

I00-2016 Elections Policy

Category: Procedural

Last Modified: 11/08/2016

Version: 9

First Ratified: 7/09/2000

Last Ratified:

Review Date:

1. Purpose

- 1.1 The purpose of this policy is to ensure that the Otago University Students' Association (OUSA) elections are carried out in a fair, efficient and democratic manner, while encouraging maximum participation amongst members.
- 1.2 OUSA recognises that freedom of speech and expression are a guaranteed part of fair and democratic elections, but will ensure all elections are free from harassment, intimidation or abuse and are conducted in a manner free from undue influence.
- 1.3 Nothing in this policy will contradict the OUSA Constitution, nor will any person or persons subject to this policy act in a manner which is inconsistent with the OUSA Constitution.

2. Interpretation

- 2.1 In this policy, unless the context otherwise requires –
 - By lot** means the use of objects in making a choice at random.
 - Campaign period** means the period of campaigning from the closing of nominations to the close of voting.
 - Campaigning** means the process of actively or passively promoting a candidate standing for election on the OUSA Executive. This includes any attempt to persuade voters to vote or not vote for a particular candidate.
 - Candidate grouping** means a number of people (two or more) representing a particular brand/political party/shared platform in an election.
 - Casual vacancy** means the situation where any executive position is currently unoccupied, or where there is no person elected to fill a position following any election.
 - Polling booth** means any physical or electronic device made available for the express purposes of voting.
 - Voting period** means the time during which voters are able to cast ordinary votes.
 - Working day** means any day except –
 - a) Saturday, a Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, the Sovereign's birthday, and Waitangi Day;
 - b) Semester holidays prescribed in the University calendar.

3. Position Specifics

The Returning Officer

- 3.1 Before the opening of nominations, the Secretary will appoint a Returning Officer to oversee the promotion and running of the election.
- 3.2 Within twenty working days of the close of voting, the Returning Officer must report to the OUSA Executive on the conduct of candidates' election campaigns, the running of the election, improvements to the electoral process and any other matter pertinent to the elections as they see fit.
- 3.3 The Returning Officer will hold their position until the Executive has received their election report.
- 3.4 In the event that no Returning Officer is appointed, or that the Returning Officer vacates the position, is absent or incapacitated, the Secretary shall hold the position of the Returning Officer until they appoint a new Returning Officer.
- 3.5 The Returning Officer must:
 - 3.5.1 Carry out such duties as described in the OUSA Returning Officer's job description; and
 - 3.5.2 Coordinate such deputies, polling clerks, scrutineers and any other assistants as necessary; and
 - 3.5.3 Direct and regulate the manner of voting and of recording votes; and

- 3.5.4 Arrange for and supervise the counting and recounting of votes; and
 - 3.5.5 Be available to candidates and members of OUSA to answer questions on the OUSA Rules or organization of the election; and
 - 3.5.6 Attempt to make members of OUSA aware of their right to vote.
- 3.6 Shortly after the close of nominations, the Returning Officer must organize a meeting of all candidates to explain the OUSA Election Rules of the election and answer any questions they might have.
- 3.7 In order to ensure maximum participation, the Returning Officer must contact relevant local media organisations and publicise:
- 3.7.1 The day or days on which voting is to be held; and
 - 3.7.2 The hours during which voting may take place; and
 - 3.7.3 The physical location of polling booths; and
 - 3.7.4 The internet address of any electronic voting system.
- 3.8 The Returning Officer must do all things necessary, expedient or advisable in their opinion for the proper, fair and democratic conduct of the election.

The Executive

- 3.9 The Executive must assist the Returning Officer, as needed and where appropriate, to ensure the elections are conducted in a proper, fair and democratic manner.
- 3.10 The Executive must exercise its authority under this policy and the OUSA Constitution in a manner that upholds the integrity and reputation of OUSA and is consistent with the principles on which this policy is based.
- 3.11 No staff member may actively support or oppose an election candidate visually (by wearing or distribution campaign materials) or verbally (via statements, publications, public announcements) or any other means, except if they are a candidate.
- 3.12 The Executive must open nominations for the following year's Executive positions by Executive motion, taking into account:
- 3.12.1 The need to make as many students as possible aware that nominations are open; and
 - 3.12.2 The influence that the nominations have on the timing of the election; and
 - 3.12.3 The requirement that the OUSA election be in the second semester.
- 3.13 The Executive must set dates for the OUSA election to be held in the second semester of each year, taking into account:
- 3.13.1 The need to train and inform the incoming Executive; and
 - 3.13.2 The length of time needed to prepare for the election; and
 - 3.13.3 The stress placed on candidates and staff by a prolonged election period; and
 - 3.13.4 The desirability of holding the election away from a University examination period; and
 - 3.13.5 The timing of other significant events which may lower the profile of the election.

