

# FLINDERS LAW STUDENTS' ASSOCIATION

## ELECTION BYLAW 2008 (Ratified on 19 October 2008)

1. This bylaw contains rules regarding elections and nominations under the FLSA constitution and is binding on all FLSA members.
2. This Election Bylaw 2008 replaces the Election Rules 2007.
3. The purpose of the rules is to maintain the integrity and fairness of FLSA nominations and election procedures.
4. If any of the following rules are breached by a candidate, whether that includes participation by someone who is not a candidate or otherwise, has occurred:
  - 4.1 The Returning Officer must:
    - 4.1.1 Provide the candidate with a warning of the breach and require the breach to be rectified immediately or as soon as reasonably practicable;
    - 4.1.2 If the candidate fails to adhere to section 4.1.1., the candidate shall be disqualified immediately from the ballot.
  - 4.2 If the breach is deemed by the Returning Officer to have fundamentally contravened the integrity and fairness of the elections, the candidate will be immediately disqualified from the ballot.
5. A warning must be delivered orally and by email to a candidate, and state:
  - 5.1 The nature of the breach;
  - 5.2 How the breach may be rectified; and
  - 5.3 The time in which the rectification must occur.
6. A candidate has the onus of:
  - 6.1 Ensuring all contact information provided to the Returning Officer is correct;
  - 6.2 Making themselves available for contact; and
  - 6.3 Notifying the Returning Officer how and when the breach has been rectified.
7. A warning is deemed to have been provided after all reasonable attempts to contact the candidate have been made.

8. A determination that the election rules have been breached is at the sole discretion of the Returning Officer.
9. A decision that the breach has not been rectified is at the sole discretion of the Returning Officer.
10. Any such determination or decision shall be final.

## **Campaigning**

11. This section applies to all campaigning for election undertaken by candidates within the formal nomination and election period.
12. Any dispute regarding campaigning matters is to be brought to the attention of the Returning Officer.
13. Decisions as to the resolution of campaigning matters by the Returning Officer shall be final.
14. The Returning Officer may dismiss any dispute regarding campaigning matters that in his or her opinion is frivolous.
15. The FLSA register of members cannot be accessed for the purpose of campaigning.
16. Lecture announcements may not be used for campaigning purposes. This does not apply to FLSA organised lecture announcements for the purposes of First Year Representative Elections.
17. All candidates must comply with Flinders University policies regarding distribution and display of election and campaigning materials, including, but not limited to, posters and fliers.
18. Nomination statements will be available to all students via email.
19. Candidates must not use the FLSA logo or FLSA official means of communication (for example: FLSA publications, the FLSA website, the FLSA Facebook group, and emails facilitated by means exclusive to FLSA) for campaigning, unless otherwise provided in these rules.
20. Campaigning in the Flinders University Library (this includes Law Library, Central Library and other areas deemed part of the Flinders University

Library) and Flinders University Computer Labs (this includes the Law Computer Labs, Business School Computer Labs and other areas deemed part of the Flinders University Computer Labs) is prohibited.

21. All candidates must comply with Flinders University policies regarding discrimination, vilification and harassment whilst campaigning.<sup>1</sup> Breaches of these policies are considered to be a fundamental breach as in section 4.2.

### **Scrutineers**

22. Candidates may nominate one scrutineer, who must be a FLSA Member, prior to the election period for:

22.1 The meeting at which the Returning Officer draws by lot the names to appear on the ballot in order of their appearance; and / or

22.2 The election count.

23. All such nominations must be in writing and signed by the candidate and provided to the Returning Officer.

24. The Returning Officer at his or her sole discretion may eject from either the meeting or the election count any scrutineer deemed to be disorderly.

### **Order of Candidates' Names on Ballots**

25. The order of appearance of candidates' names on the ballot shall be determined by lot at a meeting.

25.1 Candidates will be notified of the time and place of the meeting by the Returning Officer at least two (2) days prior to the meeting.

25.2 The Returning Officer shall draw by lot the names to appear on the ballot in order of their appearance at this meeting.

### **Voting and Counting of Ballots**

26. All FLSA Members are eligible to vote in an election.

26.1 FLSA Members by way of Honorary Membership only cannot vote.

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<sup>1</sup> <http://www.flinders.edu.au/ppmanual/eo.html>.

27. Only ballots that are completed in accordance with this section and instructions provided on the ballot will be counted as formal.
- 27.1 Only electronic votes will be counted as formal.
28. During the election period, formal ballots may only be handled by the Returning Officer and any other person permitted by the Returning Officer to do so for the purposes of the election process.
- 28.1 Only FLSA Members are permitted to handle her or his own formal ballots. Members are prohibited from handling other members' formal ballots.
29. The voting system for all FLSA elections shall be the optional preferential system.
- 29.1 Voters may vote for as many or as few candidates in order of preference.
- 29.2 Ballots are counted according to first preference votes, subject to the special provisions relating to the election of candidates to positions of multiple officers in the section of these rules pertaining to the same.
- 29.3 The votes of the candidate with the lowest number of first preference votes will be eliminated and their votes distributed according to second preference votes and so on, to remaining candidates.
- 29.4 If more than one candidate obtains an equal number of votes at any stage of the count and a determination must be made to eliminate a candidate who has not yet obtained a majority of votes, the Returning Officer shall toss a coin to determine which candidate shall be eliminated from the count.
- 29.5 The candidate with the majority of formal votes shall be declared elected.
30. Once votes have been counted, the ballots shall be retained by the Returning Officer for a period of at least two (2) weeks after the declaration of elected candidates by the Returning Officer.
- 30.1 All candidates have the right to request inspection of the ballots during this period.

