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WESTERN AUSTRALIAN COLLEGE OF TEACHING ACT 2004

**WESTERN AUSTRALIAN
COLLEGE OF TEACHING
(ELECTIONS) REGULATIONS
2007**

Western Australian College of Teaching Act 2004

Western Australian College of Teaching (Elections) Regulations 2007

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Western Australian College of Teaching (Elections) Regulations 2007*.

2. Commencement

These regulations come into operation as follows:

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette* (“**Gazettal day**”);
- (b) the rest of the regulations — on the day after Gazettal day.

3. Definitions

- (1) In these regulations, unless the contrary intention appears —
“**close of nominations**”, in respect of an election, means the time and date provided under regulation 6(3)(c) in the election timetable for the close of nominations for the election;
“**close of the roll**”, in respect of an election, means the time and date provided under regulation 6(3)(b) in the election timetable for the close of the electoral roll for the election;

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“election” means —

- (a) an election held under section 9(2)(a)(ii) to elect a member of the Board; or
- (b) an election held under section 9(2)(b)(ii) to elect a member of the Board; or
- (c) an election held under section 9(2)(c)(ii) to elect a member of the Board;

“Electoral Commissioner” means the Electoral Commissioner appointed under the *Electoral Act 1907*;

“extraordinary election” means an election to fill a vacancy in the office of an elected member occurring other than by effluxion of time;

“ordinary election” means an election to fill a vacancy in the office of an elected member occurring by effluxion of time;

“section” means a section of the Act;

“timetable”, in relation to an election, means a timetable published under regulation 6.

- (2) A term given a meaning in the Act Schedule 1 clause 1 has the same meaning in these regulations.

4. Inaugural elections

The Minister is to determine that an inaugural election is to be held as soon as is practicable, and notice that the inaugural election is to be held is to be published in the *Gazette*.

5. Director to notify Electoral Commissioner of election

The Director is, by written notice, to inform the Electoral Commissioner that an election is required —

- (a) in the case of an ordinary election, at least 3 months before the vacancy occurs; and
- (b) in the case of an extraordinary election, as soon as is practicable after the vacancy occurs; and

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- (c) in the case of an inaugural election, immediately after the Minister determines that an inaugural election is to be held under regulation 4; and
- (d) in the case of an election under regulation 12(1) or (2)(b), immediately after it becomes apparent that an election must be held.

6. Election timetable

- (1) As soon as practicable after receiving notice under regulation 5 that an election is required, the Electoral Commissioner is, after consulting with the Director, to determine a timetable for the election in accordance with this regulation and is to publish notice of the timetable in the *Gazette*.
- (2) A timetable for an election is to be determined taking into account —
 - (a) where relevant, the date that the term of office of any member of the Board ends; and
 - (b) the time required to lodge nominations; and
 - (c) any other matters that the Electoral Commissioner considers relevant.
- (3) A timetable for an election is to provide times and dates for —
 - (a) notice of the election to be given; and
 - (b) the close of the electoral roll for the election; and
 - (c) the close of nominations for the election; and
 - (d) the close of voting in any poll needed for the election.
- (4) If the Electoral Commissioner is of the opinion that it is necessary and appropriate to make a change to the timetable for an election, he or she is to amend the notice of the timetable for the election published under subregulation (1).

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7. Electoral rolls

- (1) The Director is to compile an electoral roll for use in an election in accordance with this regulation.
- (2) The electoral roll required for the purposes of an election held under section 9(2)(a)(ii) is a list of the names of the persons who, as at the close of the roll, are registered teachers, each of whom teaches at a government school.
- (3) The electoral roll required for an election held under section 9(2)(b)(ii) is a list of the names of the persons who, as at the close of the roll, are registered teachers, each of whom teaches at a school referred to in section 9(2)(b)(i).
- (4) The electoral roll required for an election held under section 9(2)(c)(ii) is a list of the names of the persons who, as at the close of the roll, are registered teachers, each of whom teaches at a school referred to in section 9(2)(c)(i).
- (5) An electoral roll compiled by the Director is to be based on the records of the College, information supplied by registered teachers and any other relevant record or information that the Director considers authoritative.

8. Roll to be delivered to the Electoral Commissioner

As soon as is practicable after the close of the roll for an election, the Director is to cause the roll compiled under regulation 7 to be provided to the Electoral Commissioner for use in the election.

