

THE AUSTRALIAN NATIONAL UNIVERSITY

Governance Rule 2023

The Council of the University makes the following rule.

Dated 2 June 2023

The Hon Julie Bishop
Chancellor

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Part 1—Preliminary

1 Name

This is the *Governance Rule 2023*.

2 Commencement

This instrument commences on 1 July 2023.

3 Authority

This instrument is made under the *Australian National University (Governance) Statute 2023*, section 68(1) (General power to make rules and orders).

4 Definitions

The following notes provide information about definitions applying to terms used in this instrument.

[Note 1: Section 6 has definitions that apply only to Part 2 (Elections for staff and student members of Council).]

[Note 2: The Governance Statute, section 5 (Definitions) defines terms relevant to this instrument (see Legislation Statute, section 9(1) (Terms used in authorising legislation etc.)), including the following:

- ANUSA
- constitution, of ANUSA
- professional staff
- returning officer
- staff or student member (and each of the staff and student members)
- student member.]

[Note 3: For definitions applying to University legislation generally, see the dictionary in the Legislation Statute. That dictionary defines terms relevant to this instrument, including the following:

- function
- working day.]

Part 2—Elections for staff and student members of Council

Division 2.1—Staff and student member elections

5 Application of Part 2

This Part applies to an election for a staff or student member.

Division 2.2—Election definitions

6 Definitions for Part 2

In this Part:

declaration day means the day the returning officer declares the result of the election.

election provisions means the following provisions:

- (a) the Governance Statute, Division 3.2 (Council composition) and Part 4 (Elections for staff and student members of Council);
- (b) this Part.

nominations invitation day means the day the returning officer invites nominations of persons eligible to be elected in the election.

[Note: See section 18(2)(b) (Notice of election).]

payday means a day on which the salaries of the majority of members of staff of the University are paid.

relevant payday means the payday immediately before the nominations invitation day.

Division 2.3—Eligibility to be elected and vote

7 Eligibility: election for deans and research school heads member

- (1) This section prescribes the persons who are to be regarded as a dean or research school head for the application of the election provisions in relation to an election for the deans and research school heads member.
- (2) For the ANU Act, the Governance Statute and this instrument, a person is to be regarded as a dean or research school head for the purpose of being eligible to be elected in the election or to vote in the election if, on the day of the meeting called under section 13 (Meeting to elect deans and research school heads member) to elect the member, the person is a dean or research school head.

[Note: See the table of deans and research school heads in the Governance Order.]

8 Eligibility: election for academic staff members

- (1) This section prescribes the persons who are to be regarded as:
 - (a) members of the academic staff of the Institute for the application of the election provisions in relation to an election for the academic staff (Institute) member; and
 - (b) members of the academic staff of The Faculties for the application of the election provisions in relation to an election for the academic staff (Faculties) member.

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- (2) For the ANU Act, the Governance Statute and this instrument, a person is to be regarded as a member of the academic staff of the Institute for the purpose of being eligible to be elected as the academic staff (Institute) member if, on the relevant payday, the person was:
- (a) paid salary by the University; and
 - (b) employed as a full-time or part-time standard or fixed term member of the academic staff of or above the grade of academic level A with duties that involve a predominant research focus.
- (3) For the ANU Act, the Governance Statute and this instrument, a person is to be regarded as a member of the academic staff of The Faculties for the purpose of being eligible to be elected as the academic staff (Faculties) member if, on the relevant payday, the person was:
- (a) paid salary by the University; and
 - (b) employed as a full-time or part-time standard or fixed term member of the academic staff of or above the grade of academic level A with duties that involve both teaching and research.
- (4) For the ANU Act, the Governance Statute and this instrument, a person is to be regarded as a member of the academic staff of the Institute and a member of the academic staff of The Faculties for the purpose of being eligible to vote in an election for the academic staff (Institute) member or the academic staff (Faculties) member if, on the relevant payday, the person was:
- (a) paid salary by the University; and
 - (b) employed as a full-time or part-time standard or fixed term member of the academic staff of or above the grade of academic level A.
- (5) For subsections (2)(b) and (3)(b), the Vice-Chancellor may determine, in writing, whether a member of the academic staff is to be regarded as employed with duties that involve a predominant research focus or duties that involve both teaching and research.
- (6) However, a person ceases to be eligible to be elected in the election if, on the day immediately before the declaration day, the person is no longer employed as a member of the academic staff.

9 Eligibility: election for professional staff member

- (1) This section prescribes the persons who are to be regarded as members of the professional staff for the application of the election provisions in relation to an election for the professional staff member.
- (2) For the ANU Act, the Governance Statute and this instrument, a person is to be regarded as a member of the professional staff for the purpose of being eligible to be elected in the election or to vote in the election if, on the relevant payday, the person was:
- (a) paid salary by the University; and
 - (b) employed as a full-time or part-time standard or fixed term member of the professional staff.
- (3) However, a person ceases to be eligible to be elected in the election if, on the day immediately before the declaration day, the person is no longer employed as a member of the professional staff.

