches within an Area or on a requisition signed by at least 10% of the members of the General Division members within the Area convene a general meeting of General Division members in an area.
- (3) A general meeting of General Division members in an Area may:-
  - (a) appoint officers to support the management of Area business
  - (b) deal with business referred to it by the Branch Executive, the General Divisional Council delegates from an Area or by sub- branches;

- (c) at the appropriate time call for candidates for the election of Branch Council delegates in the Area
  - (d) refer matters for consideration by sub-branches or the Branch Executive;
  - (e) deal with matters affecting the Union within the Area; or
  - (f) instruct General Divisional Council delegates as to how they should exercise their votes on the General Divisional Council or the Branch Council.
  - (g) where appropriate, participate in joint activities with other Areas.
- (4) A quorum for a General Meeting in accordance with this Rule shall be 10% of the financial members of the General Division in an area. The number of financial members in an area shall be taken to be the number of financial members as at 31 October last preceding the meeting.

### **11 - PLEBISCITES OF MEMBERS**

- (1) The Branch Council may determine that a matter should be submitted to a plebiscite of all financial members or members of a specified class of members of the Branch.
- (2) A matter shall be submitted to a plebiscite of all financial members of the Branch on receipt by the Branch Secretary of a requisition signed by at least 10% of the financial members of the Branch.
- (3) Where a plebiscite is to be conducted, the Branch Secretary shall arrange for a secret postal ballot to be conducted. Sub-rules (4), (5), (6) and (7) of Federal Rule 29 shall apply mutatis mutandis to the conduct of a plebiscite where this rule is silent.
- (4) To allow interested parties sufficient time to prepare and disseminate information relating to a plebiscite, the postal ballot shall not be conducted until the expiration of 4 school weeks after the decision to refer the matter to a plebiscite was made or the receipt of the requisition.
- (5) The Branch Executive shall make available such resources of the Union as it sees fit to allow the proponents of both the affirmative and negative "cases" to prepare and disseminate information pertinent to the plebiscite.

### **12 - STANDING COMMITTEES, AD HOC COMMITTEES, CONSULTATIVE COMMITTEES AND BOARDS**

- (1) The following standing committees shall be established within the Branch:-
  - (a) the Principal Officers' Committee;
  - (b) the Finance Committee;
  - (c) the Country Conditions Committee;
  - (d) the Occupational Health, Safety and Welfare Committee; and
  - (e) the Reconciliation Committee.
- (2) (a) The Principal Officers' Committee shall be comprised of the Branch President, the 2 Branch Vice-Presidents, the Branch Secretary and the Branch Treasurer;

- (b) The Principal Officers' Committee shall administer the affairs of the Branch in accordance with decisions of the Branch Executive and Branch Council.
- (3) (a) The Finance Committee shall be comprised of the Branch Treasurer, 2 Branch Executive members appointed by the Branch Executive, and 6 financial members of the Branch appointed by the Branch Council.  
(b) The Finance Committee shall make recommendations to and report to the Branch Executive on matters affecting the finances of the Branch.
- (4) Each standing committee, other than the Principal Officers' Committee and the Finance Committee, shall;
  - (a) be comprised of 6 persons and a Chairperson unless its terms of reference otherwise specify; and
  - (b) make recommendations to the Branch Executive in accordance with its terms of reference.
- (5) (a) Unless otherwise specified in this rule or in the terms of reference of a standing committee, half the members of each standing committee shall be appointed by the Branch Council each year in accordance with this rule.  
(b) (i) Subject to sub-paragraph (ii), members of standing committees shall be appointed for 2 years or until their successors have been appointed.  
(ii) Members of standing committees who hold office by virtue of holding elected positions within the Branch shall only hold office on the standing committee whilst they hold their elected position.  
(c) Unless otherwise specified in this rule, there shall be equal numbers of male and female positions on each standing committee.  
(d) A member appointed to fill an extraordinary vacancy on a standing committee shall be appointed for the unexpired term of appointment of the person he or she replaces.  
(e) Extraordinary vacancies on standing committees shall be filled by the Branch Council.
- (6) Each standing committee shall have a Chairperson who shall be:-
  - (a) the Branch President; or
  - (b) a Branch Executive Officer nominated by the Branch President and approved by the Branch Executive; or
  - (c) in the case of the Finance Committee, the Branch Treasurer.
- (7) The Branch Executive shall, in respect of each standing committee, establish terms of reference which define the responsibilities of the standing committee.
- (8) (a) The Branch Executive, the Branch Council, a Divisional Council or a sub-branch may establish an ad hoc committee at any time.  
(b) The body establishing the ad hoc committee shall determine the terms of reference of the committee and the composition of the committee.

- (c) An ad hoc committee shall only be entitled to make recommendations to the body which established it.
  - (d) An ad hoc committee shall be chaired by the Branch President or such other person as may be nominated by the body establishing the committee.
- (9) The Branch Council may, on the recommendation of the Branch Executive, establish a consultative committee to represent the interests of members or a class of members whose interests are not otherwise adequately represented within the Branch.
- (a) A consultative committee shall provide advice to the Branch Executive within terms of reference determined by the Branch Council.
  - (b) A consultative committee shall be comprised of persons representing the members or a class of members in respect of which the consultative committee has been established.
  - (c) The number of members of a Consultative Committee shall be determined by the Branch Council.
  - (d) The Branch Executive shall allocate funds for the use of members of consultative committees in performing their duties.
  - (e) A consultative committee shall be chaired by the Branch President or such other person as may be nominated by the Committee.
  - (f) The following Consultative Committees shall be established within the Branch:
    - (i) Employable Teachers Committee
    - (ii) School Services Officers Committee
    - (iii) Special Education Committee
    - (iv) Status of Women Committee
    - (v) Aboriginal Education Committee
    - (vi) Early Childhood Committee
- (10) The Branch Executive may set up boards for the purpose of administering any functions of the Branch under these rules in accordance with terms of reference determined by the Branch Executive.
- (11) Meetings of Standing Committees, Ad Hoc Committees, Consultative Committees or Boards may be convened by the body which established the Standing Committee, Ad Hoc Committee, Consultative Committee or Board, the Chairperson or a meeting of the Standing Committee, Ad Hoc Committee, Consultative Committee or Boards.

### 13 - BINDING EFFECT OF DECISIONS

- (1) A resolution of the Branch Council shall be binding on the Branch Executive, Divisional Councils and sub- branches.
- (2) The result of a plebiscite conducted in accordance with these rules and carried by a simple majority of members voting shall be binding upon the membership of the Branch, Branch Council, Divisional Councils and the Branch Executive.

- (3) A decision of a general meeting of members of the Branch convened in accordance with these rules shall, provided that a quorum was present, be binding on the Branch Council or the Branch Executive.

#### **14 - DUTIES OF BRANCH PRESIDENT**

The Branch President shall:-

- (a) be the chief officer of the Branch and be responsible for making public statements on behalf of the Branch;
- (b) preside at meetings of the Branch Executive, Branch Council and the General Divisional Council;
- (c) preside at all meetings arranged by the Branch Executive which are open to members;
- (d) preside at meetings of committees other than committees chaired by another member of the Executive;
- (e) when presiding at a meeting referred to in this sub-rule, have a casting vote;
- (f) when the Branch President believes it is appropriate, summon a special meeting of the Branch Executive or Branch Council;
- (g) represent the Branch, at meetings with a minister or senior officials of a Government department, board, committee, commission or other body set up under an Act of Parliament;
- (h) be responsible for all correspondence with a Minister, head of Government Department, Board, Committee or Commission; and
- (i) perform such other duties as may from time to time be determined by the Branch Executive.

#### **15 - DUTIES OF BRANCH VICE-PRESIDENT**

The Branch Vice-Presidents shall:-

- (a) exercise all the powers and perform all the duties of the Branch President when appointed by the Branch Executive as acting Branch President in the absence of the Branch President, or in the event that the Branch President is unable to perform the duties prescribed by these Rules;
- (b) perform all duties imposed on them by these Rules; and
- (c) perform such other duties as may from time to time be determined by the Branch Executive.

#### **16 - DUTIES OF BRANCH SECRETARY**

The Branch Secretary shall, in accordance with directions of the Branch Executive, be responsible for:-

- (a) the effective and efficient management of the Branch office and the control of persons employed by the Branch;
- (b) the custody of all documents and property under the control of the Branch;
- (c) the preparation and filing of all returns required under the Industrial and Employee Relations Act (SA) 1994 or the Workplace Relations Act 1996;
- (d) the execution of all decisions of the Branch Executive and Branch Council;
- (e) the recruitment of new members of the Union;
- (f) liaison with teacher training institutions;
- (g) the maintenance of a register of members;
- (h) attendance at all meetings of the Branch Executive and Branch Council;
- (i) attendance at such meetings of committees as directed by the Branch President;
- (j) attendance at meetings of Divisional Councils or delegate an administrative officer to attend on his or her behalf; and
- (k) exercise any powers set out in by-laws.

#### **17 - DUTIES OF BRANCH TREASURER**

- (1) The Branch Treasurer shall, in accordance with directions of the Branch Executive, be responsible for:-
  - (a) giving effect to directions of the Branch Executive;
  - (b) providing to meetings of the Branch Council or Branch Executive as the case may be, such financial statements as may be required;
  - (c) chair meetings of the Finance Committee; and
  - (d) perform such other duties as may from time to time be determined by the Branch Executive.

#### **18 - DUTIES OF BRANCH COUNCIL DELEGATES**

- (1) Branch Council delegates shall attend and participate in meetings of the Branch Council and exercise their votes in accordance with Rule 10(3)(f).
- (2) Branch Council delegates from the General Division shall also attend and participate in meetings of the General Divisional Council and exercise their votes in accordance with Rule 10(3)(f).
- (3) Branch Council delegates from the General Division shall also attend and participate in General Meetings of General Division Members in an Area reporting back as required on how they exercised their vote.

### **19 - DUTIES OF ORDINARY BRANCH EXECUTIVE OFFICERS**

Ordinary Branch Executive Officers shall attend and participate in all meetings of the Branch Executive, Branch Council and meetings of the Divisional Council relevant to his or her membership.

### **20 - DUTIES OF ADMINISTRATIVE OFFICERS**

- (1) There shall be such number of Administrative Officers as are necessary for the efficient operation of the Branch.
- (2) Administrative Officers shall be employees of the Branch who shall not, whilst so employed, occupy any position on the Branch Executive.
- (3) Administrative Officers shall be responsible to the Branch Secretary for one or more of the following duties:-
  - (a) the production of a Branch journal and such other publications as the Branch Executive may determine;
  - (b) membership recruitment, membership education, industrial campaigning, the provision of information and publicity and the servicing of Branch committees and Divisional Council;
  - (c) for industrial advocacy, research and counselling tasks as required by the Branch Executive; and
  - (d) such other duties as the Branch Secretary or the Branch Executive may reasonably require.

### **21 - APPOINTMENT OF ADMINISTRATIVE OFFICERS**

- (1) Administrative Officers shall be appointed by Branch Council in accordance with this rule.
- (2) Administrative Officers shall be appointed for a term of 3 years commencing on 1 February next following their appointment by the Branch Council. An Administrative Officer may be re-appointed for a further term.
- (3) Applications for the position of Administrative Officer will be considered by a Review Committee constituted by:-
  - (a) the Branch President or a Branch Vice-President nominated by the Branch President;
  - (b) the Branch Secretary or an Administrative Officer nominated by the Branch Secretary;
  - (c) 3 delegates to Branch Council drawn from a pool of 4 male and 4 female delegates nominated by the Branch Council.;
  - (d) one Equal Opportunity Representative drawn from a pool of eight persons comprising 2 men and 2 women nominated by the Status of Women Consultative Committee and 2 men and 2 women nominated by employees of the Branch.
- (4) A quorum for a meeting of the Review Committee shall be 4. The Chairperson of the Review Committee shall have both a deliberative and a casting vote.



- (5) In carrying out its duties the Review Committee may:-
- (a) interview candidates;
  - (b) consider written material submitted by candidates; and
  - (c) make inquiries of referees nominated by candidates.
- (6)
- (a) A Review Committee shall provide to each member of the Branch Council its recommendations as to its preferred candidates for Administrative Officer positions at least 21 days prior to the meeting of the Branch Council convened to consider the appointment of Administrative Officers.
  - (b) Where a candidate for a position of Administrative Officer who is a member of the Union on the date when applications for the position close is not recommended for appointment by the Review Committee and is dissatisfied with the Review Committees' recommendation, that candidate may request that a poll be conducted at the Branch Council meeting.
  - (c) An application for a poll must be made to the Branch Secretary not later than 14 days prior to the meeting of the Branch Council.
  - (d) The Branch Secretary shall advise the Branch Returning Officer, the person recommended by the Review Committee for appointment and any other unsuccessful candidate who is a member of the Union that a poll is to be conducted at the next meeting of the Branch Council.
  - (e) The Branch Returning Officer shall advise all members of the Branch Council that a poll will be conducted at the next meeting of the Branch Council, advise the names of all candidates participating in the poll and distribute to each member of the Branch Council on behalf of each participating candidate a statement of not more than 200 words prepared by that candidate.
  - (f) The Branch Returning Officer shall prepare ballot papers which shall be distributed to delegates present at the meeting of the Branch Council.
  - (g) Candidates may address the meeting of Branch Council for not more than 5 minutes on their application but there shall be no debate or question time.
  - (h) The Branch Returning Officer shall close the poll 30 minutes after the close of the meeting.
  - (i) The candidate receiving the highest number of votes in the poll on a "first past the post basis" shall be appointed as the Administrative Officer.
- (7) Where no poll has been requested in accordance with the previous sub- rule, the Branch Council may appoint as an Administrative Officer the candidate nominated by the Review Committee.
- (8)
- (a) If an extraordinary vacancy arises in a position of Administrative Officer the extraordinary vacancy shall be filled by Branch Council in accordance with this sub-rule.

- (b) Where an extraordinary vacancy occurs after a person has been appointed to fill the position but before the person appointed has taken up office, the person may take up office on a date determined by the Branch Executive and hold that office until the date on which the original appointment would have expired.
- (c) Where an extraordinary vacancy occurs in other than where a person has been appointed but has not taken up the position, the extraordinary vacancy shall be filled for a term which shall expire on 31 January not less than 2 years and not more than 3 years after the date of appointment.

### PART III - DIVISIONAL ORGANISATION

#### **22 - DIVISIONAL COUNCILS - POWERS**

- (1) Divisional Councils shall, in addition to any powers conferred on them elsewhere in these rules:-
  - (a) implement the Federal and Branch policies of the Union;
  - (b) deal with matters referred by sub-branches, the Branch Council, other Divisional Councils or the Branch Executive;
  - (c) refer matters to sub-branches, Branch Executive and Branch Council;
  - (d) deal with matters affecting members of the Branch within the relevant division;
  - (e) carry out instructions of the Branch Executive;
  - (f) establish ad hoc committees;
  - (g) establish joint committees and activities with other Divisional Councils;
  - (h) prepare financial statements, audits and proposed budgets as are required by the Branch Executive;
  - (i) subject to the approval of Branch Executive, adopt rules and by- laws for the operation of the Divisional Council;
  - (j) instruct delegates to Branch Council as to how they should exercise their vote;
  - (k) inform constituent sub-branches by newsletters or journal reports of decisions of the Divisional Council; and
  - (l) receive and disburse funds received from the Branch Executive in accordance with Branch Executive guidelines.

### 23 - COMPOSITION OF THE GENERAL DIVISIONAL COUNCIL

- (1) The General Divisional Council shall be comprised of the:-
  - (a) General Divisional delegates to the Branch Council; and
  - (b) Branch Executive Officers who are members of the General Division.
- (2)
  - (a) The Branch President shall chair meetings of the General Divisional Council.
  - (b) The Branch President may exercise a casting vote but not a deliberative vote at meetings of the General Divisional Council.
- (3)
  - (a) The Branch Secretary shall attend meetings of the General Divisional Council, participate in the deliberations of the General Divisional Council, but shall not be entitled to cast a vote unless he or she is a member of the General Division.
  - (b) The Branch Secretary shall, in respect of the General Divisional Council:-
    - (i) keep the minutes of any meeting of the General Divisional Council; and
    - (ii) perform such other duties as may be conferred on the Branch Secretary by the General Divisional Council.

### 24 - COMPOSITION OF THE TAFE DIVISIONAL COUNCIL

- (1) The TAFE Divisional Council shall be comprised of the:-
  - (a) sub-branch delegates elected by sub-branches with 7 or more members in accordance with the following formula:-

<b>Number of Financial Members</b>	<b>Number of Delegates</b>
7 - 27	1
28 - 47	2
48 - 67	3
68 - 87	4

and then one additional delegate for every additional 20 members or part thereof in a sub-branch; and

- (b) all persons who are members of the Branch Executive from the TAFE Division.
  - (c) For the purposes of this rule, the number of members assigned to a sub-branch shall be the number of financial members of the Branch assigned to the sub-branch on 31 October in the previous year.
- (2) The members of the TAFE Divisional Council shall elect from amongst such members, a Divisional Chairperson, a Divisional Secretary and Divisional Executive members.

## **25 - MEETINGS OF DIVISIONAL COUNCILS**

- (1) Divisional Councils shall meet not less than 4 times each year.
- (2) Meetings of Divisional Councils may be called by the Divisional Council or the Divisional Chairperson.
- (3) A special meeting of a Divisional Council shall be called by the Branch Secretary in the case of the General Divisional Council or the TAFE Divisional Secretary in the case of the TAFE Divisional Council on receipt of a requisition signed by not less than 10% of the Sub-Branch Delegates to the Divisional Council.
- (4) A requisition for a special meeting of a Divisional Council must specify the matter that is to be discussed at the special Divisional Council meeting.
- (5) A special meeting of the Divisional Council shall only deal with the business as set out in the requisition.
- (6) The Rules relating to the conduct of a postal or facsimile vote applicable to the Branch Council shall apply, mutatis mutandis, to a postal or facsimile vote of a Divisional Council.
- (7) A quorum for a meeting of a Divisional Council shall be at least one-third of the members of the Divisional Council.

## **26 - TAFE DIVISIONAL EXECUTIVE**

- (1) The TAFE Divisional Executive shall be comprised of the:-
  - (a) TAFE Divisional Chairperson;
  - (b) TAFE Divisional Secretary; and
  - (c) such number of executive members as may be determined from time to time by the TAFE Divisional Council.

## **27 - MEETINGS OF TAFE DIVISIONAL EXECUTIVE**

- (1) The TAFE Divisional Executive shall meet not less than 4 times each year.
- (2) Meetings of the TAFE Divisional Executive may be called by the TAFE Divisional Executive or the TAFE Divisional Secretary.
- (3) A special meeting of the TAFE Divisional Executive shall be called by the TAFE Divisional Secretary on receipt of a requisition signed by not less than 3 members of the TAFE Divisional Executive.
- (4) A requisition for a special meeting of the TAFE Divisional Executive must specify the matter that is to be discussed at the special meeting.
- (5) A special meeting of the TAFE Divisional Executive shall only deal with the business set out in the requisition.
- (6) The Rules relating to the conduct of a postal, telephone or facsimile vote of the Branch Executive shall apply, mutatis mutandis, to a postal, telephone or facsimile vote of the TAFE Divisional Executive.

### **28 - TAFE DIVISIONAL EXECUTIVE - POWERS**

The TAFE Divisional Executive shall administer the affairs of the Division in accordance with decisions of the Divisional Council, the Branch Executive or Branch Council.

### **29 - DUTIES OF TAFE DIVISIONAL CHAIRPERSON**

- (1) The TAFE Divisional Chairperson shall:-
  - (a) preside at meetings of the TAFE Divisional Council and the TAFE Divisional Executive;
  - (b) when presiding at a meeting referred to in the sub-rule, have a casting vote; and
  - (c) when the Divisional Chairperson believes it is appropriate, summon a special meeting of the TAFE Divisional Council or TAFE Divisional Executive.

### **30 - DUTIES OF TAFE DIVISIONAL SECRETARY**

- (1) The Secretary of the TAFE Divisional Council shall:-
  - (a) attend all meetings of the TAFE Divisional Council or TAFE Divisional Executive;
  - (b) keep the minutes of any meeting of the TAFE Divisional Council or TAFE Divisional Executive;
  - (c) provide the Branch Secretary with a copy of the minutes of all meetings of the TAFE Divisional Council or TAFE Divisional Executive; and
  - (d) perform such other duties as may be conferred on the TAFE Divisional Secretary by the TAFE Divisional Council or TAFE Divisional Executive.

## **PART IV - SUB-BRANCHES**

### **31 - SUB-BRANCH MEETINGS**

- (1) Sub-branch meetings shall be held not less than once each 4 months provided that there shall be a sub-branch meeting before 18 February in each calendar year. The sub-branch meeting held before 18 February in each year shall be known as the Annual General Meeting.
- (2) At the Annual General Meeting of the sub-branch, sub-branch members shall:
  - (a) appoint a Sub-Branch Chairperson;
  - (b) appoint a Sub-Branch Secretary;
  - (c) appoint such number of Sub-Branch Executive Members as shall be determined by the Annual General Meeting; and
  - (d) in the case of Sub-Branches other than within the General Division, elect in accordance with Rule 53, a delegate or delegates to the TAFE Divisional Council.

- (3) (a) The Sub-branch Secretary shall give notice of the annual general meeting of the sub-branch to each member of the sub-branch.

The notice of the annual general meeting of the sub-branch shall set out the agenda for such meeting which shall include notice of appointments to be made by the meeting and any elections to be conducted at the meeting.

- (4) A general meeting of sub-branch members, or the sub-branch executive between meetings of sub-branch members, may:-

- (a) refer matters to the relevant Divisional Council;
- (b) deal with business referred by Branch Executive, Branch Council or a Divisional Councillor;
- (c) refer business to Divisional Council;
- (d) refer business to the Branch Executive or the Branch Council;
- (e) deal with business referred to it by the Branch Executive or the Branch Council; and
- (f) adopt by-laws necessary for the conduct of the sub-branch provided such rules are consistent with the Federal Branch Rules.

A general meeting of sub-branch members or a sub-branch executive shall not exercise any management powers or functions or determine policy in respect of the Branch.

- (5) (a) A general meeting of sub-branch members may be called by:-

- (i) the sub-branch chairperson;
- (ii) a general meeting of sub-branch members; or
- (iii) the sub-branch executive.

- (b) A general meeting of sub-branch members shall be called by the sub-branch secretary on receipt of a requisition from 20% of the sub-branch members.

- (c) A sub-branch executive meeting may be called by:-

- (i) the sub-branch chairperson; or
- (ii) the sub-branch executive.

- (d) A sub-branch executive meeting shall be called by the sub-branch secretary on receipt of a request from at least 50% of the members of the sub-branch executive.

- (6) (a) A quorum for a general meeting of sub-branch members shall be one-quarter of the members of the sub-branch except in relation to the CS Sub-Division sub-branches where the quorum shall be one-tenth of the membership of the sub-branch or 4 members, whichever is the larger.

- (b) A quorum for a meeting of the sub-branch executive shall be a majority of the members of the sub-branch executive.

### **32 - DUTIES OF SUB-BRANCH OFFICERS**

- (1) A sub-branch chairperson shall preside at meetings of the sub-branch executive and meetings of members of the sub-branch.
- (2) The sub-branch secretary shall:-
  - (a) attend all meetings of the sub-branch executive and meetings of members of the sub-branch;
  - (b) take minutes of all meetings of the sub-branch executive and meetings of members of the sub-branch; and
  - (c) perform such other duties as may, from time to time, be determined by the sub-branch executive or a meeting of members of the sub-branch.
- (3) The sub-branch secretary shall be the Union representative at any sub-branch which is located in one workplace only.
- (4) The sub-branch executive members shall attend and participate in meetings of the sub-branch executive.

### **33 - SUB-BRANCH REPRESENTATIVES**

- (1) Union members in sub-branches located in more than one workplace shall, at the beginning of each year appoint from amongst themselves a Union workplace representative.
- (2) The duties of the Union workplace representative shall be:-
  - (a) to disseminate to members correspondence between the Branch Office and the Union workplace representative and correspondence between any affiliated organisations and the Union representative;
  - (b) to endeavour to recruit as members all persons eligible for membership of the Union in the workplace;
  - (c) to distribute publications to members of the Union in the workplace; and
  - (d) to call meetings of members in the workplace either at the request of members or at the direction of the Branch Executive.
- (3) Where a panel is established to fill any vacancy at a workplace the Union workplace representative shall be appointed to the panel provided that if the Union workplace representative declines to be appointed or is unavailable, the Union shall appoint another Union member to the panel.

PART V - MISCELLANEOUS

**34 - BRANCH FUND**

- (1) There shall be a Branch Fund which shall consist of:-
  - (a) any real or personal property of which the Branch Council or Branch Executive by the Federal Branch Rules or by any established practice not inconsistent with the Federal Branch Rules, has or in the absence of any limited term lease, bailment, or arrangement, would have, the right of custody, control or management;
  - (b) the amounts of entrance fees, subscriptions, fines, fees or levies received by the Branch, less so much of the amounts as is payable by the Branch to the Federal Fund;
  - (c) any interest, rents, dividends or other income derived from the investment or use of the Branch Fund;
  - (d) any superannuation or long service leave or other fund operated or controlled in accordance with the Federal Branch Rules relating to the Union for the benefit of the officers or employees of the Branch;
  - (e) any sick pay fund, accident pay fund, general fund, or like fund operated in accordance with the Federal Branch Rules for the benefit of the members attached to the South Australian Branch;
  - (f) any property acquired wholly or mainly by expenditure of monies of the Branch Fund or derived from the assets of the Branch Fund; or
  - (g) the proceeds of any disposal of parts of the Branch Fund.
- (2) All cheques shall be signed by two persons authorised by the Branch Executive to sign cheques.
- (3) Monies held in the Branch Fund shall be disbursed only upon a resolution of the Branch Executive.
- (4) The funds of the Branch shall be deposited or invested with a bank, credit union, building society or such other financial institution as may from time to time be determined by the Branch Executive.
- (5)
  - (a) The Branch Executive shall, from time to time, make funds available from the Branch Fund for the maintenance of a Legal Defence Fund.
  - (b) The Branch Executive shall, from time to time, adopt guidelines for the payment of monies from the Legal Defence Fund to members.
  - (c) Monies may be advanced from the Legal Defence Fund in accordance with the guidelines by the Branch Executive or by the Branch Secretary or a paid Branch Executive officer who is authorised by the Branch Executive to do so.
  - (d) Any applicant for assistance from the Legal Defence Fund who is dissatisfied with a decision made under the previous paragraph may appeal to the Legal Defence Fund Committee.



- (e) An appeal to the Legal Defence Fund Committee shall be in writing and shall be lodged with the Branch Secretary within 14 days of the date on which the Applicant was informed of the decision under the previous paragraph.
- (f)
  - (i) The Legal Defence Fund Appeal Committee shall be comprised of 4 delegates to Branch Council and one member of the Union nominated by the Applicant.
  - (ii) The member of the Appeal Committee nominated by the Applicant may participate in the deliberations of the Appeal Committee but shall not be entitled to vote.
  - (iii) The Appeal Committee members other than the member appointed by the Applicant shall appoint one of their number as the Chairperson.
  - (iv) A quorum for a meeting of the Appeal Committee shall be comprised of 3 of the 4 Branch Council Delegates and the member of the Union nominated by the Applicant.
  - (v) The Branch Secretary or a person nominated by the Branch Secretary shall provide the Appeal Committee with whatever assistance it requires.
  - (vi) The Appeal Committee shall meet within 28 days of the Branch Secretary receiving the Notice of Appeal.
  - (vii) The Appeal Committee shall deal with the Appeal as follows:-
    - 1. the Appellant shall be entitled to address the Appeals Committee and present any further information relevant to his or her appeal including matters not presented to the Branch Executive or the Branch Secretary;
    - 2. any Branch Executive Officer may address the Appeals Committee and provide to the Appeals Committee any information relevant to the Appeal;
    - 3. the Appeals Committee may determine that the Appellant not be granted legal assistance or may determine that legal assistance be granted on such terms as the Committee determines;
    - 4. the Appeals Committee shall advise the Applicant and the Branch Secretary of its decision as soon as possible after it has reached its decision.
  - (viii) A majority decision of the Committee shall be final and shall be binding on the Branch Executive and the Applicant. The Chairperson shall have a deliberative and casting vote.
- (6) The Branch Executive shall not make a loan, grant or donation of an amount exceeding \$1,000.00 unless:-
  - (a) it has satisfied itself;
    - (i) that the making of the loan, grant or donation would be in accordance with the Federal Branch Rules; and

- (ii) in the case of a loan - that, in the circumstances, the security proposed to be given for the repayment of the loan is adequate and the proposed arrangements for the repayment of the loan are satisfactory; and
- (b) has approved the making of the loan, grant or donation.

### **34(1A) - COMMITTEE OF MANAGEMENT TRAINING**

Each person who holds an office in the Branch whose duties include financial duties that relate to the financial management of the Branch, must comply with all of the following:

- (a) The person must undertake training approved by the General Manager of the Fair Work Commission under section 154C of the Fair Work Registered Organisations Act 2009;
- (b) The training so undertaken must cover each of the person's financial duties;
- (c) The training so undertaken must be completed within 6 months after the person begins to hold the office.

### **34(1B) - BRANCH POLICIES AND PROCEDURES**

The Branch shall develop and implement policies and procedures relating to the expenditure of the Branch.

### **34(1C) - DISCLOSURE OF OFFICERS' RELEVANT REMUNERATION AND NON-CASH BENEFITS**

- A. Each officer of the branch shall disclose to the branch any remuneration paid to the officer:
  - a) because the officer is a member of a board, if:
    - i. the officer is a member of the board only because the officer is an officer of the branch; or
    - ii. the officer was nominated for the position as a member of the board by the organisation, branch or a peak council; or
  - b) by any related party of the branch in connection with the performance of the officer's duties as an officer.
- B. The disclosure required by sub-rule (A) shall be made to the branch:
  - a) as soon as practicable after the remuneration is paid to the officer; and
  - b) in writing.
- C. The branch shall disclose to the members of the branch:
  - a) the identity of the officers who are the two highest paid officers of the branch in terms of relevant remuneration for the disclosure period, and
  - b) for each of those officers:

- i. the actual amount of the officers' relevant remuneration for the disclosure period; and
  - ii. either the value of the officers relevant non-cash benefits, or the form of the officers' relevant non-cash benefits, for the disclosure period.
- D. For the purposes of sub-rule (C), the disclosure shall be made:
  - a) in relation to each financial year;
  - b) within six months after the end of the financial year; and
  - c) in writing.

**34(1D) - DISCLOSURE OF OFFICERS' MATERIAL PERSONAL INTERESTS**

- A. Each officer of a branch shall disclose to the branch any material personal interest in a matter that:
  - a) the officer has or acquires; or
  - b) a relative of the officer has or acquires that relates to the affairs of the organisation.
- B. The disclosure required by sub-rule (A) shall be made to the branch:
  - a) as soon as practicable after the interest is acquired; and
  - b) in writing.
- C. The branch shall disclose to the members of the branch any interests disclosed to the branch pursuant to sub-rule (A).
- D. For the purposes of sub-rule (C), the disclosures shall be made:
  - a) in relation to each financial year;
  - b) within six months after the end of the financial year; and
  - c) in writing.

**34(1E) - DISCLOSURE BY BRANCH OF PAYMENTS TO RELATED PARTIES AND DECLARED PERSONS**

- A. The branch shall disclose to the members of the branch either:
  - a) each payment made by the branch, during the disclosure period:
    - i. to a related party of the branch; or
    - ii. to a declared person or body of the branch; or

- b) the total of the payments made by the branch, during the disclosure period:
  - i. to each related party of the branch; or
  - ii. to each declared person or body of the branch.
- B. Sub-rule (A) does not apply to a payment made to a related party if:
  - a) the payment consists of amounts deducted by the branch from remuneration payable to officers or employees of the branch; or
  - b) the related party is an officer of the branch, and the payment:
    - i. consists of remuneration paid to the officer by the branch; or
    - ii. is reimbursement for expenses reasonably incurred by the officer in performing the officer's duties as an officer.
- C. For the purposes of sub-rule (A), the disclosures shall be made:
  - a) in relation to each financial year;
  - b) within six months after the end of the financial year; and
  - c) in writing.

### **35 - BRANCH AUDITOR**

- (1) The Branch Council shall each year appoint an auditor. A person appointed as an auditor shall be a person who is competent to be an auditor in accordance with the provisions of the Workplace Relations Act 1996.
- (2) The auditor shall perform all the duties required to be performed by an auditor pursuant to the provisions of the Workplace Relations Act 1996.
- (3) The Branch Council or Branch Executive may request the auditor to inspect and audit the financial and accounting records of the Branch, or a sub-branch and make a report of that inspection and audit to the Branch Council or Branch Executive, as the case may be.
- (4) The auditor, in undertaking his or her duties under this Rule, shall have access to all books, papers, deeds, documents and financial and accounting records and be entitled to address questions to any officer or employee of the Branch, or sub-branch and obtain from any bank or other financial institution at which the funds of the Branch, Divisional Council or a sub-branch are deposited or invested and such other information as may be required.
- (5) In addition to the powers set out in the previous sub-rules, the auditor may place before the Branch Council any suggestion the auditor may wish to make concerning the financial affairs of the Branch, or sub-branch or to place before any meeting of the sub-branch executive any suggestion the auditor has concerning the financial affairs of the sub-branch, as the case may be.

### **36 - ANNUAL FINANCIAL STATEMENTS**

- (1) The Branch Secretary shall on behalf of the Branch, be responsible for meeting the obligations and duties imposed by the Accounts and Audit provisions of the Workplace Relations Act 1996 and Regulations.
- (2) The secretaries of each Divisional Council and sub-branch shall during the month of February in each year prepare a financial statement in such form as the Branch Secretary may require setting out the receipts and payments for the Divisional Council or sub-branch for the twelve months ending 31 December.

### **37 - FINANCIAL YEAR**

The financial year of the Branch shall commence on 1 January in each year and end on 31 December.

### **38 - BRANCH COMMON SEAL**

- (1) There shall be a common seal for the South Australian Branch which shall be identified by the words "Australian Education Union - South Australian Branch".
- (2) The common seal of the Branch shall only be affixed with the authority of the Branch Council or Branch Executive and shall be countersigned by the Branch President and the Branch Secretary.
- (3) Affixing the common seal of the Branch to a document in accordance with this Rule shall, for the purposes of any transaction referred to in the document involving property which forms part of the Branch fund of the South Australian Branch, be sufficient to give effect to the transaction on behalf of the Union.
- (4) Where the Branch Council or Branch Executive authorises the affixing of the common seal the Minutes shall record that the affixing of the common seal was authorised.

### **39 - REGISTERED OFFICE**

The registered office of the Branch shall be located at 163 Greenhill Road, Parkside, South Australia or at such other location as may be determined by Branch Executive.

### **40 - MEMBERSHIP REGISTER**

- (1) The Branch Secretary shall keep, or cause to be kept, a register of members of the Branch at the Registered Office of the Branch.
- (2) The register of members shall set out in respect of each member the details required to be provided by an applicant for membership together with details of the members financial standing.
- (3) The register of members shall be open for examination by any member during normal office hours.

### **41 - INDUSTRIAL AGREEMENTS & OTHER DOCUMENTS**

Industrial agreements and other documents not required to be executed under seal, may be executed on behalf of the Branch by any 2 of the following:-

- (a) the Branch President;
- (b) a Branch Vice-President; or
- (c) the Branch Secretary.

#### **42 - ALTERATION OF RULES**

- (1) The Branch Council shall have power to add to, amend, rescind or otherwise alter these Federal Branch Rules by resolution carried by a two-thirds majority of members voting.
- (2) Notice of a proposal to make, add to, amend or rescind or otherwise alter the Federal Branch Rules, must be lodged with the Branch Secretary at least 3 months before the meeting of the Branch Council at which the proposed alterations to the Rules are to be considered.
- (3) The Branch Secretary shall publish proposals to make, add to, amend or rescind or otherwise alter the Federal Branch Rules in the Branch Journal two months prior to the relevant Branch Council meeting.
- (4) Proposals to make, add to, amend or rescind or otherwise alter the Federal Branch Rules shall be referred to a Rules Committee consisting of the members of the Principal Officers Committee and such other persons as may be nominated by the Branch Executive to consider the proposals. The Rules Committee shall submit to the Branch Council any consequential amendments that may be necessary if the proposals are adopted.
- (5) If the Branch President determines that a proposal to make, add to, amend or rescind or otherwise alter the Federal Branch Rules is urgent the Branch President may submit the proposal to a Branch Council meeting or convene Special Branch Council meetings to consider the proposal. Where a proposal has been submitted by the President to a Branch Council meeting or a Special Branch Council meeting in accordance with this sub- rule, the Branch Council meeting or Special Branch Council meeting may resolve by simple majority to dispense with any of the requirements of this rule, other than the requirement that the proposal to make, add to, amend, rescind or otherwise alter the Federal Branch Rules must be carried by a two-thirds majority vote.
- (6) A motion to make, add to, amend or rescind or otherwise alter the Federal Branch Rules may be amended by the Branch Council in accordance with the provisions of the standing orders set out in the by-laws.

#### **43 - REMOVAL FROM OFFICE**

- (1) The Branch Executive may, by a resolution of a majority of two-thirds of the votes able to be cast by those present at a meeting:-
  - (a) suspend or remove any person from an elected position within the Branch who has ceased, according to the Rules, to be eligible to hold that position;
  - (b) reprimand, impose a fine not exceeding \$100.00, suspend or remove from any elected position or expel from membership any person elected to an elected position within the Branch if that person has been found guilty of:-
    - (i) misappropriation of the funds of the Union;

- (ii) a substantial breach of the Federal Rules or Federal Branch Rules;
  - (iii) gross misbehaviour in relation to his or her office; or
  - (iv) gross neglect of duty.
- (2) (a) A person shall not be dealt with under sub-rule (1), unless that person has been given 21 days written notice of:-
  - (i) the allegations made against that person;
  - (ii) particulars of the evidence on which the allegation is based; and
  - (iii) the time, date and place at which the Branch Executive will consider the allegations.
- (b) A notice in accordance with this sub-rule shall be signed by the Branch President or the Branch Secretary and have attached to it a copy of this Rule.
- (3) The notice referred to in the previous sub-rule shall be delivered personally to the member concerned or posted by registered or certified mail to his or her last known address.
- (4) At the meeting of the Branch Executive, the person concerned shall be given the opportunity to be heard by the meeting of the Branch Executive personally or through another person or in writing.
- (5) (a) The Branch President, a Branch Vice-President, the Branch Secretary or the Branch Treasurer may be suspended from office by the Branch Executive if the Branch Executive is satisfied that the person concerned has a case to answer in relation to matters referred to in sub-rule (1).
- (b) If the Branch Executive suspends the Branch President, a Branch Vice-President, the Branch Secretary or the Branch Treasurer, it shall forthwith appoint a financial member of the Union to act in the place of the person who has been suspended.
- (c) The Branch Executive shall, within 48 hours of the suspension, provide the suspended person with a notice in writing advising him or her of the suspension.
- (d) The Branch Executive shall, within 7 days of the suspension, convene a Special Branch Executive Meeting for a date not less than 21 days and not more than 35 days after the date on which the person was suspended to deal with him or her pursuant to sub-rule (1).
- (e) The provisions of sub-rules (1) and (2) apply in like manner insofar as they are capable of applying in relation to a person suspended pursuant to paragraph (a) of this sub-rule and the Branch Executive convened in pursuance of paragraph (d) of this sub-rule.
- (f) If a meeting of the Branch Executive is not convened in accordance with paragraph (d) of this sub-rule, the person suspended from office shall be deemed to be reinstated in his or her office from the expiration of the period for convening such a meeting of the Branch Executive. On reinstatement the person suspended shall receive all entitlements to which he or she would have been entitled if he or she had not been suspended.

- (g) If the Branch Executive does not resolve to remove the person suspended from office that person shall be reinstated into his or her office subject to such terms and conditions as the Branch Executive, subject to the Act and the rules, may impose.
- (h) A member appointed to act in place of an officer suspended shall continue to act in that position until the person suspended from office has been reinstated pursuant to paragraph (f) or (g) of this sub-rule or, where the suspended officer is removed from office, until the position is filled in accordance with the rules for filling casual vacancies.

## PART VI - ELECTIONS

### **44 - APPOINTMENT OF BRANCH RETURNING OFFICER**

- (1) The Branch Council shall appoint a Branch Returning Officer to conduct any election not required to be conducted by the Australian Electoral Commission. The Branch Returning Officer shall hold office for two years commencing on 1 January following his or her appointment and expiring on 31 December in the following year.
- (2) For the purposes of this rule, any person appointed as a Branch Returning Officer shall not, at the time of his or her appointment or during his or her term of appointment, be a candidate for or hold any elected position in the Union or be an employee of the Union.
- (3) If there is a casual vacancy in the position of Branch Returning Officer, the casual vacancy may be filled by the Branch Council appointing a person eligible for appointment for a term of office expiring on 31 December in the following year.
- (4) The Branch Council may also appoint, at any time, such number of Assistant Branch Returning Officers as are necessary for the conduct of elections under the Federal Branch Rules.
- (5) Any reference in the Federal Branch Rules to a Branch Returning Officer shall include a reference to an Assistant Branch Returning Officer.
- (6) The Branch Returning Officer shall prepare, in respect of each election required to be conducted under the Federal Branch rules, a roll of persons eligible to vote.