9. Correction of electoral rolls

The Electoral Commissioner may alter an electoral roll based on information supplied in writing by the Director —

- (a) by including the name of any person whose name has been omitted in error; and

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- (b) by omitting the name of any person whose name has been included in error; and
- (c) in any other manner that may be necessary to correct the rolls.

10. Notice of election

- (1) As provided under regulation 6(3)(a) in the election timetable, the Electoral Commissioner must publish notice of the election in the *Gazette* and in a newspaper circulating throughout the State.
- (2) The notice of an election must be in writing and state the following —
 - (a) the intention to hold an election;
 - (b) that the elections are being held under the *Western Australian College of Teaching Act 2004* and these regulations;
 - (c) the provision of the Act under which the election is to be held;
 - (d) the number of vacancies in the office of member that are to be filled;
 - (e) the times and days provided in the election timetable;
 - (f) who can nominate as a candidate in the election;
 - (g) how a nomination of a candidate must be made, and the entitlements of a candidate, under regulation 11;
 - (h) how nominations can be given to the Electoral Commissioner.

11. Nomination of candidates

- (1) To nominate as a candidate in an election, a person entitled to be elected must —
 - (a) complete and sign a written nomination in a form approved by the Electoral Commissioner; and

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- (b) give it to the Electoral Commissioner before the close of nominations for the election by any means stated in the notice required by regulation 10.
- (2) A person's nomination as a candidate in an election is not valid if—
 - (a) the person is a member of the Board, unless—
 - (i) the office of that person will become vacant by effluxion of time before the close of nominations for the election; or
 - (ii) the office of that person will become vacant by effluxion of time and the election (or an election held simultaneously) is an ordinary election and is to fill that vacancy;
 - or
 - (b) at the time when the written nomination is given to the Electoral Commissioner under subregulation (1)(b), the person is a candidate in another election the result of which has not yet been published under regulation 24; or
 - (c) the nomination is not in accordance with subregulation (1).
- (3) In subregulation (2)(a)(ii), an election is held simultaneously with another election if the timetables for both elections provide, under regulation 6(3)(d), the same times and dates for the close of voting.
- (4) A candidate may supply to the Electoral Commissioner before the close of nominations, by any means stated in the notice required by regulation 10, a written profile in accordance with subregulation (5).
- (5) The written profile of a candidate—
 - (a) is to be in the English language and is not to contain more than 150 words (not counting the words needed to comply with paragraph (d)); and

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- (b) is to be confined to biographical information about the candidate and statements of the candidate's policies or beliefs and is not to contain information that the Electoral Commissioner considers to be false, misleading or defamatory; and
 - (c) is to be handwritten, typed or printed on a single A4 page, or if it is delivered electronically, is to be capable of being printed on a single A4 page; and
 - (d) is to include the proposed candidate's full name (in the form in which he or she has asked for it to be included on the ballot paper) and details of where and how he or she can be contacted; and
 - (e) can include a photograph (not larger than the size used in passports) of the proposed candidate's head or head and shoulders if the photograph was taken less than 6 months before the date of the nomination form or the Electoral Commissioner considers that the photograph shows a reasonable likeness of the candidate.
- (6) If neither subregulation (7)(a) nor (b) applies to a nomination, the Electoral Commissioner must accept the nomination.
- (7) The Electoral Commissioner must reject a nomination of a candidate if —
- (a) it is not valid; or
 - (b) the person nominated is not eligible to be elected.
- (8) The Electoral Commissioner may reject a candidate's written profile if it is not in accordance with subregulation (5).
- (9) If the Electoral Commissioner rejects a nomination or a written profile, the Electoral Commissioner must give the candidate written notice of the decision and the reasons for it without delay.
- (10) If a candidate dies, or withdraws his or her nomination, before the close of nominations, the nomination is cancelled.

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12. If number of candidates is less than vacancies

- (1) If, at the close of nominations, there are no candidates, another election must be held to fill the number of offices of member to be elected.
- (2) If, at the close of nominations, the number of candidates is less than the number of offices of member to be elected at the election —
 - (a) each candidate is elected unopposed; and
 - (b) another election must be held to fill the remaining number of offices of member to be elected.