10 Eligibility: election for postgraduate student member

- (1) This section prescribes the persons who are to be regarded as postgraduate students for the application of the election provisions in relation to an election for the postgraduate student member.
- (2) For the ANU Act, the Governance Statute and this instrument, a person is to be regarded as a postgraduate student for the purpose of being eligible to be elected in the election or to vote in the election if, on the day 5 working days immediately before the nominations invitation day, the person was enrolled as a student at the University in a program for any of the following (a *postgraduate program*):
 - (a) a graduate diploma;
 - (b) a graduate certificate;
 - (c) a master's degree;
 - (d) the Juris Doctor degree;
 - (e) the Medicinae ac Chirurgiae Doctoranda degree;
 - (f) a doctorate.
- (3) However, a person ceases to be eligible to be elected in the election if, on the day immediately before the declaration day, the person is no longer enrolled as a student at the University in a postgraduate program.

11 Eligibility: election for undergraduate student member

- (1) This section prescribes the persons who are to be regarded as undergraduate students for the application of the election provisions in relation to an election for the undergraduate student member.
- (2) For the ANU Act, the Governance Statute and this instrument, a person is to be regarded as an undergraduate student for the purpose of being eligible to be elected in the election or to vote in the election if, on the day 5 working days immediately before the nominations invitation day, the person was enrolled as a student at the University in an undergraduate program.
- (3) However, a person ceases to be eligible to be elected in the election if, on the day immediately before the declaration day, the person is no longer enrolled as a student at the University in an undergraduate program.
- (4) In this section:

undergraduate program means a program that is not a postgraduate program under section 10(2) (Eligibility: election for postgraduate student member).

Division 2.4—Elections for deans and research school heads member

12 Application of Division 2.4

This Division applies to an election for the deans and research school heads member.

13 Meeting to elect deans and research school heads member

- (1) If an election for the deans and research school heads member is necessary, the returning officer for the election must call a meeting of the deans and research school heads to elect the member.

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- (2) The returning officer must give notice of the meeting to each person eligible to vote in the election.
 - (3) The returning officer must allow a period of no shorter than 10, and no longer than 20, working days between the day the returning officer gives notice of the meeting and the day of the meeting.
 - (4) At the meeting, the member may be elected only if 7 persons eligible to vote in the election are present.

14 Method of electing deans and research school heads member

The deans and heads of research schools present at the meeting called under section 13 (Meeting to elect deans and research school heads member) must elect a dean or research school head to be the deans and research school heads member:

- (a) by agreement; or
- (b) if more than 1 person is nominated as the member—by ballot; or
- (c) if the member is not chosen under paragraph (a) or (b)—by lot.

Division 2.5—Conduct of other elections

15 Application of Division 2.5

This Division applies to an election for a staff or student member, other than an election for the deans and research school heads member.

[Note: Division 2.4 makes provision for elections for the deans and research school heads member.]

16 Elections conducted electronically

- (1) The returning officer may conduct the election using the internet.
- (2) If the election is conducted using the internet:
 - (a) a reference in this instrument to a **notice board** includes a reference:
 - (i) to the appropriate page of the University's website or, for an election conducted by ANUSA, ANUSA's website or
 - (ii) to an email sent to an appropriate email address; or
 - (iii) to the email address of each person eligible to vote the election; and
 - (b) if a standard official email address within the University's email system is provided to a person, that email address may be regarded as the person's address; and
 - (c) voting papers for the election may be given by email or on the internet; and
 - (d) the provisions of this Division (apart from this section) apply to the election with the modifications the returning officer considers necessary or appropriate for the election to be conducted using the internet.
- (3) Despite subsection (2)(d), if the election is conducted using the internet, the returning officer must ensure that the ballot is secret, and that the identity of each person voting is kept separately from the person's vote.
- (4) This section has effect despite any other provision of this instrument.

17 Intervals to be allowed by returning officer

In the conduct of the election, the returning officer must allow the following intervals:

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- (a) between the publication of the fact that the election is necessary and the day by which nominations must reach the returning officer—no shorter than 10, and no longer than 20, working days;
 - (b) between the day by which nominations must reach the returning officer and the issue of voting papers—no longer than 20 working days;
 - (c) between the issue of voting papers and the day by which voting papers must reach the returning officer—no shorter than 10, and no longer than 40, working days.