The Secretary

- 3.14 In the event that no Secretary has been appointed or the Secretary vacates their position, is absent or incapacitated, the Executive will, as soon as possible, appoint an individual for the purposes of temporarily carrying out the Secretary's election duties under this policy until such time as a Secretary resumes their role.
- 3.15 The Secretary must, in conjunction with the Returning Officer, ensure that the OUSA Candidates' Information Sheet and OUSA Executive Nomination Form are updated as necessary and that sufficient copies have been made.
- 3.16 The Secretary must post a notice calling for nominations for the Executive and disseminate the notice in such media as they see fit.

- 3.17 This notice must specify a date not earlier than five working days from the posting of the notice by which time all nominations must be delivered to the Secretary.
- 3.18 The Secretary must receive the nominations for the Executive and ensure that arrangements are made for their receipt if they are not present.
- 3.19 Upon receipt of the nomination form the Secretary will ensure that:
 - 3.19.1 The candidate is eligible to stand;
 - 3.19.2 The nominator is eligible to nominate;
 - 3.19.3 The seconder is eligible to second; and
 - 3.19.4 All other details of the form are properly filled out.
- 3.20 If the requirements under clause 3.19 are not met, the Secretary must notify the nominee of this fact.
- 3.21 The Secretary may not refuse to accept a nomination for any reason other than form or eligibility.
- 3.22 Where the Secretary refuses to accept a nomination they must within two working days make the nominee aware of their right to appeal to the Executive.
- 3.23 Upon the closing of the nominations, the Secretary must:
 - 3.23.1 Within 24 hours provide the Returning Officer with a list of names of the members duly nominated for each office; and
 - 3.23.2 Within 24 hours post a notice stating the names of the candidates for each position, their nominators and seconders, and distribute the notice in such media as they see fit.
- 3.24 Where the Secretary has allowed a nomination it can be appealed within 24 hours as per 36.8 of the Constitution.
- 3.25 Within 24 hours of the release of the election results, the Secretary shall post a notice stating:
 - 3.25.1 The names of the successful candidates for each position;
 - 3.25.2 The number of valid votes cast for each candidate;
 - 3.25.3 The number of no confidence votes cast for candidates in each position;
 - 3.25.4 The number of abstained voters for each position; and
 - 3.25.5 The number of invalid votes cast for each position.

4. Candidates

- 4.1 Candidates must declare candidate groupings (tickets, party affiliations) on their nomination form for purposes of:
 - 3.1.1 Making a list of candidate groupings available to student media
 - 3.1.2 Making a list available to be published on the OUSA election ballot
 - 3.1.3 Give effect to any other provisions in the OUSA Elections Policy
- 4.2 When they submit their nomination forms, candidates must each receive a copy of the Elections Policy from the Secretary, a Candidate's Information Sheet, and the OUSA Election Rules.
- 4.3 Candidates must sign all required forms as deemed necessary by the Returning Officer confirming that they have read this policy and the OUSA Election Rules and agree to abide by them.
- 4.4 Failure to receive the this policy or the OUSA Election Rules will not invalidate the nomination or the application of the Rules to the candidate.
- 4.5 Where a candidate wishes to withdraw from an election they must deliver a signed written withdrawal to the Secretary, and such withdrawal will be accepted as final.

5. Electioneering

Voting

- 5.1 The Returning Officer must ensure that any physical, electronic or mixed voting system is able to:
 - 5.1.1 Meet the specifications and requirements laid down in the OUSA Constitution; and
 - 5.1.2 Ensure that only OUSA members vote and that each member is only able to vote once; and
 - 5.1.3 Provide for the due secrecy and peaceful nature of the ballot; and
 - 5.1.4 Provide for special votes for candidates and other unable to vote during the election period.
- 5.2 The Returning Officer must rule on whether to disallow votes not submitted in the specified manner or that are not sufficiently clear.
- 5.3 The Returning Officer has the sole discretion to allow the entry of a vote where a member believes that their name has wrongly been recorded as having already voted.
- 5.4 In all elections, on the ballot there must be, in each position, an option to vote 'no confidence' in the candidates.
 - 5.4.1 Votes of 'no confidence' must appear only once on the ballot for General Representative.
- 5.5 The names of the all candidates in each position must be placed on the ballot in a random order.
- 5.6 The Returning Officer shall make a list of all candidate groupings (tickets) available on the ballot, however no party or ticket affiliations, or the word 'Independent' will be allowed on Election ballots after the candidate's name.