### **45 - FEDERAL CONFERENCE DELEGATE ELECTIONS**

- (1) The Branch Returning Officer shall conduct elections for Federal Conference Delegates in accordance with this rule and rule 30 of the Federal Rules.
- (2) The delegates to Federal Conference shall take office on 1 January following their election and hold office for 2 years or until their successors take office.
- (3)
  - (a) The Federal Conference delegates representing the General Division shall each be elected by a secret postal ballot by and from financial members of the Branch in the General Division.
  - (b) The Federal Conference delegates representing the TAFE Division shall be elected by a secret postal ballot by and from financial members of the Branch in the TAFE Division.



- (4) The Branch Returning Officer shall call for nominations for Federal Conference Delegate positions by sending a notice to all worksites with union members, by publishing a notice on the Union website, and where publication schedules allow, in a publication of the Union distributed to all members of the Branch.
- (5) The notice calling for nominations referred to in the previous sub-rule shall specify a date for the opening of nominations which shall be a date not less than 14 days before the date of closing of nominations and be a date after the date on which the notice calling for nominations was published in accordance with the previous sub-rule.
- (6) Nominations for the positions of Federal Conference Delegates shall:-
  - (a) be in writing;
  - (b) be signed by the nominee and 2 nominators, both nominators shall be financial members of the Branch; and
  - (c) be delivered to the Branch Returning Officer not later than 12.00 noon on the first Friday in September.
- (7)
  - (a) Where the Federal Returning Officer has advised the Branch Returning Officer that the Branch has an increased entitlement to Federal Conference Delegates or where there is an extraordinary or casual vacancy (howsoever occurring) in a position of Federal Conference Delegate there shall, subject to paragraph (b), be a secret postal ballot by and from all financial members of the relevant division in the Branch as soon as practicable.
  - (b) Where the unexpired portion of the term of the office of the Federal Conference Delegate does not exceed three quarters of the term of the position, the Branch Council may appoint a financial member of the Branch to fill the position.

#### **46 - ELECTION OF FEDERAL EXECUTIVE MEMBERS**

- (1) The Branch Executive shall every 2 years elect to the Federal Executive the number of persons permitted to be elected by the Branch pursuant to Rule 35 of the Federal Rules.
- (2) The persons elected in accordance with the previous sub-rule shall take office on 1 March and hold office for 2 years or until their successors take office.
- (3) The Branch Federal Executive Members shall be elected by a secret ballot by and from members of the Branch Executive assigned to the General Division. The ballot shall be conducted at a meeting of the Branch Executive.
- (4) The Branch Returning Officer shall call for nominations for the positions of Branch Federal Executive Members by sending a notice to all members of the Branch Executive.
- (5) The notice calling for nominations referred to in the previous sub-rule shall specify a date for the opening of nominations which shall be a date not less than 14 days before the date of closing of nominations and be a date after the date on which the notices calling for the nominations are sent to members of the Branch Executive in accordance with the previous sub-rule.

- (6) Nominations for the positions of Branch Federal Executive Members shall:-
- (a) be in writing;
  - (b) be signed by the nominee and by 2 nominators, both nominators shall be financial members of the Branch; and
  - (c) be delivered to the Branch Returning Officer at the registered office of the Branch not later than 12.00 noon on the first Friday in February.
- (7) Casual vacancies in the position of Branch Federal Executive members shall be filled in accordance with Federal Rule 35(6) or any rule replacing Federal Rule 35(6).

**47 - ELECTION OF NATIONAL TAFE COUNCIL DELEGATES AND NATIONAL TAFE COUNCIL EXECUTIVE MEMBERS**

- (1) National TAFE Council Delegates and National TAFE Council Executive Members shall take office on 1 January following their election and hold office for 2 years or until their successors take office.
- (2) The delegates to the National TAFE Council and members of the TAFE Council Executive shall be elected by a secret postal ballot by and from members of the TAFE Division in the Branch.
- (3) The Branch Returning Officer shall call for nominations for delegates to the National TAFE Council and members of the TAFE Council Executive by sending a notice to all worksites with union members, by publishing a notice on the Union website, and where publication schedules allow, in a publication of the Union distributed to all TAFE Division members of the Branch.
- (4) The notice calling for nominations referred to in the previous sub-rule shall specify a date for the opening of nominations which shall be a date not less than 14 days before the date of closing of nominations and be a date after the date on which the notice calling for nominations was published in accordance with the previous sub-rule.
- (5) Nominations for the positions of delegates to the National TAFE Council and members of the TAFE Council Executive shall:-
- (a) be in writing;
  - (b) be signed by the nominee who shall at the date of nomination be a financial member of the TAFE Division;
  - (c) be signed by 2 nominators both of whom shall be financial members of the Branch; and
  - (d) be delivered to the Branch Returning Officer not later than 12.00 noon on the first Friday in September.
- (6) The election of National TAFE Council Delegates and TAFE Council Executive Members shall be conducted in the following manner:-
- (a) the elections for National TAFE Council Delegates and TAFE Council Executive Members shall be simultaneously conducted;

- (b) persons eligible to nominate may nominate for both the position of National TAFE Council Delegate and TAFE Council Executive Member;
  - (c) the votes for the position of TAFE Council Executive Member shall be counted first and the successful candidate determined;
  - (d) where a successful candidate has been determined in accordance with the previous paragraph, the successful candidate shall be eliminated from the election for the National TAFE Council Delegate position and the second and subsequent preference votes cast for the person shall be allocated as first and subsequent preference votes for the remaining candidates.
- (7) The provisions of these Federal Branch Rules relating to the filling of casual vacancies in the positions of Federal Conference delegates shall apply, mutatis mutandis, to the filling casual vacancies in the positions of National TAFE Council delegates and National TAFE Council Executive members except that, where a position is to be filled by appointment, the appointment will be made by the TAFE Divisional Council.

**47A - ELECTION OF NATIONAL ATSIEC MEMBERS REPRESENTING THE GENERAL DIVISION AND TAFE DIVISION**

- (1) This rule is subject to Rules 73 and 74 of the Federal Rules.
- (2) The Branch Returning Officer shall conduct an election for one National ATSIEC (General Division) member and one National ATSIEC (TAFE Division) member
  - (i) each two years at the same time as the scheduled election of Federal Conference Delegates or in any event according to a timetable which permits the declaration of the election on or before 30 November of the year prior to taking office, provided that the first elections for the National ATSIEC (General Division) member and the National ATSIEC (TAFE Division) member shall be held as soon as practicable in 1998; or
  - (ii) at such time as shall be notified by the Federal Returning Officer to the Branch Returning Officer as is necessary for filling a casual or extraordinary vacancy.
- (3) The National ATSIEC (General Division) member shall be elected by and from the General Division members of the Branch. The election shall be conducted in accordance with the mode of election prescribed in the federal rules for Federal Conference Delegates (the necessary changes being made), provided that the member being nominated and the nominators must be Aboriginal or Torres Strait Islander members.
- (4) The National ATSIEC (TAFE Division) member shall be elected by and from the TAFE Division members of the Branch. The election shall be conducted in accordance with the mode of election prescribed in the federal rules for Federal Conference Delegates (the necessary changes being made), provided that the member being nominated and the nominators must be Aboriginal or Torres Strait Islander members.

**47B - ELECTION OF NATIONAL PRINCIPAL COMMITTEE (GENERAL DIVISION) MEMBER**

- (1) This rule is subject to Rule 75 of the Federal Rules.
- (2) The Branch Returning Officer shall conduct an election for one (1) National Principal Committee (General Division) member:
  - (i) each two years at the same time as the scheduled election of Federal Conference Delegates or in any event according to a timetable which permits the declaration of the election on or before 30 November of the year prior to taking office, provided that the first elections for the National Principal Committee (General Division) member shall be held as soon as practicable; or
  - (ii) at such time as shall be notified by the Federal Returning Officer to the Branch Secretary as is necessary for filling a casual or extraordinary vacancy.
- (3) The National Principal Committee (General Division) member shall be elected by and from the General Division members of the Branch. The election shall be conducted in accordance with the mode of election prescribed in the Federal Rules for Federal Conference Delegates (the necessary changes being made), provided that the member being nominated and the nominators must be a principal member.

**47C - ELECTION OF A NATIONAL EARLY CHILDHOOD COMMITTEE (GENERAL DIVISION) MEMBER**

- (1) This rule is subject to Rule 76 of the Federal Rules.
- (2) The Branch Returning Officer shall conduct an election for one (1) National Early Childhood Committee (General Division) member:
  - (i) each two years at the same time as the scheduled election of Federal Conference Delegates or in any event according to a timetable which permits the declaration of the election on or before 30 November of the year prior to taking office, provided that the first elections for the National Early Childhood Committee (General Division) member shall be held as soon as practicable; or
  - (ii) at such time as shall be notified by the Federal Returning Officer to the Branch Secretary as is necessary for filling a casual or extraordinary vacancy.
- (3) The National Early Childhood Committee (General Division) member shall be elected by and from the General Division members of the Branch. The election shall be conducted in accordance with the mode of election prescribed in the Federal Rules for Federal Conference Delegates (the necessary changes being made), provided that the member being nominated and the nominators must be from the CS Sub-Division.

**48 - ELECTION OF BRANCH EXECUTIVE OFFICERS**

- (1) The Branch Executive Officers shall take office on 1 January following their election and:-

- (a) in the case of Branch Executive Officers other than Branch Secretary - hold office for 2 years or until their successors take office;
  - (b) in the case of the Branch Secretary - hold office for 3 years or until his or her successor takes office.
- (2) (a) The Branch President shall be elected by a secret postal ballot by and from financial members of the Branch.
    - (b) The Branch President shall only be eligible for re-election for two further consecutive terms. A person who has held the office of Branch President for three consecutive terms shall be eligible for re-election after a lapse of two years.
- (3) (a) The Branch Vice-Presidents shall be elected by a secret postal ballot by and from financial members of the Branch.
    - (b) A Branch Vice-President shall only be eligible for re-election for two further consecutive terms. A person who has held the office of Branch Vice-President for three consecutive terms shall be eligible for re-election after a lapse of two years.
- (4) (a) The Branch Secretary shall be elected by a secret postal ballot by and from financial members of the Branch.
    - (b) The Branch Secretary shall be eligible for re-election for further terms.
- (5) The SSO member of the Branch Executive shall be elected by a secret postal ballot by and from financial members in the SSO Sub-Division.
- (6) The CS member of the Branch Executive shall be elected by a secret postal ballot by and from financial members in the CS Sub-Division.
- (7) The TAFE member of the Branch Executive shall be elected by a secret postal ballot by and from financial members of the TAFE Division.
- (8) The 12 Branch Executive Officers shall be elected by and from financial members of the General Division other than members in the CS Sub-Division and the SSO Sub-Division.
- (9) The Aboriginal or Torres Strait Islander member of the Branch Executive shall be elected by a secret postal ballot by and from all financial members of the Branch, provided that the member being nominated and the nominators must be Aboriginal or Torres Strait Islander members.
- (10) The Branch Returning Officer shall call for nominations for Branch Executive Officers by sending a notice to all worksites with union members, by publishing a notice on the Union website, and where publication schedules allow, in a publication of the Union distributed to all members of the Branch.
- (11) The notice calling for nominations referred to in the previous sub-rule shall specify a date for the opening nominations and a time and date for the closing of nominations.
- (12) The date for the opening of nominations referred to in the previous sub- rule shall be a date not less than 14 days before the date of closing of nominations which shall be 12.00 noon on the first Friday in September in the year before the term of office is to commence.

- (13) Nominations for Branch Executive Officers shall be in writing and be signed by the candidate and 2 nominators, both of whom shall be financial members of the Branch.
- (14) (a) Where there are more nominations than Branch Executive Officer positions, the Branch Returning Officer shall conduct a secret postal ballot in accordance with this sub-rule and rule 52.
- (b) In respect of the voting papers for the 12 Branch Executive Officer positions, candidates may request to have their names grouped and ordered within a group on the voting paper.
- (c) Where a number of candidates wish to have their names grouped, each of the candidates must notify the Branch Returning Officer after he or she has nominated but not later than the time appointed for the closing of the nominations that they wish to have their name included in a group.
- (d) A candidate shall not be entitled to have his or her name included in more than one group.
- (e) The Branch Returning Officer shall provide candidates who wish to have their names grouped with a form which assists them to comply with the requirements of this sub-rule in respect of being grouped on the voting paper.
- (f) On receipt of a request from candidates to be included in a group, the Branch Returning Officer shall notify each member of the group that his or her name has been included in a group and the names of the other candidates in the group.
- (g) The Branch Returning Officer shall prepare voting papers as follows:
- (i) the names of candidates included in groups shall be printed in groups on the ballot papers before the names of candidates not included in groups;
  - (ii) the order of the groups on the ballot papers shall be determined by lot;
  - (iii) the order of the names of the candidates whose names are not included in any group shall be determined by lot;
  - (iv) where similarity in the names of two or more candidates is likely to cause confusion, the names of those candidates may be arranged with such description or addition as will distinguish them from one another.
- (h) Deleted
- (i) The Branch Returning Officer shall first count the votes for the position of Branch President and declare the successful candidate elected.
- (j) If an election for the Branch Secretary is being conducted at the same time as elections for other Branch Executive Officer positions, the Branch Returning Officer shall next count the votes for the position of Branch Secretary and declare the successful candidate elected.
- (k) The Branch Returning Officer shall next count the votes for the positions of Male and Female Vice-President and declare the successful candidates elected.

- (l) The Branch Returning Officer shall next count the votes for the positions of CS member, SSO member, TAFE member and Aboriginal or Torres Strait Islander member, and declare the successful candidates elected.
  - (i) The Branch Returning Officer shall next count the votes for the 12 Branch Executive Officer positions.
- (m) Where, in the counting of votes in accordance with this sub-rule, the person declared elected is also a candidate for another position of Branch Executive Officer, the Branch Returning Officer shall eliminate that person from the ballot for subsequent positions and treat the votes for the voter's next preferred candidate as a first preference vote and treat subsequent preferential votes in the same manner for remaining candidates.
- (15) (a) A casual vacancy in a position of Branch Executive Officer shall be filled in accordance with this sub-rule.
  - (b) Where the unexpired term of office of the position exceeds three quarters of the term, an election shall be conducted to fill the position. The provisions of this rule shall apply, mutatis mutandis, to an election under this sub-rule.
  - (c) Subject to paragraph (d), where the unexpired term of the office of the position is less than three quarters of the term, the position may be filled by appointment as follows:-
    - (i) in relation to the Branch President, Branch Vice-Presidents, Branch Secretary, SSO member of Branch Executive, CS member of Branch Executive, Aboriginal or Torres Strait Islander member of Branch Executive - and the 12 Branch Executive Officer positions - by the Branch Council;
    - (ii) *deleted*
    - (iii) in relation to the TAFE Member of Branch Executive - by the TAFE Divisional Council.
  - (d) Where the casual vacancy occurs in a position after a person has been elected to fill the position, but before that person has taken up office, the Branch Executive shall, with the agreement of the person in question, appoint that person to fill the casual vacancy.
  - (e) Where a casual vacancy occurs in paid positions, the Branch Executive may appoint a financial member of the Union to fill the vacancy pending an election or an appointment by Branch Council in accordance with this sub-rule.
  - (f) A person filling a casual vacancy in the position of Branch President or Branch Vice-President may subsequently be elected to the position in question for two consecutive terms.

#### **49 - ELECTION OF THE BRANCH TREASURER**

- (1) The Branch Treasurer shall take office immediately after his or her election and hold office for 2 years or until his or her successor takes office.
- (2) The Branch Treasurer shall be elected by Branch Executive Officers. If a ballot is required, a secret ballot shall be conducted at the first meeting of the Branch Executive in the year following the election of Branch Executive Officers.

50 - ELECTION OF GENERAL DIVISION DELEGATES TO BRANCH COUNCIL, ALTERNATE GENERAL DIVISION DELEGATES TO BRANCH COUNCIL, SUB-BRANCH DELEGATES TO TAFE DIVISIONAL COUNCIL

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- (3) The Branch Returning Officer shall call for nominations for the position of Branch Treasurer by sending a notice to each ordinary Branch Executive Officer prior to the opening day for nominations.
- (4) The notice calling for nominations referred to in the previous sub-rule shall specify a date for the opening of nominations which shall be a date not less than 14 days before the date of closing of nominations.
- (5) The date for closing of nominations referred to in the previous sub-rule shall be 12.00 noon on the first Friday in February.
- (6) Nominations for the position of Branch Treasurer shall:-
  - (a) be in writing;
  - (b) be signed by the nominee who shall be an ordinary Branch Executive Officer and 2 nominators both of whom shall be financial members of the Branch; and
  - (c) be delivered to the Branch Returning Officer at the time and place nominated for the closing of nominations.
- (7) A casual vacancy in the position of Branch Treasurer shall be filled in accordance with this sub-rule:
  - (a) Where the unexpired term of office exceeds three quarters of the term, the provisions of this rule shall apply, mutatis mutandis, to an election under this sub-rule.
  - (b) Where the unexpired term of office is less than three quarters of the term, Branch Executive shall appoint an ordinary Branch Executive officer to the position.

**50 - ELECTION OF GENERAL DIVISION DELEGATES TO BRANCH COUNCIL,  
ALTERNATE GENERAL DIVISION DELEGATES TO BRANCH COUNCIL, SUB-  
BRANCH DELEGATES TO TAFE DIVISIONAL COUNCIL**

- (1) Elections for the General Divisional Delegates to Branch Council, alternate General Divisional Delegates to Branch Council and the Sub-Branch Delegates to TAFE Divisional Council shall be conducted in accordance with this rule.
- (2) The General Division Delegates to Branch Council, Alternate General Division Delegates to Branch Council and the Sub-Branch Delegates to TAFE Divisional Council shall take office on the declaration of their election and hold office for 1 year or until their successors take office.
- (3) The Branch Returning Officer shall determine a time-table for conducting elections in accordance with this rule which will enable the election to be completed by 20 March of each year.
- (4) The Branch Returning Officer shall call for nominations for positions referred to in this rule by sending a notice to all worksites with union members, by publishing a notice on the Union website, and where publication schedules allow, in a publication of the Union distributed to all members of the Branch.



- (5) The notice calling for nominations referred to in the previous sub-rule shall specify a date for the opening of nominations which shall be a date not less than 14 days before the date of closing of nominations and a date after the date on which the notice calling for nominations was published in accordance with the previous sub-rule.
- (6) Nominations for positions of General Division Delegates to Branch Council, Alternate General Division Delegates to Branch Council, shall:-
  - (a) be in writing;
  - (b) be signed by the nominee, who shall at the date of nomination be a financial member in the relevant Area;
  - (c) be signed by 2 nominators who shall be financial members of the Branch; and
  - (d) be delivered to the Branch Returning Officer at the place determined by the Branch Returning Officer for the receipt of nominations prior to the time and date appointed for the closing of nominations.
- (7) Nominations for positions of sub-branch delegates to the TAFE Divisional Council shall:-
  - (a) be in writing;
  - (b) be signed by the nominee, who shall at the date of the nomination be a financial member of the relevant sub-branch;
  - (c) be signed by 2 nominators who shall be financial members of the Branch; and
  - (d) be delivered to the Branch Returning Officer at the place determined by the Branch Returning Officer for the receipt of nominations prior to the time and date appointed for the closing of nominations.
- (8)
  - (a) Where it is necessary to conduct a ballot for General Division delegates to Branch Council, alternate General Division Delegates to Branch Council, the Branch Returning Officer shall conduct a secret postal ballot;
  - (b) Where it is necessary to conduct a ballot for Sub-Branch Delegates to the TAFE Divisional Council, the Branch Returning Officer shall conduct a secret ballot at a sub-branch meeting provided that if the Branch Returning Officer determines that it is impracticable to conduct a ballot at a sub-branch meeting the Branch Returning Officer shall conduct a secret postal ballot.
- (9) In counting the votes for the positions of General Division Delegates to Branch Council and alternate General Division Delegates to Branch Council, the Branch Returning Officer shall first count the votes for the positions of General Division Delegates to Branch Council and declare the successful candidates elected. Where a person has been declared elected as a General Division Delegate to Branch Council was also a candidate for the position of Alternate General Division Delegate to Branch Council, the Branch Returning Officer shall eliminate that person from the ballot for Alternate General Division Delegate to Branch Council and treat the voter's vote for the next preferred candidate as a first preference vote and treat subsequent preferential votes in the same manner for remaining candidates.

51 - ELECTION OF DELEGATES FROM TAFE DIVISIONAL COUNCIL TO BRANCH COUNCIL, ELECTION OF TAFE DIVISIONAL CHAIRPERSON, TAFE DIVISIONAL SECRETARY AND TAFE DIVISIONAL EXECUTIVE MEMBERS

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- (10) Casual vacancies in positions referred to in this rule may be filled by the appointment of a person eligible to hold the position in question by the relevant Divisional Council, providing that for casual vacancies in the positions of General Division Delegate and Alternate Delegate to Branch Council the person being appointed shall be of the same gender as the person being replaced.

**51 - ELECTION OF DELEGATES FROM TAFE DIVISIONAL COUNCIL TO BRANCH COUNCIL, ELECTION OF TAFE DIVISIONAL CHAIRPERSON, TAFE DIVISIONAL SECRETARY AND TAFE DIVISIONAL EXECUTIVE MEMBERS**

- (1) Elections for the following positions shall be conducted in accordance with this rule:-
- (a) delegates and alternate delegates from the TAFE Divisional Council to Branch Council;
  - (b) TAFE Divisional Chairperson;
  - (c) TAFE Divisional Secretary;
  - (d) TAFE Divisional Executive members;
- (2) The holders of positions referred to in this rule shall take office immediately after their election and hold office for one year or until his or her successor takes office.
- (3) Members of the TAFE Divisional Council shall each year elect from amongst themselves delegates and alternate delegates to Branch Council, a TAFE Divisional Chairperson, a TAFE Divisional Secretary and TAFE Divisional Executive members. If a ballot is required, a secret ballot shall be conducted at the first meeting of the TAFE Divisional Council.
- (5) The Branch Returning Officer shall call for nominations for positions referred to in this rule by sending a notice to all persons eligible to nominate prior to the opening day for nominations.
- (6) The notice calling for nominations referred to in the previous sub-rule shall specify a date for the opening of nominations which shall be a date not less than 7 days before the closing date of nominations.
- (7) The date for the closing of nominations referred to in the previous sub-rule shall be a date 7 days prior to the date of the meeting at which the election is to be conducted.
- (8) Nominations for positions referred to in this rule shall:-
- (a) be in writing;
  - (b) be signed by the nominee who shall be a member of the TAFE Divisional Council and 2 nominators both of whom shall be financial members of the Branch; and
  - (c) be delivered to the Branch Returning Officer at the time and place nominated for the closing of nominations.

- (9) In counting the votes for the positions of TAFE Division Delegates to Branch Council and alternate TAFE Division Delegates to Branch Council, the Branch Returning Officer shall first count the votes for the positions of TAFE Division Delegates to Branch Council and declare the successful candidates elected. Where a person has been declared elected as a TAFE Division Delegate to Branch Council was also a candidate for the position of alternate TAFE Division Delegate to Branch Council, the Branch Returning Officer shall eliminate that person from the ballot for alternate TAFE Division Delegates to Branch Council and treat the voter's vote for the next preferred candidate as a first preference vote and treat subsequent preferential votes in the same manner for remaining candidates.
- (10) A casual vacancy in a position referred to in this rule shall be filled by the appointment of a person eligible to hold the position by the TAFE Divisional Council providing that for casual vacancies in the positions of Delegate and Alternate Delegate from the TAFE Divisional Council to Branch Council the person being appointed shall be of the same gender as the person being replaced.

### **52 - ELECTIONS BY A SECRET POSTAL BALLOT**

- (1) Where a secret postal ballot is required by these Federal Branch Rules the ballot shall be conducted in accordance with this rule.
- (1A) The roll of voters for any election to be conducted pursuant to these rules is to be closed seven days before the day on which nominations are opened in relation to all elections by a direct voting system for offices in the Branch.
- (2) The Branch Returning Officer shall, on the close of nominations, check all nominations received for compliance with the Rules. Where the Branch Returning Officer considers that any nomination is defective, he or she shall immediately notify the person concerned of the defect by the most expeditious means and, where it is practicable to do so, give him or her the opportunity of remedying the defect, allowing, if practicable, at least 7 days after the notification.
- (3) Where there is one position to be filled and there is no more than one nomination for the position, the Branch Returning Officer shall declare the nominated person elected to the position. Where there is more than one position to be filled and the same number of nominations the Branch Returning Officer shall declare the nominated persons elected to the positions.
- (4) The Branch Returning Officer shall nominate an address to which voters may post ballot papers.
- (5) The Branch Returning Officer shall for the purposes of each election maintain a locked and sealed ballot box in which he or she shall place from time to time ballot papers received by post.
- (6) The Branch Returning Officer shall determine a date for the opening of the ballot and, subject to the Federal Branch Rules a closing date and time for the ballot.
- (7) The Branch Returning Officer shall cause to be delivered to each member who is financial as at the date of the closure of the roll of voters by pre-paid post a ballot paper before the opening date of the ballot. With each ballot paper there shall be provided a declaration envelope in which the ballot paper is to be sealed after the voter has cast his or her vote.

- The removable flap/label attached to the declaration envelope upon which the voter shall be required to sign his or her name as an eligible voter, shall be detached or separated from the declaration envelope by the Branch Returning Officer and placed in separate piles so as to ensure that the ballot paper can not be identified with the removable flap/label. Both envelopes shall be in the form prescribed by the regulations made under Schedule 1B of the Workplace Relations Act 1996.
- (8) The ballot paper shall list the title of the office for which the election is being held and following each title shall list the names of candidates. The Branch Returning Officer shall determine the order in which candidates names appear on the ballot paper by drawing lots. Opposite each name there shall be a box in which the voter is to be instructed to indicate his or her preference for the candidate for that position by inserting the numbers 1, 2, 3 ... etc, the number 1 indicating the first preference.
- (9) The method of voting and of counting votes in an election conducted by secret postal ballot shall be that set out in sections 45 and 48 of the South Australian Local Government (Elections) Act 1999.
- (10) The voter shall be instructed after casting his or her vote to fold the ballot paper so that the marking thereof is not visible until unfolded and to seal the ballot paper in the declaration envelope and to then seal the declaration envelope inside the pre-addressed envelope provided. The Branch Returning Officer shall advise all voters of the closing date and time for the receipt of return ballot papers. Voters must return ballot papers to the Branch Returning Officer either by posting them to the address shown on the envelope or otherwise so that the ballot paper is received no later than the notified time on the closing date by the Branch Returning Officer. It is the voters responsibility to ensure that his or her vote is received by the Branch Returning Officer by the closing date and time.
- (11) Any vote in respect of the election of a person to an office shall be informal if:-
- (a) the ballot paper is received by the Branch Returning Officer after the notified time on the closing date;
  - (b) the content of the ballot paper does not comply with the instructions printed on it; or
  - (c) the ballot paper is received in a declaration envelope without the removable flap or label or with the flap or label unsigned.
- (12) If the Branch Returning Officer is satisfied that a ballot paper has been destroyed, lost, damaged or misused, he or she shall supply a substitute ballot paper in the place of the damaged or misused ballot paper (on receipt thereof) to the person to whom the original ballot paper was supplied.
- (13) Immediately after the time determined for the close of the ballot, the Branch Returning Officer shall, in the presence of such scrutineers as are present, take steps to ensure that no further ballot papers are deposited in the ballot box and then proceed to:-
- (a) open the ballot box and remove unopened ballot paper envelopes;
  - (b) determine, prima facie, the bona fides of the ballot papers by reference to the membership register as at the closing date for nominations for that election;

- (c) open the ballot paper envelopes and extract from them all the ballot papers in such a manner as to preserve the secrecy of the ballot;
  - (d) place the ballot paper envelopes and ballot papers in separate bundles; and
  - (e) proceed with the counting of the votes.
- (14) The Branch Returning Officer shall retain all ballot papers, envelopes and other documents used in connection with the election and keep them in safe custody for the period of one year after the date of the declaration of the election.
- (15) Where a member entitled to vote at a ballot will be absent during the conduct of the ballot from his or her normal address, he or she may, during the period after the time for lodging nominations is closed and before the opening date of the ballot, apply in writing to the Branch Returning Officer for an absent vote on the ground that his or her absence will otherwise prevent him or her voting at the ballot.
- (16) Where the Branch Returning Officer receives an application under sub-rule (15) and is satisfied that the member will be prevented from voting at the ballot he/she shall, by pre-paid post, forward to the member a ballot paper in accordance with this rule.
- (17) In any election each candidate shall be entitled to appoint any person whether a member of the Union or not, to act as scrutineer at the election and may appoint a substitute scrutineer in the event that the scrutineer is unable or unwilling to act as scrutineer at the election.

All scrutineers shall in the case of a ballot be entitled to observe the admission and the counting of votes, the conduct of and determination of the election and the declaration of the poll. In every case a scrutineer shall observe the directions of the Branch Returning Officer who shall take all reasonable steps to enable each scrutineer to exercise his/her rights. No election shall be vitiated should a scrutineer not exercise any or all such rights if he/she had a reasonable opportunity so to do.

### **53 - CONDUCT OF ELECTIONS AT MEETINGS**

- (1) An election which is required by the Federal Branch Rules to be conducted by a secret ballot at a meeting shall be conducted in accordance with this rule.
- (2) The Branch Returning Officer shall, on the close of nominations, check all nominations received for compliance with the Rules. Where the Branch Returning Officer considers that any nomination is defective, he or she shall immediately notify the person concerned of the defect by the most expeditious means and, where it is practicable to do so, give him or her the opportunity of remedying the defect, allowing, if practicable, at least 7 days after the notification.
- (3) Where there is one position to be filled and there is no more than one nomination for the position, the Branch Returning Officer shall declare the nominated person elected to the position. Where there is more than one position to be filled and the same number of nominations the Branch Returning Officer shall declare the nominated persons elected to the positions.
- (4) If more nominations are received than there are vacancies for a position, the Branch Returning Officer shall have ballot papers prepared containing the names of the candidates for each position, in an order chosen by ballot, indicating the number of persons to be elected to each position and the manner in which the votes shall be recorded.

- (5) The Branch Returning Officer shall be responsible for the safe custody of the ballot papers and for ensuring that voters can cast a secret vote.
- (6) Each ballot paper shall be initialled by the Branch Returning Officer or shall bear a facsimile of his or her initials.
- (7) The Branch Returning Officer shall issue a ballot paper to each member present at the meeting entitled to vote.
- (8) If the Branch Returning Officer is satisfied that a ballot paper has been destroyed, lost, damaged or misused, he or she shall supply a substitute ballot paper in the place of the damaged or misused ballot paper on receipt thereof to the person to whom the original ballot paper was supplied.
- (9)
  - (a) On the closing of the ballot, the Branch Returning Officer shall, in the presence of scrutineers, count all the votes in accordance with this sub-rule.
  - (b) The method of voting and of counting votes in an election conducted by secret ballot at a meeting shall be that set out in sections 45 and 48 of the South Australian Local Government (Elections) Act 1999.
  - (c) If, on the counting of votes, 2 candidates have an equal number of votes, the Branch Returning Officer shall determine, by drawing lots, which candidate shall be elected.
- (10)
  - (a) Where a person eligible to vote in an election to be conducted at a sub-branch meeting is unable to attend the sub-branch meeting the member may, prior to the time fixed for the meeting, apply in writing to the Branch Returning Officer for an absentee vote on the ground that his or her absence will otherwise prevent him or her voting at the ballot. Where the Branch Returning Officer receives an application for an absentee vote and is satisfied that the member will be prevented from voting at the meeting, he or she shall provide the member with a ballot paper and prepaid envelope addressed to the Branch Returning Officer and instruct the member that the ballot paper must be returned to the Branch Returning Officer within 7 days of the date of the annual general meeting. Where the Branch Returning Officer has issued a ballot paper to an absentee voter, the Branch Returning Officer shall not count any of the votes until a ballot paper has been received from the absentee voter or the expiration of 7 days from the date of the annual general meeting, whichever occurs first.
- (11) In any election each candidate shall be entitled to appoint any person whether a member of the Union or not, to act as scrutineer at the election and may appoint a substitute scrutineer in the event that the scrutineer is unable or unwilling to act as scrutineer at the election. All scrutineers shall in the case of a ballot be entitled to observe the admission and the counting of votes, the conduct of and determination of the election and the declaration of the poll. In every case a scrutineer shall observe the directions of the Branch Returning Officer who shall take all reasonable steps to enable each scrutineer to exercise his/her rights. No election shall be vitiated should a scrutineer not exercise any or all such rights if he/she had a reasonable opportunity so to do.
- (12) In the event that a sub-branch annual general meeting at which an election is to be conducted is inquorate, the Sub-Branch Chairperson, upon the advice of the Branch Returning Officer, shall convene a further general meeting of the sub-branch to be held not later than 14 days after the date of the annual general meeting. In the event that a meeting convened in accordance with this sub-rule is also inquorate the Branch Returning Officer shall forthwith arrange a secret postal ballot in accordance with rule 52.

**54 - CONDUCT OF ELECTION WHERE A MINIMUM NUMBER OF WOMEN ARE REQUIRED TO BE ELECTED**

- (1) This rule shall operate in conjunction with other Federal Branch Rules in relation to the election of persons to fill the positions of:
- (a) the 12 Branch Executive Officers
  - (b) Federal Conference delegates representing the General Division
  - (c) National TAFE Council Delegates
  - (d) General Division Delegates and Alternate Delegates to Branch Council
  - (e) Branch Council Delegates and Alternate Delegates elected by and from members of the TAFE Divisional Council

Provided that where there is any inconsistency, this rule shall prevail over any inconsistent provision in any other Federal Branch Rules.

- (2) In addition to any other information required to be set out in the notification of the calling of nominations for the positions to which this rule applies, the notification shall include the following additional information:-
- (a) the number of persons to be elected to the position in question and the number of women to be elected; and
  - (b) advice that, if the number of women candidates is less than the number of women to be elected, the remaining position or positions in question will be filled by a male candidate or candidates.
- (3) In addition to any other information required to be set out on ballot papers for the positions in question, the ballot paper shall include the following additional information:
- (a) the candidates full name and title; and
  - (b) the number of persons to be elected to the positions in question and the number of women to be elected to the positions.
- (4) The Branch Returning Officer shall conduct a ballot:-
- (a) for all positions - where the number of candidates exceeds the number of positions to be filled and the number of women candidates is more than the number of positions to be filled by women; or
  - (b) for all remaining positions only where the Branch Returning Officer has ascertained the number of nominations from women candidates is less than or equal to the number of positions for women and the number of male candidates is more than the number of remaining positions.

- (5) (a) Where it is necessary to conduct a ballot to fill positions required to be filled by female candidates this sub-rule shall apply.
- (b) The Branch Returning Officer shall count the votes and allocate preferences in accordance with Rule 52 and determine whether the minimum number of female candidates has been elected.
- (c) If the minimum number of female delegates required to be elected have been elected, the Branch Returning Officer shall declare all successful candidates elected.
- (d) In the event that the minimum number of female candidates have not been elected, the Branch Returning Officer shall:-
  - (i) eliminate such male candidate or candidates as are necessary to allow the election of the minimum number of female candidates. The male candidate or candidates to be eliminated shall be the last candidate or candidates elected during the counting of votes and the allocation of preferences; and
  - (ii) declare elected such female candidate or candidates as are necessary to ensure that the minimum number of female candidates is elected. The female candidate or candidates to be elected shall be the female candidates or candidates last eliminated in the counting of votes and the allocation of preferences.
- (6) Any casual or extraordinary vacancy in the position of Branch Executive Officer shall be held by a person of the same gender as the person who is being replaced.

PART VII - TRANSITIONAL RULES

**55 - TRANSITIONAL RULES**

For the purposes of the elections for Branch President and Branch Vice-Presidents to be conducted in 2011, the incumbent Branch President and Female Branch Vice-President shall be eligible for re-election for one further consecutive term of office and the Male Branch Vice-President shall be eligible for re-election for two further consecutive terms of office.



APPENDIX A

FEDERAL BRANCH RULES

FEDERAL BRANCH RULES IN RELATION TO THE ACT BRANCH

**1 - NAME**

The name of the Branch shall be The Australian Education Union ACT Branch.

**2 - REGISTERED OFFICE**

The registered office of the Branch shall be at 40 Brisbane Avenue, Barton, ACT or at such other place as may be determined by the Branch Executive.

**3 - DEFINITION**

In these Rules, unless the context otherwise requires:-

- (A) References to "the Branch" shall mean The Australian Education Union ACT Branch.
- (B) The singular number shall also include the plural number and the plural number the singular number.
- (C) References to "Sub-Branch" shall mean a Sub-Branch as provided under Rules 7 and 8.
- (D) References to "public vocational education and training sector" shall mean Technical and Further Education, and vice versa; and,
- (E) References to "the Union" shall mean the Australian Education Union.
- (F) References to "the Act" shall mean the "*Fair Work (Registered Organisations) Act 2009*"
- (G) References to "the Regulations" shall mean the "*Fair Work (Registered Organisations) Regulations 2009*"
- (H) References to "TAFE Sub Branches" shall mean Sub-Branches comprised of members working in TAFE.
- (I) References to the "ACTTF" shall mean the ACT Teachers' Federation which was deregistered on its amalgamation with the Union.
- (J) References to a "financial member" shall have the same meaning as in the Federal Rules.
- (K) References to Branch Vice Presidents (School Sector) shall mean Branch Vice Presidents (public school sector), and vice versa.
- (L) References to Branch Vice President (TAFE Sector) shall mean Branch Vice President (public vocational education and training sector), and vice versa.

#### **4 - POWERS**

In accordance with the Federal Rules and the Federal Branch rules the Branch may:-

- (a) Take any action as may be considered necessary and proper to carry out the objects of the Union.
- (b) Render financial relief to members in necessitous circumstances including the provision of money to members requiring assistance as a result of their implementation of Union or Branch policy.
- (c) Render financial assistance to any union of teachers or organisation having objects wholly or in part similar to the objects of the Union.
- (d) Provide for the holding of conferences for the discussion of questions of educational interest.
- (e) Initiate and control schemes for the intellectual and professional advancement of teachers.
- (f) Encourage and support educational periodicals and promote the dissemination of educational literature.
- (g) Establish and develop a Branch library.
- (h) Publish an official organ and other necessary literature.
- (i) Rent, purchase or build suitable office premises for Branch members.
- (j) Provide some form of superannuation payments for employees of the Branch.

#### **5 - MEMBERSHIP RIGHTS**

- (A) Honorary members and life members of the Union and members of the Union who have been elected to Parliament shall not be eligible to vote for or be elected to an office in the Union or to vote at meetings of the Branch.
- (B) A member holding a full time office in the Branch shall not be allocated to a Sub-Branch and shall not be eligible for election as a Sub-Branch representative on Branch Council.

#### **6 - CONDUCT OF ELECTIONS**

- (A) (a) A Branch Returning Officer who need not necessarily be a member of the Union shall be appointed by the Branch Council at its first meeting each year for the conduct of any Branch elections that may be held within the Branch throughout the ensuing year for positions which are not 'Offices' as defined by Section 9 of the Fair Work (Registered Organisations) Act 2009, and for 'offices' which have been declared exempt in accordance with s186 of the Act.

- (b) The Branch Returning Officer shall not during the term of her/his office be an employee of or the holder of any office in the Union or in the Branch or any Sub-Branch or body thereof or a candidate at any election within the Union other than an election for the appointment of Returning Officer for the following term and shall not be eligible to nominate any candidate for any election under these Rules, and shall hold office until a successor is elected. If the Branch Returning Officer is unable or unwilling to act as and when required or if there is a casual vacancy in the office, the Branch Executive shall appoint an acting Branch Returning Officer. In default of such appointments the Secretary shall appoint a person to the office. Provided that no person so appointed shall be the holder of any other office or be an employee of or a candidate for any other office in the Union, a Branch, Sub- Branch, section or division thereof.
  
- (B) The conduct and duties of the Returning Officer, including any such person appointed by the AEC, shall, subject to the relevant Acts and Regulations, be as follows:
  - (a) to take such action and give such directions as are reasonably necessary to ensure that no irregularities occur in or in connection with an election.
  - (b) if an impropriety or irregularity should occur which, in the opinion of the Returning Officer, will affect the result of the election - to declare the election null and void and shall forthwith conduct a further election under these rules.
  - (c) to perform such other duties as are expressly stated in these rules.
  - (d) the Returning Officer's decision on any matter concerning an election and the conduct thereof shall be final.
  
- (C) Conduct of election of National TAFE Council Delegates and TAFE Council Executive members.
  - (1) Subject to Sub-Rule A. the provisions of Rule 6 shall apply mutatis mutandis to the election of National TAFE Council Delegates and TAFE Council Executive Members.
  - (2) The election of National TAFE Council Delegates and TAFE Council Executive Members shall be conducted in the following manner:
    - (a) the elections for the National TAFE Council Delegates and TAFE Council Executive Members shall be simultaneously conducted;
    - (b) persons eligible to nominate may nominate for both the position of National TAFE Council Delegate and TAFE Council Executive Member;
    - (c) the votes for the position of TAFE Council Executive member shall be counted first and the successful candidate determined;
    - (d) where a successful candidate has been determined in accordance with the previous paragraph, the successful candidate shall be eliminated from the election for the National TAFE Council Delegate position and the second and subsequent preference votes cast for the person shall be allocated as first and subsequent preference votes for the remaining candidates.
  
- (D) A candidate may appoint one member to act as her/his scrutineer and shall advise the Returning Officer in writing of the name and private address of any such appointee.