18 Notice of election

- (1) The returning officer must:
 - (a) give a notice about the election to each person eligible to vote in the election; and
 - (b) publish a notice about the election on appropriate notice boards at the University.
- (2) A notice must:
 - (a) state that the election is necessary; and
 - (b) invite nominations of persons eligible to be elected in the election; and
 - (c) specify the form in which nominations must be made; and
 - (d) specify the date and time by which nominations must reach the returning officer.
- (3) A notice is taken to have been given to a person if a copy of a publication in which that notice is published is sent to the person.

19 Nominations to be made to returning officer

Nominations of candidates in the election must be made to the returning officer.

20 Nomination requirements

A nomination must be signed by 2 people eligible to vote in the election (other than the candidate) and must contain the signed consent of the candidate to the nomination.

21 Single nomination

- (1) If there is only 1 valid nomination of a person eligible to be elected in the election, the returning officer must declare the person to be elected.
- (2) For this section, a nomination is not a valid nomination if the returning officer knows that the nominated candidate has ceased to be eligible to be elected.

22 Voting papers and notice

- (1) If there is more than 1 valid nomination of a person eligible to be elected in the election, the returning officer must give each person eligible to vote in the election:
 - (a) a voting paper; and
 - (b) a notice about voting in the election.
 - (2) The notice must:
 - (a) set out how the voter's preference must be shown on the voting paper; and
 - (b) specify the date and time by which voting papers must reach the returning officer.
 - (3) For this section, a nomination is not a valid nomination if the returning officer knows that the nominated candidate has ceased to be eligible to be elected.
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23 Envelopes to be issued with voting paper

The returning officer must issue the following envelopes with every voting paper:

- (a) an envelope marked 'Voting Paper';
- (b) another envelope addressed to the returning officer on which a form of declaration is endorsed.

24 Voting papers to contain candidate names etc.

Every voting paper must contain the names of the candidates, in the order decided by the returning officer in public by lot, and indicate any retiring candidate standing for re-election.

25 Lost or destroyed voting papers

If a person's voting paper is lost or destroyed, the returning officer must give the person a duplicate on the person's written application.

26 Instructions on voting papers

The following instructions must be set out at the head of every voting paper:

INSTRUCTIONS TO VOTER

- 1. Indicate your preference, or the order of your preferences, on this voting paper by writing the number 1 against the name of the candidate for whom you wish to vote or by writing a series of consecutive numbers, beginning with the number 1, against the names of the candidates for whom you wish to vote, one number being written against the name of each such candidate. You are not required to write a number against the name of every candidate.
- 2. Place this voting paper in the envelope marked 'Voting Paper'.
- 3. Seal that envelope and place it in the envelope addressed to the returning officer.
- 4. Sign the declaration on the envelope addressed to the returning officer and post or deliver the envelope to the returning officer.

27 Voting must comply with instructions

A voter must vote in accordance with the instructions mentioned in section 26 (Instructions on voting papers).

28 Disclosure of vote prohibited

The returning officer, a deputy of the returning officer or a scrutineer must not disclose, or assist in disclosing, how any voter has voted.

29 Acceptance or rejection of voting papers

- (1) The returning officer must decide whether any voting paper is to be accepted or rejected.
- (2) The returning officer must accept a voting paper if it is received by the returning officer before the close of the poll.

30 Opening of envelopes after close of poll etc.

(1) In this section:

returning officer envelope means the envelope, addressed to the returning officer, issued by the returning officer under section 23(b) (Envelopes to be issued with voting paper).

voting paper envelope means the envelope, marked ‘Voting Paper’, issued by the returning officer under section 23(a).

[Note: Both envelopes are issued with every voting paper. The completed voting paper is placed inside the voting paper envelope, which in turn is placed inside the returning officer envelope (see section 26 (Instructions on voting papers).]

(2) All returning officer envelopes received by the returning officer must remain unopened until after the close of the poll.

(3) After the close of the poll, the returning officer or a deputy of the returning officer must:

- (a) open each returning officer envelope on which the declaration has been signed by a voter entitled to vote in the election and take out the voting paper envelope; and
- (b) place the voting paper envelopes together; and
- (c) after all the voting paper envelopes have been placed together, open the envelopes and ascertain the result of the election.

31 Nomination of scrutineers

Each candidate is entitled to nominate a scrutineer to represent the candidate at the scrutiny.

32 Ineligible votes not to be accepted

The returning officer must not accept a vote unless the returning officer is satisfied that:

- (a) it has been cast by a person eligible to vote in the election; and
- (b) the person has voted only once in the election.