13. If number of candidates equals vacancies

If, at the close of nominations, the number of candidates is equal to the number of offices of member to be elected at the election, each candidate is elected unopposed.

14. If number of candidates is more than vacancies

If, at the close of nominations, the number of candidates is more than the number of offices of member to be elected at the election, a poll must be conducted to decide the election.

15. Preparing for a poll

- (1) If a poll has to be conducted for an election, as referred to in regulation 14, the Electoral Commissioner must prepare ballot papers for the poll.
- (2) The ballot papers must list the names of the candidates in the order determined by lots drawn by the Electoral Commissioner after the close of nominations.

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- (3) As soon as is practicable after the close of nominations for an election the Electoral Commissioner must post to each person on the electoral roll for the election the following —
- (a) written notice of when voting closes in the election, as provided under regulation 6(3)(d) in the election timetable;
 - (b) a copy of any written profiles supplied by the candidates under regulation 11;
 - (c) instructions on how to vote, in accordance with regulation 16, approved by the Electoral Commissioner;
 - (d) a ballot paper;
 - (e) a ballot paper envelope;
 - (f) a certificate for the person to sign that says he or she —
 - (i) is entitled to vote in the election; and
 - (ii) has not voted already in the election;
 - (g) an envelope addressed to the Electoral Commissioner for the return of the person's —
 - (i) ballot paper in the ballot paper envelope; and
 - (ii) signed certificate referred to in paragraph (f).
- (4) In preparing the material referred to in subregulation (3), the Electoral Commissioner may take reasonable measures to reduce the risk of fraud in the election.
- (5) If satisfied —
- (a) that the person has not received the material referred to in subregulation (3) for the election; or
 - (b) that any of that material has been destroyed, spoiled or lost,

the Electoral Commissioner may give the person a replacement at any time before voting closes in the election.

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16. Voting at a poll

- (1) To vote in a poll for an election, a person who is eligible to vote must —
 - (a) tick the ballot paper supplied under regulation 15(3) in the manner required by subregulation (3) or (4), as the election requires; and
 - (b) seal the ballot paper in the ballot paper envelope supplied under regulation 15(3); and
 - (c) sign the certificate supplied under regulation 15(3); and
 - (d) return to the Electoral Commissioner before voting closes in the election, in the envelope addressed to the Electoral Commissioner supplied under regulation 15(3), the person's —
 - (i) ballot paper in the ballot paper envelope; and
 - (ii) signed certificate.
- (2) A person's vote is not valid unless he or she has complied with subregulation (1), unless regulation 17 applies.
- (3) If only one office of member is to be filled at an election, an elector must mark the ballot paper by placing a tick in the box opposite the name of the one candidate whom the elector wishes to be elected.
- (4) If 2 or more offices of member are to be filled at an election, an elector must —
 - (a) mark the ballot paper by placing a tick in the box opposite the name of each candidate whom the elector wishes to be elected; but
 - (b) must not place ticks in more boxes than the number of offices of member to be filled.

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Despite regulation 16(2), if the vote of an elector is marked on a ballot paper other than in the manner required by regulation 16(3) or (4) but the ballot paper clearly indicates the elector's intention, then that ballot paper —

- (a) is to be given effect to according to the elector's intention; and
- (b) is a valid vote.

18. Counting the votes and ascertaining a poll's result

- (1) The requirements of this regulation must be performed as soon as practicable after, and not before, voting closes in an election, except that the Electoral Commissioner may perform any function imposed under subregulation (4) before voting closes, if, in his or her opinion, it is appropriate to do so.
- (2) Each candidate in an election may, in a form approved by the Electoral Commissioner, nominate a person to be a scrutineer in respect of the election.
- (3) A person nominated under subregulation (2) —
 - (a) may not be a candidate in the election; and
 - (b) is entitled to scrutinise the performance of the requirements of subregulations (5) and (8).
- (4) Before complying with subregulation (5), the Electoral Commissioner must, in respect of each envelope addressed to the Electoral Commissioner and received by the Electoral Commissioner before voting closed in an election —
 - (a) record the number of such envelopes received; and
 - (b) separate from each such envelope any certificate and ballot paper envelope in it; and