- (a) A scrutineer shall be entitled to inspect nominations and to observe the form and distribution of ballot papers and the receipt thereof upon their return, the checking of voters, the admission and counting of votes and the declaration of the poll. The Returning Officer shall take all reasonable steps to enable each scrutineer to exercise these rights but no election shall be vitiated by the failure of a scrutineer to exercise any or all of them.
  - (b) A scrutineer shall direct the attention of the Returning Officer to any irregularity in respect of any matters to be observed under these rules.
  - (c) In every case a scrutineer shall observe the directions of the Branch Returning Officer who shall take all reasonable steps to enable each scrutineer to exercise her/his rights. No election shall be vitiated should a scrutineer not exercise any or all such rights if she/he had reasonable opportunity to do so.
- (E)
- (a) The Returning Officer shall call for nominations for the positions concerned by sending notices to all schools or other places of work of members at least 14 days prior to the close of nominations.
  - (b) Nominations shall be in writing, signed by 2 financial members eligible to vote in the ballot, shall bear the signed consent of the nominee and shall be lodged with the Returning Officer not later than 4.30 pm on the date set for the closing of nominations.
  - (c) Where a Returning Officer conducting an election under this rule finds a nomination to be defective she/he shall, before rejecting the nomination, notify the member concerned of the defect and, where it is practicable to do so, give that member the opportunity of remedying the defect within 7 days after being notified of the defective nomination.
- (F)
- (a) A nominee in a ballot conducted in accordance with this Rule may withdraw their nomination after nominations have closed, provided that such withdrawal is exercised within seven (7) days after the date on which nominations are advised to the Branch.
  - (b) Such withdrawal of nomination shall be by notice in writing to the Returning Officer signed by the nominee and submitted by hand, post or facsimile.
- (G) If no more than the number of valid nominations required to fill the positions are received, the Returning Officer shall declare the candidates therefore to have been elected unopposed.
- (H) If more than the required number of nominations are received the Returning Officer shall prepare or cause to be prepared a sufficient number of ballot papers which shall list the names of candidates in a sequence determined by lot by the returning officer. One ballot paper may contain provisions for voting in respect of more than one election.
- (I) On each ballot paper there shall be printed:-
- (a) Instructions on how to vote.
  - (b) The place and the closing time and date for the receipt of returned ballot papers.
  - (c) The instructions to fold the ballot paper so that marking on it are not visible until it unfolded.
- (J) The Returning Officer shall obtain from the Branch Secretary copies of the roll of financial members of the Branch or Sub-Branch. The roll of voters for any election to be conducted pursuant to these rules is to be closed seven days before the day on which nominations are opened in relation to all elections by a direct voting system for offices in the Branch. Each candidate shall have full access to the roll on request.

- (K) (a) The Returning Officer shall, within 28 days of the closing of nominations and at least 14 days before the close of the ballot, forward by pre-paid post to every eligible voter an outer envelope, a declaration envelope and a ballot paper which has been initialled by the Returning Officer at the address as provided hereunder which can be returned to the Returning Officer without expense to the voter. Both envelopes shall be in the form prescribed by the regulations made under Schedule 1B of the Workplace Relations Act 1996.
- (b) Where a member entitled to vote at a ballot will be absent during the conduct of the ballot from the Territory she/he may during the period after the time for lodging nominations is closed and before the opening date of the ballot, apply in writing to the Branch Returning Officer for an absent vote stating that her/his absence from the Territory will otherwise prevent her/his voting at the ballot.
- (c) Where the Branch Returning Officer receives an application under Rule K(b) and is satisfied that the member will be prevented from voting at the ballot she/he shall, by pre-paid post, forward to the member a ballot paper in accordance with this Rule.
- (L) The Returning Officer shall supply a substitute ballot paper which she/he shall have initialled and marked "substitute ballot paper", to any voter, upon receipt from such a person of a damaged or misused ballot paper or upon reasonable evidence of the destruction or loss of the ballot paper by the voter.
- (M) The Returning Officer shall arrange for the use of a post office box for the receipt of returned ballot papers and shall arrange for the same not to be opened by any other person.
- (N) After the close of the ballot the Returning Officer shall collect the envelopes from the post office box abovementioned.
- (O) The Returning Officer shall admit ballot papers properly marked and count the votes indicated therein, in accordance with this Rule.
- (P) As between candidates who receive an equal number of votes the Returning Officer shall determine by lot which candidate is to be elected.
- (Q) At the conclusion of the count the Returning Officer shall declare the result.
- (R) The following procedures shall be used by the Returning Officer for the counting of votes:
- (a) in elections for one candidate only-
- (1) the candidate who receives more than half the number of first preference valid votes cast shall be the successful candidate.
  - (2) should no candidate be successful on the first count, the candidate who receives the least number of first preference valid votes shall be excluded from the count and the second preference votes of that candidate shall therefore be distributed amongst the remaining candidates. A candidate then receiving more than half the total number of valid votes cast shall thereupon be the successful candidate.
  - (3) the above procedure shall be continued until one candidate has received the requisite number of votes to become the successful candidate.
  - (4) if on any count 2 or more candidates each receive the same number of votes the Returning Officer shall decide by lot which candidate shall remain in the count.

- (b) in elections for more than one candidate in the same ballot the system of exhaustive optional preferential voting set out in Schedule A to the Federal Branch Rules shall be used provided that each voter must indicate preferences at least equal in number of vacancies involved.

### **7 - SUB-BRANCHES**

- (A) All members of the Branch, except those specifically exempted in these rules, shall be members of a Sub-Branch.
- (B) Branch Executive may establish Sub-Branches at any workplace where there is no Sub-Branch in existence, may abolish an existing Sub-Branch or amalgamate 2 or more Sub-Branches. Branch Executive shall consider any application for the establishment or abolition of a Sub-Branch made to the Branch Secretary by at least 10 members from a workplace, or such lesser number as approved by Branch Executive. The Branch Secretary shall give at least one month's notice prior to Branch Executive considering such applications.
- (C) The Branch Secretary shall maintain at the Registered Office a list of Sub-Branches. The list shall be available for inspection by any member of the Union or person eligible for membership of the Union pursuant to Rule 5(9) of the Federal Rules.

### **8 - UNATTACHED SUB-BRANCHES**

- (A) Council may authorise the formation of Unattached Sub-Branches.
- (B) Unattached Sub-Branches shall consist of at least 10 members at the time of establishment.

### **9 - ALLOCATION TO SUB-BRANCHES**

- (A) The Branch Secretary shall, as soon as practicable after a member has joined the Union, allocate the member to a Sub-Branch.
- (B) Members who consider that they are wrongly allocated may within 21 days make application to the Branch Secretary for a transfer to another Sub- Branch.
- (C) The Branch Secretary shall, if satisfied that the member was properly allocated, inform the member accordingly and report this decision to Branch Executive for confirmation or otherwise.
- (D) The Branch Secretary shall issue a membership card to each member.

### **10 - DISSOLUTION OF A SUB-BRANCH**

- (A) Where a Sub-Branch ceases to exist, through closure of a school, secondary college or T.A.F.E. institution or for any other reason, the members of such Sub-Branch shall be transferred to another appropriate Sub-Branch by the Branch Secretary who shall report this action to the Branch Executive.
- (B) Where a Sub-Branch fails in any year to retain a minimum of 5 members, it shall be regarded as defunct, unless otherwise determined by Branch Executive, and the Branch Secretary shall transfer members involved to another Sub-Branch. This action shall be reported to the Branch Executive by the Branch Secretary.

## 11 - GOVERNMENT OF SUB-BRANCHES

(A) Address:

The address of each Sub-Branch shall be at the office of the Branch or at such other place as each Sub-Branch may determine from time to time. Notice of any change in the address shall be given to the Branch Secretary.

(B) Objects:

Each Sub-Branch shall:

- (a) endeavour by all lawful means to promote the objects of the Union in general; and in that context, the specific professional and industrial interests of the members of the Sub-Branch;
- (b) be bound, in accordance with Rule 29, at all times to any directions given by Stop Work Meetings, the Branch Executive, Branch Council and/or TAFE Council.

(C) Place of Meeting:

The Sub-Branch President and Sub-Branch Secretary shall determine the place of meeting of each Sub-Branch.

(D) Meetings:

- (a) There shall be a minimum of 6 General Meetings of the Sub-Branch each year.
- (b) Special General Meetings may be called by the Sub-Branch President or Sub-Branch Secretary at any time or shall be called on request in writing signed by a majority of members of the Sub-Branch. At any such Special General Meeting, the business shall be confined to that specified in the notice calling such meeting.
- (c) The Sub-Branch Secretary shall notify members of the Sub-Branch of meetings referred to in (a) and (b) at least one day prior to the date of such meeting by written notice.
- (d) Meetings of Sub-Branch Executive may be called by the Sub-Branch President and/or Secretary by written notice one day in advance of the date of the meeting. Where circumstances demand, verbal notice will be sufficient.

(E) Quorum:

At all meetings of a Sub-Branch, 30% of the total financial membership of the Sub-Branch shall form a quorum provided that a quorum for meetings of the Relief Teachers Sub-Branch and the ACT Schools Office Sub-Branch shall be 15 members and the quorum for the Sub-Branches of the Canberra Institute of Technology be either 30% of the total financial membership or 15 members whichever is the smaller.

(F) Election and Duties of Sub-Branch Executive:

- (a) The Branch Returning Officer, elected by Council, shall act as Returning Officer for each Sub-Branch. Elections in each Sub-Branch for the positions of Sub-Branch President, Deputy Sub-Branch President and Sub-Branch Secretary shall be conducted at the commencement of each school year in accordance with Rule 6 of the Federal Branch Rules *mutatis mutandis*. Members elected by these procedures shall their position until the conclusion of elections for these positions held at the commencement of the following year, unless before such meeting they cease to be eligible.
- (b) Vacancies and any unfilled positions which occur in the positions of Sub-Branch President, Deputy Sub-Branch President or Sub-Branch Secretary following the annual elections shall be filled by and from the Sub-Branch membership at a general meeting.
- (c) A member shall not be eligible:
  - (i) to nominate for a position on the Sub-Branch Executive or Sub- Branch delegate to Council; or
  - (ii) to vote in elections for such positions, unless that member is a financial member of the Branch and is allocated to the Sub-Branch.
- (d) Duties:
  - (1) The Sub-Branch President shall, when present at a meeting, preside over the meetings and exercise a casting vote, ensure that the Rules of the Sub-Branch are adhered to at all times, and perform any other duties as prescribed by the Federal Branch Rules.
  - (2) The Deputy Sub-Branch President shall, in the absence of the Sub-Branch President, perform all the Sub-Branch President's duties and shall report any action taken under this authority to the Sub-Branch President.
  - (3) The Sub-Branch Secretary shall:
    - (i) notify the Branch Secretary immediately of any change in the Sub-Branch Executive;
    - (ii) supply without unnecessary delay such information relating to the Sub-Branch as may be requested by the Branch Secretary;
    - (iii) distribute circulars, reports or any other material forwarded by the Branch;
    - (iv) exercise control over the affairs of the Sub-Branch and ensure its active co-operation on all matters pertaining to the welfare of the Branch;
    - (v) advise the Branch Secretary or TAFE Council (if it is a TAFE Sub-Branch) of any matter the Sub-Branch wishes to raise with the Branch Executive, Branch Council and/or TAFE Council.



## 12 - SUBMISSIONS BY SUB-BRANCHES

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### (G) Sub-Branch Executive:

#### (a) Composition:

The Sub-Branch Executive shall consist of the Sub-Branch President, the Deputy Sub-Branch President and the Sub-Branch Secretary.

#### (b) Powers:

- (1) The Sub-Branch Executive shall have power to act on behalf of the members of the Sub-Branch subject always to the necessity of its conforming to such directions as may be imposed upon it from time to time by the Sub-Branch and subject always to the authority of the Sub-Branch to amend or reverse a decision of the Executive.
- (2) The Sub-Branch Executive shall make a report to the Sub-Branch at the regular Sub-Branch meetings of all its executive acts since the previous Sub-Branch meeting.
- (3) The Sub-Branch Executive positions shall have no power of an 'office' as defined in Section 9 of the Fair Work (Registered Organisations) Act 2009

### (H) Order of Business:

The Sub-Branch Executive shall decide the business and the order of business for Sub-Branch meetings. Such business shall be included in the notice of meetings which shall be notified by circular to members.

### (I) Rescission of Motions:

No resolution passed at any previous meeting shall be rescinded unless notice of the intention to propose such rescission shall have been stated in the circular convening the meeting. A simple majority shall be sufficient to rescind previous resolutions.

### (J) Communication:

No Sub-Branch shall communicate with any authority controlling a school, the Public Service Commission, the Commonwealth Government, the ACT Government or the ACT Administration except in matters deemed by the Branch Executive not to affect the interests of teachers other than those in that Sub-Branch.

### (K) Meetings With Other Organisations:

Each Sub-Branch may co-operate with other organisations in the holding of joint meetings. Delegates and representatives to or at any such meetings shall act in conformity with Branch policy and shall oppose resolutions which conflict the Branch policy.

## 12 - SUBMISSIONS BY SUB-BRANCHES

Each Sub-Branch and Unattached Sub-Branch shall have the right to submit to Branch Council or Branch Executive matters deemed to be important by the Sub- Branch or Unattached Sub-Branch.

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**13 - RULES COMMITTEE**

- (A) The Rules Committee shall consist of four members of the Union appointed by Branch Council as required.
- (B) No member of the Rules Committee shall be a member of the Branch Executive in the same year.
- (C) The Rules Committee is empowered to hear allegations that a member has knowingly committed a breach of these Rules or willingly acted in a manner contrary to a decision of Council or Executive.
- (D) The Rules Committee shall only act on allegations made in writing by a financial member of the Branch. Having due regard to present legal forms, the Rules Committee may conduct hearings for the purpose of collecting evidence. The Rules Committee may require both the member charged and the member laying allegations to submit statements in writing.
- (E) Any member named in allegations submitted to the Rules Committee shall be informed in full of the allegations not more than 10 days after the submission of such allegations.
- (F) Any member named in allegations submitted to the Rules Committee has the right to appear before the Committee for the purpose of answering or explaining any or all parts of such allegations.
- (G) The Rules Committee shall furnish a confidential report to the Branch Executive concerning all allegations and evidence received by them. A copy of the report shall be forwarded to the member against whom charges have been made.
- (H) The Branch Executive may expel or suspend from membership, impose a fine not exceeding \$100, or reprimand any member it finds guilty of the charges. A member shall remain unfinancial until the amount of any fine imposed upon that member has been paid.
- (I) Any member so dealt with under Rule 13 H above shall be entitled to appeal to the Branch Council.
- (J) Notice of a decision of the Branch Executive or Branch Council under this rule shall be posted to the members address as set out in the register of Branch members.
- (K) A member shall not be expelled or be suspended from membership of the Union under this Rule unless she/he has been found guilty of conduct referred to in Rule 14 A.
- (L) Any penalty imposed by the Branch Executive shall be held in abeyance until the result of any appeal is known.
- (M) An appeal under rule 13 I must be made to the Branch Secretary within 14 days after the decision was posted to the member.

**14 - DISMISSAL FROM OFFICE**

- (A) Any member elected to an office within the Federal Branch or to a position on a Sub-Branch Executive shall not be dismissed from that office or position unless that member has been found guilty, in accordance with the Federal Branch Rules, of misappropriation of the funds of the Branch, substantial breach of the Federal Branch Rules, or gross misbehaviour or gross neglect of duty, or has ceased, in accordance with the Federal Branch Rules, to be eligible to hold office.
- (B) Any action pursuant to rule 14 A shall be taken in accordance with Rule 13 of the Federal Branch Rules.

## 19 - REGULAR MEETINGS OF BRANCH COUNCIL

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- (C) Where a member of the Rules Committee is charged with any of the offences specified in Rule 14 A that position on the Rules Committee shall be taken by a pro-tem appointment by Council during the consideration of such allegations.

## 15 - CONSTITUTION OF BRANCH COUNCIL

- (A) The Branch Council shall be constituted by:-
- (a) members of the Branch Executive;
  - (b) delegates of Sub-Branches specified in these Rules on the basis of one delegate for the first twenty (20) financial members or part thereof. Provided that for every additional 20 financial members or part thereof the Sub-Branch shall have one further delegate.
- (B) In the case of the Jervis Bay Primary School Sub-Branch representation on Council shall be in accordance with these rules except that members allocated to Sub-Branches other than the Jervis Bay Primary School Sub- Branch shall be entitled to nominate as alternate delegates to represent the Jervis Bay Primary School Sub-Branch.

## 16 - ELECTION OF REPRESENTATIVES TO BRANCH COUNCIL

- (A) Each Sub-Branch shall annually elect representatives to Branch Council at the commencement of each school year. All financial members of the Sub-Branch shall have the right to vote. The ballot shall be conducted by the Returning Officer appointed by the AEC in accordance with Rule 6 and section 182 of the FW (RO) Act 2009.
- (B) Sub-Branch representatives shall take office on 15th March in the year in which they are elected and hold office for one year.

## 17 - VACANCIES ON BRANCH COUNCIL

Vacancies which occur in the office of Sub-Branch Council representative after the annual election shall be filled by appointment of a member of the Sub- Branch at a general meeting of the Sub-Branch.

## 18 - ALTERNATE REPRESENTATIVES TO BRANCH COUNCIL

Alternate delegates may be elected by each Sub-Branch in accordance with Rule 6 mutatis mutandis on the basis of one alternate delegate for each accredited delegate. In the absence of an accredited delegate from Council one alternate delegate may replace that delegate and have the full rights pertaining to the delegate whom he or she replaces. Vacancies which occur in the office of Alternate Delegate to Council after the annual elections shall be filled from the Sub-Branch membership concerned by a general meeting of the Sub-Branch.

## 19 - REGULAR MEETINGS OF BRANCH COUNCIL

- (A) Branch Council shall meet at least once a term and on other occasions as deemed necessary.
- (B) Councillors shall be distributed written notice of meetings and copies of agenda at least 7 calendar days beforehand (not including the day of despatch). This distribution may occur via post, email or by posting on the member's only section of the AEU ACT Branch website.

## **20 - SPECIAL MEETINGS OF BRANCH COUNCIL**

- (A) The Branch Secretary, or in the absence of the Branch Secretary, the Branch President may call a Special Meeting of Branch Council whenever circumstances which in the opinion of the Branch Secretary or Branch President arise to call for such action.
- (B) The Branch Secretary shall call a Special Meeting of Branch Council when required to do so by a majority of Councillors.
- (C) The Branch Secretary shall also call a Special Meeting of Branch Council if 10% of all financial members sign a petition requesting such a meeting and send that petition to the Branch Secretary.
- (D) At least 7 days written notice of the Special Meeting, together with copies of the Agenda must be provided to all Councillors.

## **21 - QUORUM AT BRANCH COUNCIL MEETINGS**

At any Branch Council meeting, 30% of Councillors eligible to attend and vote shall form a quorum.

## **22 - COMMITTEES**

- (A) Committees may be established and its membership appointed by Branch Council or Branch Executive to advise on any aspects of Branch business as directed.
- (B) Committee meetings shall be called by the Branch Secretary.
- (C) A committee shall at its first meeting appoint a chairperson and a secretary, the latter to keep records of all meetings.
- (D) Committees shall furnish reports on the matters referred to them to the Branch Secretary for consideration by Branch Council or the Branch Executive.
- (E) The Branch President and Branch Secretary shall be ex officio members of all committees.
- (F) Committee meetings shall be open to all financial members of the Branch to attend and, unless otherwise determined by the Committee, they shall only have the right to observe the committee deliberations.

## **23 - COMPOSITION OF THE BRANCH EXECUTIVE**

- (A1) The Branch Executive shall consist of:
  - (a) The Branch Secretary and Branch President who shall be elected by and from financial members.
  - (b) Two Branch Vice Presidents (Schools Sector) who shall be elected by and from financial members allocated to Sub-Branches in the Schools Sector.
  - (c) One Branch Vice President (TAFE Sector) shall be elected by and from financial members allocated to TAFE Sub-Branches.
  - (d) Eight representatives elected by and from financial members other than members allocated to TAFE Sub-Branches and the ACT Pre-School Sub-Branches.
  - (e) One representative (or an alternate representative who shall be entitled to attend Branch Executive in the absence of the representative) elected by and from financial members allocated to TAFE Sub-Branches.



- (f) One representative (or an alternate representative who shall be entitled to attend Branch Executive in the absence of the representative) elected by and from financial members allocated to ACT Pre-Schools Sub-Branches.
- (A2) As from the conclusion of the election scheduled in 2017, the Branch Executive shall consist of the following:
- (a) the Branch Secretary and the Branch President elected by and from financial members; and,
  - (b) three Branch Vice Presidents:
    - (i) two elected by and from financial members engaged in the public school sector of the ACT. For the avoidance of doubt this is the same office and same electorate as specified in sub-rule 23(A1)(b); and,
    - (ii) one elected by and from financial members engaged in the public vocational education and training sector of the ACT. For the avoidance of doubt this is the same office and same electorate as specified in sub-rule 23(A1)(c); and,
  - (c) ten representatives:
    - (i) eight elected by and from financial members (other than school assistants) engaged in the public school sector of the ACT;
    - (ii) one elected by and from financial members engaged in the public vocational education and training sector of the ACT; and,
    - (iii) one elected by and from the financial members engaged as school assistants in the public school sector of the ACT; and,
  - (d) two alternates:
    - (i) one elected by and from financial members engaged in the public vocational education and training sector of the ACT (who shall be entitled to vote at the Branch Executive only in the absence of the representative elected in accordance with Rule 23(A2)(c)(ii) above);
    - (ii) one elected by and from financial members engaged as school assistants in the public school sector of the ACT (who shall be entitled to vote at the Branch Executive only in the absence of the representative elected in accordance with Rule 23(A2)(c)(iii) above).
  - (e) The electorates for the 2017 scheduled election in 2017 shall be as set out in the sub-rule.
- (B) The Branch Secretary shall be elected in accordance with Rule 6 mutatis mutandis for a term of 2 years commencing on 1 January.
- (C) The Branch President shall be elected in accordance with Rule 6 mutatis mutandis for a term of 2 years commencing on 1 January.
- (D) (a) The three (3) Branch Vice Presidents shall be elected in accordance with Rule 6 mutatis mutandis.
- (b) The term of office of the three (3) Branch Vice Presidents shall be two years commencing on 1 January of the alternate year to the Branch Secretary and Branch President.

- (E) The remaining representatives on Branch Executive shall be elected for a term of 2 years commencing on 1st July.
- (F) In the event of an election for the position of Branch President and Branch Secretary being necessary, the Branch Executive shall, between the period of close of nominations and the issuing of ballot papers, provide each candidate at no cost facilities to publish and distribute to all Sub-Branches and places of work a maximum of 3 posters of a maximum size of 30 cms x 42 cms with printing and photographs as determined by each candidate on one side only and, also call 2 meetings of members on suitable days at suitable times for the purpose of allowing members to meet and question candidates for these positions.

## **24 - ELECTION OF BRANCH EXECUTIVE**

The Branch Executive shall be elected in accordance with Rule 6 and the Fair Work (Registered Organisations) Act 2009 as amended or replaced.

## **25 - MEETINGS OF BRANCH EXECUTIVE**

- (A) Regular meetings of the Branch Executive will be held at least once a month with the exception of January. The Branch Secretary will provide at least 7 calendar days notice (not including the day of despatch) of each meeting and its agenda by telephone, post, facsimile or email.
- (B) Special meetings of the Branch Executive shall be called by the Branch Secretary:
  - (a) At the request of at least 3 members of the Branch Executive.
  - (b) Whenever the circumstances arise which, in the opinion of the Branch Secretary, call for such action.

Except in a matter of urgency, the Branch Secretary shall give 7 calendar days notice (not including the day of despatch) of the special meeting by telephone, post, facsimile or email. In a matter of urgency, the Branch Secretary will determine the motion/s to be put to the Executive and arrange for a vote to occur by telephone or email. The outcome of this vote will be reported to the next Branch Executive meeting.

## **26 - QUORUM AT BRANCH EXECUTIVE MEETINGS**

At all meetings of the Branch Executive, a simple majority of the Branch Executive shall form a quorum.

## **27 - VACANCIES ON BRANCH EXECUTIVE**

Vacancies which occur in any Branch Executive office shall be filled by fresh elections held in accordance with Rule 6 and the Fair Work (Registered Organisations) Act 2009, such election to be held within 3 months of occurrence of the vacancies; except that where the unexpired period of office is less than 18 months (i.e. three-quarters of the term of office), the vacancy shall be filled by appointment by Branch Executive. This appointment must be reported to the next Branch Council meeting. Should Branch Council rescind the appointment a fresh election by and from all relevant members must be held.

## **28 - POWERS AND DUTIES OF BRANCH COUNCIL**

- (1) Branch Council has no power or duty associated with the financial management of the Union. All such powers and duties are the responsibility of the Branch Executive as outlined in ACT Federal Branch Rule 31.

- (2) With the exception of any matter pertaining to financial management, the powers and duties of the Branch Council are to:
- (a) deal with matters submitted to it by Branch Executive, Committees, Sub-Branches and individual Councillors
  - (b) frame Standing Orders for the control of all meetings of bodies other than Branch Executive
  - (c) act as a medium of communication between Sub-Branches and individual members on the one hand and any institution participating in education on the other hand
  - (d) amend the ACT Federal Branch Rules in accordance with Rule 40 - Alteration of Rules.
  - (e) make policy for the good conduct of the Union's governance and industrial activities.

### **29 - DECISIONS OF BRANCH COUNCIL, BRANCH EXECUTIVE AND TAFE COUNCIL BINDING**

- (A) The decisions of Branch Council shall be binding on the Branch Executive, TAFE Council, Sub-Branches and members.
- (B) The decisions of Branch Executive on all financial management matters shall be binding on the Branch Council, TAFE Council, all Sub-Branches and members.
- (C) The decisions of Branch Executive on all matters other than financial management shall be binding on the TAFE Council, all Sub-Branches and members.
- (D) The decisions of the TAFE Council shall be binding on TAFE Sub-Branches.
- (E) A, B, C and D will apply in all matters except in the case of impending strike action, when Branch Council and/or Branch Executive is empowered to call stopwork meetings of members in accordance with the Fair Work Act 2009, at which decisions to continue industrial action will be voted upon by members present. The decisions of stopwork meetings are binding on all members.

### **30 - VALIDATION OF ACTS**

Subject to the provisions of the Act, the proceedings of or any acts done by any officer, by Branch Council or Branch Executive shall be valid notwithstanding any subsequently discovered defect in the method of election or appointment of such officer or of any representative or representatives, delegate or delegates, or member or members, of or at Branch Council or Branch Executive.

### **31 - POWERS AND DUTIES OF BRANCH EXECUTIVE, BRANCH SECRETARY, BRANCH PRESIDENT AND BRANCH VICE PRESIDENTS**

- (A)(1.) The powers and duties of Branch Executive, as the Branch Committee of Management, are to:
- (a) manage the affairs of the Branch generally and to carry into effect the objects of the Union
  - (b) Develop and implement policies and procedures relating to the expenditure of the Branch.
  - (c) oversee the financial management of the Branch, including developing and implementing all other necessary policies and procedures



- (d) appoint employees of the Union responsible for carrying out duties within the Branch, to determine the duties, to fix remuneration and to suspend or discharge any such employee
  - (e) On behalf of the Union, to purchase, sell, mortgage, lease or otherwise deal with any land or other real estate for the use of the Branch
  - (f) determine entrance fees and subscriptions and impose a levy or levies on members.
  - (h) In accordance with S266(3) of the Fair Work (Registered Organisations) Act 2009 receive the full report required by S265(1)(a) of the Act, as submitted by the Branch Secretary
  - (i) Decide the business and the order of business to be set down for the next Branch Council meeting
  - (j) Provide to Branch Council the minutes of all Branch Executive meetings held since the previous Council meeting, including all the decisions of the Branch Executive
  - (k) Exercise all or any of the powers and carry out and perform all or any of the duties and functions which, under these Rules may be lawfully exercised, carried out, or performed by the Branch Council, subject always to the necessity of its conforming to:
    - (i) Such lawful directions as may be imposed upon it from time to time by the Branch Council.
    - (ii) The authority of the Branch Council to amend or to reverse a decision of Branch Executive other than a decision related to financial management
- (2.) As soon as the Branch Executive or the Branch Secretary determines that an industrial dispute needs to be notified to the Fair Work Commission, the Branch Secretary will:
- (i) Ensure that all necessary documents are prepared and lodged with the Fair Work Commission and served on all respondents; and
  - (ii) Provide the Federal Secretary with a copy of the document lodged.
- (B) The Branch Secretary will, subject to any direction of the Branch Council and Branch Executive:
- (a) be the Chief Officer of the Branch;
  - (b) exercise control over and conduct the affairs of the Branch;
  - (c) ensure that the Rules of the Union and the Branch are adhered to at all times;
  - (d) provide political, industrial and professional leadership to the ACT Branch of the AEU;
  - (e) manage the finances of the Branch;
  - (f) manage the professional and administrative staff of the Branch;
  - (g) attend all meetings of the Branch Council and Branch Executive and such other meetings as directed and be responsible for keeping minutes of those meetings;
  - (h) keep all documents/vouchers/papers belonging to the Branch;

- (i) summon within a reasonable time the first meeting of any committee appointed by Branch Council or Branch Executive;
  - (j) be the registered officer of the Branch and the officer to sue and be sued on behalf of the Branch;
  - (k) organise all returns required by the Act for the approval of Branch Council or Branch Executive and ensure the submission of the returns to the Industrial Registrar in accordance with the Act;
  - (l) supervise the register of the Branch;
  - (m) Deleted
  - (n) notify Sub-Branch Secretaries of the names of members allocated to Sub-Branches;
  - (o) Inform Sub-Branches of the business set down for Branch Council including proposed amendments to the Federal Branch Rules;
  - (p) perform any other duties as prescribed by the Federal Rules or Federal Branch Rules.
- (C) The Branch President will
- (a) be an honorary position and will represent the Union as required
  - (b) preside at all meetings of Branch Executive, Branch Council, Stop Work meetings and Mass meetings;
  - (c) when presiding over a meeting exercise a casting vote. In respect of any election held by such meeting she or he shall nevertheless have the right as a member of the Union to cast a vote.
- (D) The Branch Vice Presidents (public school sector):
- (a) will represent the Union as required;
  - (b) will be honorary positions;
  - (c) may, in the absence of the Branch President, chair Branch Council and Branch Executive and exercise the same powers the Branch President would in presiding over the meeting.
- (E) The Branch Vice President (public vocational education and training sector) will:
- (a) represent the Union as required;
  - (b) chair meetings of the Branch TAFE Council;
  - (c) be an honorary position. In the absence of the Branch Vice President (public vocational education and training sector) from a meeting of the Branch TAFE Council, the meeting may appoint a member of TAFE Council to chair the meeting.

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**32 - ELECTION FEDERAL DELEGATES**

- (A) This Rule is subject to Rule 30 of the Federal Rules.
- (B) The Branch Returning Officer if an exemption applies, or the Returning Officer appointed by the AEC shall conduct an election for Federal Delegates to Federal Conference:-
- (a) each 2 years at such time as will enable the declaration of the election prior to 30 November; or
  - (b) at such earlier time as shall be notified by the Federal Returning Officer to the Branch Returning Officer if an exemption applies, or the Returning Officer appointed by the AEC as is necessary for filling a casual or extraordinary vacancy or for electing a further Federal Delegate or Delegates following an increased entitlement pursuant to Rule 24 of the Federal Rules.
- (C) Election of Female Federal Delegates
1. This Rule shall operate in conjunction with other Federal Branch Rules relating to the election of Federal Delegates to Federal Conference provided that where there is any inconsistency this Rule shall prevail over any inconsistent provision in any other Federal Branch Rule.
  2. In addition to any other information required to be set out in the notification of the calling of nominations for the election of Federal Delegates to Federal Conference the notification shall include the following additional information.
    - (a) the number of Federal Delegates to be elected and the number of female delegates to be elected; and
    - (b) advice that if the number of female candidates is less than the number of female delegates to be elected the remaining position or positions in question will be filled by a male candidate or candidates.
  3. In addition to any other information required to be set out on ballot papers for Federal Delegates the ballot paper shall include the following additional information:
    - (a) the candidates full names and, in accordance with the candidate's preference, the title Mr, Mrs, Ms or Miss; and
    - (b) the number of Federal Delegates to be elected and the number of female Federal Delegates to be elected.
  4. The Branch Returning Officer if an exemption applies, or the Returning Officer appointed by the AEC shall, having complied with Federal Branch Rule 6E(c), determine in accordance with the next Rule whether it is necessary to hold an election.
  5. The Branch Returning Officer if an exemption applies, or the Returning Officer appointed by the AEC shall conduct a ballot:
    - (i) for all positions - where the number of candidates for Federal Delegate positions exceeds the number of Federal Delegate positions to be filled; or
    - (ii) remaining positions - where the Branch Returning Officer if an exemption applies, or the Returning Officer appointed by the AEC has ascertained that the number of nominations from female candidates is less than or equal to the number of positions for female Federal Delegates and the number of male candidates is more than the number of remaining positions.



6. (a) This Rule applies to the counting of votes where it is necessary to conduct an election to fill Federal Delegate positions required by this Rule to be filled by female candidates.
- (b) The Branch Returning Officer if an exemption applies, or the Returning Officer appointed by the AEC shall count the votes and allocate preferences in accordance with the procedure set out in Rule 6 and Schedule A and determine whether the minimum number of female Federal Delegates have been elected in accordance with this Rule.
- (c) If the minimum number of female delegates have been elected in accordance with this Rule, the Branch Returning Officer if an exemption applies, or the Returning Officer appointed by the AEC shall declare all the successful candidates elected.
- (d) In the event that the minimum number of female Federal Delegates have not been elected, the Branch Returning Officer if an exemption applies, or the Returning Officer appointed by the AEC shall:
- (i) eliminate such male candidate or candidates as are necessary to allow the election of the minimum number of female delegates. The male candidate or candidates to be eliminated shall be the last candidate or candidates elected during the counting of the votes and the allocation of preferences referred to in Rule 6.
- (ii) declare elected the female candidate or candidates last eliminated in counting of the votes and the allocation of preferences during the counting of the votes and the allocation of preferences referred to in Rule 6.
- (D) The election of Federal Delegates shall be conducted in accordance with Rule 6 mutatis mutandis.

### **33 - ELECTION OF FEDERAL EXECUTIVE MEMBERS**

- (A) Branch Council shall elect biennially to the Federal Executive the number of members permitted to be elected by the Branch pursuant to Rule 35 of the Federal Rules.
- (B) The Branch Returning Officer if an exemption applies, or the Returning Officer appointed by the AEC shall call for nominations for Executive Members of Federal Executive by notifying all members of the Branch Council in writing immediately on the completion of the election of representatives to Branch Council in accordance with Rule 23.
- (C) Nominations shall close at 4.30 p.m. on the day before the first Branch Council meeting after 15 March 1993 and biennially thereafter.
- (D) For the purposes of Rule 33 C nominations shall be in accordance with Rule 6 E(b).
- (E) If no more than the number of valid nominations required to fill the positions are received, the Branch Returning Officer if an exemption applies, or the Returning Officer appointed by the AEC shall declare the candidates therefore to have been elected unopposed.
- (F) If more than the required number of nominations are received the Branch Returning Officer if an exemption applies, or the Returning Officer appointed by the AEC shall arrange to conduct a secret ballot during the Branch Council meeting referred to in Rule 33 C.
- (G) The Returning Officer if an exemption applies, or the Returning Officer appointed by the AEC shall conduct the secret ballot in accordance with the following Rules of Rule 6: 6 B, 6 C, 6 E, 6 F, 6 G, 6 N, 6 O, 6 P and 6 Q.

**33A - ELECTION OF NATIONAL ATSIEC MEMBERS REPRESENTING THE GENERAL DIVISION AND TAFE DIVISION**

- (1) This Rule is subject to Rules 73 and 74 of the Federal Rules.
- (2) The Branch Returning Officer if an exemption applies, of the Returning Officer appointed by the AEC shall conduct an election for one (1) National ATSIEC (General Division) member and one (1) National ATSIEC (TAFE Division) member:
  - (i) each 2 years at the same time as the scheduled election of Federal Conference Delegates or in any event according to a timetable which permits the declaration of the election on or before 30 November of the year prior to taking office. Provided that the first elections for the National ATSIEC (General Division) member and the National ATSIEC (TAFE Division) member shall be held as soon as practicable; or
  - (ii) at such time as shall be notified by the Federal Returning Officer to the Branch Returning Officer if an exemption applies, or the Returning Officer appointed by the AEC as is necessary for filling a casual or extraordinary vacancy.
- (3) The National ATSIEC (General Division) member shall be an Aboriginal or Torres Strait Islander member from the General Division elected in accordance with the following procedures:
  - (a) In the first instance, eligibility to nominate and vote in such elections shall be determined through self identification and placement on the General Division Indigenous Members' Roll established by the Branch Secretary for this purpose. The election shall be conducted in accordance with Federal Branch Rules 6 and 32 (the necessary changes being made).
  - (b) Where there are insufficient members on the General Division Indigenous Members' Roll to meet the nomination requirements of Federal Branch Rule 33A (3)(a) and Federal Branch Rule 6 (E)(b), the nominator and seconder may be members of the General Division who are not on the General Division Indigenous Members' Roll, provided that the member being nominated must be a General Division Aboriginal or Torres Strait Islander member.
- (4) The National ATSIEC (TAFE Division) member shall be an Aboriginal or Torres Strait Islander member from the TAFE Division elected in accordance with the following procedures:
  - (a) In the first instance, eligibility to nominate and vote in such elections shall be determined through self identification and placement on the TAFE Division Indigenous Members' Roll established by the Branch Secretary for this purpose. The election shall be conducted in accordance with Federal Branch Rules 6 and 32 (the necessary changes being made).
  - (b) Where there are insufficient members on the TAFE Division Indigenous Members' Roll to meet the requirements of Federal Branch Rule 33A (4)(a) and Federal Branch Rule 6 (E)(b), the nominator and seconder may be members of the TAFE Division who are not on the TAFE Division Indigenous Members' Roll, provided that the member being nominated must be a TAFE Division Aboriginal or Torres Strait Islander member.

**33B - ELECTION OF NATIONAL PRINCIPAL COMMITTEE [GENERAL DIVISION] MEMBER**

1. This Rule is subject to Rule 75 of the Federal Rules.
2. The Branch Returning Officer if an exemption applies, or the Returning Officer appointed by the AEC shall conduct an election for one [1] National Principal Committee [General Division] member:
  - [i] each 2 years at the same time as the scheduled election of Federal Conference Delegates or in any event according to a timetable which permits the declaration of the election on or before 30 November of the year prior to taking office. Provided that the first elections for National Principal Committee [General Division] member shall be held as soon as practicable; or
  - [ii] at such time as shall be notified by the Federal Returning Officer to the Branch Returning Officer if an exemption applies, or the Returning Officer appointed by the AEC as is necessary for filling a casual or extraordinary vacancy.
3. The National Principal Committee [General Division] member shall be elected by and from the General Division members of the Branch. The election shall be conducted in accordance with Federal Branch Rules 6 and 32 [the necessary changes being made] except that the member being nominated and the nominators must be a Principal member.

**33C - ELECTION OF NATIONAL EARLY CHILDHOOD COMMITTEE [GENERAL DIVISION] MEMBER**

1. This rule is subject to Rule 76 of the Federal Rules.
2. The Branch Returning Officer if an exemption applies, or the Returning Officer appointed but the AEC shall conduct an election for one [1] National Early Childhood Committee [General Division] member:
  - [i] each two years at the same time as the scheduled election of Federal Conference Delegates or in any event according to a timetable which permits the declaration of the election on or before 30 November of the year prior to taking office. Provided that the first elections for the National Early Childhood Committee [General Division] member shall be held as soon as practicable; or
  - [ii] at such time as shall be notified by the Federal Returning Officer to the Branch Returning Officer if an exemption applies, or the Returning Officer appointed by the AEC as is necessary for filling a casual or extraordinary vacancy.
3. The National Early Childhood Committee [General Division] member shall be elected by and from the General Division members of the Branch. The election shall be conducted in accordance with Federal Branch Rules 6 and 32 [the necessary changes being made] except that the member being nominated and the nominators must be from financial members allocated to ACT Preschools and Sub-Branches.

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**34 - MANAGEMENT AND CONTROL OF BRANCH FUNDS**

- (A) The Branch Funds referred to in Rule 62 of the Federal Rules shall be administered in accordance with this Rule.
- (B) The Branch Secretary and the Branch President shall ensure that, subject to the direction of the Branch Executive:
- (a) moneys are deposited and funds invested appropriately to further the objects of the Branch
  - (b) All payments out of the Branch funds, including all cheques or drafts, have been authorised and signed by any two of the Branch Secretary, Branch President, the Branch Vice Presidents and employees of the Branch specifically authorised by Branch Executive to do so.
  - (c) A list of all payments out of Branch Funds between each Branch Executive meeting is provided to the next Executive meeting.
- (C) 1. Members are required to notify the Branch in writing of changes to their membership within 28 days of the change occurring.
2. Where a member fails to notify of a change in circumstance in writing and fees continue to be received by the Branch, upon written request from the member the Branch Secretary will authorise a refund to the member of overpaid fees for a maximum of 3 months, or the period of the over-payment, whichever is the lesser. Circumstances in which this provision may apply include, but are not limited to:
- [a] resignation [in accordance with Federal Rule 17 resignations must be submitted in writing]
  - [b] leave without pay
  - [c] reduced workload
  - [d] half pay leave.
3. A member affected by this clause who believes they have exceptional circumstances in respect of failure to notify the Branch of any change to their membership status may submit a written case for consideration by the Branch Executive.
4. A member dissatisfied with the decision of Branch Executive may refer the matter to the Fair Work Commission or the Federal Court for remedy.
5. In exercising responsibility under Federal Rule 9(2A), regarding informing applicants for membership of their financial obligations arising from membership, the Branch Secretary will ensure that correspondence to new members of the Branch will include specific reference to these provisions of the Branch Rules.
- (D) For the purposes of this Rule the following definitions apply:
- (a) board means a group of persons who supervise, govern or otherwise have oversight of a corporation, organisation, association or other like body including a Board of Directors.
  - (b) disclosure period means the Branch financial year as defined in Rule 36, unless a shorter period is specified.