33 Deciding result of election

The result of the election must be decided in the following way:

- (a) the returning officer must count the first preference votes given for each candidate on all unrejected voting papers;
 - (b) the candidate who received the largest number of first preference votes must be elected if that number is an absolute majority of votes;
 - (c) if no candidate received an absolute majority of first preference votes, the counting of votes must proceed as follows:
 - (i) the candidate who received the fewest first preference votes is excluded, and each voting paper counted to that candidate is counted to the candidate next in the order of the voter’s preference;
 - (ii) if a candidate then has an absolute majority of votes, that candidate is elected, but, if no candidate then has an absolute majority of votes, the process of excluding the candidate who has the fewest votes, and counting each of that candidate’s voting papers to the unexcluded candidate next in the order of the voter’s preference, is repeated until a candidate has received an absolute majority of votes;
 - (iii) the candidate who has received an absolute majority of votes is elected.
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34 Equal numbers of votes: exclusion of candidate

- (1) This section applies if 2 or more candidates have the same number of votes and it becomes necessary to exclude one of them.
- (2) Whichever of the candidates was lowest on the poll at the last count at which they had an unequal number of votes must be excluded and, if the candidates had an equal number of votes at all previous counts or there was no previous count, the returning officer must decide by lot which candidate must be excluded.

35 Deciding order of voter's preference

In deciding which candidate is next in the order of the voter's preference, any candidates who have been excluded must not be considered, and the order of the voter's preference must be decided as if the names of those candidates had not been on the voting paper.

36 Exhausted voting papers

If on any count there is no candidate next in the order of the voter's preference on any voting paper, the voting paper must be set aside as exhausted.

37 Recount

- (1) The returning officer may recount the voting papers received in the election, at a candidate's request or on the returning officer's own initiative.
- (2) A request for a recount must be in writing and set out reasons in support of the request.

38 Declaration that election void

- (1) If, before the poll is declared in the election, the returning officer is satisfied that the election is, or will be, void because of an irregularity in the course or conduct of the election, the returning officer may, in writing, declare that the election is void from:
 - (a) the commencement of the election; or
 - (b) a specified point in the proceedings of the election that is after the notification of the fact that the election was necessary but before the irregularity happened.
- (2) If the returning officer declares that the election is void from the commencement of the election, the returning officer must, as soon as practicable after making the declaration, conduct a fresh election in accordance with this instrument.
- (3) If the returning officer declares that the election is void from a point in the proceedings of the election, the returning officer must, in writing, determine what proceedings in the election are necessary to ensure that the election will be conducted regularly and must conduct those proceedings in accordance with this instrument.
- (4) However, in the conduct of any proceedings in the election under subsection (3), the returning officer may, despite anything in section 17 (Intervals to be allowed by returning officer), determine, in writing, the intervals to be allowed between any events during the further proceedings.

Division 2.6—Other election provisions

39 Casual vacancy elections for student members

- (1) This section applies if a casual vacancy arises in the position of a student member.
- (2) If the Chancellor asks ANUSA, in writing, to conduct an election for the position, ANUSA must, as soon as practicable, conduct an election for the position.

40 Giving notices etc.

- (1) If this instrument requires or permits a notice, voting paper, publication, or anything else to be given to a person by the returning officer, the returning officer may send it to the person:
 - (a) by messenger to a place in the University that the returning officer considers appropriate; or
 - (b) by post to an address that the returning officer considers appropriate; or
 - (c) by electronic means to an email or internet address that the returning officer considers appropriate.
- (2) However, if a person entitled to vote in the election applies to the returning officer personally for a voting paper after voting papers have been sent in the election and before the close of the poll, the returning officer may give a voting paper to the person personally or send a voting paper electronically to the person at the person's email or internet address.
- (3) This section does not affect the operation of any other University legislation, or any other law, that authorises or requires service of a document otherwise than as provided under this section.

[Note: See e.g. the Legislation Statute, section 24 (Service of notices etc.).]

Part 3—Repeal and transitional provisions

Division 3.1—Repeal

41 Repeal of instrument

The *Governance Rule 2020* is repealed.

Division 3.2—Transitional provisions

42 Transitional rules

- (1) Rules made under the Governance Statute, section 68(1) (General power to make rules and orders) may prescribe matters of a transitional nature (including prescribing any savings or application provisions) relating to:
 - (a) the repeal of the *Governance Rule 2020*; or
 - (b) the making of this instrument.
- (2) This instrument (other than this section) does not limit the matters that may be prescribed by rules made for subsection (1).
- (3) Rules made for subsection (1) have effect despite anything in this instrument (other than this section).

43 Application of Legislation Statute, section 26

- (1) The Legislation Statute, section 26 (Repeal of University legislation) applies to the repeal of the *Governance Rule 2020*.
- (2) For the Legislation Statute, section 26 the provisions of this Division are transitional provisions.

44 Transitional provisions additional

This Division is additional to, and does not limit:

- (a) the Legislation Statute, section 26 (Repeal of University legislation); or
- (b) the Acts Interpretation Act, section 7 (Effect of repeal or amendment of Act), as applied by the Legislation Act, section 13(1)(a) (Construction of legislative instruments and notifiable instruments).

Division 3.3—Expiry

45 Expiry of instrument

This instrument expires 10 years after the day it commences.