Advertising

- 5.6 The Returning Officer must seek permission for the publication of candidate blurbs in Critic on terms as close as possible to those spelt out in this policy:
 - 5.6.1 Candidate blurbs for each position must have an equal maximum word length and may include a photo where possible.
 - 5.6.2 All candidate blurbs and photographs must be received by Critic by the deadline set by the Critic Editor.
 - 5.6.3 Candidates may have one blurb for each position they are standing for.
 - 5.6.4 The Returning Officer must ensure that candidate blurbs are available at polling booths and on the OUSA website during the election period for voters to read.
 - 5.6.5 Candidate blurbs must not contain material that constitutes harassment, intimidation or abuse.
- 5.7 The Returning Officer will seek permission from the University to distribute an email to OUSA members advertising the election on terms as close as possible to those spelt out in this policy:
 - 5.7.1 Any such email must be brief, must not include any attached files, and must be solely for the purpose of advertising the election.
- 5.8 Any such email must specify the dates, times and locations for voting.

6. Complaints and Breaches

Complaints process

- 6.1 Any candidate or member of OUSA may make a complaint to the Returning Officer alleging a breach of the OUSA Election Rules by a candidate.

- 6.2 When examining an alleged breach of the OUSA Election Rules, the Returning Officer must consider the principles of natural justice and will carry out a full, fair and impartial investigation.
- 6.3 Where notice of a complaint has been given to the Returning Officer they must announce all affected results as provisional until the complaint and any subsequent appeals have been dealt with.
- 6.4 Where the Returning Officer believes, on reasonable grounds, that the actions of an individual may be attributed to a candidate, they may consider the breach as if the candidate had committed it.
- 6.5 Where the Returning Officer believes, on reasonable grounds, that the complaint is frivolous, they may make a decision to dismiss the complaint out of hand.
- 6.6 When examining an alleged breach of the OUSA Election Rules, the Returning Officer may examine any conduct within the campaigning period relating to the election, regardless of whether that conduct occurred before or after the complaint.
- 6.7 The Returning Officer must take all reasonable steps to inform the candidate to whom the complaint relates, and where appropriate any other party to the breach, of the complaint and allow not less than 24 hours for the candidate to prepare their response.
- 6.8 Upon upholding a complaint, the Returning Officer may impose such restriction, limitation or penalty, including disqualification, as they think appropriate, taking into account:
 - 6.8.1 The seriousness of the breach; and
 - 6.8.2 The potential or actual effect the alleged breach may have or has had on the outcome of the election; and
 - 6.8.3 The intention of the candidate in committing the breach; and
 - 6.8.4 Repeated breaches of the OUSA Election Rules by a candidate.
- 6.9 The Returning Officer may choose to impose such restriction, limitation, or penalty against an individual candidate, or candidate grouping.
- 6.10 Without limiting the Returning Officer's discretion, disqualification may be appropriate in cases of:
 - 6.10.1 Damage to property, without permission of the owner; or
 - 6.10.2 Serious or repeated harassment, intimidation or abuse of any candidate, member or group of members of OUSA; or
 - 6.10.3 Any attempt to undermine the integrity of the election; or
 - 6.10.4 Serious or repeated disregard for the instructions of either the Returning Officer or the University and its officers.
- 6.11 In all circumstances, the Returning Officer must notify the candidate of and complainant of their right to appeal to the Executive.
- 6.12 The detail of the complaint and any candidate response must not be publically notified by the Returning Officer, the complainant or the candidate until after the complaint process and appeal process (if undertaken) are both concluded and determinations have been made.
- 6.13 In the event that the Returning Officer disqualifies the highest polling candidate in the election, and this is not appealed to the Executive, the candidate with the next highest number of votes shall assume the vacant position.

Complaints Time Window

- 6.13 The Returning Officer must not investigate a breach of the OUSA Election Rules reported after the close of the voting period except where the allegation discloses facts that, if prove, would render the election result unsafe.