- (c) declared person or body means a person or body:
  - (i) who as an officer of the Branch has disclosed a material personal interest under sub-rule 34(F); and
  - (ii) the interest relates to, or is in, the person or body; and
  - (iii) the officer has not notified the Branch Executive that the officer no longer has the interest.
- (d) financial duties includes duties that relate to the financial management of the Branch.
- (e) General Manager means the General Manager of Fair Work Commission.
- (f) non-cash benefit means property or services in any form other than money, but does not include a computer, mobile phone or other electronic device that is used only or mainly for work purposes.
- (g) peak council has the same meaning as defined by section 12 of the Fair Work Act 2009.
- (h) office has the same meaning as defined by section 9 of the Fair Work (Registered Organisation's) Act 2009
- (i) officer has the same meaning as defined by section 6 of the Fair Work (Registered Organisations) Act 2009
- (j) related party has the same meaning as defined by section 9B of the Fair Work (Registered Organisations) Act 2009.
- (k) relative in relation to a person, means:
  - (i) parent, step parent, child, stepchild, grandparent, grandchild, brother or sister of the person; or
  - (ii) the spouse of the first mentioned person.
- (l) relevant remuneration in relation to an officer of the Branch for a disclosure period is the sum of the following:
  - (i) any remuneration disclosed to the Branch Executive by the officer under sub-rule 34(E) during the disclosure period;
  - (ii) any remuneration paid during the disclosure period, to the officer of the Branch;
- (m) relevant non-cash benefits in relation to an officer of the Branch for a disclosure period means the non-cash benefits provided to the officer, at any time during the disclosure period, in connection with the performance of the officer's duties as an officer, by the Branch or by a related party of the Branch.
- (n) remuneration
  - (i) includes pay, wages, salary, fees, allowances, leave, benefits or other entitlements; but
  - (ii) does not include a non-cash benefit; and
  - (iii) does not include the reimbursement or payment of reasonable expenses for the costs incurred in the course of the officer carrying out his or her duties.
- (E) 1. Each officer of the Branch shall disclose to the Branch Executive any remuneration paid to the officer:
  - a) because the officer is a member of a board, if:

- i. the officer is a member of the board only because the officer is an officer of the Branch; or
      - ii. the officer was nominated for the position as a member of the board by the Federal AEU, the Branch or a peak council; or
    - b) by any related party of the Branch in connection with the performance of the officer's duties as an officer.
  2. The disclosure required by sub-rule (E)(1) shall be made to the Branch Executive:
    - a) as soon as practicable after the remuneration is paid to the officer; and
    - b) in writing.
  3. The Branch Executive shall disclose to the members of the Branch:
    - a) the identity of the officers who are the two highest paid officers of the Branch in terms of relevant remuneration for the disclosure period, and
    - b) for each of those officers:
      - i. the actual amount of the officers' relevant remuneration for the disclosure period; and
      - ii. either the value of the officers relevant non-cash benefits, or the form of the officers' relevant non-cash benefits, for the disclosure period.
  4. For the purposes of sub-rule (E)(3), the disclosure shall be made:
    - a) in relation to each financial year;
    - b) within six months after the end of the financial year; and
    - c) in writing.
- (F) 1. Each officer of the Branch shall disclose to the Branch Executive any material personal interest in a matter that:
- a) the officer has or acquires; or
  - b) a relative of the officer has or acquires;
- that relates to the affairs of the organisation.
2. The disclosure required by sub-rule (F)(1) shall be made to the Branch Executive:
    - a) as soon as practicable after the interest is acquired; and
    - b) in writing.
  3. The Branch Executive shall disclose to the members of the Branch any interests disclosed to the Branch Executive pursuant to sub-rule (F)(1).

4. For the purposes of sub-rule (F)(3), the disclosures shall be made:
  - a) in relation to each financial year;
  - b) within six months after the end of the financial year; and
  - c) in writing.
- (G) 1. The Branch Executive shall disclose to the members of the Branch either:
  - a) each payment made by the Branch, during the disclosure period:
    - i. to a related party of the Branch; or
    - ii. to a declared person or body of the Branch; or
  - b) the total of the payments made by the Branch, during the disclosure period:
    - i. to each related party of the Branch; or
    - ii. to each declared person or body of the Branch.
2. Sub-rule (G)(1) does not apply to a payment made to a related party if:
  - (a) the payment consists of amounts deducted by the Branch from remuneration payable to officers or employees of the Branch; or
  - (b) the related party is an officer of the Branch, and the payment:
    - i. consists of remuneration paid to the officer by the branch; or
    - ii. is reimbursement for expenses reasonably incurred by the officer in performing the officer's duties as an officer.
3. For the purposes of sub-rule (G)(1), the disclosures shall be made:
  - a) in relation to each financial year;
  - b) within six months after the end of the financial year; and
  - c) in writing.
- (H) 1. Each officer of the Branch whose duties include duties (financial duties) that relate to the financial management of the Branch must undertake training:
  - a) approved by the General Manager under section 154C of the Act; and
  - b) that covers each of the officer's financial duties.
2. This training must be completed by the officer within 6 months after the person begins to hold office.

### **35 - EXECUTION OF DOCUMENTS AND COMMON SEAL**

- (A) All documents required to be executed on behalf of the Branch shall be executed by the Branch Secretary. This includes documents required to be completed by a 'designated officer' as defined by section 243 of the Fair Work (Registered Organisations) Act 2009.
- (B) The Branch shall have a Common Seal which shall be kept by the Branch Secretary at the Registered Office.
- (C) When the common seal is affixed to a document the document shall be countersigned by the Branch Secretary and the Branch President.

### **36 - AUDITORS**

- (A) Branch Executive will in accordance with the Act ensure the proper auditing of all books, papers and records of the Branch by a person competent to be an auditor for the purposes of the Regulations.
- (B) The Auditor will:
  - (a) Annually audit the cash records of the Branch
  - (b) Report immediately to Branch Executive any irregularities that become known
  - (c) Supervise the methods of keeping the accounts and dealing with the assets of the Branch and report to Branch Executive any means of improving the same and safeguarding the revenue and expenditure.
- (C) The financial year of the Branch will end for the purpose of the Annual Audit on 31 December each year.
- (D) In accordance with S266(3) of the Fair Work (Registered Organisations) Act 2009 the full report, consisting of the auditor's report, the general purpose financial report and the operating report, will be presented to the first meeting of the Branch Executive in March each year.

### **37 - APPLICATION OF FUNDS**

The Funds of the Branch may be applied and used for or in connection with any lawful object or purpose authorised by the Federal Rules or the Federal Branch Rules.

### **38 - LOANS, GRANTS OR DONATIONS EXCEEDING \$1,000**

A loan, grant or donation (other than a loan or grant approved in accordance with Rule 44- Teacher Welfare Fund) of an amount exceeding \$1,000 shall not be made by the Branch unless the Branch Executive:

- (a) has satisfied itself -
  - (i) that the making of the loan, grant or donation would be in accordance with the Branch rules; and
  - (ii) in relation to a loan - that, in the circumstances, the security proposed to be given for the repayment of the loan is adequate and the proposed arrangements for the repayment of the loan are satisfactory; and
- (b) has approved the making of the loan, grant or donation.

### **39 - INSPECTION OF BOOKS**

All books of records and membership list of the Branch shall be open to inspection by any financial member upon 7 days written notice being given to the Branch Secretary.

### **40 - ALTERATION OF RULES**

The Federal Branch Rules may be altered, added to or rescinded by Branch Council or by a Special Branch Council called for the purpose, provided that:

- (a) the proposed alteration, addition or rescission is proposed by Branch Executive or by a requisition of at least 10 Sub-Branches.
- (b) The proposed rule amendments have been distributed in writing to member of Branch Council at least 7 calendar days (not including the day of despatch) prior to the meeting at which they are to be considered. Such distribution may be by post, email or facsimile.

### **41 - REFERRAL OF DECISIONS TO GENERAL MEETINGS**

- (A) Any decision of Branch Executive or Branch Council may be presented for acceptance or rejection to a general meeting of financial members of the Branch, provided that a petition requesting such general meeting, signed by at least 5% of the membership is received by the Branch Secretary within 30 days of the decision concerned.
- (B) Such a general meeting shall be called by the Branch Secretary within 30 days of receipt of the petition and written notice shall be given to all schools and other places of work no later than 7 days prior to the date of the proposed meeting.
- (C) The general meeting may refer the decision of Branch Council or Branch Executive to a secret ballot of all financial members to be conducted under Rule 6 mutatis mutandis. The decision of such a ballot shall be binding on all members of the Branch.

### **41A - REFERRAL OF FINANCIAL REPORTS TO GENERAL MEETINGS**

- (A) In the event that 5% or more of Members in the Branch request the Branch Secretary in writing to convene a general meeting to consider the auditor's report, the general purpose financial report and the operating report the Branch Secretary shall arrange such a meeting within 28 days of receiving the written request;
- (B) Such a general meeting shall be called by the Branch Secretary and written notice shall be given to all schools and other places of work no later than 7 days prior to the date of the proposed meeting;
- (C) A general meeting of the members called pursuant to this sub-rule may be conducted as a series of meetings held at different locations;
- (D) A general meeting conducted pursuant to this rule is taken to have been completed at the time of the last of the meetings in any series of meetings;
- (E) The ordinary rules applying to meetings as specified in these rules shall be applied at the general meeting;
- (F) The general meeting may refer any decision that is the subject of the general meeting to a secret ballot of all financial members to be conducted under Rule 6 mutatis mutandis. The decision of such a ballot shall be binding on all members of the Branch.

#### 42 - REFERENDA

- (A) A referendum of financial members shall be taken on any topic when ordered by:
  - (a) The Council - provided that 14 days notice is given to all Councillors of intention to move for such referendum and the notice of motion is signed by at least one third of the total number of Councillors.
- (B) Any referendum ordered under this Rule shall be conducted by the Branch Returning Officer in accordance with Rule 6 mutatis mutandis.
- (C) Any decision arrived at by a referendum ordered under this Rule shall be acted upon by Branch Executive, Branch Council, TAFE Council, Sub- Branches and members.

#### 43 - AFFILIATIONS

- (A) The Branch may affiliate with any organisation in the ACT having educational or industrial objects which are consistent with those of the Union.
- (B) All proposals for affiliations or renewal thereof will be considered together once a year only, at a Branch Council nominated by Branch Executive.
- (C) Before a decision is made regarding any proposed new affiliation, the following shall occur:
  - (a) A list of outside organisations, their purposes, their aims, the reasons for the proposed affiliations and the cost to the Branch of each proposed affiliation shall be published at least once in the official journal of the Branch.
  - (b) After the first such publication of the proposed affiliation at least one calendar month shall pass before the affiliations are considered to allow the affiliations to be discussed by Sub-Branches if they so desire.

#### 44 - MEMBER WELFARE FUND

- (A) The Branch shall maintain out of the general revenue of the Branch a fund to be described as "The Member Welfare Fund." The maximum value of the fund shall be \$45,000.
- (B) The Member Welfare Fund shall be exclusively used for the purpose of relieving a financial member or any of the financial member's dependents from severe financial hardship.
- (C) The total value of the fund specified in Rule 44 A shall be determined by adding the value of outstanding loans and the proceeds of any investments from the fund, including interest.
- (D) The Member Welfare Fund shall be administered by the Branch Executive. The Branch Executive is authorised to transfer from the general revenue of the Branch the monies necessary to ensure that the value of the fund as determined by Rule 44C is maintained at the amount specified in Rule 44A.
- (E) All applications for relief shall be made in writing to the Branch secretary and shall include a full statement of the applicant's financial position. All information provided by applicants shall be confidential. In an emergency the Branch Secretary may approve a loan or a grant of up to \$3,000 in accordance with this rule, provided that the approval is subject to a condition to the effect that, if the Branch Executive, at its next meeting, does not approve the loan or grant, it must be repaid as determined by the Branch Executive.

- (F) Advances from the Fund shall be in the form of loans or grants up to the sum of \$6,000. In considering whether to approve a loan or grant the Branch Executive shall have regard to:
- (a) whether the loan or grant was made under the rules of the organisation or branch; and
  - (b) in the case of a loan:
    - (i) whether the security (if any) given for the repayment of the loan is adequate;
    - (ii) whether the arrangements for the repayment of the loan are satisfactory.
- (G) The Branch Executive may withdraw, modify, or in any other way determine any relief granted as above when, in its opinion, the circumstances or conduct of the recipient shall justify it in so doing.

#### **45 - BRANCH TECHNICAL AND FURTHER EDUCATION (TAFE) COUNCIL**

The Branch TAFE Council shall consist of:-

- (a) The Branch Secretary, the Branch President, Branch Vice President (public vocational education and training sector) and the TAFE representatives on the Branch Executive;
- (b) the President, or if absent the Deputy President, of each TAFE Sub- Branch; and
- (c) representatives of each TAFE Sub-Branch on the basis of one delegate for the first 10 financial members or part thereof and, for every additional 20 members or part thereof, one further delegate.

#### **46 - REPRESENTATIVES OF THE BRANCH TAFE COUNCIL**

The representatives of each TAFE Sub-Branch to Branch TAFE Council shall be annually elected at the commencement of each academic year, with all financial members of those Sub-Branches having the right to vote. The elections shall be conducted by the Returning Officer in accordance with Rule 6 mutatis mutandis.

#### **47 - ALTERNATE REPRESENTATIVES TO THE TAFE COUNCIL**

Alternate representatives may be annually elected by each TAFE Sub-Branch in accordance with Rule 6 mutatis mutandis on the basis of one alternate representative for each accredited representative. In the absence of an accredited representative from TAFE Council one alternate representative may replace that representative and have the full rights pertaining to the representative whom she or he replaced.

#### **48 - CASUAL VACANCIES ON THE TAFE COUNCIL**

Casual vacancies for representatives or alternative representatives of the TAFE Sub-Branches to Branch TAFE Council shall be filled from the TAFE Sub-Branch membership concerned by a general meeting of that Sub-Branch.

#### **49 - REGULAR MEETINGS OF THE BRANCH TAFE COUNCIL**

- (A) The Branch TAFE Council shall meet at least once a term and on other occasions as deemed necessary by the TAFE Council.

- (B) Councillors shall be posted written notice of meetings and copies of agenda no later than seven days beforehand.
- (C) All meetings, including special meetings of the Branch TAFE Council, shall require a quorum of 30% of those entitled to attend.

#### **50 - SPECIAL MEETINGS OF THE BRANCH TAFE COUNCIL**

- (A) The Branch Secretary, or in the absence of the Branch Secretary, the Branch President, may call a Special Meeting of Branch TAFE Council whenever circumstances arise to call for such action and must do so when requested by a majority of that Council.
- (B) The President shall call a Special Meeting of TAFE Council when requested to do so by a majority of that Council.

#### **51 - POWERS AND DUTIES OF BRANCH TAFE COUNCIL**

Subject to the overall control of Branch Council and Branch Executive, the Branch TAFE Council shall:

- (a) formulate and implement policies which further the interests of members of the Branch working in TAFE;
- (b) deal with matters submitted to it by the Branch Council and Branch Executive, TAFE Sub-Branches and individual members working in TAFE;
- (c) act as a medium of communication between TAFE Sub-Branches and individual members working in TAFE on the one hand and any institution participating in TAFE on the other; and
- (d) frame Standing Orders for the control of meetings of the Council.
- (e) The Branch TAFE Council shall have no power of an 'office' as defined in Section 9 of the FW (RO) Act 2009

#### SCHEDULE A

##### (A) Preferential Voting - One vacancy to be filled

1. The Branch Returning Officer or the Returning Officer appointed by the AEC shall count first preference votes cast for each candidate and if any candidate has received absolute majority of first preference votes he/she shall be declared elected.
2.
  - (a) If no candidate has received an absolute majority of first preference votes, the candidate with the lowest number of first preference votes shall be eliminated and the second preference votes of the eliminated candidate shall be allocated to the remaining candidates in accord with the voter's preference. If, on a count of those votes, a candidate has an absolute majority of votes he/she shall be elected;
  - (b) If no candidate then has an absolute majority of votes the process of eliminating the candidate with the lowest number of votes at that stage and allocating the next preference votes of that candidate shall be repeated until one candidate has received an absolute majority of votes; and
  - (c) The candidate who has received an absolute majority of votes shall be declared elected.



(B) Preferential Voting - More than one vacancy to be filled

1. The Branch Returning Office or the Returning Officer appointed by the AEC shall count all first preference votes cast for each candidate and if any candidate has received an absolute majority of first preference votes he/she shall be declared elected.
2. If no candidate has received an absolute majority of first preference votes the Branch Returning Office or the Returning Officer appointed by the AEC shall proceed to eliminate candidate(s) and distribute preference votes as provided in paragraph A(2) above until a candidate has an absolute majority of votes and is declared elected.
3. To determine the next successful candidate the Branch Returning Officer or the Returning Officer appointed by the AEC shall allocate the second preference votes of the candidate who has been elected to each of the other candidates in accord with the voter's preference including to the candidates eliminated pursuant to paragraph B(2) above.
4. If a candidate then has an absolute majority of votes he/she shall be declared elected but if no candidate then has an absolute majority of votes the count shall proceed as provided in sub-paragraph A(2)(b) above until one candidate has received an absolute majority of votes and is elected.
5. Any remaining vacancies shall be filled one by one in the manner provided above and as any candidate receives an absolute majority he/she shall be declared elected. Provided that where the second preference votes of an elected candidate are given to another elected candidate the Branch Returning Office or the Returning Officer appointed by the AEC shall allocate the third preference vote of the first mentioned elected candidate to other candidates in accordance with the voters' third preference. This proviso applies equally where second and succeeding preference votes are given to two or more elected candidates.

(C) Procedure where one or more candidates have an equal number of votes

If on any count of votes pursuant to paragraphs A or B above, two or more candidates have an equal number of votes and one or more of them has to be eliminated the Branch Returning Office or the Returning Officer appointed by the AEC shall determine by lot which candidate or candidates shall be eliminated

APPENDIX A

FEDERAL BRANCH RULES

FEDERAL BRANCH RULES IN RELATION TO THE NORTHERN TERRITORY  
BRANCH

PART I - PRELIMINARY

**1 - NAME**

The name of the Branch shall be Australian Education Union, Northern Territory Branch.

**2 - DEFINITIONS**

In these Federal Branch Rules:-

"the Act" – means the *Fair Work (Registered Organisations) Act 2009* (Cth);

"the Regulations" – means the *Fair Work (Registered Organisations) Regulations 2009* (Cth); and

"the Union" – means Australian Education Union.

**3 - MANAGEMENT**

The Management of the Branch by the members shall be by means of:

- (a) Branch Conference; and
- (b) Branch Executive.

PART II - MEMBERSHIP

**4 - ALLOCATION AND RE-ALLOCATION AND TRANSFER OF MEMBERSHIP**

- (a) The Branch Secretary on admitting a new member to the Union pursuant to Federal Rule 9 shall allocate the member to a Sub-Branch and a Region. Any member who is unemployed shall be allocated to the Unemployed Members Sub-Branch and the Region determined by the Branch Executive.
- (b) The Branch Executive shall be entitled to re-allocate a new member to another Region and/or Sub-Branch if it thinks fit;
- (c) A transfer of a membership from one Region and/or Sub-Branch to another may only be affected with the approval Branch Executive.
- (d) No transfer of membership shall be affected less than two months before the date of Branch Annual Conference.
- (e) A member may apply at any time for transfer of membership to another Region and/or Sub-Branch. Such application shall be made in writing to the Branch Secretary and shall state the reasons for the application. The application shall be referred by the Branch Secretary to the next meeting of Branch Executive for consideration and its decision shall be notified to the member by the Branch Secretary within 7 days of the decision being made.

## **5 - MEMBERSHIP RETURNS**

Statements setting out the name, address and place of employment of each financial member of a Sub-Branch as at 31st March and 30th September each year shall be forwarded by the Branch Secretary to the respective Sub-Branch Secretary within 30 days of 31st March and 30th September.

### **PART III - CONSTITUTION MANAGEMENT AND POWERS**

#### **SECTION A - BRANCH CONFERENCE**

#### **6 - BRANCH CONFERENCE - POWERS**

- (a) The Branch Conference is, subject to this rule, the supreme governing body of the Branch.
- (b) The Branch Conference has, subject to this rule, the power to:
  - (i) superintend, manage and control the Branch's affairs;
  - ;
  - (ii) delegate to the Branch Executive all its powers other than the power to make, amend or rescind rules; and
  - (iii) direct that the opinion of financial members be obtained on any question by plebiscite.
- (c) The Branch Conference has, subject to rule 16, the exclusive power to:
  - (i) amend these Branch rules.
- (d) Despite sub-rule (a) the Branch Conference cannot exercise:
  - (i) power that includes powers that relate to the financial management of the Branch;
  - (ii) a power expressly reserved by these rules to be only exercised by the Branch Executive; and/or
  - (iii) a power expressly reserved by these rules to be only exercised by a Branch Officer.

#### **7 - COMPOSITION OF BRANCH CONFERENCE**

- (a) Branch Conference shall be constituted by -
  - (i) members of the Branch Executive; and
  - (ii) Sub-Branch Delegates.

#### **8 - SUB-BRANCH REPRESENTATION AT BRANCH CONFERENCE**

- (a) Each Sub-Branch shall be entitled to representation at Branch Conference by one delegate for each 20 members or part thereof.
- (b) Each Sub-Branch Delegate shall be a financial member and be elected by the financial members of the Sub-Branch he/she represents.
- (c) Each Sub-Branch Secretary shall notify the Branch Secretary in writing at least 6 weeks prior to the commencement of Branch Conference of the name, address and place of employment of each delegate of the Sub-Branch.

### **9 - PROXY BRANCH CONFERENCE DELEGATES**

- (a) A Branch Conference delegate unable to be present at the whole or any part of the Branch Conference may appoint by writing or telegram (or other electronic means) a financial member of the Branch to act as his/her proxy.
- (b) A member appointed a proxy delegate shall not be a member of the Branch Executive, another delegate or another proxy delegate.
- (c) A proxy delegate shall have all the powers of the delegate he/she represents.

### **10 - MEMBERS ATTENDING BRANCH CONFERENCE MEETINGS**

Any financial member of the Branch may, with the permission of Branch Conference, attend and speak at a Branch Conference meeting.

### **11 - MEETINGS OF BRANCH CONFERENCE**

- (a) Branch Conference shall be held annually and, unless otherwise decided by the Branch Executive, shall be held during the May Day weekend.
- (b) The commencing date of Branch Conference shall be determined by Branch Executive not less than 3 months before such date and the Branch Secretary shall notify in writing each Branch Executive member and each sub-Branch within 7 days of such determination and shall cause notification of such date to be inserted in the next issue of the Branch Newsletter.
- (c) Branch Conference expenses, including expenses of delegates and others entitled to attend as Branch Conference members, may be paid by Branch Executive either in part or in whole.
- (d) Branch Conference is to be conducted by a method by which the respective members of the Branch Conference can communicate with each other.

### **12 - SPECIAL BRANCH CONFERENCE**

- (a) Branch Conference or the Branch Executive may, and at the written request of 30 or more of the Sub-Branches shall, convene a Special Branch Conference.
- (b) Each request for a Special Branch Conference shall specify the subject matter for discussion at the Conference.
- (c) Branch Conference or the Branch Executive shall determine the matters to be included in the Agenda which shall include the subject matters set out in the written request by the Sub-Branches for the Special Branch Conference.
- (d) The provisions of Rule 15 shall apply mutatis mutandis to a Special Branch Conference except that the Branch Executive may determine the periods of notice for the circulation of the agenda prior to a Special Branch Conference.
- (e) Notwithstanding the provisions of this rule a matter not included in the agenda for the Special Conference, with the exception of proposed rule alterations, may be discussed at such Branch Conference provided a resolution that such matters be discussed is carried by a simple majority of the delegates present and entitled to vote.

- (f) Delegates to a Special Branch Conference shall be those members elected under Rule 112.
- (g) Special Branch Conference is to be conducted by a method by which the respective members of the Special Branch Conference can communicate with each other.

### **12A - OUT OF SESSION BALLOT OF BRANCH CONFERENCE**

- (a) An out of session ballot of the Branch Conference may be conducted where the Branch Secretary considers that a matter needs to be dealt with expeditiously by a ballot of the Branch Conference.
- (b) Without limitation to sub-rule (a) the:
  - (i) Branch Conference; or
  - (ii) Branch Executive,may direct the Branch Secretary to conduct an out of session ballot of the Branch Conference, where it determines that a matter needs to be dealt with expeditiously by a ballot of the Branch Conference.
- (c) An out of session ballot is to be conducted by means of:
  - (i) post;
  - (ii) e-mail;
  - (iii) text message;
  - (iv) other electronic communication; and/or
  - (v) a mixture of those means.
- (d) Where an out of session ballot of the Branch Conference is conducted:
  - (i) the Branch Secretary shall determine a time limit within which the ballots must be received, but which is no less than 14 days, provided that the Branch Secretary may determine a shorter time limit for e-mail/text message/electronic ballots;
  - (ii) 50% of the members of the Branch Conference plus one (1) casting a ballot in the time limited under paragraph (i) constitutes a quorum; and
  - (iii) determination of the ballot shall, unless these rules otherwise require, be by simple majority of the votes cast.

### **13 - VENUE OF BRANCH CONFERENCE MEETINGS**

Branch Conference shall determine the venue of the next Branch Conference.

#### **14 - VOTING AT BRANCH CONFERENCE**

Each member (including the Branch President) attending the Branch Conference as a Sub-Branch delegate or a member of Branch Executive (but no others) shall be entitled to one vote at Branch Conference. In the event of equality of voting, the President shall have a second or casting vote.

#### **15 - PROPOSALS FOR BRANCH CONFERENCE INCLUDING RULE ALTERATIONS**

- (a) The Branch Executive, Branch Conference Delegates (or their proxies) and Sub-Branches may submit proposals for consideration by Branch Conference. All such proposals shall be forwarded to the Branch Secretary at least 6 weeks before Branch Conference commences.
- (b) The Branch Secretary shall prepare the agenda paper and 4 weeks before Branch Conference commences, forward a copy to each Sub-Branch Delegate, to each Branch Executive member, and to each Sub-Branch.
- (c) Branch Conference, or a Special Branch Conference called for the purpose, may make, amend or rescind Federal Branch Rules, provided that:
  - (i) The proposed addition, amendment or rescission is proposed by Branch Executive or by a requisition of at least 10 Sub-Branches.
  - (ii) The proposed rule alterations have been distributed in writing to each Sub-Branch Delegate, each member of Branch Executive and each Sub-Branch at least 4 weeks before commencement of Branch Conference, or, in the case of a Special Branch Conference, within the timeframe specified in Rule 12 (d). Such distribution may be by post, email or facsimile.
- (d) Notwithstanding the provisions of this rule, a matter not included in the agenda for Branch Conference, with the exception of proposed rule alterations, may be discussed by Branch Conference provided a resolution that such matter be discussed is carried by a simple majority of the votes of delegates present and entitled to vote.

#### **16 - ALTERATION OF VOTING AND REPRESENTATION RIGHTS**

Notwithstanding anything contained elsewhere in these Rules, Rules 6, 8(a), 13, 18, 22, 88, 89 and this rule shall not be rescinded or amended or the effect of these rules altered in any way, at Conference or pursuant to a Rule 88 reference to Sub-Branches, unless in either case two-thirds of the votes entitled to be cast (if all those entitled to attend and vote did attend and vote) are in favour of such amendment rescission or alteration.

**SECTION B - BRANCH EXECUTIVE**

**17 - POWERS - BRANCH EXECUTIVE**

- (a) The Branch Executive shall be the committee of management of the Branch and, subject to Rules 6 and 16, the Branch Executive, when Branch Conference is not in Session, shall be the supreme governing body of the Branch and the acts of Branch Executive, including interpretation of these Rules, shall have the same effect as if those acts were acts of Branch Conference under rule 6.
- (b) The Branch Executive is, to the exclusion of the Branch Conference, to exercise power in relation to the financial management of the Branch.

**18 - CONSTITUTION OF BRANCH EXECUTIVE**

- (a) The Branch Executive shall consist of the following -
  - (i) Branch President,
  - (ii) Vice-President (General) and Vice-President (TAFE),
  - (iii) Branch Secretary,
  - (iv) Treasurer,
  - (v) Women's Officer,
  - (vi) Executive Councillors from each Region, elected on a basis of one member for every 200 members or part thereof;
  - (vii) An Executive Councillor representing Indigenous teachers and Indigenous education workers in schools and educational institutions.
- (b) The Branch officers shall be the Branch President, Vice-President (General), Vice-President (TAFE), Branch Secretary, Treasurer and Women's Officer.
- (c) For the purposes of Rule 136 only, the position of Secretary will be deemed to be a higher position than that of Vice-President (General) or Vice-President (TAFE).

**19 - MEETINGS OF BRANCH EXECUTIVE**

- (a) The Branch Executive shall meet when determined by the Branch Secretary or in his/her absence by the Branch President.
- (b) The Branch Secretary shall give reasonable notice of all meetings to all members of Branch Executive. Such notice may be given verbally, by telephone, by facsimile, email, telegram or by post. Seven days notice shall be given unless the Branch Secretary or in his/her absence, the Branch President considers that the circumstances of the calling of the meeting justify a shorter period of notice.
- (c) There shall be at least six Branch Executive meetings held each year.

## 20 - SPECIAL MEETINGS OF BRANCH EXECUTIVE

- (a) A special meeting of the Branch Executive shall be called -
  - (i) at the written request of not less than 4 members of the Branch Executive, such request to be delivered or notified by post, by facsimile, by email, or by telegram addressed to the Branch Secretary. Such written request shall state the matter or matters for discussion.
  - (ii) whenever circumstances arise which, in the opinion of the Branch President or Branch Secretary, call for a Special Meeting.
- (b) The Special Meeting shall be convened by the Branch Secretary who shall give at least 24 hours notice to members - which notice may be given verbally, by telephone, by facsimile, email, telegram, or by post.

## 21 - BRANCH EXECUTIVE - VOTING BY POST

- (a) When the Branch Executive is not in session the Branch Secretary may and shall, when so directed by the Branch President or requested by least 4 Executive Members, submit for decision any matter with which the Branch may deal in accordance with Rule 17.
- (b) A matter submitted for decision under this Rule shall be in writing sent by post, facsimile or telegram.
- (c) Each Branch Executive member shall, within 7 days of the date on which the submission is sent, return to the Branch Secretary by post, facsimile, email or telegram his/her vote in writing, signed by him/her and stating an affirmative or negative without qualification.
- (d) Branch Executive members shall vote personally and proxy voting shall not be allowed.
- (e) The Branch Secretary shall count the votes progressively as they are received and when a majority is available from those entitled to vote, shall report the result in writing, by facsimile, email or by telegram to the Branch President, who shall forthwith declare the result of the voting. In the event of an equality of votes the Branch President shall have and exercise a second or casting vote.
- (f) All decisions given under this Rule shall have the same effect as if made in Meeting assembled.
- (g) At the same time as the Branch Secretary, in accordance with this rule, sends a submission to Branch Executive members he/she shall post copies of the submission to all Regional Secretaries. When the President has declared the result of the voting, the Branch Secretary shall notify each Branch Executive Member and each Regional Secretary of the result and shall also notify the next ordinary meeting of the Branch Executive of the postal vote taken.
- (h) This rule shall not apply if, at anytime up to and including the seventh day after the day of notification of the submission by the Branch Secretary to Branch Executive Members, a request has been made in accordance with the provisions of Rule 20 for a Special Meeting to discuss the matter submitted under this rule and that Special Meeting has been held.



## **22 - VOTING - BRANCH EXECUTIVE**

- (a) Each Branch Executive member or his/her proxy shall be entitled to one vote at meetings of the Branch Executive.
- (b) In the event of equality of voting - the Chairperson of the meeting shall have a second or casting vote.

## **23 - PROXIES - BRANCH EXECUTIVE MEMBERS**

- (a) A Branch Executive member who is unable to attend the whole or any part of a Branch Executive meeting may appoint, in writing, a financial member of the Branch to act as his/her proxy and shall forthwith notify the Branch President or Branch Secretary of the appointment.
- (b) A member appointed as a proxy under this rule may be another member of the Branch Executive providing that this person does not already hold a proxy vote.
- (c) A proxy Branch Executive member shall have all the powers of the Branch Executive members he/she represents.

## **24 - ABSENCE FROM BRANCH EXECUTIVE MEETINGS**

- (a) A Branch Executive member shall not absent himself/herself from 2 consecutive meetings of the Branch Executive without permission from the Executive.

## **25 - REMOVAL FROM OFFICE BY BRANCH EXECUTIVE**

- (a) The Branch Executive may, if two thirds of its members present and entitled to vote so decide, at any time remove from office a Branch Executive member (including a salaried member) who has -
  - (i) ceased, according to the Federal Rules or the Federal Branch Rules, to be eligible to hold the office,
  - (ii) been found guilty, in accordance with the Federal Branch Rules, of any of the following -
    - (a) misappropriation of the Union's funds,
    - (b) a substantial breach of the Federal Rules or Federal Branch Rules,
    - (c) gross misbehaviour,
    - (d) gross neglect of duty.
- (b) Any action taken under these rules shall be taken in accordance with the provisions of Rule 91 mutatis mutandis.

## **26 - BRANCH CONFERENCE AND BRANCH EXECUTIVE - CASUAL VACANCIES**

The office of any Branch Conference Delegate, or member of the Branch Executive shall become vacant if he/she dies, resigns, ceases to be a member of the Branch or is removed from office.

## **27 - BRANCH CONFERENCE AND BRANCH EXECUTIVE - FILLING CASUAL VACANCY**

A casual vacancy in the office of Branch Conference Delegate or Branch Executive Member shall be filled as follows:

- (a) In the case of the Branch President, an election shall be held in accordance with these Rules as soon as practicable after the vacancy occurs. The elected person shall then hold office for the unexpired portion of his/her predecessor's term. Provided that where the remaining term of office is 12 months or less the Branch Executive may appoint a financial member to fill the vacancy for the remainder of the term.
- (b) In the case of the Treasurer, the Vice-President (General), the Women's Officer, the Vice-President (TAFE) or the Executive Councillor representing Indigenous teachers and Indigenous education workers, an election shall be held in accordance with these Rules as soon as practicable after the vacancy occurs. The elected person shall then hold office for the unexpired portion of his/her predecessor's term. Provided that the Branch Executive may, where the remaining term of office to which a member would be elected is less than three quarters of the term of office, fill the position by appointing:
  - (i) In the case of the Treasurer or the Vice-President (General) a member of Branch Executive who shall then hold office for the unexpired portion of his/her predecessor's term.
  - (ii) In the case of the Women's Officer, a female member of the Branch Executive who shall then hold office for the unexpired portion of her predecessor's term.
  - (iii) In the case of the Vice-President (TAFE), a financial member from the TAFE division who shall then hold office for the unexpired portion of his/her predecessor's term.
  - (iv) In the case of the Vice-President (TAFE), a financial member from the TAFE division who shall then hold office for the unexpired portion of his/her predecessor's term.
- (c) In the case of an Executive Councillor (other than the Executive Councillor representing Indigenous teachers and Indigenous education workers) an election shall be held in accordance with these Rules as soon as practicable after the vacancy occurs. The elected person shall then hold office for the unexpired portion of his/her predecessor's term. Provided that the relevant Regional Council may, where the remaining term of office to which a member would be elected is less than three quarters of the term of office, appoint to the position a financial member of that region who shall then hold office for the unexpired portion of his/her predecessor's term.
- (d) In the case of the Branch Secretary an election shall be held in accordance with the Rules as soon as practicable after the vacancy occurs. The elected person shall then hold office for the unexpired portion of his/her predecessor's term. Provided that where the remaining term of office is one third (or less) of the original term then the Branch Executive may appoint a financial member to fill the position for the remainder of the term. In the case of an election the Executive may appoint a financial member to the position until the election process is complete.
- (e) In the case of a Sub-Branch Delegate to Branch Conference, the President of the Sub-Branch concerned shall be deemed to be the holder of the office from the date on which the vacancy occurs until a successor is elected at the next annual election. Should the Sub-Branch President already be a Branch Conference Delegate, or a member of the Branch Executive or was the holder of the office at the date it became vacant, or if the office of the Sub-Branch President is then vacant then the Vice-President of the Sub-Branch concerned shall be the holder. Should there not be a Vice-President entitled to fill the vacancy, a meeting of the Sub-Branch shall be called as soon as possible for the purpose of appointing a member to fill the vacancy.

### **27A - GENERAL MEETING - FINANCIAL REPORTS**

- (1) The Branch Secretary shall convene a meeting of the members of the Branch upon a request in writing by members calling for a General Meeting for the purposes of considering the financial reports as described in the Act if such a request:
  - (i) is signed by no less than 5% of the members of the Branch as at the date of receipt of the request;
  - (ii) contains in relation to each signature:
    - (a) the date of signing;
    - (b) the signatory's name in capital letters;
    - (c) the name of the Sub-Branch to which the signatory is attached.
- (2) The Branch Secretary shall give 28 days notice to the members of the Branch of any General meeting called pursuant to this Rule.
- (3) The Branch Secretary shall give notice of any meeting to be conducted pursuant to this Rule by written notice sent or delivered to and posted in a conspicuous place at each members place of employment or by email communication to each member or by notice on the Branch website to all members who have immediate access to that website and to each Sub-Branch Secretary.
- (4) All decisions at a meeting called in accordance with the Rule shall be by a show of hands except where a resolution is carried which determines to submit the question to a secret ballot.
- (5) Attendance at meetings conducted under this rule shall be recorded and such attendance records shall be used to ensure that each member records only one vote.

### **SECTION C - REGIONS**

#### **28 - FORMATION OF REGIONS**

- (a) Branch Conference may form new Regions or rearrange existing boundaries of membership allocation.
- (b) A Region may consist of those members who work in the same geographical areas.
- (c) The following Regions are established:-  
  
Alice Springs Palmerston & Rural Arnhem  
Katherine Darwin Barkly
- (d) Each Region shall have a Regional Executive and a Regional Council.

#### **29 - COMPOSITION OF THE REGIONAL COUNCIL**

All members of the Region shall be eligible to attend Regional Council meetings.

### **30 - REGIONAL OFFICERS**

- (a) There shall be in each Region the following:-  
Regional President  
Regional Vice-President  
Regional Secretary
- (b) The occupiers of the above positions shall be the Regional Officers.

### **31 - REGIONAL EXECUTIVE/CONSTITUTION AND POWERS**

- (a) There shall be in each Region a Regional Executive which, subject to the control of Branch Conference and the Branch Executive, shall supervise, manage and control Regional affairs.
- (b) A Regional Executive shall consist of the Regional officers and four Regional Councillors.
- (c) A Branch Conference Delegate or Branch Executive Member shall be eligible for election as a Regional Officer or a Regional Councillor, or of the Region of which he/she is a member.
- (d) A Regional Executive shall determine the location of its office.
- (e) A Regional Council may authorise the formation of sub-committees as it sees fit.

### **32 - REGIONAL EXECUTIVE MEETINGS**

- (a) A Regional Executive shall meet as required but not more than 2 months shall elapse between 2 successive meetings other than between the last meeting in one year and the first meeting in the following year.
- (b) The Regional Secretary shall give reasonable notice verbally, by post, by facsimile or by telegram of any meeting (including any adjourned meeting) to all persons entitled to attend.
- (c) Meetings of the Regional Executive shall be held as determined by the Regional Officers or upon request to the Regional President, or Regional Secretary of one-quarter of the members of the Regional Executive.
- (d) Each Regional Executive member or his proxy shall be entitled to one vote at meetings of the Regional Executive.
- (e) In the event of equality of voting, the Chairperson of the meeting shall have a second or casting vote.
- (f) A Regional Executive member shall not be absent from more than 3 consecutive meetings of the Regional Executive without reasonable excuse or permission from the Regional Executive.

### **33 - CHAIRPERSON OF REGIONAL EXECUTIVE MEETINGS**

- (a) The Regional President shall preside at all meetings of the Regional Executive.
- (b) In the absence of the Regional President from any Regional Executive meeting the Regional Vice-President shall preside at the meeting, and in the absence of both the said officers, the Regional Executive may appoint one of its members to preside at the meeting.

### **34 - PROXIES - REGIONAL EXECUTIVE**

If a Regional Executive member cannot attend a Regional Executive meeting the member may appoint in writing a proxy who is a financial member of the Region but is not a member of the Regional Executive.

### **35 - MEMBERS ATTENDING REGIONAL EXECUTIVE MEETINGS**

Any financial member of the Branch may by permission of the meeting attend and speak at a meeting of such Regional Executive.

