

Reference: ANAXF

Gerard Hayes
Branch Secretary
Health Services Union
New South Wales Branch
Level 2, 109 Pitt St
SYDNEY NSW 2000

Email: Gerard.hayes@hsu.asn.au
Ben.chapman@hsu.asn.au

Dear Mr Hayes

**New South Wales Branch
Health Services Union
Vacancy Election
E2019/72**

The Registered Organisations Commission has made arrangements with the Australian Electoral Commission under Section 189 of the *Fair Work (Registered Organisations) Act 2009 (the Act)* to conduct the above election.

Timetable

The timetable for the election will be:

Date	Occurrence
14/06/2019	Close of Roll
17/06/2019	List of eligible members delivered to Returning Officer
21/06/2019	Returning Officer publishes Election Notice via Newspaper
21/06/2019	Organisation publishes Election Notice and nomination form via website
21/06/2019	Nominations Open
05/07/2019	Nominations Close at 12:00 noon (AEST)
05/07/2019	Nomination withdrawal period closes at 12:00 noon (AEST)
05/07/2019	Candidate Statements to be lodged by 12:00 noon (AEST)
09/08/2019	Postal Ballot Opens
06/09/2019	Postal Ballot Closes at 10:00am (AEST)

Notification to Members

I will arrange for an election notice to be published in *The Australian* on 21/06/2019.

I direct you to arrange for the election notice and nomination forms to be placed in a prominent position on the Union's Branch website at the opening of nominations. These forms are to remain on the website for the duration of the election until 06/09/2019.

A copy of the branch election notice and nomination forms are enclosed.

Application of Section 193 Powers

The matters in which I have exercised the authority given to me by s.193 of the Act are:

Rule 23 (d) (ixx): The Returning Officer shall clear the box and bag at the mail exchange on a regular basis and shall sign a receipt for the ballot papers on taking them from the mail exchange. The Returning Officer shall notify all scrutineers of their intention to clear the box and bag and their right to attend when that occurs. The Returning Officer shall provide a progressive total of ballots returned to any candidate on their request.

Rule 23(d)(ixx): This rule is procedurally defective because we are not able to comply with the receipting process as it is not a part of Australia Post process of mail. Accordingly, I am taking action under Section 193(b)(ii) of the *Fair Work (Registered Organisations) Act 2009*.

Other rules discussed will have the following action:

Rule 23(d)(vi): At the closing hour of the nominations, the Returning Officer, in the presence of the Scrutineers (if present), shall proceed to open all nominations.

- This rule requires that nominations are not dealt with until after the close of nominations. Accordingly, as each nomination is received it will be held in a secure storage container such as a small, sealed ballot box and not processed until after the close of nominations adding to the time before we can send nominations to the Organisations for Eligibility checks.

Rule 23(d)(v): nominees may provide with their nomination a candidate statement in Word format containing a brief statement of experience, suitability for office and the objectives and policies intended to be pursued if elected. The candidate statement may also contain a photo of the nominee and brief information as to any group of candidates the nominee is aligned with.

- If a candidate chooses to lodge a candidate statement, it must be lodged **with** their nomination not at any other time (before or after).

Rule 23 (d)(vii): If the Returning Officer finds that a candidate statement or photo does not comply with the above requirements for publication, they shall notify the nominee concerned of the non-compliance; and provide the nominee the opportunity to remedy the matter within seven days of being notified, where practicable. If the nominee does not take the necessary steps to fix the non-compliance within the time provided, only the complying component/s will be distributed with the ballot material. Provided that no candidate statement or photo will be distributed if in the opinion of the Returning Officer, it is offensive, defamatory or misleading.

- This rule requires the Returning Officer to come to a conclusion about the content of all candidate statements lodged to determine whether that content complies with the rule.

While this may not be what we are normally required to do, it is a requirement of this rule. However, it will be the responsibility of the candidates to adhere to the rules regarding the content of the statements it should not be the Returning Officer that adjusts statements. Usual process is that if a candidate does not comply after giving the seven days to remedy then the statement would not be published.

Request to supply Register of Members Information

The roll of voters for the above election will be those members who are financial and eligible to vote on 14/06/2019.

As the Returning Officer conducting the election for your Organisation I direct you to supply the following listings of members of the NSW Branch by the dates which are specified.