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- (c) if satisfied —
 - (i) the certificate is correct and is signed by a person eligible to vote in the election; and
 - (ii) a ballot paper envelope relating to the election has not already been accepted from the person, put the ballot paper envelope in a ballot box; and
 - (d) ensure the identity of any person voting cannot be known from any ballot paper envelope in the ballot box; and
 - (e) record the number of ballot paper envelopes that are not put in the ballot box.
- (5) After complying with subregulation (4), the Electoral Commissioner must —
- (a) open the ballot box; and
 - (b) open all of the ballot paper envelopes in the box; and
 - (c) decide the validity of each ballot paper; and
 - (d) count the number of votes on valid ballot papers given for each candidate; and
 - (e) record —
 - (i) the number of invalid ballot papers; and
 - (ii) the number of votes given for each candidate.
- (6) If an election is to fill one office of member, the candidate who received the greater or greatest number of votes in the poll for the election is elected.
- (7) If an election is to fill 2 or more offices of member, the candidates elected are —
- (a) the candidate who received the greatest number of votes; and
 - (b) the candidate who receives the next highest number of votes; and

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- (c) the candidate who receives the next highest number of votes,

and so on up to the number of offices of member to be filled.

- (8) If 2 or more candidates receive the same number of votes so that subregulation (6) or (7) cannot be applied, the Electoral Commissioner must draw lots to determine which candidate is, or candidates are, elected.

19. Automated procedures may be used

- (1) Any procedure required for an election, including for the counting and checking of votes, may be carried out by automated means if the Electoral Commissioner is of the opinion that it is appropriate to do so.
- (2) In subregulation (1) —
“**automated**” includes involving the use of a computer.

20. Decisions on ballot papers

The decision of the Electoral Commissioner about the acceptance or rejection of a ballot paper is final but this does not prevent the Electoral Commissioner from reviewing the decision in the course of a re-count of votes under regulation 21.

21. Re-count

- (1) At any time before the result of an election is published under regulation 24, the Electoral Commissioner may, if he or she thinks fit, at the request of any scrutineer, or of his or her own motion, re-count the votes for the election.
- (2) In conducting a re-count, the Electoral Commissioner is to follow the same procedure, as far as is possible, as at the count and may reverse any decision as to the validity of a ballot paper.

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22. Non-receipt of ballot papers

A failure by the Electoral Commissioner to give a person a ballot paper, or any other thing, in accordance with regulation 15(3), or the non-receipt of a ballot paper or any other thing by a person, does not affect the validity of an election.

23. Powers of Electoral Commissioner

The Electoral Commissioner may take such action and give such directions as he or she considers necessary for the conduct of an election —

- (a) for the purpose of ensuring —
 - (i) the secrecy of any ballot; and
 - (ii) the safe custody of ballot papers; and
- (b) for the prevention of any irregularity in the conduct of the election.

24. Declaration and publication of result of election

- (1) The Electoral Commissioner is to declare the result of an election as soon as practicable after it is known and, immediately after that declaration, is to forward to the Director the name, or names, of the successful candidate or candidates in the election.
- (2) The Electoral Commissioner is to publish in the *Gazette* the result of an election as soon as is practicable after it is known.

25. College to keep election records

- (1) In this regulation —
“**election records**” for an election, means the following —
 - (a) a copy of the electoral roll for the election;
 - (b) a copy of the notice published under regulation 10 for the election;

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- (c) each nomination of a candidate in the election received by the Electoral Commissioner, whether valid or not;
 - (d) all unused ballot papers prepared for any poll in the election;
 - (e) all ballot papers and certificates of persons voting in the election received by the Electoral Commissioner, whether valid or not;
 - (f) all envelopes containing ballot paper envelopes received by the Electoral Commissioner within 10 days after voting closed in the election;
 - (g) any other record relevant to the conduct or result of the election.
- (2) The Electoral Commissioner is to deliver to the College any election records for an election that are in the possession of the Electoral Commissioner as soon as is practicable after the results of the election are published under regulation 24.
- (3) The College must keep the election records for an election for at least 3 years after the day on which the result of the election was published in the Gazette under regulation 24 and otherwise in accordance with the College's record keeping plan approved under the *State Records Act 2000*.

By Command of the Governor,

M. C. WAUCHOPE, Clerk of the Executive Council.