### **36 - CESSATION OF OFFICE REGIONAL EXECUTIVE MEMBER**

The office of a Regional Executive member shall become vacant if the holder:-

- (a) dies, resigns, or is removed under these Rules;
- (b) ceases to be a member of the Union or is transferred out of the Region he/she represents.

### **37 - REMOVAL FROM OFFICE BY REGIONAL EXECUTIVE**

The Regional Executive may at any time remove from office a member of the Regional Executive. The provisions of Rule 25 shall apply mutatis mutandis.

### **38 - REPRESENTATION BY REGIONAL EXECUTIVE**

A Regional Executive may take up any matter concerning the members of its Region only.

### **39 - LIMIT OF POWER**

A Regional Executive shall not act independently of the Branch Executive in regard to any matter which has been dealt with and decided by the Branch Executive.

### **40 - INTERPRETATION OF RULES**

A Regional Executive may submit to the Branch Executive for determination any question of the interpretation of these Rules.

### **41 - ANNUAL REPORT**

The Regional Annual Report, before it is published or circulated, shall be approved by the Regional Executive signed by the Regional Officers on behalf of the Regional Executive.

#### **42 - CONTROL OF REGIONS**

- (a) Conference or the Branch Executive may remove from office any Regional Officer and Regional Executive member. The provisions of Rule 25 apply mutatis mutandis.
- (b) A special election to fill any vacancies so created or otherwise existing in the Region shall be held within 4 months of the vacancy arising. Conference or Branch Executive may in special circumstances extend the period for conducting a special election by a period not exceeding an additional 6 months unless the ordinary elections become due within that period. The rules applicable to ordinary elections shall apply to such election with such modifications as are necessary.

#### **43 - REGIONAL COUNCIL ANNUAL GENERAL MEETING**

The Regional Council Annual General Meeting shall be held pursuant to Rule 46, as soon as possible after the commencement of the school year and before 31 March. It may be adjourned as provided in Rule 51 for not more than one month.

#### **44 - REGIONAL COUNCIL ORDINARY GENERAL MEETING**

A Regional Executive shall convene an Ordinary General Meeting at least once every term between 1st February and 30th November in each year. For the purpose of this rule only, an Annual General Meeting shall be deemed to be a Regional Council Ordinary General Meeting.

#### **45 - SPECIAL GENERAL MEETINGS**

Regional Council Special General Meetings shall be convened:

- (i) by the Regional Executive at any time; or
- (ii) by the Regional President or Secretary when requested in writing by ten of the Region's financial members provided that such request states shortly the matter or matters to be discussed.

#### **46 - NOTICE OF REGIONAL COUNCIL GENERAL MEETING**

- (a) Proper notice shall be given to members of the holding of a general meeting, whether ordinary, special or annual.
- (b) The Regional Executive shall determine the form of such notice.
- (c) Such notice shall be given at least 7 days prior to the meeting and shall state shortly the business to be transacted.

#### **47 - REQUISITIONS FOR REGIONAL COUNCIL SPECIAL GENERAL MEETING**

Upon receipt of a requisition or of notice under Rule 45, a Special General Meeting shall be forthwith convened by the Regional President or Regional Secretary to be held within 14 days from the time of requisition or notice being received. If a meeting has not been convened within 7 days from such date the members making such requisition may themselves convene the meeting.

#### **48 - BUSINESS/REGIONAL COUNCIL SPECIAL GENERAL MEETING**

- (a) The notice convening a Regional Council Special General Meeting shall include the business for which the meeting is called.
- (b) No business shall be dealt with at any Regional Council Special General Meeting other than that stated in such notice.
- (c) After all business for which the meeting has been called has been disposed of, any member may, for discussion only, bring under notice of the meeting any matter, but no motion shall be moved.

#### **49 - CHAIRPERSON OF GENERAL MEETING**

The President (or in his/her absence the Vice-President of the Region) shall preside at all Regional Council General Meetings. Should neither be present within 15 minutes after the time of commencement of the meeting, the members shall appoint a Chairperson for such meeting.

#### **50 - LACK OF QUORUM**

If, within half an hour from the time appointed for any Regional Council General Meeting to commence a quorum of members is not present, such meeting shall be adjourned.

#### **51 - ADJOURNMENT OF A REGIONAL COUNCIL GENERAL MEETING**

A Regional Council General Meeting may adjourn from time to time and from place to place. Subject to Rules 43 and 48 no business shall be transacted at such adjourned meetings other than that left unfinished.

#### **52 - NOTICE OF ADJOURNED REGIONAL COUNCIL GENERAL MEETING**

Proper notice of any adjourned Regional Council General Meeting shall be given to members.

#### **53 - VOTING AT REGIONAL COUNCIL GENERAL MEETING**

Each member of the Region including the Regional President but no others shall be entitled to one vote at Regional Council. In the event of equal voting a Regional President shall have a second or casting vote. All questions shall be decided by a majority of votes.

#### **54 - DECISIONS OF REGIONAL COUNCIL GENERAL MEETING**

A resolution of a General Meeting shall not be vetoed or disregarded by a Regional Executive.

SECTION D - SUB-BRANCHES

**55 - FORMATION OF SUB-BRANCHES**

- (a) Branch Conference or Branch Executive may form new Sub-Branches.
- (b) A Sub-Branch may consist of those members who are employed in a workplace or in an institution.
- (c) The Sub-Branches composing the Branch are those workplaces or institutions determined from time to time.

**56 - SUB-BRANCH EXECUTIVE**

- (a) In Sub-Branches with 10 or more members there shall be an Executive made up of a President, Vice President and Secretary.
- (b) The Sub-Branch Executive, shall subject to the control of Branch Conference and the Branch Executive, supervise, manage and control Sub- Branch affairs.
- (c) A Branch Conference Delegate or Branch Executive Member or Regional Executive member shall be eligible for election as Sub-Branch Executive member of the Sub-Branch of which he/she is a member.
- (d) A Sub-Branch having 9 or less members shall have a Sub-Branch President only.

**57 - SUB-BRANCH EXECUTIVE MEETINGS**

- (a) A Sub-Branch Executive shall meet as required provided that not more than 2 months shall elapse between 2 successive meetings excepting the months of January and December.
- (b) The Sub-Branch Secretary (or in the absence of the Secretary, the President) shall give reasonable notice of Sub-Branch Executive Meeting, verbally or by letter to all persons entitled to attend.
- (c) Meetings of the Sub-Branch Executive shall be held as determined by the Sub-Branch President or upon request to the Sub-Branch President of a majority of the members of Sub-Branch Executive.

**58 - CHAIRPERSON OF SUB-BRANCH MEETINGS**

- (a) The Sub-Branch President shall preside at all meetings of the Sub-Branch Executive and at Sub-Branch General Meetings.
- (b) In the absence of the Sub-Branch President from a meeting referred to in the previous Sub-Rule the Vice President (where one exists) shall preside at the meeting and, in the absence of both officers the Sub-Branch may appoint one of its members to preside at the meeting.
- (c) The Sub-Branch President or in his/her absence the Vice President or a person appointed to preside at a meeting shall have a vote only when there is a tied vote.

**59 - PROXIES**

If a Sub-Branch Executive member cannot attend a Sub-Branch Executive meeting she/he may appoint in writing as his/her proxy a financial member of the Sub- Branch who is not a member of the Sub-Branch Executive.



### **60 - MEMBERS ATTENDING SUB-BRANCH EXECUTIVE MEETINGS**

Any financial member of the Sub-Branch may by permission of the meeting attend and speak at a meeting of such Sub-Branch Executive.

### **61 - CESSATION OF OFFICE - SUB-BRANCH EXECUTIVE MEMBER**

The office of a Sub-Branch Executive member shall become vacant if the holder:-

- (a) dies, resigns or is removed under these Rules; or
- (b) ceases to be a member of the Union or is transferred out of the Sub- Branch he/she represents.

### **62 - REMOVAL FROM OFFICE**

The Branch Executive may at any time remove from office a member of the Sub- Branch Executive. The provisions of Rule 25 shall apply mutatis mutandis.

### **63 - REPRESENTATION BY SUB-BRANCH EXECUTIVE AND LIMIT OF POWER**

A Sub-Branch Executive may take up any matter concerning the members of its Sub-Branch only. A Sub-Branch Executive shall not act independently of the Branch Conference or Branch Executive in regard to any matter which has been dealt with and decided by the Branch Conference or Branch Executive.

### **64 - INTERPRETATION OF RULES**

A Sub-Branch Executive may submit to the Branch Executive for determination any question as to the interpretation of the Federal Branch Rules.

### **65 - GOVERNMENT OF SUB-BRANCHES**

Each Sub-Branch shall have the power to govern itself provided that:-

- (a) It shall elect delegates to Branch Conference in accordance with the Federal Branch Rules;
- (b) It shall not have any rules or objects inconsistent with the Federal Rules or the Federal Branch Rules;
- (c) It shall annually elect in accordance with Rule 114 members of the Sub- Branch Executive. The names of the persons elected shall be provided to the Branch Secretary within 2 weeks of the ballot being conducted.
- (d) At least 4 meetings of the Sub-Branch shall be held each year.
- (e) Sub-Branches may form an association with other sub-branches within a region having common educational interests and those sub-branches may apply to Branch Executive to be regarded as a sub-committee of the Regional Council.

### **66 - SUB-BRANCH ANNUAL GENERAL MEETING**

The Sub-Branch Annual General Meeting shall be held during April in each year. It may be adjourned as provided in Rule 71 for not more than one month.

### **67 - SUB-BRANCH ORDINARY GENERAL MEETING**

- (a) At least one Sub-Branch general meeting shall be convened each half semester.
- (b) General meetings or Special General Meetings may be held at other times as deemed necessary by the Sub-Branch Executive.

### **68 - SPECIAL GENERAL MEETING**

Sub-Branch Special General Meetings shall be convened by the Sub-Branch President or Sub-Branch Secretary when requested in writing by a majority of the Sub-Branch financial members provided that such request states shortly the matter or matters to be discussed.

### **69 - NOTICE OF SUB-BRANCH GENERAL MEETING**

Notice shall be given least 7 days prior to a Sub-Branch General Meeting and shall briefly state the business to be transacted.

### **70 - LACK OF QUORUM**

If, within half an hour from the time appointed for any Sub-Branch General Meeting to commence, a quorum of members is not present, such meeting shall be adjourned.

### **71 - ADJOURNMENT OF A SUB-BRANCH GENERAL MEETING**

A Sub-Branch General Meeting may adjourn from time to time and from place to place. No business shall be transacted at such adjourned meeting other than that left unfinished.

### **72 - NOTICE OF ADJOURNED SUB-BRANCH GENERAL MEETING**

Proper notice of an adjourned Sub-Branch General Meeting shall be given to members.

### **73 - DECISIONS OF SUB-BRANCH GENERAL MEETING**

The resolutions of a Sub-Branch General Meeting shall not be vetoed or disregarded by Sub-Branch Executive.

## SECTION E - POWERS AND DUTIES OF OFFICERS

**74 - BRANCH PRESIDENT**

The Branch President shall be the Chief Executive Officer of the Branch and shall convene ordinary meetings of Conference and Branch Executive. He/she shall preside at all meetings of Conference and Branch Executive, superintend the discussion of questions tabled for consideration, preserve order so that business may be conducted in due form and with propriety and upon the minutes being confirmed, shall sign them. The Branch President may vote on any issue before a meeting over which he/she presides and in the event of an equality of votes on an issue may cast a second vote.

**75 - ABSENCE OF BRANCH PRESIDENT AND BRANCH VICE-PRESIDENT**

In the absence from any meeting of Branch Conference or Branch Executive of both the Branch President, the Vice-President (General) and the Vice-President (TAFE), the meeting shall appoint from its members a Chairperson who in the event of equality of voting, shall exercise a second vote.

**76 - VICE-PRESIDENT (GENERAL) AND VICE PRESIDENT (TAFE)**

The duties of the Vice-President (General) and the Vice-President (TAFE) shall be to assist the Branch President at all meetings of Branch Conference and the Branch Executive and in the absence of the President, the Vice-President (General) or the Vice-President (TAFE) shall occupy the chair and conduct the business and perform all the duties of the Branch President.

**77 - DUTIES OF BRANCH SECRETARY**

- (a) For the purpose of this rule, the words in column A have the meaning assigned opposite in column B:

<b>A</b>	<b>B</b>
Act	Fair Work (Registered Organisations) Act
Financial Records	records, however recorded or stored, to the extent that they relate to the finances or financial administration of the Union and includes: registers; records of financial information; Financial Reports; annual returns; documents relating to or recording financial transactions; and Financial Statements
Financial Statements	a financial document that explains the methods and calculations about how the Union's accounts are made up and correctly recorded and explains the Union's transactions and financial position

- (b) The Branch Secretary has the power and responsibility to:
- (i) maintain the records of the Branch under the Act;
  - (ii) maintain the Financial Records under the Act;
  - (iii) prepare an annual budget for the Branch Executive's consideration;
  - (iv) prepare the general purpose financial report and operating report to be filed by the Branch;
  - (v) liaise with the Branch auditor;
  - (vi) ensure compliance with the Act;
  - (vii) provide notice, and make declarations, on behalf of the Branch;
  - (viii) notify industrial disputes under the Act; and
  - (ix) attend all meetings of Branch Conference and the Branch Executive;
  - (x) seek the prompt payment of monies owing to the Branch;
  - (xi) receive all moneys paid to the Branch;
  - (xii) ensure that all monies received are promptly deposited to the credit of the Branch's bank account;
  - (xiii) oversee all payments to be made by the Branch;
  - (xiv) ensure that a detailed and current account of all money transactions is maintained;
  - (xv) provide a statement of the Branch's current account to ordinary meetings of the Branch:
    - a. Conference; and
    - b. Branch Executive;
  - (xvi) be the designated officer of the Branch under the Act, subject to a determination of the Branch Executive that another Branch officer perform the function.
- (c) The Branch Secretary has the other powers and duties provided under these rules.
- (d) The Branch Secretary is a member of the finance committee and each other sub-committee of the Branch and may attend meetings of any such committee to provide a report to the Branch Executive.
- (e) Despite sub-rule (b), the Branch Secretary cannot exercise a power expressly reserved by these rules to only be exercised by, respectively, the:
- (i) Branch Conference;
  - (ii) Branch Executive; or
  - (iii) another Branch Officer.
- (f) The Branch Secretary shall also carry out other such duties as determined by Branch Conference or the Branch Executive.

## 78 - DUTIES OF TREASURER

- (a) The Treasurer shall:
- (i) convene, and chair, meetings of the finance committee of the Branch Executive;
  - (ii) assist the Branch Secretary to prepare the:
    - a. annual budget;
    - b. general purpose financial report; and
  - (iii) have such other duties as shall be determined by:
    - a. Branch Conference; or
    - b. Branch Executive.

### **79 - DUTIES OF WOMEN'S OFFICER**

The Women's Officer shall:-

- (a) monitor and promote policies which have specific relevance to women and girls;
- (b) liaise with relevant groups both within and outside the Union;
- (c) provide advice on womens' issues; and
- (d) carry out such other duties as may be determined by Branch Conference or the Branch Executive.

### **80 - DUTIES OF EXECUTIVE COUNCILLORS**

The duties of Executive Councillors for a region shall be to represent, report and be responsible to the members in that Region.

### **81 - REGIONAL PRESIDENT**

The Regional President shall be the Chief Executive Officer of the Region and shall preside at all Regional Council Meetings.

### **82 - REGIONAL VICE-PRESIDENT**

The Regional Vice-President shall exercise the powers and duties of the Regional President during his/her absence.

### **83 - DUTIES OF REGIONAL SECRETARY**

The duties of the Regional Secretary shall be to-

- (a) Convene and attend all Regional Executive and Regional Council meetings and to keep a record of proceedings;
- (b) to deal with correspondence;
- (c) to have charge of the documents of the Region;
- (d) forward to the Branch Secretary as required a statement of the number of financial members in the Region on the last days of March and September in each year;
- (e) prepare for presentation to the Annual Meeting, the Annual Report of the Region;
- (f) forward promptly to the Branch Secretary a copy of all Minutes of all meetings of the Regional Executive and all General Meetings of the Regional Council and a copy of the Annual Report and Balance Sheet;
- (g) keep the Regional Executive informed on matters of interest to members in the Region;
- (h) carry out such other duties as may be required by the Regional Executive.

#### **84 - SUB-BRANCH PRESIDENT**

The Sub-Branch President shall be the Chief Executive Officer and shall preside at all Sub-Branch meetings.

#### **85 - SUB-BRANCH VICE-PRESIDENT**

The Sub-Branch Vice President (where one exists) shall exercise the powers and duties of the Sub-Branch President during his absence.

#### **86 - DUTIES OF SUB-BRANCH SECRETARY OR PRESIDENT**

The Sub-Branch Secretary or in Sub-Branch with 9 or less members the Sub-Branch President shall -

- (a) convene meetings and keep a record of proceedings;
- (b) deal with correspondence;
- (c) have charge of the documents of the Sub-Branch;
- (d) maintain a Register of the name, date of admission and address of employment of each member of the Sub-Branch and supply a copy of same to the Branch Secretary when required;
- (e) forward to the Branch Secretary as required a statement of the number of financial members in the Sub-Branch as at the last days of March and September in each year;
- (f) promptly forward to the Branch Secretary a copy of all minutes of all meetings of the Sub-Branch;
- (g) carry out such other duties as may be required by the Sub-Branch Officers.

### **SECTION F - GENERAL MANAGEMENT**

#### **87 - QUORUMS**

At meetings under these Rules, a quorum shall be:-

- (a) Branch Conference - 50 members who are entitled to attend and vote;
- (b) Branch Executive - a majority of members;
- (c) Regional Council - 10% of members or 10 whichever is the lesser;
- (d) Regional Executive - majority of its members;
- (e) Sub-Branches - a majority of its members in any Sub-Branches with less than 10 members and 30% of members in any Sub-Branches with more than 10 members.

### 88 - REFERENCE TO BRANCH CONFERENCE MEMBERS

- (a) Notwithstanding any contrary provisions in the Branch Rules, the Branch Executive or any 4 Regional Executives may between Branch Conferences direct the Branch Secretary to take a vote of all Sub-Branch Delegates to Branch Conference and members of the Branch Executive on any matter submitted by either of them including a proposal to make, amend or rescind rules or to change a Branch Conference Policy, but not including a proposal to hold a general plebiscite.
- (b) The Branch Executive or the Regional Executive submitting the proposal may supply a concise statement in support of the proposal. When the 4 Regional executives submit a proposal the Branch Executive may supply a concise statement of its views on the proposal.
- (c) Upon receipt of such direction the Branch Secretary shall without delay, refer the proposal to all Sub-Branch Delegates to Branch Conference and members of the Branch Executive for decisions together with copies of any such statements.
- (d) A Sub-Branch Delegate to Branch Conference or any member of Branch Executive to have his/her vote on the proposal taken into account shall notify the Branch Secretary in writing, by facsimile, email or by telegram of his/her vote so that it is received by him/her no later than 30 days from the date on which the Branch Secretary posted the reference.
- (e) The Branch Secretary shall count the votes for and against the proposal as soon as they are received.
- (f) Votes of Sub-Branch Delegates to Branch Conference or members of Branch Executive not received by the Branch Secretary within the period of 30 days shall not be counted.
- (g) The failure of Sub-Branch Delegates to Branch Conference, or a member of the Branch Executive, to vote in the prescribed time shall not invalidate the result of the reference.
- (h) The provisions of Rule 87(a) as to Branch Conference quorum shall not apply to a reference under this Rule.
- (i) The Branch Secretary shall immediately notify by telegram, facsimile, email or letter all Sub-Branchedes and Branch Conference Members of the acceptance or rejection of the reference as soon as it can be established from the votes received.
- (j) The number of votes with which a Sub-Branch shall be credited in a reference under this rule shall be the same as the number of delegates to which it would be entitled at Branch Conference.
- (k) Should there be an equality of voting, the Branch President shall have a second or casting vote and thereby decide the reference.
- (l) A vote of a Branch Conference Member shall be in the form of a simple affirmative or negative. Any vote which is in any way qualified shall be invalid.
- (m) Notwithstanding Rule 87(a) a decision on a proposal shall be by a simple majority of votes cast in accordance with this rule except in respect of proposals relating to the rules referred to in Rule 16 when the voting requirements shall be those specified in Rule 16.
- (n) A decision of Branch Executive under this Rule shall be deemed for all purposes to have the same effect as if such decision had been made by Branch Conference.
- (o) Pending the result of a reference under this rule a decision of Branch Conference or the Branch Executive which is subject of such reference shall be binding in all respects.

### **89 - BRANCH PLEBISCITE**

- (a) Branch Conference or the Branch Executive may obtain the opinion of members of the Branch on any question by submitting it to a plebiscite of financial members.
- (b) Branch Conference or the Branch Executive shall, if requested in writing by 3 Regional Executives or 10 per cent of the total financial membership of the Branch, direct that the opinion of financial members be obtained on any question by plebiscite.
- (c) The arrangements for taking of a plebiscite shall be made by the Branch Executive at its expense.
- (d) The Branch Executive shall appoint a Returning Officer and Assistant Returning Officer and Scrutineers.
- (e) In any plebiscite, the Branch Executive shall prepare and issue to each financial member a ballot paper with an objective summary of the arguments for and against the question.
- (f) Voting by proxy shall not be permitted in a plebiscite.
- (g) The Returning Officer shall within 5 days of completion of the plebiscite send the final result of the ballot as a whole to each Sub-Branch.
- (h) A question voted on in a plebiscite shall be carried if -
  - (i) at least 35 per cent of the financial members of the Branch vote, and
  - (ii) a majority of those voting vote in favour of the proposal.
- (i) When a question has been carried by a plebiscite the decision shall be put into effect by Branch Conference or by the Branch Executive forthwith.
- (j) When a question submitted to plebiscite pursuant to paragraph (b) of this rule is resubmitted to a plebiscite within a period of 2 years of the declaration of the ballot, such question shall be carried only if in a majority of the Regions a majority of the votes cast is in its favour.

### **90 - CONTROL OF REGIONAL EXECUTIVE AND SUB-BRANCH EXECUTIVE BY MEMBERS**

If a meeting of a Regional Council or a Sub-Branch requests that a plebiscite of members be held on proposal that the Regional Executive or Sub-Branch Executive take or refrain from taking any specified action or adopt or refrain from adopting any specified policy in the conduct of the Region's or Sub-Branch's business, the Regional or Sub-Branch Executive shall forthwith proceed to conduct a plebiscite of members of the Region or the Sub-Branch in the manner prescribed by Rule 89. The result of the plebiscite shall be given effect to by the Regional Executive or Sub-Branch Executive as circumstances may require.



### **91 - DISCIPLINE**

- (a) Branch Conference or the Branch Executive may at any time summon any member to show cause why it should not deal with him/her upon allegation of a breach by him/her of any Rule or of his/her refusal to obey any lawful resolution of Branch Conference or of the Branch Executive.
- (b) The summons shall -
  - (i) state the allegation;
  - (ii) state the time and place of hearing;
  - (iii) be signed by the Branch Secretary or Branch President;
  - (iv) be delivered personally to the member concerned or posted to him/her by registered or certified mail in time to give him/her at least 14 days notice of the hearing; and
  - (v) state that she/he shall be entitled to be heard and to produce witnesses in her/his own defence and to ask questions relating to the allegations.
- (c) Branch Conference or the Branch Executive, if it considers the allegation sustained, may, subject to Rule 25, expel or suspend for a period not exceeding twelve months or impose a fine not exceeding \$40.00 as penalty. A member shall not be expelled or suspended in accordance with this sub-rule unless he/she has been found guilty of conduct referred to in Rule 25.
- (d) Any member expelled shall not be readmitted to membership except by vote of Branch Conference.
- (e) A member suspended may appeal against his/her suspension at the next meeting of Branch Conference.
- (f) Should any member against whom an allegation is made fail to appear at the hearing or fail to provide a satisfactory explanation of his/her non- attendance, Branch Conference or the Branch Executive may proceed with the hearing of the allegation in his/her absence on being first satisfied that notice of the hearing in accordance with this Rule has been served on him/her.

### **92 - ATTENDANCE OF BRANCH OFFICERS AT MEETINGS**

A Branch officer may, subject to the Federal Branch Rules, attend and speak at any meeting.

### **93 - LEGAL COSTS**

Branch moneys may be spent in payment of legal costs incurred in the furtherance of the Objects of the Union.

### **94 - EXECUTION OF AGREEMENTS**

All industrial and other agreements and documents may be executed by any 2 of the Branch President, Branch Vice-President (General), Vice-President (TAFE) or the Branch Secretary.

### **95 - SUBMISSION OF INDUSTRIAL DISPUTE TO CONCILIATION AND ARBITRATION**

- (a) The Branch Executive may submit an industrial dispute to conciliation and arbitration in accordance with the Act provided that the dispute affects members employed under an Award only applicable to persons employed in the Northern Territory.
- (b) The Branch Executive shall notify the Federal Secretary of any industrial dispute affecting members employed under an Award which is also applicable to members of the Union outside the Northern Territory.
- (c) Where the Industrial Relations Commission has been notified of a dispute pursuant to this Rule the Branch Executive shall have full power to transact all business and do or authorise all acts and things in connection with such submission;
- (d) The Branch shall be represented at the hearing of a dispute notified pursuant to this Rule by a representative or representatives appointed by the Branch Executive.

### **96 - AFFILIATION**

- (a) Branch Conference may, in accordance with this Rule, decide to affiliate with any organization or body whose operations are mainly confined to the Northern Territory.
- (b) Branch Conference shall determine each year whether existing affiliations should be renewed.
- (c) Branch Conference shall not consider a proposal for affiliation with an organization unless the purpose and aims of the organization and the cost to the Branch of the affiliation is published in the official Journal of the Branch.

### **97 - DELETED**

### **98 - HEAD OFFICE**

The registered office of the Branch shall be in such town or city in Northern Territory as Branch Conference from time to time determines.

SECTION G - FINANCIAL

**99 - FUNDS AND INVESTMENTS**

- (a) The Branch funds referred to in rule 62 of the Federal Rules shall be administered by the Branch Executive in accordance with this rule.
- (b) The funds and property of the Branch shall be applied to the following purposes -
  - (1) to meeting the costs of the management of the Branch, Regions and Sub-Branched;
  - (2) subscribing to any organization with which the Branch may become affiliated;
  - (3) reimbursing members for loss of time and expenses incurred on behalf of the Union;
  - (4) paying for gifts presented to persons who have provided meritorious service to the Branch;
  - (5) paying expenses incurred in proceedings in the Commission or in court on behalf of members;
  - (6) providing assistance to members who are unemployed as a result of taking an active and judicious part in the affairs of the Branch;
  - (7) expenditure on the general improvement of the trade of the Branch; and
  - (8) any expenditure or otherwise provided for under the Federal Rules or the Federal Branch Rules.
- (c) The Branch President, Branch Secretary and Treasurer shall ensure that all monies received on behalf of the Branch are deposited under the name Australian Education Union, Northern Territory Branch in a financial institution determined by the Branch Executive. The funds may be invested in a fixed deposit account, on current account, or in any other manner authorized by Branch Conference. All payments of accounts shall be signed by any 2 of the Branch President, Branch Secretary or Treasurer.
- (d)
  - (1) For the purposes of this paragraph ordinary purposes shall mean purposes permitted by the Federal Branch Rules and extraordinary purposes shall mean purposes not otherwise provided for in the Federal Rules or Federal Branch Rules.
  - (2) Conference or Branch Executive may authorize the expenditure of money from the funds of the Branch for ordinary purposes.
  - (3) Funds of the Branch may be expended for extraordinary purposes provided that Branch Conference or Branch Executive have recommended the expenditure and the recommendation has been sent to all Regional Councils and the recommendation has been adopted by a majority of the Regions representing at least two-thirds of the members of the Branch which have, at Regional Council meetings, adopted the recommendation.

## 100 - FINANCIAL YEAR

The Financial Year of the Branch for all purposes shall be 1 January to 31 December.

## 101 - STATEMENT OF BRANCH ACCOUNTS

- (a) The Branch Secretary shall maintain or cause to be maintained the accounting records required to be maintained under the Act and Regulations and, in respect of each financial year, prepare or cause to be prepared the accounts and other statements required to be prepared under the Act and Regulations.
- (b) The accounts and statements prepared pursuant to the previous paragraph shall be submitted by the Branch Secretary to the Branch Auditor.
- (c) On receipt of the Auditor's Report the Branch Secretary shall forthwith forward copies of the Report to the Branch Executive.
- (d) The Branch Executive may resolve for the purposes of sub-section 265(2) of the Act to provide members of the Branch with a summary of the Branch Auditor's Report, accounts and statements referred to in this Rule.

## 102 - SUBSCRIPTIONS AND OTHER PAYMENTS BY MEMBERS

- (a) Membership Subscriptions shall be fixed on an annual basis in each year in advance.
- (b) The amount of the annual subscriptions shall be fixed by the Branch Executive.
- (c) All subscriptions and other moneys due and payable shall be paid to the Union on behalf of the Branch.
- (d) The annual subscription shall be paid
  - (i) in advance, and may be paid in the following ways:
    - a. annually in one (1) instalment;
    - b. each six months by two (2) equal instalments; or
    - c. in accordance with a scheme approved by the Branch Executive by periodic deduction from:
      - i. salary;
      - ii. a member's account at a financial institution; or
      - iii. a credit card.

### **103 - LOANS, GRANTS AND DONATIONS**

The Branch shall not make any loan, grant or donation of an amount exceeding \$1,000.00, unless the Branch Executive has:

- (a) satisfied itself -
  - (i) that the making of the loan, grant or donation would be in accordance with other rules of the Branch; and
  - (ii) in the case of a loan that, in the circumstances, the security proposed to be given for the repayment of the loan is adequate and the proposed arrangements for the re-payment of the loan is satisfactory; and
  - (iii) approved the making of the loan, grant or donation.
- (b) The Branch Secretary shall keep a register of all grants, loans and donations made by the Branch Executive during the financial year, showing the relevant particulars of any such loans, grants and donations.
- (c) The Branch Secretary shall as soon as practicable after the end of each financial year lodge with the Registered Organisations Commissioner a statement showing the relevant particulars in relation to each loan, grant or donation of an amount exceeding the amount specified under section 269 of the Act.

### **104 - BRANCH AUDITOR**

The Branch Executive shall each year or when a casual vacancy occurs appoint a person having the qualifications prescribed in the Act and the Regulations as Branch Auditor. The Branch Auditor shall have full and complete access to all books and documents of the Branch.

### **PART IV - ELECTIONS**

### **105 - ELIGIBILITY TO NOMINATE AND VOTE**

- (a) Financial Members only shall be eligible -
  - (i) to nominate or be nominated to any position within the Branch and for the position of Federal Delegate;
  - (ii) to vote at any election or any meeting or in any plebiscite; provided that the roll of voters for any election to be conducted pursuant to these rules is to be closed seven days before the day on which nominations are opened in relation to all elections by a direct voting system for offices in the Branch.
- (b) Any member of Branch Executive shall be eligible for election to Federal Executive provided that the member is nominated by 2 financial members attached to the Branch.

### **105A – CANDIDATE STATEMENTS**

In elections conducted pursuant to these Rules, each candidate may submit a statement in support of the candidature. The candidate statements shall be in a form prescribed by guidelines approved by the Branch Executive. The Branch Secretary or other duly authorised Branch Officer shall be responsible for arranging for the publication of candidate statements in any or all of the following: the Branch journal, the Branch website; and via bulletin distributed to members electronically.

### **106 - RETURNING OFFICER**

- (a) Branch Conference shall appoint a Returning Officer to conduct the elections for positions of members of the Branch Executive, Federal Delegates and Federal Executive Member, and any other elections or ballots as required.
- (b) The Returning Officer may appoint the Australian Electoral Commission to undertake some elections.
- (c) The Returning Officer shall be a financial member of the Union but shall not be the holder of any position in or be employed by the Union, the Branch or any Sub-Branch or Region.

### **107 - DUTIES OF RETURNING OFFICER**

- (a) All Returning Officers, Deputy Returning Officers and Scrutineers in any election held under these Rules shall do all things necessary to preserve the secrecy of the ballot and to ensure the proper and regular conduct of the ballot as prescribed by these rules.
- (b) A Returning Officer for each election conducted under these rules shall, at the conclusion of the counting of votes, submit to the President a written report on the election. This report shall include full details of the conduct, the voting and the result of the election.
- (c) Subject to these rules and the Act the decision of the Returning Officer on any matter concerning the election and the conduct thereof shall be final.
- (d) If, at any time prior to the declaration of the election an irregularity should occur in the conduct of the election which in the opinion of the Returning Officer may affect the result of the election, the Returning Officer shall declare void the election or where appropriate, any step in or in connection with the election.
- (e) Where the Returning Officer has made a declaration pursuant to paragraph (d) he/she shall hold another election or take whatever steps are required to be taken again and then proceed with the uncompleted steps in the election.
- (f) In exercising powers pursuant to paragraph (e) the Returning Officer may, subject to the Act, waive the requirements of the Rules to the extent necessitated by the practicalities of the situation.
- (g) Where the Returning Officer has made a declaration pursuant to paragraph (d) with respect to an election for an office the person holding that office immediately prior to the election shall remain in office until his/her successor is elected.

### **108 - ELECTION OF MEMBERS OF BRANCH EXECUTIVE**

- (a) The Branch President shall be biennially elected by financial members of the Branch by secret postal ballot.
- (b) The Vice-President (General) shall be elected from and by the financial members of the General Division, and the Vice-President (TAFE) shall be biennially elected by and from the financial members of the TAFE Division. The Treasurer shall be biennially elected by and from financial members of the Branch. The Woman's Officer shall be a female, biennially elected by and from financial members of the Branch. These elections shall be by secret postal ballot.
- (c) The Branch Secretary shall be elected for a term of 3 years by secret postal ballot.
- (d) Executive Council Members shall be biennially elected by financial members of their respective Regions in a secret postal ballot from 2001.
- (e) The Council Member representing Indigenous teachers and Indigenous education workers to be elected biennially by secret postal ballot from 2000. This Executive Council member must be an Indigenous person, and will be nominated and voted for by financial members of the branch.

### **109 - NOMINATIONS - BRANCH EXECUTIVE**

Nominations for positions on Branch Executive shall be called in accordance with this Rule -

- (a) The Returning Officer shall call for nominations not later than 22nd July. The closing date for nominations shall be 5.00 p.m. on the 21st day of August;
- (b) Nominations shall be in writing, signed by 2 financial members and by the candidate as acceptance of the nomination;
- (c) The Returning Officer shall call for nominations by sending to all Sub- Branches a notice which shall specify the following:-
  - (i) the designations of the positions for which nominations are being called and the number of positions to be filled in respect of each designation;
  - (ii) the time and date of closure of nominations;
  - (iii) that a nomination to be valid shall be signed by at least 2 financial members other than the member nominated and by the latter to indicate that she/he consents to the nomination;
  - (iv) that a separate form of nomination must be submitted in respect of each position for which a member is nominated;
- (d) A Returning Officer shall only accept a nomination for Branch Executive positions which comply with the requirements of these Rules. When she/he received a defective nomination, she/he shall forthwith notify the person concerned of the defect and, where it is practicable to do so, give him/her the opportunity of remedying the defect which shall, where practicable, be not less than 7 days after his/her so being notified;
- (e) Subject to (d) a Returning Officer shall notify all candidates of the acceptance or rejection of their nominations.

### **110 - BALLOT - BRANCH EXECUTIVE**

The ballot for Branch Executive positions shall be held in accordance with this rule.

- (a) On the closing of nominations, the Returning Officer shall cause a ballot paper to be printed in respect of those positions for which an election is necessary. Such ballot paper may contain provision for voting for more than one position or separate ballot papers may be prepared in respect of each contested position. A ballot paper shall:
  - (i) list candidates for each position in the order determined by lot by the Returning Officer and state the position for which they are candidates;
  - (ii) include instructions on how to vote;
  - (iii) state the date and time of closing of the ballot and the postal address to which the ballot paper shall be returned.
- (b) All members who are financial members of the Union attached to the Branch at the date of closing of the roll of voters shall be eligible to vote. The Branch Secretary, shall provide the Returning Officer with a list of such members showing the full name and address and place of employment of each member.
- (c) Not later than 14th September the Returning Officer shall forward by prepaid post to each financial member a ballot paper in respect of each position to be voted on. Such envelope shall also contain a smaller declaration envelope in which the voter shall place his/her completed ballot paper or papers and a larger pre-addressed envelope for return to the Returning Officer. Both envelopes shall be in the form prescribed by the Regulations.
- (d) Ballot papers shall be returned to the Returning officer not later than 5.00 p.m. on 15th October. Only ballot papers then received by the Returning Officer shall be included in the count.

### **111 - ELECTION OF REGIONAL OFFICERS AND COMMITTEE**

- (a) All Regional Executive Members shall be elected by the financial members of the Region by secret ballot.
- (b) Regional Officers and Councillors (other than any full time officer) shall be annually elected at an election conducted prior to the Annual General Meeting.
- (c) A full time Regional Officer shall be elected for a term of one, two or three years as the Branch Executive shall determine.
- (d) The Regional Returning Officer shall call for nominations between 15th February and 22nd February by notice forwarded to each member of the Region. Nominations shall close on 15th March and ballot papers forwarded to members by 22nd March. The closing date of voting shall be 5.00 p.m. on 6th April.
- (e) The Regional Returning Officer shall declare the result of the ballot at the Annual General Meeting immediately prior to the closure of the meeting.
- (f) The minimum salary and conditions of employment of a full time Regional Officer shall be fixed by the Branch Executive before nominations for the position are called for.
- (g) The provisions of the rules relating to Branch Executive elections shall apply mutatis mutandis to elections conducted under this rule.



### **112 - ELECTION OF BRANCH CONFERENCE DELEGATES**

- (a) Each Sub-Branch shall elect its Branch Conference delegates by secret ballot of its financial members conducted in February and March of each year. The periods for calling and submitting of nominations and the conduct of voting shall be the same as applicable under the preceding clause relating to annual Sub-Branch elections and must be concluded 6 weeks prior to Branch Conference.
- (b) Branch Conference Delegates shall hold office from the date on which they are declared elected until the date of election of the Branch Conference Delegates to the next Ordinary Branch Conference. Branch Conference Delegates so elected shall be entitled to attend all special meetings of Branch Conference held in such period.
- (c) Elections under this rule shall be conducted in the manner prescribed by the rules providing for Branch Executive elections, mutatis mutandis.

### **113 - ELECTION OF FEDERAL CONFERENCE DELEGATES REPRESENTING THE GENERAL DIVISION AND FEDERAL CONFERENCE DELEGATES REPRESENTING THE TAFE DIVISION**

- (a) This Rule is subject to Rule 30 of the Federal Rules.
- (b) The Branch Returning Officer shall conduct an election for Federal Delegates to Federal Conference:-
  - (i) each 2 years at the same time as the election for positions on Branch Executive; or
  - (ii) at such earlier time as shall be notified by the Federal Returning Officer to the Branch Returning Officer as is necessary for filling a casual or extraordinary vacancy or for electing a further Federal Delegate or Delegates following an increased entitlement pursuant to Rule 24 of the Federal Rules.
- (c) **ELECTION OF FEMALE FEDERAL DELEGATES**
  - (i) This Rule shall operate in conjunction with other Federal Branch Rules relating to the election of Federal Delegates to Federal Conference provided that where there is any inconsistency this Rule shall prevail over any inconsistent provision in any other Federal Branch Rule.
  - (ii) In addition to any other information required to be set out in the notification of the calling of nominations for election of Federal Delegates to Federal Conference the notification shall include the following additional information:
    - (a) the number of Federal Delegates to be elected and the number of female delegates to be elected, and
    - (b) advice that if the number of female candidates is less than the number of female delegates to be elected the remaining position or positions in question will be filled by a male candidate or candidates.

- (iii) In addition to any other information required to be set out on ballot papers for Federal Delegates the ballot paper shall include the following additional information:
  - (a) the candidates full names and, in accordance with the candidates preference, the title Mr., Mrs. Ms. or Miss; and
  - (b) the number of Federal Delegates to be elected and the number of female Federal Delegates to be elected.
- (iv) The Branch Returning Officer shall determine in accordance with the next Sub-Rule whether it is necessary to hold an election.
- (v) The Branch Returning Officer shall conduct a ballot:
  - (a) for all positions - where the number of candidates for Federal Delegate positions exceeds the number of Federal Delegate positions to be filled; and
  - (b) remaining positions - where the Branch Returning Officer has ascertained that the number of nominations from female candidates is less than or equal to the number of positions for female Federal Delegates and the number of male candidates is more than the number of remaining positions.
- (vi)
  - (a) This Sub Rule applies to the counting of votes where it is necessary to conduct an election to fill Federal Delegate positions required by this Rule to be filled by female candidates.
  - (b) The Branch Returning Officer shall count the votes and allocate preferences in accordance with the procedure set out in Schedule A and determine whether the minimum number of female Federal Delegates have been elected in accordance with this Rule.
  - (c) If the minimum number of female delegates have been elected in accordance with this Rule, the Branch Returning Officer shall declare all the successful candidates elected in accordance with Sub Rule 107(b).
  - (d) In the event that the minimum number of female Federal Delegates have not been elected, the Branch Returning Officer shall:
    - (i) eliminate such male candidate or candidates as are necessary to allow the election of the minimum number of female delegates. The male candidate or candidates to be elected shall be the last candidate or candidates elected during the counting of the votes and the allocation of preferences referred to in sub-rule 113(c)(vi)(b), and
    - (ii) declare elected the female candidate or candidates as eliminated in counting of the votes and the allocation of preferences during the counting of the votes and the allocation of preferences referred to in sub-rule 113(c)(vi)(b).