Listing	Date Required
(a) Name and member information (identified below), of every member who was financial at 14/06/2019 in accordance with the rules of the Organisation	17/06/2019
(b) Update(s) listing members who: <ul style="list-style-type: none"> i. were inadvertently included on a listing ii. were inadvertently omitted from a listing who are eligible iii. have changed name, address or any other personal details <p>PLEASE NOTE: any deletions [b (i)], additions [b (ii)] or electorate changes [b (iv)] must be updates to the roll as at 14/06/2019. Updates which occur after this date cannot be accepted and so, should not be provided, except where they are changes relating to b (iii) above.</p>	10/07/2019
(c) The names of members appearing on a listing who have ceased to be members by 09/08/2019.	08/08/2019
(d) Any change of address details for members appearing on listing (a) and not provided on 10/07/2019.	24/07/2019

Electronic listings

Lists must be provided electronically and files are to be in CSV (comma delimited) format. If you are unable to supply information in .csv format, please supply them as Excel files. The AEC has introduced a portal via which organisations are to be electronically submit data and documents. In exceptional circumstances lists may be provided on digital media (such as USBs and CDs).

The link below provides information about the portal.

http://www.aec.gov.au/About_AEC/AEC_Services/Industrial_Elections/portal.htm

Lists should not be emailed as email does not provide the appropriate level of security for personal information.

Member Information

A record for each eligible member is to include the following twelve fields:

- Membership number,
- Member surname,
- Member full first name/s,
- Address line 1 (BUILDING NAME),
- Address line 2 (UNIT/FLAT/TOWNHOUSE NUMBER AND STREET ADDRESS OR PO BOX),
- Address line 3 (CITY/TOWN),
- STATE (Aust Post Abbrev),
- Postcode,
- COUNTRY (OUTSIDE AUST ONLY)
- Electorate Code (see below)
- "Incorrect last known address" code (see below)
- "Workplace Address" Code (see below)

Electorate code

For each member listed, include a field identifying the relevant Electorate. The main listing is to be accompanied by an explanatory table for the codes.

Incorrect last known address

Please include in the listings a field for "Incorrect Last Known Address". If you have eligible members with a last known address thought to be incorrect, you should code those members as "Y" or "Yes" in this field.

Workplace addresses

Please include in the listings a field for "Workplace Address". If you have eligible members with only a workplace address, you should code those members as "Y" or "Yes" in this field.

Certification of Lists

Each listing must be accompanied by a certificate signed by you in the following terms:

"I certify that the accompanying listing contains the (include appropriate details, i.e. (a), (b), (c), (d) or (e) above). I further declare that the register of members has been maintained as required by Section 230(2) of the Fair Work (Registered Organisations) Act 2009.

The total number of eligible members listed is (include number)."

The listings and certificates as described above must be supplied to me by NO LATER THAN 12:00pm on the dates specified.

Confidentiality of Information

Regulation 131 of the Regulations requires that the Returning Officer must make a copy of the roll available for inspection and copying by members, and other persons authorised by the Returning Officer. However, sub-regulation 6 provides:

(6) If a copy of a roll, or a copy of part of a roll, is made or supplied under this regulation, a person must not use information in the roll for a purpose other than:

- (a) a purpose in connection with the election; or*
- (b) to monitor the accuracy of the information contained in the roll.*

Penalty: 10 penalty units.

Other Legislative Provisions

I wish to draw your attention to the following:

- Regulation 145 of the *Fair Work (Registered Organisations) Regulations 2009* which provides that, where an election or ballot is conducted by the Australian Electoral Commission, no steps in the election may be taken by any person without the Returning Officer's authority or direction.
- Section 190 is an offence provision of the Act and a contravention of it constitutes an irregularity. Section 190 of the Act states:

An organisation or branch commits an offence if it uses, or allows to be used, its property or resources to help a candidate against another candidate in an election under this Part for an office or other position.

Maximum penalty: 100 penalty units.

If you have any queries or concerns regarding any the above please do not hesitate to contact me on nswelections@aec.gov.au or 02 9375 6301.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Chris Cox', with a long horizontal stroke extending to the right.

Chris Cox
Returning Officer
Australian Electoral Commission
12/06/2019