- 30.2 Should they believe an error in counting has occurred in accordance with the procedures under this section, a candidate may request a recount.
- 30.3 Request must be in writing and presented to the Returning Officer of that election within seven (7) days of the declaration of the poll.
- 30.4 The Returning Officer may conduct a recount in the presence of the candidate.
- 30.5 The Returning Officer in his or her sole discretion may refuse either request if deemed vexatious or an abuse of process.
- 30.6 The Returning Officer may delegate his or her powers for a specified purpose and period of time in writing under the preceding or succeeding clauses and at the reasonable expense of the Association.
- 30.7 The ballots may be destroyed at the conclusion of the two (2) week period after the declaration of the poll but only until such time as all requests under the preceding clauses, including any requests in relation to the election of candidates for positions of multiple officers, have been resolved.
- 30.8 The candidates will be notified of the election results by the outgoing FLSA President (or re-elected President, as the case may be) and all elected office bearers will be announced on the FLSA website.

### **Special Provisions Relating to Electing Candidates for Positions of Multiple Offices**

31. In this section:

- 31.1 'positions of multiple officers' means candidates who nominate for office bearers of the Association where more than one person is required to fill that office (for example Competitions Coordinators, Activities Coordinators and Publications Editors); and
- 31.2 Where more than the requisite number of nominations are received in order to fill those positions thereby requiring an election to fill those positions.

32. Candidates for positions of multiple officers shall be elected by proportional representation.

33. A candidate for a position of multiple officers shall be elected by obtaining a quota.

34. A quota shall be calculated according to the 'Droop Formula' in a single transferable vote system as set out below:

34.1 Total number of formal votes (+1) divided by the number of candidates to be elected (+1)

For example, if there were a total of 100 formal votes and 2 candidates to be elected, the quota would be:

Formula:  $100 + 1$  (ie, 101) divided by  $2 + 1$  (ie, 3)

Therefore quota = 33.66666 votes required for election.<sup>2</sup>

35. The distribution of preferences for a candidate elected with higher than the requisite quota shall have their preferences distributed according to the method used by the Australian Electoral Commission to elect Senators of the Commonwealth Parliament as set out below:

35.1 Any number of votes exceeding the quota shall be redistributed to other candidates according to a transfer value.

35.2 The transfer value shall be calculated by dividing the number of surplus votes by the total number of the elected candidate's ballots to the fifth decimal point.

35.3 The transfer value shall be distributed to the second most preferred candidate as marked on the elected candidate's ballots by multiplying the number of the elected candidate's ballots upon which the second most preferred candidate appears, by the transfer value.

35.4 For example:<sup>3</sup>

'In the 1998 NSW Senate election, candidate Steve Hutchins (ALP) gained 1,446,231 votes. As the quota is 536,533, his surplus is

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<sup>2</sup> See the Electoral Council of Australia website at <[www.eca.gov.au/systems/proportional/proportion\\_rep.htm](http://www.eca.gov.au/systems/proportional/proportion_rep.htm)> at 9 September 2008. See also the Australian Electoral Commission website <[www.aec.gov.au/Voting/counting/senate\\_count.htm](http://www.aec.gov.au/Voting/counting/senate_count.htm)> at 9 September 2008.

<sup>3</sup> 'How The Senate votes are counted' Australian Electoral Commission website <[www.aec.gov.au/Voting/counting/senate\\_count.htm](http://www.aec.gov.au/Voting/counting/senate_count.htm)> at 9 September 2008.

909,698. To work out the transfer value, Hutchins' surplus votes (909,698) are divided by the total number of his ballot papers:

$$909,698 \div 1,446,231 = 0.62901293085$$

This figure is taken to the eighth decimal point,<sup>4</sup> without rounding. So the transfer value is 0.62901293.

The next step is to re-examine all Hutchins' ballot papers (1,446,231).

Let's say that of the 1,446,231 people who voted for Hutchins as first choice, 1,444,433 put John Faulkner (ALP) as second choice.

Those 1,444,433 second choice ballot papers are then multiplied by the transfer value to work out how many votes they represent:

$$1,444,433 \times 0.62901293 = 908,567$$

These 908,567 transferred votes are then added to the number of first preference votes (2,914) Faulkner received, to give a total of 911,481 votes - more than the quota required. Faulkner is therefore elected. Faulkner's surplus votes are then transferred in the same manner.'

35.5 The candidate with the lowest number of first preference votes not achieving the requisite quota shall be excluded and those ballots are distributed to the next preferred candidate, and so on.

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<sup>4</sup> Note that for the purpose of the FLSA Election Rules, this fraction is instead calculated to the fifth decimal point. See cl 29.2.