- (d) (i) A joint election by members of the Union assigned to the T.A.F.E. Division in the A.C.T., Northern Territory and Tasmanian Branches shall be conducted subject to the Federal Branch Rules and this sub rule.
- (ii) The Branch Returning Officers for each Branch shall call for nominations from persons within the Branch assigned to the T.A.F.E. Division.
- (iii) After the close of nominations each Branch Returning Officer shall consult with the Branch Returning Officers for the other Branches to determine whether a ballot is required.
- (iv) In the event that the number of nominations corresponds with the number of delegates to be elected, the Branch Returning Officers shall jointly declare the person or persons elected.
- (v) Where an election is required the Branch Returning Officers shall jointly prepare a ballot paper which sets out the names of all persons nominating from each of the Branches.
- (vi) Voters shall be instructed to return ballot papers to the Branch Returning Officer of the Branch to which they are attached.
- (vii) On receipt of completed ballot papers each Branch Returning Officer shall count the first preference votes and then confer by telephone with the Branch Returning Officers for the other two Branches and determine having regard to the number of votes cast in each of the Branches, whether a candidate has received an absolute majority of first preference votes.
- (viii) If a candidate has received an absolute majority of first preference votes that candidate shall be jointly declared elected by the Branch Returning Officers.
- (ix) In the event that no candidate has received an absolute majority of first preference votes the provisions of Schedule A to the Branch Rules in relation to preferential voting shall apply and the Branch Returning Officers shall jointly determine the successful candidate or candidates and jointly declare the successful candidates or candidates elected.

#### **114 - ELECTION OF FEDERAL EXECUTIVE MEMBERS**

- (a) Branch Executive shall biennially elect to the Federal Executive the number of members permitted to be elected by the Branch pursuant to Rule 35 of the Federal Rules.
- (b) The Branch Returning Officer shall call for nominations for Branch members of Federal Executive by notifying all members of the Branch Executive in writing at least 7 days prior to the first Branch Executive meeting held following the election for Branch Executive members.
- (c) Nominations shall close, at the time appointed for the holding of the meeting referred to in the previous sub-rule.
- (d) The Branch Returning Officer shall, if an election is necessary conduct a secret ballot at the meeting of the Branch Executive referred to in Sub- Rule (b).
- (e) The rules relating to the election of Branch Executive members shall apply mutatis mutandis apart from the requirement that a postal ballot be conducted.

**114A - CONDUCT OF ELECTION OF NATIONAL TAFE COUNCIL DELEGATES AND TAFE COUNCIL EXECUTIVE MEMBERS**

1. Subject to sub-rule (2), the provisions of Rule 114 shall apply mutatis mutandis to the election of National TAFE Council Delegates and TAFE Council Executive Members.
2. The election of National TAFE Council Delegates and TAFE Council Executive Members shall be conducted in the following manner:
  - (i) the elections for the National TAFE Council Delegates and TAFE Council Executive Members shall be simultaneously conducted;
  - (ii) persons eligible to nominate may nominate for both the position of National TAFE Council Delegate and TAFE Council Executive Member;
  - (iii) the votes for the position of TAFE Council Executive Member shall be counted first and the successful candidate determined;
  - (iv) where a successful candidate has been determined in accordance with the previous paragraph, the successful candidate shall be eliminated from the election for the National TAFE Council Delegate position and the second and subsequent preference votes cast for the person shall be allocated as first and subsequent preference votes for the remaining candidates.

**114B - ELECTION OF NATIONAL ABORIGINAL AND TORRES STRAIT ISLANDER EDUCATION COMMITTEE MEMBERS REPRESENTING THE GENERAL DIVISION AND THE TAFE DIVISION**

- (1) This rule is subject to Rules 73 and 74 of the Federal Rules.
- (2) The Branch Returning Officer shall conduct an election for one (1) National ATSIEC (General Division) member and one (1) National ATSIEC (TAFE Division) member
  - (i) each two years at the same time as the election of Federal Conference Delegates or in any event according to a timetable which permits the declaration of the election on or before 30 November of the year prior to taking office. Provided that the first elections for National ATSIEC (General Division) member and the National ATSIEC (TAFE Division) member shall be held as soon as practicable in 1998 and in any event no later than 30 September 1998; or
  - (ii) at such time as shall be notified by the Federal Returning Officer to the Branch Returning Officer as is necessary for filling a casual or extraordinary vacancy.
- (3) The National ATSIEC (General Division) member shall be elected by and from the General Division members of the Branch. The election shall be conducted in accordance with Rules 109 and 110 (with the necessary changes being made) except that the member being nominated must be an Aboriginal or Torres Strait Islander member.
- (4) The National ATSIEC (TAFE Division) member shall be elected by and from the TAFE Division members of the Branch. The election shall be conducted in accordance with Rules 109 and 110 (with the necessary changes being made) except that the member being nominated must be an Aboriginal or Torres Strait Islander member.

**114C - ELECTION OF NATIONAL PRINCIPAL COMMITTEE (GENERAL DIVISION) MEMBER**

- (1) This rule is subject to Rule 75 of the Federal Rules.
- (2) The Branch Returning Officer shall conduct an election for one (1) National Principal Committee (General Division) member.
  - (i) each two years at the same time as the election of Federal Conference Delegates or in any event according to a timetable which permits the declaration of the election on or before 30 November of the year prior to taking office. Provided that the first elections for National Principal Committee (General Division) member shall be held as soon as practicable; or
  - (ii) at such time as shall be notified by the Federal Returning Officer to the Branch Returning Officer as is necessary for filling a casual or extraordinary vacancy.
- (3) The National Principal Committee (General Division) member shall be elected by and from the General Division members of the Branch. The election shall be conducted in accordance with Rules 109 and 110 (with the necessary changes being made) except that the member being nominated must be a Principal member.

**114D - ELECTION OF NATIONAL EARLY CHILDHOOD COMMITTEE (GENERAL DIVISION) MEMBER**

- (1) This rule is subject to Rule 76 of the Federal Rules.
- (2) The Branch Returning Officer shall conduct an election for one (1) National Early Childhood Committee (General Division) member.
  - (i) each two years at the same time as the election of Federal Conference Delegates or in any event according to a timetable which permits the declaration of the election on or before 30 November of the year prior to taking office. Provided that the first elections for the National Early Childhood Committee (General Division) member shall be held as soon as practicable; or
  - (ii) at such time as shall be notified by the Federal Returning Officer to the Branch Returning Officer as is necessary for filling a casual or extraordinary vacancy.
- (3) The National Early Childhood Committee (General Division) member shall be elected by and from the General Division members of the Branch. The election shall be conducted in accordance with Rules 109 and 110 (with the necessary changes being made) except that the member being nominated must be an early childhood practitioner.

### 115 - ELECTION OF SUB-BRANCH EXECUTIVE

- (a) All Sub-Branch Executive Members shall be annually elected by the financial members of the Sub-Branch at an election conducted at the Sub- Branch Annual General Meeting.
- (b) The Sub-Branch Returning Officer shall call for nominations not more than 30 days nor later than 14 days before the Annual General Meeting by notice forwarded to or given to each member of the Sub-Branch. Nominations shall close immediately before the time appointed for holding the Annual General Meeting.
- (c) The Sub-Branch Returning Officer shall obtain from the Branch Secretary or the Regional Secretary copies of the roll of financial members of the Sub-Branch as at the date of the opening of nominations. On the date of the closing of nominations the Sub-Branch Returning Officer shall obtain advice from the Branch Secretary or the Regional Secretary of any changes to the roll of financial members.
- (d) The conduct of elections in accordance with this Rule shall be an agenda item at the Sub-Branch Annual General Meeting. When the agenda item for holding elections is reached, the Sub-Branch Returning Officer shall preside over the meeting for the purposes of conducting the election.
- (e) The Sub-Branch Returning Officer shall where, no more than the required number of nominations are received or where less than the required number of nominations are received, declare the persons nominated elected.
- (f) Where it is necessary to conduct an election, the Sub-Branch Returning Officer shall permit all candidates to address the meeting for no more than 5 minutes and, if directed by a majority of members present, allow further time for members to address questions to candidates.
- (g) At the expiration of the time for candidates to address members and respond to members' questions, the Sub-Branch Returning Officer shall distribute ballot papers to all persons eligible to vote, instruct them on how to cast their vote and give members a reasonable time to complete their ballot papers.
- (h) At the expiration of the time for completing ballot papers the Returning Officer shall declare the ballot closed and count all votes cast and forthwith declare the successful candidates elected.
- (i) The Sub-Branch Returning Officer shall take all necessary steps to ensure that members are able to exercise their vote without intimidation and to ensure the secrecy and security of the ballot.
- (j) Other provisions of these Federal Branch Rules shall apply to the conduct of Sub-Branch Executive elections to the extent that the provisions contained in the other Rules can be applied without conflict with the provisions of this Rule. In the event of conflict this Rule shall prevail.
- (k) In the event that there are insufficient nominations for a position on the Sub-Branch Executive, the Sub-Branch Returning Officer may call nominations from financial members of the Union within the Sub-Branch attending the Annual General Meeting to fill the positions in question. On receipt of a nomination or nominations the Sub-Branch Returning Office shall either declare the person elected or if necessary, conduct a ballot.

### **116 - SUB-BRANCH AND REGIONAL AUDITOR**

- (a) The Branch Executive may direct a Region or Sub-Branch Executive to appoint a Regional or Sub-Branch Auditor.
- (b) Where a direction has been made by Branch Executive under this Rule, the Region or Sub-Branch Executive shall each year or when a casual vacancy occurs appoint a person having the qualifications prescribed in the Act and the Regulations as Region or Sub-Branch Auditor. The Region or Sub-Branch Auditor shall have full and complete access to all books and documents of the Region or Sub-Branch.

### **117 - INSUFFICIENT NOMINATIONS**

In the event that the number of nominations for a position for which elections are required by the Rules to be held is less than the number of positions to be filled the position shall be filled in accordance with the provisions relating to casual vacancies.

### **118 - CASUAL VACANCY**

A casual vacancy occurring in any position on the Branch Executive shall be filled as in Rule 27 or in the case of the Branch Executive Councillors by appointment by the appropriate Regional Council. The financial member so appointed shall hold office for the unexpired portion of the term of office of the member replaced.

### **119 - CASUAL VACANCY - REGIONAL OFFICERS**

Subject to the Act and any provision to the contrary in these rules a casual vacancy occurring in any Regional Executive shall be filled by appointment by the appropriate Regional Executive. The financial member so appointed shall hold office for the unexpired portion of the term of office of the member replaced.

### **120 - CASUAL VACANCY - SUB-BRANCH EXECUTIVE**

Subject to any provisions of the Act and any provisions to the contrary contained in these rules a casual vacancy occurring in any Sub-Branch Executive position shall be filled by appointment at a Sub-Branch meeting.

### **121 - NOMINATION FORMS**

Nominations shall be in writing, state the position the person is nominated for and be signed by the candidate and by at least 2 financial members entitled to vote in the ballot.

### **122 - ELIGIBILITY TO NOMINATE AND VOTE**

- (a) Financial members only shall be eligible to nominate or be nominated for or be elected to a position within the Branch.
- (b) Subject to Rule 105(a)(ii) financial members only shall be entitled to vote at any election.
- (c) Financial members only shall be entitled to vote at any meeting or in a plebiscite.

### **123 - LIST OF REGIONAL MEMBERS**

- (a) The Branch Secretary and the Regional Secretary shall maintain a current list of financial and unfinancial members in each Region.
- (b) When required the Regional Secretary shall supply to the Branch or Regional Returning Officer a copy of the list of financial members of the Region.

### **124 - CALLING FOR NOMINATIONS - REGIONAL AND SUB-BRANCH ELECTIONS**

For any position in which an election is held in a Region or Sub-Branch other than a position on a Sub-Branch Executive, the Regional or Sub-Branch Returning Officer shall call for nominations by notice forwarded by post or delivered to each place of employment within the Region and Sub-Branch in the manner prescribed by Rule 109.

### **125 - CLOSING OF NOMINATIONS - REGIONAL AND SUB-BRANCH ELECTIONS**

- (a) Nominations to be received by the Regional or Sub-Branch Returning Officer shall be addressed to him/her at the address stated in the notice calling for nominations. Only those nominations received by him/her by 5.00 p.m. on the date of closing of nominations stated in such notice shall be accepted;
- (b) Subject to Rule 128, the Regional and Sub-Branch Returning Officer shall notify all candidates of the acceptance or rejection of their nomination.

### **126 - RETURNING OFFICERS - REGIONS**

The Regional Executive, at its first meeting after 1st February each year shall appoint a Returning Officer and such Assistant Returning Officer(s) as it may determine. The Returning Officer and Assistant Returning Officers shall be financial members and shall not be candidates for any election then being conducted nor the holders of any other office in, nor be employees of the Union, Branch or Region or any Sub-Branch. The Returning Officer may call on the Regional Secretary to make available to him/her such clerical assistance as she/he requires to perform his/her duties.

### **127 - RETURNING OFFICER - SUB-BRANCHES**

Each Sub-Branch Executive, at its first meeting after 1st February each year shall appoint a Returning Officer and such Assistant Returning Officer(s) as it may consider necessary. The Returning Officer and Assistant Returning Officer(s) shall be financial members and shall not be candidates for any election then being conducted nor the holders of any other office in, nor be employees of the Union Branch, a Region or any Sub-Branch. The Returning Officer may call on the Branch Secretary to make available to the Returning Officer such clerical assistance as the Returning Officer requires to perform his/her duties.

### **128 - REGIONAL AND SUB-BRANCH NOMINATIONS - REJECTION**

The Regional or Sub-Branch Returning Officer shall reject a nomination not complying with the requirements of these Rules or not substantially in the form prescribed provided that in the case of a defective nomination received by him/her she/he has first notified the person concerned of the defect, and where practicable to do so, given him/her the opportunity of remedying the defect within 7 days of his/her being so notified.



### **129 - NOMINATIONS - WITHDRAWAL**

- (a) Subject to the Federal Rules, a nominee in a ballot conducted in accordance with these Rules may withdraw their nomination after nominations have closed, provided that such withdrawal is exercised within seven (7) days after the date on which nominations are advised to the Branch.
- (b) Such withdrawal of nomination shall be by notice in writing to the Returning Officer signed by the nominee and submitted by hand, post, email or facsimile.

### **130 - SCRUTINEERS**

The following provisions shall apply to scrutineers -

- (a) Each candidate may appoint a scrutineer to represent him/her at his/her own expense;
- (b) A person so appointed shall be a member of the Branch not being a candidate at the election;
- (c) Appointment shall be by notice in writing forwarded or delivered to the Returning Officer;
- (d) Each scrutineer shall be entitled to be present on all occasions when the Returning Officer is taking any step in the conduct and counting of the ballot;
- (e) Each scrutineer shall so conduct himself/herself as not to interfere with the due performance of the Returning Officer's duties;
- (f) Each scrutineer shall forthwith report to the Returning Officer an irregularity which she/he may observe and if required by the Returning Officer make any request for information or any objection in writing;
- (g) The Returning Officer shall answer all reasonable enquiries as to time and place at which she/he will take any step in connection with the election.

### **131 - BALLOT PAPERS**

- (a) The Returning Officer shall determine by lot the position on a ballot paper of the name of each candidate.
- (b) A Returning Officer, at any election under these Rules, shall initial each ballot paper before she/he issues it.
- (c) When the Returning Officer is required to forward ballot papers to voters she/he shall forward such ballot papers at least 14 days before the closing date of the ballot or such longer period as the Branch Executive may decide.
- (d) Non-receipt of ballot paper by any member shall not necessarily invalidate an election.
- (e) A postal ballot shall be utilised for all elections conducted under these Rules other than elections for Sub-Branch Executive Members.

### **132 - METHOD OF VOTING**

- (a) Voting shall be on an optional preferential system in all elections under the Federal Branch Rules.
- (b) In optional preferential voting, the voter shall vote by marking on the ballot paper the numeral "1" opposite the name of the candidate of his/her first preference. She/he may then place one or more of the numerals "2, 3" etc., as appropriate against candidates name or names.
- (c) Any ballot marked only with the numeral "1" shall be valid.
- (d) Except where provided in these Rules voting by proxy shall not be permitted.
- (e) Having filled in the ballot paper, the voter shall place it in the declaration envelope, which she/he shall seal after signing the removable flap or label. She/he shall then place the declaration envelope inside the larger envelope, seal it and forward it to the Returning Officer at the address pre-printed on the larger envelope. Both envelopes shall be in the form prescribed by the Regulations.

### **133 - COUNTING OF VOTES**

When the prescribed time for voting has expired but not before, the Returning Officer, after notifying scrutineers of his intention to do so, shall collect the envelopes containing the ballot papers from the Post office box and proceed to count the ballot.

### **134 - COUNTING OF VOTES - ELECTION OF ONE CANDIDATE ONLY**

Where one candidate only is to be elected, the Returning officer shall observe the following procedure to determine the successful candidate:-

- (a) A candidate who receives more than half the number of first preference valid votes cast shall be the successful candidate;
- (b) Should no candidate be successful on the first count, the candidate who receives the least number of first preference valid votes shall be excluded from the count and any of his/her available second preference votes shall thereupon be distributed amongst the remaining candidates. A candidate then receiving more than half the total number of valid votes cast shall thereupon be the successful candidate;
- (c) The above procedure shall be continued until one candidate has received the requisite number of votes to become the successful candidate;
- (d) If on any count two or more candidates each receive the same number of votes the Returning Officer shall decide by lot which candidate shall remain in the count.

### **135 - COUNTING OF VOTES - ELECTION OF MORE THAN ONE CANDIDATE BY PREFERENTIAL VOTING**

Where 2 or more candidates are to be elected the Returning officer shall observe the following procedure to determine the successful candidate:

- (a) The votes shall be classified into 2 categories as follows-
  - (1) The preference votes up to the number of vacancies to be filled shall be termed 'primary' votes and shall have equal value in the first count and be credited to the candidate for whom they are cast, whether marked 1, 2, 3, etc., according to the number of vacancies.
  - (2) The preference votes beyond those referred to in (1) shall be termed secondary votes, and shall have rank according to their numerical number and shall be allocated in rank order unless the ranking secondary vote has been previously allocated.
- (b) The 'primary' votes shall first be counted and a list shall be prepared of the candidates in order according to the primary votes cast for them. The candidate who is lowest on the list thus compiled shall be excluded from the count.
- (c) Each ballot paper on which such excluded candidate received a 'primary' vote shall then be examined to determine its 'secondary' vote and the preference so found shall be allotted to the appropriate unexcluded candidate on the first count.
- (d) On the conclusion of the second count, the above procedure of exclusion of candidates from the count and the distribution of their secondary votes shall continue until the required number of successful candidates has been determined.
- (e) If, in any count, the next available preference vote of an excluded candidate is cast in favour of an excluded candidate, such preference vote shall be disregarded and the next available preference vote cast in favour of a remaining candidate shall be added to the votes credited to that candidate.
- (f) If, in any count, two or more candidates each receive the same number of votes and one of them has to be excluded, the Returning Officer shall decide by lot which candidate shall remain in the count.

### **136 - CANDIDATE FOR MORE THAN ONE POSITION**

- (a) If a candidate is successful in more than one ballot and if she/he is not eligible to hold simultaneously all such positions, she/he shall be deemed to be the successful candidate for only the higher or highest of such positions.
- (b) In the counting of votes for any lower position a successful candidate for a higher position shall be the first to be eliminated from the ballot for the lower position and when preferential voting applies his/her votes allocated in accordance with the preference shown on such votes.
- (c) The order of seniority of positions on the Branch Executive shall be as set out in Rule 18.

### **137 - DECLARATION OF THE POLL**

- (a) The Returning Officer shall declare the poll within 7 days of the close of the poll.
- (b) In the case of Executive members, the candidates declared elected shall subject to these Rules, take office on the 3rd Monday of January following their election and shall continue in office until their successors take office.
- (c) In the case of Regional Council and Sub-Branch Executive members they shall take office immediately on the conclusion of the Regional Council or Sub-Branch Annual Meeting and shall continue until their successors are elected.

### **138 - RETENTION OF BALLOT PAPERS**

All ballot papers, envelopes, lists and other documents used in connection with, or relevant to, an election under the Federal Branch Rules, shall be preserved and kept at the registered office of the Branch (or if the election is for an office in a Region or Sub-Branch, at the registered office of that Region or Sub-Branch) for a period of one year after the completion of the election.

### **139 - PERSONS BARRED FROM OFFICE**

Notwithstanding the provisions of any other rule to the contrary no member shall be nominated for, elected to or hold office or a position in the Branch or a Region or a Sub-Branch if she/he is or becomes the holder of an office or position in any other organization registered under the Act.

### **140 - FORFEITURE OF OFFICE**

- (a) A member who holds any office or position in the Branch or a Region or a Sub-Branch thereof shall at all times be a financial member;
- (b) An office or position held by a member who is unfinancial shall be deemed to have become vacant and to be a casual vacancy created at the expiration of 2 calendar months from the date on which such member became unfinancial should she/he not become a financial member within that period;
- (c) Notwithstanding the foregoing provisions, the business of a meeting shall not necessarily be invalid, if otherwise in conformity with these rules, by reason only of the fact that an unfinancial member voted at such meeting.

### **RULE 141 (pursuant to s.141(1)(ca))**

### **BRANCH POLICIES AND PROCEDURES**

The branch shall develop and implement policies and procedures relating to the expenditure of the branch.

APPENDIX A

FEDERAL BRANCH RULES

FEDERAL BRANCH RULES - VICTORIAN BRANCH

**1 - ARRANGEMENT OF MEMBERSHIP**

- (1) To facilitate the effective representation of members of the Branch, the members shall be assigned:-
- (a) to the General Division or the TAFE Division in accordance with Federal Rule 7 provided that persons eligible for membership in accordance with Federal Rule 5(4)(f) or employed in the Adult Migrant Education Service shall be assigned to the TAFE Division;
  - (b) in the case of persons assigned to the General Division, to one of the following sectors:-
    - (i) the Early Childhood Sector;
    - (ii) the Primary Sector; or
    - (iii) the Secondary Sector;
  - (c) in the case of persons assigned to the Primary Sector or the Secondary Sector who are eligible for membership in accordance with Federal Rule 5(4)(m) to:-
    - (i) the Primary Allied Staff Sub-Sector; or
    - (ii) the Secondary Allied Staff Sub-Sector;as the case may be;
  - (d) in the case of persons assigned to the TAFE Division or who are eligible for membership in accordance with Federal Rule (5)(4)(f) or employed in the Adult Migrant Education Service, to the TAFE and Adult Provision Sector;
  - (e) in the case of persons assigned to the TAFE and Adult Provision Sector who are:-
    - (i) eligible for membership in accordance with Federal Rule 5(4)(f), to the Disability Services Sub-Sector;
    - (ii) employed in the Adult Migrant Education Service, to the Adult Migrant Education Service Sub-sector; or
    - (iii) employed in a TAFE institution - to the TAFE Colleges Sub- sector;
  - (f) to a sub-branch; and
  - (g) to an AEU region.
- (2) The Early Childhood Sector shall consist of persons eligible for membership of the Union in accordance with Federal Rule 5(6A).

- (3) (a) The Primary Sector and the Secondary Sector shall consist of persons in the General Division of the Union eligible for membership in accordance with Federal Rule 5(4).
- (b) The Branch Council shall, from time to time, determine criteria for identifying those members who will be assigned to the Primary Sector and those members who will be assigned to the Secondary Sector.
- (4) In the event that there is a dispute as to the assignment of a member to a sector, the Branch Secretary or the member concerned may request the Branch Executive to determine the matter. The decision of the Branch Executive shall be binding on the member.
- (5) (a) The Branch shall be divided into AEU regions.
- (b) The Branch Council may, from time to time, determine new boundaries for AEU regions, abolish AEU regions or create new AEU regions.
- (c) The Branch Council shall allocate each workplace to an AEU region. The Branch Council may allocate a workplace to an AEU region other than the AEU region in which the workplace is located. A member who is a casual relief teacher shall be assigned to the AEU region in which he or she resides.
- (d) The Branch Council may, in respect of sub-branches in AEU country regions, establish a cluster of sub-branches within the AEU region, and in respect of each cluster of sub-branches, the Branch Council shall determine by-laws to provide for the conduct of the cluster including the establishment of an executive and meetings of the executive and cluster members.
- (e) The Branch Council shall, for the purposes of electing delegates to Branch Council, establish groups of regions. The Early Childhood Sector Council may, for the purposes of electing delegates to the Branch Conference, establish groups of regions.
- (6) (a) Branch Council may establish a sub-branch where 5 or more members can meet:-
- (i) at a school, TAFE institution or other workplace; or
- (ii) within a geographic area; or
- (iii) at or in any other work unit not located at a single workplace; or
- (iv) covering part of a school, TAFE institution, workplace or work unit.
- (b) The Branch Council shall allocate each sub-branch or workplace to an AEU region.
- (c) The Branch Secretary shall keep a register setting out:-
- (i) with respect to each sub-branch or workplace, the allocated region and, where a cluster has been established, the allocated cluster; and
- (ii) where a group of regions has been established, the group of regions to which each region is allocated.
- (7) The TAFE and Adult Provision Sector Council shall approve the list of workplaces within the TAFE sub-sector and may amend this list from time to time.

## **2 - BRANCH REPRESENTATIVE BODIES**

Subject to the Federal Rules and the Federal Branch Rules, the interests of the members of the Branch shall be represented by the following bodies:-

- (a) Branch Conference;
- (b) Branch Council;
- (c) Branch Executive;
- (d) Meetings of Branch Members;
- (e) Sector Councils;
- (f) Regional Executives;
- (g) Sub-branch committees;
- (h) Meetings of members in a region;
- (i) Sub-branch Committees or, where there is a cluster of sub-branches, a cluster executive; and
- (j) Meetings of sub-branch members or where there is a cluster of sub- branches, meetings of members of the cluster of sub-branches.

## **3 - BRANCH CONFERENCE - POWERS**

- (1) The Branch Conference shall be the supreme governing authority of the Branch.
- (2) Other than duties relating to the financial management of the Branch, the Branch Conference shall, subject to the Federal Branch Rules, have the power to control and manage the business and affairs of the Branch. Without limiting the generality of this power, the Branch Conference shall have power to:
  - (a) determine, for the purposes of Federal Rule 11, entrance fees and subscriptions payable by each member and the times and amounts when such entrance fees and subscriptions should be payable.
  - (b) exercise powers conferred upon Branch Conference elsewhere in these Rules; and
  - (c) direct all other decision making bodies in the Branch and any officer, member or employee of the Branch.
- (3) Subject to sub-rules 14(6) and 15(12), all decisions of the Branch Conference shall be final and binding and shall remain in force unless and until amended, varied or rescinded at a subsequent meeting of the Branch Conference.

## **4 - BRANCH CONFERENCE - COMPOSITION**

- (1) The Branch Conference shall consist of:
  - (a) the members of the Branch Council;
  - (b) delegates elected by and from the financial members of the Early Childhood Sector in a region or group of regions;

- (c) delegates elected by and from the financial members of the Primary Sector in each region who are not members of the Primary Allied Staff Sub-sector;
  - (d) delegates elected by and from the financial members of the Primary Allied Staff Sub-sector;
  - (e) delegates elected by and from financial members of the Secondary Sector in each region who are not members of the Secondary Allied Staff Sub-sector;
  - (f) delegates elected by and from the financial members of the Secondary Allied Staff Sub-sector;
  - (g) delegates elected by and from financial members of the TAFE Colleges Sub-sector;
  - (h) delegates elected by and from all financial members of the Disability Services Sub-sector; and
  - (i) delegates elected by and from all financial members of the Adult Migrant Education Service Sub-sector.
- (2)
- (a)
    - (i) The number of delegates elected by and from members of regions or a groups of regions of the Early Childhood Sector shall be determined in accordance with this paragraph;
    - (ii) the total financial membership of the sector shall be divided by 50 and the result rounded off to the nearest whole number;
    - (iii) having regard to the result obtained under sub-paragraph (ii), the Early Childhood Sector Council shall determine the number of delegates to be elected from each region or group of regions ensuring that the number of delegates is in proportion to the number of members in the region or group of regions;
  - (b)
    - (i) the number of delegates elected by and from members of regions of the Primary and Secondary Sectors and by and from members of the Primary and Secondary Allied Staff Sub-Sectors shall be determined in accordance with this paragraph;
    - (ii) the total financial membership of each sector and each sub-sector shall be divided by 50 and the results rounded off to the nearest whole number;
    - (iii) having regard to the results obtained under sub-paragraph (ii), the Primary Sector Council and the Secondary Sector Council shall, in respect of their respective sectors and respective Allied Staff Sub-Sectors, determine the number of delegates to be elected ensuring that the number of delegates elected from a region or sub-sector is in proportion to the number of members in the region or sub-sector;
  - (c)
    - (i) the number of delegates elected by and from members at TAFE institutions and by and from members of the sub-sectors of the TAFE and Adult Provision Sector shall be determined in accordance with this paragraph;
    - (ii) the total financial membership of the TAFE and Adult Provision Sector shall be divided by 50 and the result rounded off to the nearest whole number;



- (iii) having regard to the result obtained under sub-paragraph (ii), the TAFE and Adult Provision Sector Council shall determine the number of delegates to be elected at and from members at each TAFE institution, by and from members in the Disability Services Sub-sector and by and from members in the Adult Migrant Education Services sub-sector. The TAFE and Adult Provision Sector Council shall ensure that each TAFE institution has at least one delegate and that the number of delegates representing TAFE institutions, the Disability Services Sub-sector and the Adult Migrant Education Service Sub-sector are in proportion to the number of members in a TAFE institution or sub-sector as the case may be.
- (3) In this Rule, where it is necessary to determine the number of members in a region, sector, sub-sector or TAFE institution, regard shall be had to the number of financial members as at 30 June immediately before the calling for nominations.

### **5 - BRANCH CONFERENCE - MEETINGS**

- (1) There shall be convened, in accordance with this Rule:-
- (a) Annual Meetings of the Branch Conference; and
  - (b) special meetings of the Branch Conference.
- (2) The Branch Council shall, at its first meeting in each year, determine the date for the Annual Meeting of the Branch Conference, such date not being later than 30 November in that year.
- (3) (a) The Branch President shall call a special meeting of the Branch Conference on receipt of a requisition signed by not less than 5% of the total number of financial members of the Branch requesting a special meeting of the Branch Conference to deal with the business specified in the requisition. The number of financial members attached to the Branch shall be taken to be the financial members of the Branch as at 5.00 p.m. on 30 June last preceding the receipt of the requisition.
- (b) The Branch President shall call a special meeting of the Branch Conference on receipt of a requisition signed by at least 40% of the delegates to Branch Conference.
- (4) The Branch Council may, at any time, call a special meeting of the Branch Conference.
- (5) The Branch Secretary shall give each sub-branch:-
- (a) in the case of the annual general meeting of the Branch Conference - 3 months notice of the date and place of the meeting; and
  - (b) in the case of a special meeting of the Branch Conference - 14 days notice of the date and place of the meeting.
- (6) At the Annual Meeting of the Branch Conference, a matter which does not appear on the agenda paper for that meeting may only be dealt with if:-
- (a) the Chairperson determines that the matter is urgent and has arisen since the preparation of the agenda paper; or
  - (b) where a majority of members of the Branch Conference consent.
- (7) A special meeting of the Branch Conference shall only deal with the business specified in the requisition referred to in sub-rule 5(3) or determined by Branch Council in accordance with sub-rule 5(4).

- (8) Persons entitled to attend and vote at a meeting of the Branch Conference shall be credentialed in accordance with the regulations made from time to time by the Branch Council.
- (9) The fares and expenses incurred in attending any meeting of the Branch Conference by any member entitled or required to attend that meeting shall be paid out of the funds of the Branch in accordance with the Schedule fixed from time to time by the Branch Council.
- (10) A quorum for a meeting of the Branch Conference shall be one third of the members of the Branch Conference.

## **6 - CONFERENCE - AGENDA FOR ANNUAL MEETING**

- (1) The Branch Council, a Sector Council, the Branch Executive or a region, cluster, sub-branch or association may submit in writing to the Branch Secretary not later than the time and date fixed by the Branch Council at its first meeting each year, any business which it desires to have placed on the agenda paper for the Annual Meeting of the Conference in that year.
- (2) The Branch Secretary, in conjunction with the Branch President, shall prepare an agenda paper for the Annual Meeting of the Conference which includes all business submitted in accordance with the previous paragraph and shall submit such agenda paper to the Branch Council for approval.
- (3) The Branch Council shall determine the final form and content of the agenda and the Branch Secretary shall forward a copy of the agenda paper so determined by the Branch Council to each region, cluster, sub-branch and each person entitled to attend the Annual Meeting of the conference not less than 4 weeks before the date of such meeting.

## **7 - BRANCH COUNCIL - POWERS**

- (1) The Branch Council, when the Branch Conference is not in session, shall have all the powers of the Branch Conference other than:
  - (a) the power to make, add to, amend or rescind or otherwise alter the Federal Branch Rules;
  - (b) any matter relating to the financial management of the Branch.
- (2)
  - (a) The Branch Council shall recommend the terms and conditions of employment of Branch Officers in accordance with this sub-rule.
  - (b) At the same time as the first Branch Council meeting is conducted each year, the ordinary members of Branch Council shall meet and appoint a committee comprised of the ordinary members of the Branch Executive and 6 ordinary members of Branch Council.
  - (c) The Committee appointed in accordance with the previous paragraph shall meet and prepare a report for the next meeting of Branch Council reviewing the terms and conditions of employment of Branch Officers and making recommendations for changes, if any, in the terms and conditions of employment of Branch Officers.
  - (d) On receipt of the report and recommendations of the Committee appointed pursuant to paragraph (b), the Branch Council may, having regard to the report and recommendations, recommend that the terms and conditions of employment of Branch Officers be varied.

### 8 - BRANCH COUNCIL - COMPOSITION

- (1) The Branch Council shall consist of:-
- (a) The Branch Officers; and
  - (b) Ordinary members of the Branch Council.
- (2) For the purposes of the previous sub-rule, the ordinary members of the Branch Council shall be as follows:-
- (a) All members of the Primary Sector Council and the Secondary Sector Council;
  - (b) Persons elected by and from members of the Early Childhood Sector Council and persons elected by and from members of the TAFE and Adult Provision Sector Council.
  - (c) For the purposes of this sub-rule, the number of persons to be elected as ordinary members of Branch Council from the Early Childhood Sector Council shall be determined in accordance with the following formula:-

Number of persons representing the Early Childhood Sector Council =

$$\frac{a}{b}$$

where:-

a = number of Early Childhood Sector Members

$$b = \frac{x}{y}$$

where:-

x = the total membership of the Branch in the Primary and Secondary Sectors

y = 100, being the number of Primary and Secondary Sector ordinary members of Branch Council.

- (d) For the purposes of this sub-rule, the number of persons to be elected as ordinary members of the Branch Council from the TAFE and Adult Provision Sector shall, subject to paragraph (e), be determined in accordance with the following formula:-

Number of persons representing the TAFE and Adult Provision Sector Council =  $\frac{a}{b}$

where:-

a = number of TAFE and Adult Provision Sector Members

$$b = \frac{x}{y}$$

where:-

x = the total membership of the Branch in the Primary and Secondary Sectors

y = 100, being the number of Primary and Secondary Sector ordinary members of Branch Council.

- (e) In electing ordinary members of the Branch Council from the TAFE and Adult Provision Sector Council, there shall be elected at least two persons who are assigned to the Disability Services Sub-sector and at least one person who is assigned to the Adult Migrant Education Service Sub-sector.
- (3) In this Rule, where it is necessary to determine the number of members in a sector, regard should be had to the number of financial members as at 30 June immediately before the calling for nominations.

### **9 - BRANCH COUNCIL - MEETINGS**

- (1) The Branch Council shall meet at least 8 times each year.
- (2) The Branch Council, Branch Executive or the Branch President may, at any time call a meeting of the Branch Council.
- (3) The Branch President shall on receipt of a requisition signed by at least 40% of the members of Branch Council call a meeting of the Branch Council.
- (4) The Branch Secretary shall give each member of the Branch Council not less than 7 days written notice of the date and place of each meeting of the Branch Council provided that the President may determine a shorter period of notice if in his or her opinion, the circumstances require a shorter period of notice to be given.
- (5) Where a meeting of the Branch Council has been called as a result of the receipt of a requisition in accordance with sub-rule 3, the Branch Council meeting shall only consider the business set out in the requisition.
- (6) The Branch President, Branch Council or Branch Executive may determine that a meeting of the Branch Council shall be conducted by post or facsimile transmission.
- (7) A quorum for a meeting of the Branch Council shall be 50% plus one of the members of the Branch Council.

### **10 - BRANCH EXECUTIVE - POWERS**

The Branch Executive is the Branch's committee of management. Subject to these Federal Branch Rules, decisions of the Branch Conference and the Branch Council, the Branch Executive shall have power, in addition to powers conferred on it elsewhere in these Rules, to conduct and manage the affairs of the Branch between meetings of the Branch Council and, without limiting the generality of the foregoing, shall have power:-

- (1) to appoint and dismiss Branch professional officers and administrative staff of the Branch; and
- (2) to determine the terms and conditions of employment of all employees, Branch Professional Officers and administrative staff of the Branch; and
- (3) to determine the remuneration and conditions of employment of Branch Officers.

### **11 - BRANCH EXECUTIVE - COMPOSITION**

- (1) The Branch Executive shall consist of:-
  - (a) the Branch Officers; and
  - (b) persons elected as ordinary members of the Branch Executive by members of each sector council from persons who are ordinary members of the Branch Council from the relevant sector council.
- (2) For the purposes of the previous sub-rule, the number of ordinary members on the Branch Executive to be elected by each sector council shall be determined as follows:-
  - (a) the total financial membership of the Branch shall be divided by 13 and the result rounded off to the nearest whole number (the quota).
  - (b) the total financial membership of the Branch in each sector shall be divided by the quota and the result in each sector shall be rounded off to the nearest whole number provided that there shall be at least one ordinary member from each sector.
- (3) For the purposes of this sub-rule, in determining the number of persons to be elected as ordinary members of the Branch Executive, regard shall be had to the financial membership of the Branch and each sector as at 30 June immediately before the calling for nominations.

### **12 - BRANCH EXECUTIVE - MEETINGS**

- (1) The Branch Executive shall meet at least once each month except in January.
- (2) The Branch Council, the Branch Executive or the Branch President may call a meeting of the Branch Executive.
- (3) The Branch President shall call a meeting of the Branch Executive on receipt of a requisition signed by at least 40% of the members of Branch Executive.
- (4) The Branch Secretary shall give each member of the Branch Executive not less than 7 days written notice of the date and place of each meeting of the Branch Executive provided that the Branch President may, if in his or her opinion the circumstances so require, determine that a shorter period of notice be given.
- (5) Where a Branch Executive meeting has been called upon receipt of a requisition in accordance with sub-rule (3), the meeting of the Branch Executive shall only consider the business set out in the requisition.
- (6) The Branch President or the Branch Executive may determine that a meeting of the Branch Executive shall be conducted by telephone, post or facsimile transmission.
- (7) A quorum for a meeting of the Branch Executive shall be 50% plus one of the members of the Branch Executive.

### **13 - BRANCH COUNCIL AND BRANCH EXECUTIVE POWERS IN RELATION TO SECTOR COUNCILS**

- (1) (a) The Branch Council may, in relation to a decision of a sector council which affects members outside the sector, declare that the decision affects members outside the sector.

- (b) A declaration for the purposes of the previous paragraph must have the support of a two thirds majority of members of Branch Council present.
  - (c) After the Branch Council has made a declaration in accordance with paragraph (a), Branch Council may decide by a simple majority of members present to affirm, rescind or amend the decision.
  - (d) This sub-rule shall apply, mutatis mutandis, to any decision taken by Sector Councils in joint session which affects members outside the relevant sectors.
- (2) (a) Where a matter only affecting members in one sector is being considered by the Branch Council and that matter has not previously been dealt with by the relevant sector council, the Branch Council may proceed to determine the matter if a majority of members of the relevant sector council present agree that Branch Council should deal with the matter, otherwise the matter shall be referred to the relevant sector council for appropriate action.

#### **14 - GENERAL MEETINGS OF THE BRANCH**

- (1) The Branch Secretary shall convene a General Meeting of the Branch if directed to do so by the Branch Conference, Branch Council or Branch Executive or on receipt of a written requisition signed by at least 5% of members of the Branch.
- (2) Where the Branch Conference, Branch Council or the Branch Executive directs that a General Meeting of the Branch be convened, it shall be convened on the date determined by the Branch Conference, Branch Council or Branch Executive or, in the absence of such determination, within 3 months of the date of the direction that a General Meeting be convened.
- (3) Where a requisition for a General Meeting is received from the requisite number of members, the General Meeting shall be convened within 3 months of the receipt of the requisition.
- (4) The agenda for a General Meeting shall be as determined by the Branch Conference, Branch Council or Branch Executive or as specified in the requisition.
- (5) The Branch Secretary shall place a notice of the General Meeting and the Agenda in a publication of the Union distributed to all the members at least 21 days prior to the meeting.
- (6) A decision of a General Meeting of members of the Branch convened in accordance with this Rule shall, provided that there is a quorum in accordance with the next sub-rule, be binding on any subsequent meeting of the Branch Conference, Branch Council or the Branch Executive dealing with the matter dealt with by the General Meeting.
- (7) For the purposes of sub-rule (6), a quorum shall be 10% of the financial members of the Branch. The number of financial members attached to the Branch shall be taken to be the financial members of the Branch as at 5.00 p.m. on the 30 June last preceding the meeting.

#### **15 - PLEBISCITES OF MEMBERS**

- (1) The Branch Conference, Branch Council or Branch Executive may determine that any matter should be submitted to the members by a plebiscite of all the financial members or a specified class of financial members attached to the Branch.

- (2) Subject to sub-rule (3), where a member of the Branch Conference, Branch Council or Branch Executive proposes to move a motion requesting that a plebiscite be held, the person shall give notice of the motion to all the members of the Branch Conference, the Branch Council or Branch Executive, as the case may be, at least 14 days before the meeting of the Branch Conference, Branch Council or Branch Executive as the case may be.
- (3) A delegate to the Annual Meeting of Branch Conference may, notwithstanding sub-rule (2), move a motion calling for a plebiscite if the request is signed by at least 30 delegates and the motion shall be moved in a subsequent session not later than one hour before the closing of that session.
- (4) A matter shall be submitted to the members by a plebiscite of all financial members of the Branch, a sector or sub-sector on receipt by the Branch Secretary of a requisition signed by at least 10% of the financial members of the Branch, sector or sub-sector.
- (5) The Branch Secretary shall within 14 days of the decision of the Branch Conference, Branch Council or Branch Executive to refer a matter to a plebiscite or following receipt of a requisition for a plebiscite in accordance with this rule, inform all sub-branches of the plebiscite.
- (6) Sub-branch secretaries shall, on receipt of advice of a plebiscite in accordance with the previous sub-rule, convene a meeting of sub-branch members at which a vote can be taken on the matter referred to the members by the plebiscite.
- (7) Each sub-branch secretary shall advise the Branch Secretary, within 7 days of the meeting of sub-branch members, of the number of votes cast in favour of the motion and the number of votes cast against it.
- (8) On receipt of advice from sub-branch secretaries in accordance with the previous paragraph, the Branch Secretary shall declare the result of the plebiscite.
- (9) The Branch Conference, Branch Council or Branch Executive, or a requisition for a plebiscite, may specify that the plebiscite shall be conducted by a secret postal ballot.
- (10) Where a secret postal ballot is to be conducted, sub-rules (4), (5), (6) & (7) of Federal Rule 29 shall apply mutatis mutandis to the conduct of the ballot where this rule is silent.
- (11) A motion shall be deemed to be carried by a plebiscite if a majority of members vote in favour of the motion provided that not less than 25% of the members of the Branch entitled to vote exercise that vote, or not less than 25% of the members of the sector or sub-sector entitled to vote exercise that vote, as the case may be.
- (12) The result of a plebiscite taken in accordance with this rule shall be binding on any subsequent meeting of the Branch Conference, Branch Council, Branch Executive, a general meeting or a meeting of a sector council.

## **16 - SECTOR COUNCILS - POWERS**

A sector council shall, in addition to any powers conferred on it elsewhere in these Rules:-

- (1) implement the policies of the Branch;
- (2) make recommendations to the Branch Conference, the Branch Council and the Branch Executive on any matter of concern to members of the sector;
- (3) act for or on behalf of members of the sector in the name of the Union in such matters as the Branch Conference, Branch Council or Branch Executive authorises it to so act;

- (4) determine matters in relation to terms and conditions of employment of members that affect only members in that sector;
- (5) convene and hold at such time and in such form and manner as it deems fit, meetings of members of the sector; and
- (6) exercise in respect only to members of the sector, any power delegated to it by the Branch Conference or the Branch Council.

### **17 - SECTOR COUNCILS - COMPOSITION**

- (1) The Early Childhood Sector Council shall consist of:
  - (a) any Branch Officer who is a member of the Early Childhood Sector; and
  - (b) persons elected in accordance with these Rules by and from the financial members in the Early Childhood Sector as ordinary members of the Sector Council.
  - (c) In elections to be conducted in 2018 and in subsequent elections, the number of ordinary members elected by and from the Early Childhood Sector shall be determined on the basis of one ordinary member for each 60 financial members of the Early Childhood Sector or part thereof in a region or group of regions.
- (2) The Primary Sector Council shall consist of:
  - (a) any Branch officer who is a member of the Primary Sector or the Primary Allied Staff Sub-Sector;
  - (b) ordinary member Councillors elected in accordance with these Rules by and from financial members of the Primary Sector in a region or group of regions. In the case of casual relief teachers the region is determined by the teacher's residential address;
  - (c) ordinary member Councillors elected in accordance with these Rules by and from financial members of the Primary Allied Staff Sub-Sector.
- (3) The Secondary Sector Council shall consist of:
  - (a) any Branch officer who is a member of the Secondary Sector or the Secondary Allied Staff Sub-Sector;
  - (b) ordinary member Councillors elected in accordance with these Rules by and from financial members of the Secondary Sector in a region or group of regions. In the case of casual relief teachers the region is determined by the teacher's residential address;
  - (c) ordinary member Councillors elected in accordance with these Rules by and from financial members of the Secondary Allied Staff Sub-Sector.
- (4)
  - (a) The number of ordinary members of the Primary and Secondary Sector Councils shall be determined in accordance with this sub-rule;
  - (b) the total number of financial members of the Primary Sector and Secondary Sector and the Primary Allied Staff Sub-Sector and Secondary Allied Staff Sub-Sector shall be divided by 100 and the result rounded off to the nearest whole number ("the quota");
  - (c) the total financial membership of each sector and sub-sector shall be divided by the quota and the results shall be rounded off to the nearest whole number;



- (d) in respect of the Primary Sector and the Secondary Sector the total financial membership of each sector by region or group of regions shall be divided by the quota and the results for each region or group of regions shall be rounded off to the nearest whole number;
  - (e) the Branch Returning Officer having regard to the results obtained in sub-rules 4(c) and 4(d) shall determine the number of councillors to be elected from each region or group of regions for each sector or in the case of the Primary Allied Staff Sub-sector and the Secondary Allied Staff Sub-sector from the financial membership in the respective sub-sectors. The Branch Returning Officer shall ensure that the number of councillors to be elected is in proportion to the number of members in the region or group of regions or sub-sector as appropriate.
- (5) (a) The TAFE and Adult Provision Sector Council shall consist of:-
- (i) Any Branch Officer who is a member of the TAFE and Adult Provision Sector;  
and
  - (ii) Persons elected as ordinary members of the Sector Council in accordance with these Rules by and from financial members of the TAFE and Adult Provision Sector:-
    - A. employed at TAFE institutions;
    - B. employed in the Disability Services Sub-sector; or
    - C. employed in the Adult Migrant Education Services Sub- sector.
- (b) The number of ordinary members elected to the TAFE and Adult Provision Sector Council:-
- (i) from each TAFE institution shall be determined on the basis of one ordinary member for each 60 financial members or part thereof;
  - (ii) in respect of the Disability Services Sub-sector shall be determined on the basis of one ordinary member for each 60 financial members of the Sector or part thereof;
  - (iii) in respect of members in the Adult Migrant Education Service Sub-sector shall be determined on the basis of one ordinary member for each 60 financial members of the Sector or part thereof.
- (c) In the event that, during the term of office of delegates to the TAFE and Adult Provision Sector Council, there is an amalgamation of TAFE institutions, Branch Council may declare that the existing delegates from the amalgamating TAFE institutions are the delegates to represent the amalgamated TAFE institutions.
- (6) For the purposes of this Rule, in determining the number of persons to be elected as ordinary members of a sector council, regard shall be had to the financial membership of the sector or sub-sector as at 30 June immediately before the calling for nominations.

## 18 - SECTOR COUNCILS - MEETINGS

- (1) Sector councils, other than the Early Childhood Sector and TAFE and Adult Provision Sector Councils, shall meet at least 8 times each year. The Early Childhood Sector and TAFE and Adult Provision Sector Councils shall meet at least 4 times each year.

- (2) The Branch Conference, the Branch Council, the Branch Executive or a sector council or the chairperson of a sector council may, at any time, call a meeting of a sector council.
- (3) The chairperson of a sector council shall call a meeting of the Sector Council on receipt of a requisition signed by at least 40% of the members of the Sector Council.
- (4) The chairperson of a sector council shall give each member of the sector council not less than 7 days written notice of the date and place of each meeting of the sector council, provided that the Branch Council, the Branch Executive or the chairperson of the sector council may determine, if in its or her or his opinion the circumstances so require, that a lesser period of notice should be given.
- (5) Where a meeting of a sector council has been called following the receipt of a requisition in accordance with sub-rule (3), the meeting of the sector council shall only consider the business set out in the requisition.
- (6) A quorum for a meeting of a sector council shall be 50% plus one of the members of the sector council.

### **18A - JOINT SECTOR MEETINGS**

- (1) Two or more Sector Councils may meet in joint session to determine matters affecting members of the relevant sectors.
- (2) A meeting of Sector Councils in joint session may be convened by a resolution of each of the relevant Sector Councils or a decision of each Chairperson of the relevant Sector Councils.
- (3) The Chairperson of each Sector Council shall give each member of his or her Sector Council not less than seven days written notice of the date and place of the meeting of and the business of the meeting of the Sector Council in joint session provided that the requirements of this sub-rule may be dispensed with by resolution of each relevant Sector Council.
- (4) Sector Councils in joint session shall have the same powers in respect of matters affecting members of each sector represented by the Sector Council meeting in joint session as does each Sector Council in accordance with these rules.
- (5) A quorum for a meeting of Sector Councils in joint session shall, in respect of each Sector Council, be 50% plus one of the members of the Sector Council.

### **19 - REGIONS**

- (1) Matters affecting the interests of members in a region shall be dealt with either by:-
  - (a) meetings of members from the region; or
  - (b) a regional executive.
- (2) A meeting of members of the region or a regional executive, between meetings of members of the region, shall:-
  - (a) implement the policies of the Union within the region;
  - (b) assist the sub-branches within the region in the performance of their functions;
  - (c) in accordance with Union policy, make representations to employing authorities within the region;

- (d) make recommendations to the Branch Conference, Branch Council, Branch Executive or any sector council on any matter of concern to members in the region;
  - (e) co-ordinate within the region all matters referred to the region by the Branch Council, Branch Executive, sector councils or sub- branches; and
  - (f) where appropriate, undertake joint activities with other regions either on a regular basis or for specific purposes.
- (3) In addition to the matters referred to in the previous sub-rule, a regional executive shall:-
- (a) implement the decisions of meetings of members from the region;
  - (b) in accordance with sub-rule 6(1), submit matters to the Branch Secretary for inclusion in the Agenda Paper for the Annual Meeting of Branch Conference.
- (4) A meeting of members of the region or a regional executive shall not exercise any management powers or functions or determine policy in respect of the Branch.

## **20 - REGIONAL EXECUTIVE - COMPOSITION**

- (1) Each regional executive shall consist of:-
- (a) a president, a secretary and treasurer who shall be known as the regional officers; and
  - (b) ordinary regional executive members.
- (2) The first regional meeting each year shall determine the number of ordinary regional executive members up to a maximum of 4 members to be appointed.
- (3) The first regional meeting each year shall appoint the regional officers and ordinary regional executive members.

## **21 - REGIONAL MEETINGS**

- (1) There shall be at least 4 meetings of members from each region each year.
- (2) A meeting of members from a region may be called by a meeting of members of a region convened in accordance with this rule, the Regional Executive or the Regional President.
- (3) The Regional President shall call a meeting of members of a region on receipt of a requisition signed by at least 40 per cent of the financial members of the region.
- (4) Notice of a meeting of members of a region shall be given by notifying each sub-branch secretary who shall place a notice of the meeting in each workplace.

## **22 - REGIONAL EXECUTIVE MEETINGS**

- (1) A regional executive shall meet at least once each school term and at such other times as may be determined by the regional executive, a meeting of members of the region, the Branch Council or the Branch Executive.

- (2) The president of the region shall give each member of the regional executive not less than 7 days written notice of the date and place of each meeting of the regional executive, provided that the Branch Council, the Branch Executive or the president of the region may, if in its or her or his opinion the circumstances so require, determine that a lesser period of notice should be given.
- (3) A quorum for a regional executive meeting shall be half the number of regional officers and regional executive members.

### **23 - SUB-BRANCHES**

- (1) A sub-branch:-
  - (a) shall implement the policies of the Union; and
  - (b) may make recommendations to the Branch Conference, Branch Council, Branch Executive, a sector council, a regional executive on matters of concern to members of the sub-branch.
- (2) A meeting of sub-branch members or a sub-branch committee shall not exercise any management powers or functions or determine policy in respect of the Branch.

### **24 - SUB-BRANCH COMMITTEES**

- (1) A sub-branch committee shall:-
  - (a) carry into effect business transacted at a meeting of members of the sub-branch;
  - (b) make recommendations to sub-branch members regarding matters of concern to the members; and
  - (c) deal with any matters of urgency.
- (2) A sub-branch committee shall consist of:-
  - (a) a president, secretary and a treasurer (the sub-branch officers); and
  - (b) such number of ordinary members of the sub-branch as may be determined by the annual meeting of members of the sub-branch.
- (3) The sub-branch officers shall be appointed at the annual meeting of members of the sub-branch and hold office for 12 months.
- (4) A sub-branch committee shall meet as often as is deemed necessary and may be called by a meeting of the sub-branch committee or by the sub-branch president.

### **25 - SUB-BRANCH MEETINGS**

- (1) There shall be an annual meeting of sub-branch members held prior to 31 March in each year.
- (2) A meeting of sub-branch members may be called by a meeting of sub-branch members convened in accordance with this rule, the sub-branch committee or the Sub-Branch President.
- (3) The Sub-Branch President shall call a meeting of sub-branch members on receipt of a requisition signed by at least 40% of the members of the sub-branch.

- (4) Notice of a sub-branch meeting shall be given by placing a notice of the meeting in the workplace.

## **26 - ASSOCIATIONS**

- (1) Branch Conference or Branch Council may establish associations comprised of Branch members who have common interests.
- (2) Branch Conference or Branch Council may determine by-laws for the management of associations established under this rule.
- (3) An association may make recommendations to Branch Conference, Branch Council, Branch Executive or sector councils on matters affecting the common interests of association members.

## **27 - BRANCH OFFICERS**

The Branch Officers shall be:-

- (a) Branch President;
- (b) Branch Deputy President;
- (c) Branch Vice-President (Early Childhood);
- (d) Branch Vice-President (Primary);
- (e) Branch Vice-President (Secondary);
- (f) Branch Vice-President (TAFE and Adult Provision);
- (g) Branch Deputy Vice-President (Early Childhood);
- (h) Branch Deputy Vice-President (Primary);
- (i) Branch Deputy Vice-President (Secondary);
- (j) Branch Deputy Vice-President (TAFE and Adult Provision);
- (k) Branch Secretary; and
- (l) Branch Deputy Secretary.

## **28 - DUTIES OF THE BRANCH PRESIDENT**

- (1) The Branch President shall:-
- (a) be the chief executive officer of the Branch;
  - (b) preside, if possible, at all meetings of the Branch Conference, the Branch Council and the Branch Executive;
  - (c) on confirmation of the minutes, sign the minutes of any meeting presided over by the Branch President;
  - (d) sign all documents required to be signed by the Branch President;
  - (e) be entitled to attend and speak at any meeting within the Branch but not to vote unless he or she is otherwise, by operation of these rules, entitled to vote; and
  - (f) perform such other duties as may from time to time be determined by the Branch Conference, Branch Council or Branch Executive.

- (2) The Branch President may at any time on his or her own volition or on the advice of the Branch Secretary, cause an audit to be made of the books, accounts and funds of the Branch or any region, or sub-branches provided that the reason for such action and the result of the audit, in the case of an audit of the funds of the Branch, shall be reported to the Branch Council or Branch Executive and an audit of a region or a sub-branch shall be reported to the Branch Council or Branch Executive and the Regional Executive or Sub-Branch Committee as the case may be within 21 days of the audit being completed.

### **29 - DUTIES OF THE BRANCH DEPUTY PRESIDENT**

- (1) The Branch Deputy President shall exercise all the rights and powers and perform all the duties of the Branch President in the absence of the Branch President or whenever the Branch President requests or the Branch Conference, Branch Council or Branch Executive instructs him or her so to do.
- (2) In the absence of the Branch President, the Branch Deputy President shall preside at meetings of the Branch Conference, the Branch Council and the Executive and exercise all the powers of the Branch President in respect of such meetings.
- (3) In the event of the Branch President being unable or unavailable to carry out his or her duties, the Branch Deputy President shall exercise, for the period of the Branch President's inability or unavailability, the full powers of the Branch President.
- (4) The Branch Deputy President may, attend and speak at any meeting within the Branch but not vote unless he or she is otherwise, by operation of these rules, entitled to vote.

### **30 - DUTIES OF THE BRANCH VICE-PRESIDENTS**

- (1) The Branch Vice-Presidents shall assist the Branch President and the Branch Deputy President at all times in the execution of their duties.
- (2) In the absence of the Branch President, or the Branch Deputy President from any meeting of the Branch Conference, the Branch Council or the Branch Executive, the meeting shall select one of the Branch Vice- Presidents to preside at the meeting and exercise all the powers of the Branch President.
- (3) In the event of the Branch President and the Branch Deputy President being unable or unavailable to perform the duties of the Branch President, the Branch Council may appoint one of the Branch Vice- Presidents to exercise, for the period of such inability or unavailability, the full powers of the Branch President.
- (4) The Branch Vice-President (Early Childhood), the Branch Vice-President (Primary), the Branch Vice-President (Secondary) and the Branch Vice- President (TAFE) shall be the chairpersons respectively of the Early Childhood Sector Council, the Primary Sector Council, the Secondary Sector Council and the TAFE and Adult Provision Sector Council and shall:-
  - (a) preside, if possible, at all meetings of their respective sector council and preserve order thereat so that the business can be conducted in due form and with propriety and in conformity with the standing orders and rules of debate provided for in these Federal Branch Rules;
  - (b) cause to be kept the minutes of all meetings of their respective sector council and sign the minutes of their confirmation; and
  - (c) generally supervise the conduct of the affairs of their respective sector.

- (5) A Branch Vice-President shall perform such other duties as may from time to time be determined by the Branch Conference, the Branch Council or the Branch Executive.

### **31 - DUTIES OF THE BRANCH DEPUTY VICE-PRESIDENTS**

- (1) The Branch Deputy Vice-Presidents shall assist the Branch Vice-Presidents at all times in the execution of their duties.
- (2) In the absence of the relevant Vice-President from any meeting of a sector council, the relevant Deputy Vice-President shall preside at the meeting and exercise all the powers of the chairperson for that meeting.
- (3) In the absence from any meeting of a sector council of both the relevant Branch Vice-President and the relevant Branch Deputy Vice-President, the members present shall select one of their number to preside at the meeting and that person shall exercise all the powers of the Chairperson.
- (4) A Branch Deputy Vice-President shall perform such other duties as may from time to time be determined by the Branch Conference, the Branch Council or the Branch Executive.

### **32 - DUTIES OF THE BRANCH SECRETARY**

The Branch Secretary shall:-

- (a) be the chief administrative officer of the Branch;
- (b) be responsible for the administration of the Branch, the direction and control of the Branch professional officers, administrative staff and all other employees;
- (c) attend, if possible, all meetings of Branch Conference, Branch Council and Branch Executive and keep or cause to be kept minutes of those meetings setting out all resolutions passed and other business transacted by the meeting;
- (d) be entitled to attend and speak at any meeting within the Branch but not to vote unless he or she is otherwise, by operation of these rules, entitled to vote;
- (e) if authorised to do so by the Branch Executive, appoint, engage and dismiss the administrative staff of the Branch;
- (f) administer the financial affairs of the Branch by:-
- (i) preparing the annual budget of the Branch and submitting it to the Branch Executive for approval;
  - (ii) receiving or causing to be received all monies on behalf of the Branch and depositing or causing to be deposited the monies within 3 days of receipt to the credit of the Branch in such bank, building society, credit union or other financial institutions as the Branch Council or the Branch Executive may direct;
  - (iii) having custody of the financial records of the Branch and producing them for inspection at all reasonable times when requested by the Branch President, the Branch Council or the Branch Executive;
  - (iv) taking such action or cause such action to be taken to ensure compliance by the Branch with the accounts and audit provisions in the Industrial Relations Act and Regulations;

- (v) issuing or causing to be issued proper receipts for all money received by or on behalf of the Branch;
  - (vi) in accordance with sub-rule 39(4), making payments from the funds of the Branch;
  - (vii) preparing and submitting to each meeting of the Branch Conference, Branch Council and Branch Executive an up to date financial statement and by producing, when directed to do so by the Branch President, Branch Conference, Branch Council or Branch Executive, all relevant books in support of the financial statement;
  - (viii) ensuring that the annual budget of the Branch is properly administered;
  - (ix) submitting a report to the annual meeting of the Branch Conference on the activities of the Branch over the past year;
- (g) Provide the Branch Returning Officers with such assistance as is necessary to enable them to conduct any election within the Branch;
- (h) Perform such other duties as may from time to time be determined by the Branch Conference, the Branch Council, the Branch Executive or the Branch President.

### **33 - DUTIES OF THE BRANCH DEPUTY SECRETARY**

Subject to the directions of the Branch Conference, the Branch Council, the Branch Executive, the Branch President and the Branch Secretary, the Branch Deputy Secretary shall:-

- (a) assist the Branch Secretary at all times in the exercise of his or her duties;
- (b) in the event of the Branch Secretary being unable or unavailable to carry out his or her duties, act in his or her stead and exercise all the powers and functions of the Branch Secretary;
- (c) attend, if possible, any meeting of Branch Conference, Branch Council or Branch Executive;
- (d) Be entitled to attend and speak at any meeting within the Branch but not to vote unless he or she is otherwise, by operation of these Rules, entitled to vote; and
- (e) perform such other duties as may from time to time be determined by the Branch Conference, Branch Council, the Branch Executive, the Branch President or the Branch Secretary.

### **34 - OFFICERS OF A REGION AND THEIR DUTIES**

- (1) The officers of a region shall be the regional president, the regional secretary and the regional treasurer.
- (2) A regional president shall preside at all meetings of the region and the regional executive and sign all minutes of such meetings.
- (3) In the absence of the regional president from any meeting of the region or the regional executive the members present may select one of their number to preside at such meeting with the full powers of the regional president.
- (4) A regional secretary shall:-
  - (a) attend all meetings of the region and the regional executive and keep minutes of those meetings;



- (b) conduct the correspondence of the region; and
  - (c) forward all resolutions to the relevant body.
- (5) A regional treasurer shall keep the accounts and financial records of the region.

### **35 - OFFICERS OF A SUB-BRANCH AND THEIR DUTIES**

- (1) The sub-branch president shall preside at all meetings of the sub-branch and sub-branch committee and shall sign all minutes of such meetings.
- (2) In the absence from any meeting of the sub-branch or the sub-branch committee of the president, those present may elect one of their number to preside at such meeting with the full powers of the president.
- (3) The sub-branch secretary shall:-
- (a) attend all meetings of the sub-branch and sub-branch committee and keep minutes of those meetings;
  - (b) conduct the correspondence of the sub-branch; and
  - (c) forward all resolutions to the appropriate body.
- (4) The sub-branch treasurer shall keep the accounts and financial records of the sub-branch.

### **36 - RESIGNATION AND REMOVAL FROM OFFICE**

- (1) A person may resign from any office within the Branch by giving notice in writing to the relevant Council or Sub-Branch or Region or other relevant Branch body.
- (2) No person shall be eligible to hold or continue to hold any office within the Branch if such person ceases to be a financial member of the Union.
- (3) A person elected to any office within the Branch shall only be eligible to hold or continue to hold the office whilst that person remains a financial member of the relevant Sub-Branch, Sector or Sub-Sector, Region or group of regions, or the relevant TAFE institute.
- (4) Branch Council may by resolution of a majority of two thirds of the votes able to be cast by those present at a meeting:
- (a) suspend or remove any person from any office within the Branch who has ceased, according to the Rules, to be eligible to hold or continue to hold their office;
  - (b) reprimand, impose a fine not exceeding \$100.00, suspend from office for a period not exceeding 6 months, or remove any person elected to any office within the Branch if that person has been found guilty of:
    - (i) misappropriation of the funds of the Union;
    - (ii) a substantial breach of the Union's rules;
    - (iii) gross misbehaviour in relation to their office;
    - (iv) gross neglect of duty, including failure without leave of a relevant Council or Branch Executive to attend 3 consecutive meetings of the relevant Council or Branch Executive in any calendar year.

- (c) A person shall not be dealt with under sub-rule 36.4 unless that person has been given 14 days written notice of:
  - (i) the complaints made against that person;
  - (ii) particulars of the evidence on which the complaints are based; and
  - (iii) the time, date and place at which the Branch Council will consider the complaints.
- (d) A notice in accordance with this sub-rule shall be signed by the Branch President or the Branch Secretary and have attached to it a copy of this rule.
- (e) The notice referred to in the previous sub-rule shall be delivered personally to the member concerned or posted by Registered Post to his or her last known address.
- (f) At the meeting of the Branch Council, the member concerned shall be given the opportunity to be heard by the meeting of the Branch Council personally, through another member or in writing.

### **37 - OFFENCES BY BRANCH MEMBERS**

- (1) Subject to Federal Rule 13, the Branch Executive may or shall, at the request of the Branch Secretary, where the Branch Secretary has submitted to the Branch Executive a prima facie case against the member, by summons, in writing call upon any member the Branch Executive or the Branch Secretary alleges is acting or has within the preceding 12 months committed any offence against these Rules or the Rules of the Branch in which his or her membership lies to show cause why he or she should not be reprimanded, fined or expelled from the Union.
- (2) The summons shall:-
  - (a) state the allegation together with the particulars thereof;
  - (b) disclose the evidence on which the allegation is based;
  - (c) be signed by the Branch President or Branch Secretary;
  - (d) state the time, date and place at which the member is to show cause;
  - (e) be delivered personally to the member concerned or posted by registered or certified mail to his or her last known address at least 21 days before the meeting at which the matter is to be determined; and
  - (f) have attached to it a copy of this rule.
- (3) If a member against whom an allegation is made fails to appear at the hearing and fails to provide a satisfactory explanation for his or her non-attendance, the Branch Executive may proceed with the hearing of the allegation in his or her absence provided it is first satisfied that notice of the hearing in accordance with this rule has been served on him or her.
- (4) The evidence relating to the alleged offence shall be heard by the Branch Executive or by a committee of members thereof appointed for that purpose and consisting of not less than 3 of its members and the member concerned shall be heard in his or her defence either personally or in writing.
- (5) If the evidence relating to the offence is heard by a committee, that committee shall report its finding to the Branch Executive together with a recommendation as to penalty if any.

- (6) If, in the opinion of the Branch Executive, the member is guilty of the offence as alleged, the Branch Executive may reprimand him or her or may fine him or her a sum not exceeding \$100.00 for any one offence or may suspend him or her for a period not exceeding 12 months or may expel him or her from the Union.
- (7) The Branch Secretary shall promptly inform the member by registered letter of the decision of the Branch Executive. In the event of expulsion, the expulsion shall become effective 14 days after the date of posting such letter and in the event of a fine being imposed, the fine, subject to sub-rule (8) hereof, shall become payable immediately and the member shall be deemed unfinancial if the fine is unpaid one month after the date of posting such letter and shall remain unfinancial until the fine is paid.
- (8) A member who is found guilty of an offence by the Branch Executive shall have a right of appeal to the next Branch Council meeting against such finding and/or any penalty imposed by the Branch Executive provided that he or she submits such appeal to the Branch Secretary in writing not more than 14 days after the date of posting the letter informing him or her of the decision of the Branch Executive and, pending the determination of any such appeal, the finding and/or penalty shall not become effective. The Branch Council's determination of the appeal shall be final.
- (9) Any member expelled pursuant to this rule shall not be readmitted to membership except by vote of the Branch Council.

### **38 - AMENDMENT OF RULES**

- (1) Subject to sub-rules (3) and (4), the Branch Conference shall have power to make, add to, amend, rescind or otherwise alter the Federal Branch Rules by a resolution carried by a three fifths majority of members voting at the annual meeting of the Branch Conference.
- (2) Proposals to make, add to, amend or rescind or otherwise alter the Federal Branch Rules, must be submitted in accordance with these Rules as agenda items for the annual meeting of the conference and shall be forwarded with the agenda paper for the meeting to each region and sub-branch.
- (3) Notwithstanding the foregoing, the Branch Council may determine by a three-fifths majority that it is necessary to make, add to, amend or rescind or otherwise alter Federal Branch Rules prior to the next annual meeting of the Branch Conference where the Branch Council makes such a declaration it may either:-
  - (a) refer the matter to a special meeting of the Branch Conference; or
  - (b) refer the matter to a postal ballot of members of the Branch Conference.
- (4) A resolution making, adding to, amending or rescinding or otherwise altering Federal Branch Rules at a special meeting of the Branch Conference or voting in a postal ballot shall be carried if there is a three fifths majority of members voting in favour of the resolution.

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**39 - BRANCH FUNDS**

- (1) There shall be a Branch Fund which shall consist of:-
  - (a) any real or personal property of which the Branch Conference, Branch Council or Branch Executive by the Federal Branch Rules or by any established practice not inconsistent with the Federal Branch Rules, has or in the absence of any limited term lease, bailment, or arrangement, would have, the right of custody, control or management;
  - (b) any interest, rents, dividends or other income derived from the investment or use of the Branch Fund;
  - (c) any superannuation or long service leave or other fund operated or controlled in accordance with the Federal Branch Rules relating to the Union for the benefit of the officers or employees of the Branch;
  - (d) any sick pay fund, accident pay fund, general fund, or like fund operated in accordance with the Federal Branch Rules for the benefit of the members attached to the Victorian Branch;
  - (e) any property acquired wholly or mainly by expenditure of monies of the Branch Fund or derived from the assets of the Branch Fund; or
  - (f) the proceeds of any disposal of parts of the Branch Fund.
- (2) Subject to sub-rule (3), all cheques and other instruments for the withdrawal of any funds of the Branch from any bank or other account shall be signed by:-
  - (a) the Branch President or the Branch Deputy President or one of the Branch Vice-Presidents, and
  - (b) the Branch Secretary or the Branch Deputy Secretary or a Branch Professional Officer authorised by the Branch Executive.
- (3) Where the Branch operates an office in an AEU region and the Branch Executive has authorised the opening of a bank account in the name of the Union for the general administration of the regional office, all cheques and other instruments for the withdrawal of any funds of the Union from such account shall be signed by:-
  - (a) a Branch Professional Officer authorised by the Branch Executive; and
  - (b) a member of the Branch Council authorised by the Branch Executive.
- (4) Monies held in the Branch Fund shall be disbursed only upon a resolution of the Branch Executive provided that in respect of expenditure on the general administration of the Branch and for purposes reasonably incidental to the general administration of the Branch, the prior authority of the Branch Executive shall not be necessary before cheques are signed and accounts paid.
- (5)
  - (a) Beneficial ownership of the Branch Funds as defined in this clause and any other funds and assets of the Branch not contemplated by these rules shall vest solely in the Branch.
  - (b) The Branch is entitled to exercise all rights and powers of a beneficial owner in respect of the Branch Funds or assets vesting solely in the Branch.

#### 40 - ALLOCATION OF FUNDS TO A REGION OR SUB-BRANCH

- (1) The Branch Executive shall, taking into account recommendations provided by the Branch Council:
  - (a) Each year determine levels of funding for regions and sub-branches for the purposes of administration, union campaigns and general donations; and
  - (b) From time to time determine guidelines for the expenditure by regions and sub-branches.
- (2) Funds allocated by the Branch Executive for regions and sub-branches may be either:
  - (a) Deposited by the region or sub-branch in an account at a bank, credit union or other financial institution; or
  - (b) Be held in an account of the Branch.
- (3) Where funds allocated to a region or a sub-branch are deposited in an account at a bank, credit union or other financial institution in accordance with the previous sub-rule:
  - (a) The signatories on the account shall be each of the officers of the region or the sub-branch provided that any 2 of the officers must sign all cheques and other instruments for the withdrawal of funds; and
  - (b) Any payment must be authorised by a meeting of the region or the sub-branch and be in accordance with the guidelines determined by the Branch Executive, in consultation with Branch Council.
- (4) Where a region or a sub-branch does not operate an account at a bank, credit union or other financial institution, funds allocated to that region or sub-branch will be paid from moneys held in a Branch account provided that the payment is authorised by a meeting of the region or sub-branch and is in accordance with the guidelines.

#### 41 - BRANCH AUDITOR

- (1) The Branch Executive shall each year appoint an auditor. A person appointed as an auditor shall be a person who is competent to be an auditor in accordance with the provisions of the *Fair Work (Registered Organisations) Act 2009 (Cth)* and its regulations.
- (2) The auditor shall perform all the duties required to be performed by an auditor pursuant to the provisions of the *Fair Work (Registered Organisations) Act 2009 (Cth)* and its regulations.
- (3) The Branch Conference, Branch Council or Branch Executive may request the auditor to inspect and audit the financial and accounting records of the Branch, a region, cluster or a sub-branch and make a report of that inspection and audit to the Branch Conference, Branch Council or Branch Executive, as the case may be.
- (4) The auditor, in undertaking his or her duties under this Rule, shall have access to all books, papers, deeds, documents and financial and accounting records and be entitled to address questions to any officer or employee of the Branch, region, cluster or sub-branch and obtain from any bank or other financial institution at which the funds of the Branch or region, cluster or a sub-branch are deposited or invested such information as may be required.

- (5) In addition to the powers set out in the previous sub-rules, the auditor may place before the Branch Conference or Branch Council any suggestion the auditor may wish to make concerning the financial affairs of the Branch, a region, cluster or sub-branch or to place before any meeting of the regional executive, a cluster or sub-branch committee any suggestion the auditor has concerning the financial affairs of the region, cluster or sub-branch, as the case may be.

#### **42 - ANNUAL FINANCIAL STATEMENTS**

- (1) The Branch Secretary shall on behalf of the Branch, be responsible for meeting the obligations and duties imposed by the Accounts and Audit provisions in the Industrial Relations Act and Regulations.
- (2) The secretaries of each region, cluster and sub-branch shall during the month of February or March in each year prepare a financial statement in such form as the Branch Secretary may require, setting out the receipts and payments for the region, cluster or sub-branch as the case may be for the twelve months ending on 31 December.

#### **43 - FINANCIAL YEAR**

The financial year of the Branch shall commence on 1 January in each year and end on 31 December in the following year.

#### **44 - BRANCH COMMON SEAL**

- (1) There shall be a common seal for the Victorian Branch which shall be identified by the words "Australian Education Union - Victorian Branch".
- (2) The common seal of the Branch shall only be affixed with the authority of the Branch Executive and shall be countersigned by any two of the following persons:-
- (a) the Branch President;
  - (b) the Branch Deputy President;
  - (c) the Branch Secretary;
  - (d) the Branch Deputy Secretary.
- (3) Affixing the common seal of the Branch to a document in accordance with this Rule shall, for the purposes of any transaction referred to in the document involving property which forms part of the Branch fund of the Victorian Branch, be sufficient to give effect to the transaction on behalf of the Union.

#### **45 - REGISTERED OFFICE**

The registered office of the Branch shall be located at 126 Trenerry Crescent, Abbotsford, Victoria or at such other location as may be determined by Branch Council.

**46 - INDUSTRIAL AGREEMENTS & OTHER DOCUMENTS**

- (1) Industrial agreements and other documents not required to be executed under seal, may be executed on behalf of the Branch by any two of the following:-
  - (a) the Branch President;
  - (b) the Branch Deputy President;
  - (c) a Branch Vice-President;
  - (d) the Branch Secretary;
  - (e) the Branch Deputy Secretary.
- (2) An industrial agreement applicable only to members in a particular sector which has been approved by the relevant sector council shall be executed by the relevant Branch Vice-President or a member of the relevant sector council authorised by the sector council to execute the industrial agreement.
- (3) A copy of any industrial agreement referred to in sub-rule (2) shall be provided to the Branch Secretary by close of business on the next business day after the industrial agreement has been executed.

**47 - ELECTION OF BRANCH OFFICERS**

- (1) The Branch Officers shall take office on 1 January following their election and hold office for 3 years or until their successors take office.
- (2) The Branch President, the Branch Deputy President, the Branch Secretary and the Branch Deputy Secretary shall each be elected by a secret postal ballot by and from all financial members of the Branch.
- (3) The Branch Vice-Presidents and Branch Deputy Vice-Presidents shall be elected by secret postal ballot by and from all financial members of the Branch in the sector relevant to the particular office of Branch Vice-President or Branch Deputy Vice-President.
- (4) The Branch Returning Officer shall call for nominations for Branch Officer positions by sending a notice to each sub-branch secretary and by publishing a notice in a publication of the Union distributed to all members of the Branch.
- (5) The notice calling for nominations referred to in the previous sub-rule shall specify a date for the opening of nominations which shall be a date not less than 28 days before the date of closing of nominations and be a date after the date on which notices calling for nominations are sent to sub-branches and published in a Union publication in accordance with the previous sub-rule.
- (6) Nominations for the positions of Branch President, Branch Deputy President, Branch Secretary, and Branch Deputy Secretary shall:-
  - (a) be in writing;
  - (b) be signed by the nominee who shall at the date of nomination be a financial member of the Branch;

- (c)
    - (i) where the nominee is being nominated by a duly constituted meeting of a sub-branch - be signed by the sub-branch President and sub-branch Secretary; or
    - (ii) where the nominee is being nominated by 12 financial members of the Branch - be signed by each of the persons nominating the nominee; and
  - (d) be delivered to the Branch Returning Officer at the registered office of the Branch not later than 12.00 noon on the first Friday in September.
- (7) Nominations for the positions of the Branch Vice-Presidents and Branch Deputy Vice-Presidents shall:-
- (a) be in writing;
  - (b) be signed by the nominee who shall at the date of nomination be a financial member of the Branch in the sector relevant to the particular office of Branch Vice-President or Branch Deputy Vice-President;
  - (c)
    - (i) where the nominee is being nominated by a duly constituted meeting of a relevant sub-branch - be signed by the sub-branch president or sub-branch secretary; or
    - (ii) where the nominee is being nominated by 12 financial members of a relevant sector - be signed by each of the persons nominating the nominee; and
  - (d) be delivered to the Branch Returning Officer at the registered office of the Branch not later than 12.00 noon on the first Friday in September.
- (8) (a) This sub-rule applies where a person has nominated for more than one of the positions of Branch officer. For the purposes of this sub-rule, there shall be a hierarchy of positions as follows:-
- (i) Branch President;
  - (ii) Branch Secretary;
  - (iii) Branch Deputy President;
  - (iv) Branch Deputy Secretary;
  - (v) Branch Vice-President;
  - (vi) Branch Deputy Vice-President;
- (b) If only one person has nominated for a position listed in paragraph (a) and that person has also nominated for another position listed in paragraph (a), the nomination for the first listed position shall stand and the other nomination(s) shall lapse.
- (c) If two or more persons have nominated for an office listed in paragraph (a), and any of them have also nominated for any other position listed in paragraph (a), the ballot for the first listed position shall be counted first, and if the successful candidate has also nominated for any other position listed in paragraph (a), his or her name and the first preference votes gained by him or her shall be omitted in counting the ballot for the other offices, and the second and subsequent preference votes of the person omitted from the ballot shall be allocated to the remaining candidates.
- (9) The election for Branch Officers shall be completed by 1 November.



- (10) (a) Subject to paragraph (b), an extraordinary or casual vacancy (howsoever occurring) in a position of Branch Officer shall be filled by a secret postal ballot by and from all the financial members of the Branch or sector, as the case may be, as soon as practicable following the occurrence of the vacancy.
- (b) Where the unexpired portion of the term of the position in which an extraordinary or casual vacancy occurs does not exceed one half of the term of the position:-
- (i) in the case of a position of Branch President, Branch Deputy President, Branch Secretary or Branch Deputy Secretary - the Branch Council may appoint a financial member of the Branch to fill the position; or
- (ii) in the case of the position of Branch Vice-President or Branch Deputy Vice-President - the relevant Sector Council may appoint a financial member of the sector to fill the vacancy.
- (c) A person elected to fill an extraordinary or casual vacancy shall take office from the declaration of his or her election and hold office until the expiration of the term of the person replaced or until a successor takes office.
- (d) Where an election is to be conducted to fill an extraordinary or casual vacancy in a position of Branch Officer, the Branch Council in respect of the positions of Branch President, Branch Deputy President, Branch Secretary and Branch Deputy Secretary may appoint a financial member of the Branch to fill the position until an election is conducted in accordance with this sub-rule and the relevant Sector Council may, in respect of a Branch Vice-President or Branch Deputy Vice-President appoint a financial member of the sector to fill the position pending the conduct of an election in accordance with this sub-rule.

#### **48 - ELECTION OF ORDINARY MEMBERS OF BRANCH COUNCIL**

- (1) The ordinary members of Branch Council shall take office on 1 January following their election and hold office for 3 years or until their successors take office.
- (2) The ordinary members of Branch Council from the Early Childhood Sector and the TAFE and Adult Provision Sector shall be elected by a secret ballot conducted at a meeting of members elect of the relevant sector council held immediately following the conclusion of the sector council elections for the purpose of conducting the election.
- (3) The Branch Returning Officer and the relevant Branch Vice-President shall determine a date for holding a meeting to conduct an election for the purposes of this rule.
- (4) The Branch Returning Officer shall call for nominations for the positions of ordinary members of Branch Council from the Early Childhood Sector and the TAFE and Adult Provision Sector by sending a notice to each member elect of the relevant sector council.
- (5) The notice calling for nominations referred to in the previous sub-rule shall specify a date for the opening of nominations which shall be a date not less than 14 days before the date for holding the meeting to conduct the ballot.
- (6) Nominations for the positions of ordinary members of Branch Council from the Early Childhood Sector and the TAFE and Adult Provision Sector shall:-
- (a) be in writing;
- (b) be signed by the nominee who shall at the date of nomination be a member of the relevant sector council elect;

- (c) be signed by 2 financial members of the sector nominating the nominee; and
  - (d) be delivered to the Branch Returning Officer at the registered office of the Branch or at the meeting at which the election is to be conducted.
- (7) (a) Subject to paragraph (b), an extraordinary or casual vacancy (howsoever occurring) in a position of ordinary member of Branch Council shall be filled by a secret ballot by and from all the financial members of the relevant sector council as soon as practicable following the occurrence of a vacancy.
- (b) Where the unexpired portion of the term of a position in which an extraordinary or casual vacancy occurs does not exceed one half of the term of the position, the relevant sector council may appoint a financial member of the sector to fill the position.
- (c) A person elected or appointed in accordance with this sub-rule to fill an extraordinary or casual vacancy shall take office from the declaration of his or her election and hold office until the expiration of the term of the person replaced or until a successor takes office.

#### **49 - ELECTION OF ORDINARY MEMBERS OF BRANCH EXECUTIVE**

- (1) The ordinary members of Branch Executive shall take office on 1 January following their election and hold office for one year or until their successors take office.
- (2) The ordinary members of Branch Executive shall be elected by a secret ballot conducted at a meeting of the members or members elect of the relevant sector council held for the purpose of conducting the election. The election of ordinary members of the Branch Executive from the Early Childhood Sector and the TAFE and Adult Provision Sector may be conducted at a meeting convened pursuant to Rule 48.
- (3) The Branch Returning Officer and the relevant Branch Vice-President shall determine a date for holding a meeting to conduct an election for the purposes of this rule.
- (4) The Branch Returning Officer shall call for nominations for the positions of ordinary members of the Branch Executive by sending a notice to each member or member elect of the relevant sector council provided that, where the election is to be conducted at the meeting of the sector council at which ordinary members of the Branch Council are elected, nominations shall be called immediately after the conclusion of the election of ordinary members of Branch Council.
- (5) The notice calling for nominations referred to in the previous sub-rule shall specify a date for the opening of nominations which shall be a date not less than 14 days before the date for holding the meeting provided that, where the election is to be conducted at the meeting of the sector council at which ordinary members of the Branch Council are elected, nominations shall be called by the Branch Returning Officer announcing to the meeting that nominations are open and allowing sufficient time for persons seeking to nominate to submit their nominations.
- (6) Nominations for the positions of ordinary members of Branch Executive shall:-
  - (a) be in writing;
  - (b) be signed by the nominee who shall at the date of nomination be a member of the relevant sector council or a member elect of the relevant sector council;
  - (c) be signed by two members of the relevant sector council or members elect of the relevant sector council; and

- (d) be delivered to the Branch Returning Officer at the registered office of the Branch or to the Branch Returning Officer at the meeting at which the election is to be conducted.
- (7) (a) Subject to paragraph (b), an extraordinary or casual vacancy (howsoever occurring) in a position of ordinary member of Branch Executive shall be filled by an ordinary member of the Branch Council who is a member of the relevant sector elected by all members from the relevant sector on the Branch Council as soon as practicable after the vacancy occurs.
- (b) Where the unexpired portion of the term of a position in which an extraordinary or casual vacancy occurs does not exceed three quarters of the term of the position, the relevant sector council may appoint a financial member of the relevant sector who is an ordinary member of the Branch Council to fill the position.
- (c) A person elected or appointed in accordance with this sub-rule to fill an extraordinary or casual vacancy shall take office from the declaration of his or her election and hold office until the expiration of the term of the person replaced or until a successor takes office.

### **50 - ELECTION OF ORDINARY MEMBERS OF SECTOR COUNCILS**

- (1) The ordinary members of the sector councils shall take office on 1 January following their election and hold office for 3 years or until their successors take office.
- (2) The ordinary members of sector councils shall be elected by a secret postal ballot.
- (3) The Branch Returning Officer shall call for nominations for ordinary members of a sector council by sending a notice to each sub-branch secretary and by publishing a notice in a publication of the Union distributed to all members of the Branch.
- (4) The notice calling for nominations referred to in the previous sub-rule shall specify a date for the opening of nominations which shall be a date not less than 28 days before the date of closing of nominations and be a date after the date on which notices calling for nominations are sent to sub-branches and published in the Union publication in accordance with the previous sub-rule.
- (5) Nominations for the positions of ordinary members of sector councils shall:-
  - (a) be in writing;
  - (b) be signed by the nominee who shall at the date of nomination be a financial member of the relevant sector or sub-sector, the relevant region or group of regions or the relevant TAFE Institute;
  - (c) be signed by 2 financial members of the relevant sector or sub-sector, the relevant region or group of regions or the relevant TAFE Institute;
  - (d) be delivered to the Branch Returning Officer at the registered office of the Branch not later than 12.00 noon on the first Friday in September.
- (6) The election for ordinary members of Sector Council shall be completed by 1 November.
- (7) (a) Subject to paragraph (b), an extraordinary or casual vacancy (howsoever occurring) in a position of ordinary member of sector council shall be filled by a secret postal ballot by and from all the financial members of the relevant sector or sub-sector and the relevant region or group of regions or the relevant TAFE institute as soon as practicable following the occurrence of a vacancy.

- (b) Where the unexpired portion of the term of a position in which an extraordinary or casual vacancy occurs does not exceed three quarters of the term of the position, the relevant sector council may appoint a financial member of the sector or sub-sector and the relevant region or group of regions or the relevant TAFE institute to fill the position.
- (c) A person elected or appointed in accordance with this sub-rule to fill an extraordinary or casual vacancy shall take office from the declaration of his or her election and hold office until the expiration of the term of the person replaced or until a successor takes office.

### **51 - ELECTION OF DELEGATES TO BRANCH CONFERENCE**

- (1) The delegates to the Branch Conference shall each take office on the declaration of his or her election and hold office for one year or until his or her successor takes office.
- (2) The delegates to the Branch Conference shall be elected by a secret postal ballot.
- (3) The Branch Returning Officer shall call for nominations for delegates to Branch Conference by sending a notice to each sub-branch secretary and by publishing a notice in a publication of the Union distributed to all members of the Branch.
- (4) The notice calling for nominations referred to in the previous sub-rule shall specify a date for the opening of nominations which shall be a date not less than 28 days before the date of closing of nominations and be a date after the date on which notices calling for nominations are sent to sub-branches and published in a Union publication in accordance with the previous sub-rule.
- (5) Nominations for the positions of delegates to Branch Conference shall:-
  - (a) be in writing;
  - (b) be signed by the nominee who shall at the date of nomination be a financial member of the relevant sector or sub-sector and the relevant region or group of regions;
  - (c) be signed by the nominator who shall be a financial member of the relevant sector or sub-sector and the relevant region or group of regions; and
  - (d) be delivered to the Branch Returning Officer at the registered office of the Branch on a date determined by the Branch Returning Officer for the closing of nominations being a date not less than 60 days prior to the date of the annual conference in that year.
- (6) The Branch Returning Officer shall determine a timetable for conducting the election of delegates to the Branch Conference to enable the election to be completed one month before the date of the Annual Branch Conference.
- (7)
  - (a) Subject to paragraph (b), an extraordinary or casual vacancy (howsoever occurring) in a position of delegates to Branch Conference shall be filled by a secret postal ballot by and from members from the relevant sector or sub-sector and the relevant region or group of regions as soon as practicable following the occurrence of the vacancy.
  - (b) Where the unexpired portion of the term of a position in which an extraordinary or casual vacancy occurs does not exceed three quarters of the term of the position, the relevant sector council may appoint a financial member of the sector or sub-sector and the region or group of regions to fill the position.
  - (c) A person elected or appointed in accordance with this sub-rule to fill an extraordinary or casual vacancy shall take office from the declaration of his or her election and hold office until the expiration of the term of the person replaced or until a successor takes office.

## 52 - FEDERAL CONFERENCE DELEGATE ELECTIONS

- (1) The Branch Returning Officer shall conduct elections for Federal Conference Delegates in accordance with this rule and rule 30 of the Federal Rules.
- (2) The delegates to Federal Conference shall take office on 1 January following their election and hold office for two years or until their successors take office.
- (3)
  - (a) The Federal Conference delegates representing the general division shall each be elected by a secret postal ballot by and from financial members of the Branch in the general division provided that at least one delegate shall be elected from each of the sectors within the general division.
  - (b) The Federal Conference delegates representing the TAFE Division shall be elected by a secret postal ballot by and from financial members of the Branch in the TAFE Division.
- (4) The Branch Returning Officer shall call for nominations for Federal Conference Delegate positions by sending a notice to each sub-branch secretary and by publishing a notice in a publication of the Union distributed to all members of the Branch.
- (5) The notice calling for nominations referred to in the previous sub-rule shall specify a date for the opening of nominations which shall be a date not less than 14 days before the date of closing of nominations and be a date after the date on which notices calling for nominations are sent to sub-branches and published in a union publication in accordance with the previous sub-rule.
- (6) Nominations for the positions of Federal Conference Delegates shall:-
  - (a) be in writing;
  - (b) in the case of a nominee for the position of Federal Conference Delegate representing the general division be signed by the nominee and 2 nominators, all of whom shall be financial members of the Branch in the general division; and
  - (c) in the case of a nomination for the position of Federal Conference Delegate representing the TAFE Division - be signed by the nominee and 2 nominators, all of whom shall be financial members of the Branch in the TAFE Division; and
  - (d) be delivered to the Branch Returning Officer at the registered office of the Branch not later than 12.00 noon on the first Friday in August.
- (7)
  - (a) Where the Federal Returning Officer has advised the Branch Returning Officer that the Branch has an increased entitlement to Federal Conference Delegates or where there is an extraordinary or casual vacancy (howsoever occurring) in a position of Federal Conference Delegate there shall, subject to paragraph (b), be a secret postal ballot by and from all financial members of the Branch or the sector, as the case may be, as soon as practicable.
  - (b) Where the unexpired portion of the term of the office of the Federal Conference Delegate does not exceed three quarters of the term of the position, the Branch Council may appoint a financial member of the Branch to fill the position.

## 53 - ELECTION OF FEDERAL EXECUTIVE MEMBERS

- (1) The Branch Council shall every two years elect to the Federal Executive the number of persons permitted to be elected by the Branch pursuant to Rule 35 of the Federal Rules.

54 - ELECTION OF NATIONAL TAFE COUNCIL DELEGATES AND NATIONAL TAFE COUNCIL EXECUTIVE MEMBERS

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- (2) The persons elected in accordance with the previous sub-rule shall take office on 1 March and hold office for 2 years or until their successors take office.
- (3) The Branch Federal Executive Members shall be elected by a secret ballot by and from members of the Branch Council.
- (4) The Branch Returning Officer shall call for nominations for the positions of Branch Federal Executive Members by sending a notice to each member of Branch Council.
- (5) The notice calling for nominations referred to in the previous sub-rule shall specify a date for the opening of nominations which shall be a date not less than 14 days before the date of closing of nominations and be a date after the date on which the notices calling for the nominations are sent to members of Branch Council in accordance with the previous sub-rule.
- (6) Nominations for the positions of Branch Federal Executive Members shall:-
  - (a) be in writing;
  - (b) be signed by the nominee and by 2 nominators all of whom shall be members of the Branch Council; and
  - (c) be delivered to the Branch Returning Officer at the registered office of the Branch not later than 12.00 noon on the first Friday in February.
- (7) Casual vacancies in the position of Branch Federal Executive members shall be filled in accordance with Federal Rule 35(6) or any rule replacing Federal Rule 35(6).

**54 - ELECTION OF NATIONAL TAFE COUNCIL DELEGATES AND NATIONAL TAFE COUNCIL EXECUTIVE MEMBERS**

- (1) National TAFE Council Delegates and National TAFE Council Executive Members shall take office on 1 January following their election and hold office for 2 years or until their successors take office.
- (2) The delegates to the National TAFE Council and members of the TAFE Council Executive shall be elected by a secret postal ballot by and from members of the TAFE Division in the Branch.
- (3) The Branch Returning Officer shall call for nominations for delegates to the National TAFE Council and members of the TAFE Council Executive by sending a notice to each TAFE institution sub-branch and by publishing a notice in a publication of the Union distributed to all members of the Branch.
- (4) The notice calling for nominations referred to in the previous sub-rule shall specify a date for the opening of nominations which shall be a date not less than 28 days before the date of closing of nominations and be a date after the date on which notices calling for nominations are sent to sub-branches and published in a union publication in accordance with the previous sub-rule.
- (5) Nominations for the positions of delegates to the National TAFE Council and members of the TAFE Council Executive shall:-
  - (a) be in writing;
  - (b) be signed by the nominee who shall at the date of nomination be a financial member of the TAFE Division;

- (c) be signed by 2 nominators who shall be financial members of the TAFE Division; and
  - (d) be delivered to the Branch Returning Officer at the registered office of the Branch not later than 12.00 noon on the first Friday in August.
- (6) The election of National TAFE Council Delegates and TAFE Council Executive Members shall be conducted in the following manner:-
- (a) the elections for National TAFE Council Delegates and TAFE Council Executive Members shall be simultaneously conducted;
  - (b) persons eligible to nominate may nominate for both the position of National TAFE Council Delegate and TAFE Council Executive Member;
  - (c) the votes for the position of TAFE Council Executive Member shall be counted first and the successful candidate determined;
  - (d) where a successful candidate has been determined in accordance with the previous paragraph, the successful candidate shall be eliminated from the election for the National TAFE Council Delegate position and the second and subsequent preference votes cast for the person shall be allocated as first and subsequent preference votes for the remaining candidates.

#### **54A - ELECTION OF NATIONAL ATSIEC MEMBERS REPRESENTING THE GENERAL DIVISION AND TAFE DIVISION**

- (1) This rule is subject to Rules 73 and 74 of the Federal Rules.
- (2) The Branch Returning Officer shall conduct an election for one (1) National ATSIEC (General Division) member and one (1) National ATSIEC (TAFE Division) member:
  - (i) each 2 years at the same time as the scheduled election of Federal Conference Delegates or in any event according to a timetable which permits the declaration of the election on or before 30 November of the year prior to taking office. Provided that the first elections for the National ATSIEC (General Division) member and the National ATSIEC (TAFE Division) member shall be held as soon as practicable; or
  - (ii) at such time as shall be notified by the Federal Returning Officer to the Branch Returning Officer as is necessary for filling a casual or extraordinary vacancy.
- (3) The National ATSIEC (General Division) member shall be elected by and from the General Division members of the Branch. The election shall be conducted in accordance with Federal Branch Rules 52, 57 and 60 (the necessary changes being made) except that the member being nominated and the nominators must be Aboriginal or Torres Strait Islander members.
- (4) The National ATSIEC (TAFE Division) member shall be elected by and from the TAFE Division members of the Branch. The election shall be conducted in accordance with Federal Branch Rules 52, 57 and 60 (the necessary changes being made) except that the member being nominated and the nominators must be Aboriginal or Torres Strait Islander members.

#### **54B - ELECTION OF NATIONAL PRINCIPAL (GENERAL DIVISION) COMMITTEE MEMBER**

- (1) This rule is subject to Rule 75 of the Federal Rules.

- (2) The Branch Returning Officer shall conduct an election for one (1) National Principal (General Division) Committee member:
  - (i) each 2 years at the same time as the scheduled election of Federal Conference Delegates or in any event according to a timetable which permits the declaration of the election on or before 30 November of the year prior to taking office. Provided that the first elections for the National Principal Committee (General Division) member shall be held as soon as practicable; or
  - (ii) at such time as shall be notified by the Federal Returning Officer to the Branch Returning Officer as is necessary for filling a casual or extraordinary vacancy.
- (3) The National Principal Committee (General Division) member shall be elected by and from the General Division members of the Branch. The election shall be conducted in accordance with Federal Branch Rules 52, 57 and 60 (the necessary changes being made) except that the member being nominated and the nominators must be members of the Principal Class.

#### **54C - ELECTION OF NATIONAL EARLY CHILDHOOD COMMITTEE (GENERAL DIVISION) MEMBER**

- (1) This rule is subject to Rules 76 of the Federal Rules.
- (2) The Branch Returning Officer shall conduct an election for one (1) National Early Childhood (General Division) Committee member:
  - (i) each 2 years at the same time as the scheduled election of Federal Conference Delegates or in any event according to a timetable which permits the declaration of the election on or before 30 November of the year prior to taking office. Provided that the first elections for the National Early Childhood Committee (General Division) member shall be held as soon as practicable; or
  - (ii) at such time as shall be notified by the Federal Returning Officer to the Branch Returning Officer as is necessary for filling a casual or extraordinary vacancy.
- (3) The National Early Childhood Committee (General Division) member shall be elected by and from the General Division members of the Branch. The election shall be conducted in accordance with Federal Branch Rules 52, 57 and 60 (the necessary changes being made) except that the member being nominated and the nominators must be members of the Early Childhood Sector.

#### **55 - ELECTION OF WOMEN TO BRANCH CONFERENCE**

- (1) This rule shall apply to the election of Branch Conference Delegates provided that the election in question is for more than one position.
- (2) This rule shall operate in conjunction with other Federal Branch Rules relating to the election of Branch Conference Delegates provided that where there is an inconsistency, this rule shall prevail over any inconsistent provision in any other Federal Branch Rule.
- (3) During the currency of this rule the minimum number of women to be elected shall be 50% of the total number of persons to be elected to the office in question provided that where the total number of persons to be elected is an odd number, the minimum number of women to be elected shall be determined by reducing the total number of persons to be elected by one and taking 50% of that number.



- (4) In the event that the total number of women candidates is less than the minimum number of women determined in accordance with this Rule, the position or positions remaining shall be filled by a male candidate or male candidates as the case may be.
- (5) Any casual or extraordinary vacancy in an office to which this rule applies shall be filled by a person of the same gender as the person who is being replaced provided that there is a person of that gender eligible and available to fill the vacancy. In the absence of a person of the same gender who is eligible and available, the vacancy may be filled by a person of the opposite gender.
- (6) The Branch Council shall, from time to time, review the operation of this rule and, if it considers it appropriate to do so, extend the operation of this rule to elections for other positions in the Branch.

**56 - CONDUCT OF ELECTION WHERE MINIMUM NUMBER OF WOMEN ARE REQUIRED TO BE ELECTED**

- (1) This rule shall operate in conjunction with other Federal Branch Rules relating to the election of Branch Conference Delegates and Federal Delegates to Federal Conference provided that where there is any inconsistency, this rule shall prevail over any inconsistent provision in any other Federal Branch Rule.
- (2) In addition to any other information required to be set out in the notification of the calling of nominations for positions to which this rule applies, the notification shall include the following additional information:-
  - (a) the number of persons to be elected to the position in question and the number of women to be elected to positions; and
  - (b) advice that, if the number of women candidates is less than the number of women to be elected, the remaining position or positions in question will be filled by a male candidate or candidates.
- (3) In addition to any other information required to be set out on ballot papers for the positions in question, the ballot paper shall include the following additional information:-
  - (a) the candidates full name and title, Mr or Ms.; and
  - (b) the number of persons to be elected to the positions in question and the number of women to be elected to the positions.
- (4) The Branch Returning Officer shall, having determined whether the nominations received are valid, determine in accordance with the next sub-rule whether it is necessary to conduct a ballot.
- (5) The Branch Returning Officer shall conduct a ballot -
  - (a) for all positions - where the number of candidates exceeds the number of positions to be filled and the number of women candidates is more than the number of positions to be filled by women; or
  - (b) for all remaining positions only, where the Branch Returning Officer has ascertained the number of nominations from women candidates is less than or equal to the number of positions for women and the number of male candidates is more than the number of remaining positions.

- (6) (a) Where it is necessary to conduct a ballot to fill positions required to be filled by female candidates this sub-rule shall apply.
- (b) The Branch Returning Officer shall count votes and allocate preferences in accordance with Rule 60 and determine whether the minimum number of female candidates has been elected.
- (c) If the minimum number of female delegates required have been elected, the Branch Returning Officer shall declare all successful candidates elected.
- (d) In the event that the minimum number of female candidates have not been elected, the Branch Returning Officer shall:-
  - (i) eliminate such male candidate or candidates as are necessary to allow the election of the minimum number of female candidates. The male candidate or candidates to be eliminated shall be the last candidate or candidates elected during the counting of votes and allocation of preferences; and
  - (ii) declare elected such female candidate or candidates as are necessary to ensure that the minimum number of female candidates is elected. The female candidate or candidates to be elected shall be the female candidate or candidates last eliminated in the counting of votes and the allocation of preferences.

#### **57 - ELECTIONS - GENERAL PROVISIONS**

- (1) (a) The Branch Council shall, at its first meeting each year, appoint a Branch Returning Officer who shall not during the term of his or her office be an employee of or the holder of any office within the union or a branch, section or division of the union or a candidate in any election within the union and shall not be eligible to nominate any candidate for any election under the Federal Rules or the Federal Branch Rules and shall hold office until his or her successor is appointed.
  - (b) If the Branch Returning Officer is unable to undertake his or her duties as and when required or if there is a casual vacancy in his or her office the Branch Executive shall appoint an acting Branch Returning Officer provided that no person so appointed shall be the holder of any other office or be an employee of or a candidate for any other office in the Union or a branch, section or division of the union.
  - (d) In the event that there are insufficient nominations in respect of any election being conducted pursuant to these rules, any persons who have nominated shall be declared elected and nominations for any remaining unfilled positions shall be recalled by the Returning Officer.
  - (e) The Branch Returning Officer shall, in exercising any of his or her powers in paragraphs (c) and (d), conduct the election in accordance with the relevant rules of the Branch provided that the Branch Returning Officer may make such modifications to the rules as are reasonably necessary to permit the election to be undertaken without delay.
- (2) An election which is required by these Rules to be conducted by a secret postal ballot shall be conducted in accordance with this rule.

- (2A) The roll of voters for any election to be conducted pursuant to these rules is to be closed seven days before the day on which nominations are opened in relation to all elections by a direct voting system for offices in the Branch.
- (3) The Branch Returning Officer shall, on the close of nominations, check all nominations received for compliance with the requirements of the Rules and where the Branch Returning Officer considers that any nomination is defective, he or she shall immediately notify the person concerned of the defect by the most expeditious means and, where it is practicable to do so, give him or her the opportunity of remedying the defect, allowing, if practicable, at least 7 days after notification.
- (3A) For the avoidance of doubt (and notwithstanding anything else contained in these Rules), where in these Rules a nomination is required to be delivered to the Branch Returning Officer and the Australian Electoral Commission acts as the Branch Returning Officer, delivery shall be effected by means which include the following:
- (a) Physically delivering the document to, or an office of, the Branch Returning Officer;
  - (b) Sending the document by post to, or an office of, the Branch Returning Officer;
  - (c) Emailing the document to, or an office of, the Branch Returning Officer (provided that the sender retains a copy of the document to be produced on request to the Branch Returning Officer); or
  - (d) Sending the document by facsimile transmission to, or an office of, the Branch Returning Officer (provided that the sender retains a copy of the document to be produced on request to the Branch Returning Officer).
- (4) Where, there is no more than one valid nomination for a position, the Branch Returning Officer shall declare the nominated person elected.
- (5) The Branch Returning Officer shall, where there are more nominations than there are vacancies for a position, have the ballot papers prepared and delivered to him or her containing the names of the candidates for each position in an order chosen by ballot indicating the number to be elected to each position, the manner in which votes shall be recorded and the date and time fixed for the closing of the ballot.
- (6) Each ballot paper issued shall be initialled by the Branch Returning Officer or shall bear a facsimile of his or her initials.
- (7) The Branch Returning Officer shall cause to be delivered to each member who is financial as at the date of the closure of the roll of voters a pre-paid reply envelope, a ballot paper and declaration envelope with a removable flap/label upon which the voter shall be required to sign as an eligible voter, such removable flap/label shall be detached or separated from the declaration envelope by the Branch Returning Officer and placed in separate piles so as to ensure that the ballot paper cannot be identified with the removable flap/label. Both envelopes shall be in the form prescribed by the regulations made under Schedule 1B of the Workplace Relations Act 1996.

- (8) For the purpose of this Rule ballot papers shall be sent to members at their last known place of work or other mailing address nominated by the member.
- (9) The Branch Returning Officer shall, at the request of a candidate or group of candidates, forward with each ballot paper electoral material lodged by the candidate or groups of candidates. That material must be lodged within seven days of the close of nominations, be restricted to a maximum of 200 words per candidate and may include a passport size photograph. The material may include an indication of preference provided all candidates are shown in the order they appear on the ballot paper and there is a preference allocated to each candidate.
- (10) Where a member entitled to vote at a ballot will be absent during the conduct of the ballot, he or she may, during the period after nominations have closed and before the opening date of the ballot, apply in writing to the Branch Returning Officer for an absentee vote stating that his or her absence could otherwise prevent his or her voting at the ballot.
- (11) Where the Branch Returning Officer receives an application under sub-rule 10 and is satisfied that the member will be prevented from voting at the ballot, the Branch Returning Officer shall, by prepaid post, forward to the member a ballot paper in accordance with this Rule.
- (12) The Branch Returning Officer shall arrange for the use of a post office box or other receptacle into which ballot papers may be returned.
- (13) The Branch Returning Officer shall on the closing of the ballot, collect the ballot papers and shall in the presence of the scrutineers, if so requested, count all the votes in accordance with Rule 60 and declare the result of the ballot.
- (14) The Branch Returning Officer shall, in the event of a tie occurring, determine the result by drawing lots in the presence of the tied candidates or their scrutineers provided that if one of the tied candidates is a retired office holder from the position subject to the ballot, then he or she shall be declared elected.

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**58 - CONDUCT OF ELECTIONS AT MEETINGS**

- (1) An election conducted by a secret ballot at a meeting shall be conducted in accordance with this sub-rule.
- (2) The Branch Returning Officer shall, on the close of nominations, check all nominations received for compliance with the Rules. Where the Branch Returning Officer considers that any nomination is defective, he or she shall immediately notify the person concerned of the defect by the most expeditious means and, where it is practicable to do so, give him or her the opportunity of remedying the defect, allowing, if practicable, at least 7 days after the notification.
- (3) If there is no more than one nomination for a position, the Branch Returning Officer shall declare the nominated person elected to the position.
- (4) If more nominations are received than there are vacancies for a position, the Branch Returning Officer shall have the ballot papers prepared containing the names of the candidates for each position in an order chosen by ballot indicating the number to be elected to each position, the manner in which the votes shall be recorded and the date and time fixed for the closing of the ballot.
- (5) The Branch Returning Officer shall be responsible for the safe custody of the ballot papers to ensure that voters can cast a secret vote.
- (6) Each ballot paper shall be initialled by the Branch Returning Officer or shall bear a facsimile of his or her initials.
- (7) The Branch Returning Officer shall issue a ballot paper to each member present at the meeting entitled to receive a vote.
- (8) On the closing of the ballot, the Branch Returning Officer shall, in the presence of scrutineers, count all the votes in accordance with Rule 60 and declare the result of the ballot.
- (9) Where a person eligible to vote in an election to be conducted at a meeting in accordance with this Rule is unable to attend the meeting, he or she may appoint another person eligible to vote in the election to vote on his or her behalf. The appointment must be in writing and be provided to the Branch Returning Officer before the time appointed for the conduct of the ballot.

**59 - SCRUTINEERS**

- (1) A candidate in any election conducted under these Rules may appoint a scrutineer to represent his or her interests in counting of the ballot.
- (2) A scrutineer shall be a financial member of the Union but shall not be a candidate in the same ballot nor a candidate in any ballot being currently conducted pursuant to these Rules.
- (3) It is the responsibility of the candidate appointing a scrutineer to ensure that the scrutineer's nomination form reaches the Branch Returning Officer before the commencement of the count.
- (4) A scrutineer shall be entitled to be present throughout the ballot and may query the inclusion of any vote in the count but the Branch Returning Officer shall have the final determination of any votes so queried.
- (5) A scrutineer shall not remove, mark, alter or deface any ballot paper or other document used in connection with the election and shall not interfere with or attempt to influence any member at the time such member is casting a vote.

## 60 - SYSTEM OF VOTING

- (1) In any ballot conducted pursuant to these Federal Branch Rules in which only one candidate is to be elected, the system of voting shall be the optional preferential system as follows:-
  - (a) a voter shall record her/his vote by marking sequential numbers on the ballot paper, commencing with the number 1, in the squares opposite the names of the candidates so as to indicate the order of the voter's preference for each candidate, provided that failure by a voter to make a preference beyond the number of candidates to be elected shall not invalidate the vote of that voter;
  - (b) if no candidate achieves an absolute majority, the candidate with the fewest first preferences shall be eliminated and the second preferences on the relevant ballot papers shall be distributed and such process shall be repeated until one candidate has an absolute majority;
  - (c) "an absolute majority" means the number by which votes cast for the leading candidate exceed those cast for all other candidates.
- (2)
  - (a) In any ballot conducted pursuant to these Rules in which more than one candidate is to be elected, the system of voting shall be the quota preferential system set out in this sub-rule.
  - (b) A voter shall record a valid vote by marking on the ballot paper in the squares opposite the names of the candidates sequential numbers commencing with the number 1. The voter must show preferences for at least the number of vacancies to be filled but may mark beyond that number without invalidating the vote.
  - (c) The number of first preferences indicated for each candidate shall be counted and recorded and all voting papers which contain no clear indication of a first preference shall be rejected as informal.
  - (d) A "quota" shall be obtained by dividing the total number of first preferences cast for all candidates by the number of vacancies to be filled plus 1. The next whole number above the quotient or result shall be the "quota".
  - (e) Where the quotient is less than 100 the aggregate value of the first preferences may be expressed in hundredths of a vote. If this is done then the number of hundredths shall be divided by the number of vacancies plus one and the next whole number of hundredths above the quotient shall be the quota and throughout the counting values shall be recorded in hundredths of a vote.
  - (f) Any candidate who has a number of first preferences of value equal to or greater than the quota shall be recorded as elected. The excess of votes over the quota shall be known as the "surplus".
  - (g) If the value of the first preferences recorded for any candidate is equal to the quota the whole of such voting papers shall be set aside as finally dealt with.
  - (h) Where after the distribution of first preferences, vacancies remain to be filled the surplus over the quota for each elected candidate shall be transferred to candidates not yet elected.
  - (i) If more than one candidate has a surplus the surpluses shall be transferred in order of size beginning with the largest and if two or more surpluses are equal the Branch Returning Officer shall decide by lot which surplus shall be transferred first.

- (j) The transfer of a surplus may be deferred if that surplus, together with every other surplus not transferred is less than the difference between the quota and the highest progress total of any unelected candidate and is also less than the difference between the lowest progress total and the progress total next above it.
- (k) The voting papers for the elected candidate shall be re-examined and distributed between the remaining unelected candidates on a preferential basis.
- (l) The transfer value of each voting paper so distributed shall be calculated by dividing the surplus by the total number of voting papers distributed from the elected candidate.
- (m) The number of voting papers recorded for each unelected candidate shall be multiplied by the transfer value and the result shall be credited to the unelected candidate and added to the value previously recorded for that candidate.
- (n) If the progress total of a candidate is raised up to or above the quota by the transfer of a surplus then that candidate shall be declared elected and no other voting papers shall be allotted to the candidate after this transfer is completed.
- (o) If the progress total of a candidate is raised up equal to but not above the quota by a transfer of a surplus then the whole of the voting papers allotted to the candidate shall be set aside as finally dealt with.
- (p) If the progress total of a candidate is raised above the quota by the transfer of a surplus and if vacancies remain to be filled and no earlier surpluses are to be distributed then the newly created surplus shall be transferred to the unelected candidates.
- (q) The voting papers allotted to the elected candidate in the last transfer shall be re-examined and distributed on a preferential basis amongst any remaining unelected candidates.
- (r) The transfer value of these voting papers shall be calculated by dividing the surplus by the number of useable voting papers so distributed.
- (s) The number of voting papers recorded for each unelected candidate shall be multiplied by the transfer value and the result shall be credited to the unelected candidate and added to the value previously recorded for that candidate.
- (t) If more than one candidate has a surplus the surpluses shall be transferred in order of size beginning with the largest, provided that no surplus shall be transferred before a surplus that arose earlier in the counts whether larger or not. If two or more surpluses arising from the same transfer are equal then the surplus of the candidate whose progress total was highest when they last has unequal totals shall be transferred first and if their progress totals were never unequal the Branch Returning Officer shall decide by lot which surplus shall be transferred first.
- (u) If after the transfer of all surpluses except any deferred according to paragraph (i) vacancies remain unfilled the candidate whose progress total is lowest shall be excluded and all voting papers allotted to that candidate shall be distributed with each continuing unelected candidate being allotted the papers on a preferential basis and credited with their value.
- (v) The voting papers with first preference indicated for the excluded candidate shall be first allotted each at its full value.

- (w) Any other voting papers of the excluded candidate shall then be allotted in the order of the transfers in which, and with the values at which, they were allotted to the candidate being excluded.
- (x) Each such allotment of papers under paragraphs (u) and (v) shall be regarded as separate transfers for the purpose of achieving quota.
- (y) In the case of exclusion where two or more candidates have equal progress totals lower than any other progress total the one whose progress total was lowest when they last had unequal totals shall be excluded first and if their progress totals were never unequal the Branch Returning Officer shall decide by lot which candidate shall be excluded first.
- (z) If the progress total of a candidate is raised up to or above the quota by any transfer of the voting papers of any excluded candidate that candidate shall be recorded as elected and no other voting papers shall be allotted to the candidate after the transfer is completed.
- (aa) If the progress total is raised up to but not above the quota by any such transfer the whole of the voting papers allotted shall be set aside as finally dealt with.
- (bb) If the progress total is raised above the quota by any such transfer then except where paragraph (i) is applied the surplus shall be transferred to the continuing candidates in the manner prescribed but this surplus shall not be transferred until all voting papers of the excluded candidates have been allotted.
- (cc) Except where paragraph (i) is applied any such surplus shall be transferred before any other candidate is excluded.
- (dd) The process of excluding the candidate with the lowest progress total and allotting voting papers and crediting their value to continuing candidates and transferring surpluses shall continue until all vacancies are filled or until the number of vacancies unfilled is equal to the number of continuing candidates in which case these continuing candidates shall be recorded as elected.

### **61 - PROXY VOTING AT BRANCH MEETINGS**

- (1) A member of the Union entitled to attend and vote at any meeting of the Branch convened in accordance with the Federal Branch Rules may appoint a financial member, of the Branch from the same sector to act as his or her proxy.
- (2) An appointment of a proxy shall be in writing, shall specify the meeting or meetings in respect of which the proxy applies and shall be delivered to the person who presides at the meeting.
- (3) A person shall only be appointed to act as a proxy for one other person at one time.
- (4) Where a person has been appointed as a proxy, he or she shall have all the powers of the person he or she represents other than the power to vote in an election conducted at a meeting.

### **62 - TRANSITIONAL RULES**

- (1) (a) The "FTUV" shall mean the Federated Teachers Union of Victoria.
- (b) The "VSTA" shall mean the Victorian Secondary Teachers Association.



- (2) All appointed employees of the FTUV and the VSTA on 28 June, 1995, shall be employed by the Victorian Branch. The terms and conditions of employment of such employees shall not, without the consent of the person in question, be reduced by the Branch Conference, Branch Council or Branch Executive other than as part of a wider agreement between the Branch and employees.

### **63 - TRANSITIONAL RULE - AMALGAMATION OF TAFE INSTITUTIONS**

- (1) This rule shall cease to have effect after the completion of the elections of ordinary members of the TAFE and Adult Provision Sector Council conducted in 2000. During the period that this rule applies it shall prevail over any inconsistent provision in the Federal Branch Rules of the Victorian Branch.
- (2) In the Schedule to this rule: -
- (a) Column A sets out the names of TAFE institutions which have, since the 1997 elections to the TAFE and Adult Provision Sector Council as a result of amalgamations of TAFE institutions either ceased to exist or continued to exist having absorbed TAFE institutions which have ceased to exist.
- (b) Column B sets out the names of the TAFE institutions which have either been created or continued having absorbed TAFE institutions which have ceased to exist.
- (3) Subject to sub-rule (4), the ordinary members of the TAFE and Adult Provision Sector Council representing the TAFE institutions listed in Column A to the Schedule to this rule shall by operation of this rule become the ordinary members of the TAFE and Adult Provision Sector Council representing the corresponding TAFE institution set out in Column B of the Schedule to this rule and shall hold office until their successors take office following the elections to be conducted in 2000.
- (4) By operation of this rule Stan Hejheli shall become an ordinary member of the TAFE and Adult Provision Sector Council representing Kangan Batman.
- (5) In the event that a casual vacancy arises in the position of an ordinary member of the TAFE and Adult Provision Sector Council representing a TAFE institution set out in Column B of the Schedule to this rule between the date when this rule comes into effect and when successful candidates take up their positions following elections conducted in 2000, the casual vacancy may be filled by the TAFE and Adult Provision Sector Council appointing a financial member from the relevant TAFE Institution to fill the position.

### **64 - REQUIREMENTS OF FAIR WORK (REGISTERED ORGANISATIONS) AMENDMENT ACT 2012 AND FAIRWORK AMENDMENT BILL 2013**

(1) *BRANCH POLICIES AND PROCEDURES*

The Branch shall develop and implement policies and procedures relating to the expenditure of the Branch.

(2) *DISCLOSURE OF OFFICER'S RELEVANT REMUNERATION AND NON-CASH BENEFITS*

A. Each officer of the branch shall disclose to the branch any remuneration paid to the officer:

(a) because the officer is a member of a board, if:

i. the officer is a member of the board only because the officer is an officer of the branch or

- ii. the officer was nominated for the position as a member of the board by the organisation, branch or a peak council; or
    - (b) by any related party of the branch in connection with the performance of the officer's duties as an officer.
  - B. The disclosure required by sub-rule (A) shall be made to the branch:
    - (a) as soon as practicable after the remuneration is paid to the officer and
    - (b) in writing.
  - C. A branch shall disclose to the members of the branch:
    - (a) the identity of the officers who are the two highest paid officers of the branch in terms of relevant remuneration for the disclosure period and
    - (b) for those officers:
      - i. the actual amount of the officers' relevant remuneration for the disclosure period; and
      - ii. either the value of the officers relevant non-cash benefits, or the form of the officers' relevant non-cash benefits, for the disclosure period.
  - D. For the purposes of sub-rule (C), the disclosure shall be made:
    - (a) in relation to each financial year
    - (b) within six months after the end of the financial year and
    - (c) in writing.
- (3) *DISCLOSURE OF OFFICER'S MATERIAL PERSONAL INTERESTS*
- A. Each officer of a branch shall disclose to the branch any material personal interest in a matter that:
    - (a) the officer has or acquires or
    - (b) a relative of the officer has or acquires; that relates to the affairs of the organisation.
  - B. The disclosure required by sub-rule (A) shall be made to the branch:
    - (a) as soon as practicable after the interest is acquired and
    - (b) in writing.
  - C. The branch shall disclose to the members of the branch any interests disclosed to the branch pursuant to sub-rule (A).
  - D. For the purposes of sub-rule (C), the disclosures shall be made:
    - (a) in relation to each financial year

- (b) within six months after the end of the financial year and
- (c) in writing.

(4) *DISCLOSURE BY BRANCH OF PAYMENTS*

A. The Branch shall disclose to the members of the branch either:

- (a) each payment made by the branch, during the disclosure period:
  - i. to a related party of the branch or
  - ii. to a declared person or body of the branch or
- (b) the total of the payments made by the branch, during the disclosure period:
  - i. to each related party of the branch or
  - ii. to each declared person or body of the branch.

B. Sub-rule (A) does not apply to a payment made to a related party if:

- (a) the payment consists of amounts deducted by the branch from remuneration payable to officers or employees of the branch; or
- (b) the related party is an officer of the branch, and the payment:
  - i. consists of remuneration paid to the officer by the branch; or
  - ii. is reimbursement for expenses reasonably incurred by the officer in performing the officer's duties as an officer

C. For the purposes of sub-rule (A), the disclosure shall be made:

- (a) in relation to each financial year
- (b) within six months after the end of the financial year and
- (c) in writing.

(5) *TRAINING*

Each person who holds an office in the Branch whose duties include financial duties that relate to the financial management of the Branch, must comply with all of the following:

- (a) The person must undertake training approved by the General Manager of the Fair Work Commission under section 154C of the Fair Work Registered Organisations Act 2009
- (b) The training so undertaken must cover each of the person's financial duties
- (c) The training so undertaken must be completed within 6 months after the person begins to hold office.

SCHEDULE

<u>Name of Former TAFE Institution</u>	<u>Name of Amalgamated TAFE Institution</u>
<u>Column A</u>	<u>Column B</u>
Barton	Chisholm
Casey	Chisholm
Eastern	Swinburne
Kangan/Batman	Batman/Kangan
Melbourne Textiles	RMIT
Peninsular	Chisholm
RMIT	RMIT
Swinburne	Swinburne
School of Mines/Wimmera	Ballarat University
Victoria University	Victoria University
Western	Victoria University
Wodonga/Army	RMIT

\*\*\*END OF RULES\*\*\*