- 6.14 In the event that the Returning Officer disqualifies a candidate returned in the election, the candidate with the next highest number of votes will assume the vacant position.
- 6.15 The Executive shall appoint an independent arbitrator, who must not be an ordinary member of OUSA, to resolve any appeal.
- 6.16 Decisions of the Returning Officer may be appealed to the Executive appointed independent arbitrator by any OUSA member.
- 6.17 No complaint of a breach of the OUSA Election Rules will be heard by the independent arbitrator until the Returning Officer has ruled on the issue.
- 6.18 Any appeal against a decision of the Returning Officer must be lodged with the Secretary within five working days of the Returning Officer's decision.
- 6.19 All appeals must be in writing, disclose the grounds of the appeal and the evidence supporting the appeal.
- 6.20 The Secretary must notify the appeal to the person who is the subject of the complaint and provide them with appeal documents within two working days of the appeal being lodged.
- 6.21 The Secretary must notify any parties to the appeal of the result of the appeal in writing as soon as reasonably possible after the independent arbitrator has considered the matter.
- 6.22 A decision of the independent arbitrator will be final and will bind the Executive.
- 6.23 The appeal, and any response to the appeal, must not be publically notified by the Secretary, Returning Officer, Executive, independent arbitrator or any party to the appeal until the appeal has been finally determined.

Appeals against the Secretary

- 6.24 Where the Secretary has for any reason refused to accept a nomination, an appeal by the refused person against such a refusal may be made to the Executive.
- 6.25 Any appeal must be delivered to the Secretary or President within twenty four hours after specific notice of such refusal.
- 6.25.1 If the appeal against the Secretary is made by the President, then the appeal must be delivered to any other members of the Executive.
- 6.26 The recipient of the appeal in clauses 6.25 or 6.25.1 must as soon as is reasonably possible notify the Executive of that appeal.
- 6.27 Any appeal must be in writing and state the grounds for the appeal.
- 6.28 Any list of nominations must be advertised as provisional where it is produced:
- 6.28.1 Before the period for lodging an appeal has expired: or
- 6.28.2 Before an appeal has been determined.

Recount

- 6.29 A demand for a recount must be delivered to the Secretary, in writing, within five working days of the election result being released and must state fully the grounds upon which the demand is made.
- 6.30 The Executive will automatically grant a recount the first time that a candidate requests one.
- 6.31 No member of the Executive will vote on a demand for a recount in which they are interested.
- 6.32 The manner and form of any recount will be decided upon by the Executive in a manner consistent with the OUSA Constitution, and shall be conducted by the Returning Officer.

6.33 Any candidate may attend a recount.

Re-Election

6.34 A demand for a re-election must be delivered to the Secretary, in writing, within five working days of the election result being released and must state fully the grounds upon which the demand is made.

6.35 The Executive may, in response to a demand, hold a re-election if it is established to the Executive's satisfaction that:

6.35.1 Circumstances not attributable to a particular candidate have rendered the election result unsafe; or

6.35.2 The actions of a candidate or candidates have undermined the integrity of the electoral process in such a manner that the disqualification of those candidates would not sufficiently guarantee the safety of the election result.

6.36 Where the Executive is unable to reach the quorum to decide on a request for a re-election, the matter must be referred to the independent arbitrator.

6.36.1 A decision of an independent arbitrator will be final and will bind the Executive.

6.37 No member of the Executive will vote on a demand for a re-election in which they are interested.

6.38 The manner and form of any re-election will be such as may be decided upon by the Executive in a manner consistent with the OUSA Constitution, and shall be conducted by the Returning Officer.

6.39 Any re-election must be completed within fifteen working days of the Executive motion directing it.

6.39.1 If a re-election is not completed within fifteen working days the original result of the election will stand.

6.39.2 Any re-election must use the nominations as they stood on the final notice of nominations for the original election.

By-Elections

6.40 Where a casual vacancy exists, the Executive will set the date for a by-election by motion provided that it is satisfied that:

6.40.1 Sufficient time remains to run an effective election; and

6.40.2 Any elected officer would serve for a reasonable length of time; and

6.40.3 The running of such an election would not be unduly expensive; and

6.40.4 The running of such an election would not compromise the main OUSA election.

6.41 The Executive may run a by-election for the remainder of the year at the same time as the main OUSA election.

6.42 Where a by-election has not been carried out, the successful candidate in the election for the following year's Executive must not be appointed to the Executive until the following year alongside all other successful candidates.

6.43 In all other respected, a by-election will be run on the same terms as a normal election.

7. Tied elections

7.1 In accordance with clause 41.11.3 of the OUSA Constitution, where the existence of a tie prevents there being a highest polling candidate, the Returning Officer, in consultation with the Executive, is empowered to resolve the tie in a fair and timely manner.

7.2 The Returning Officer, in fulfilment of clause of this policy, may, with the approval of the Executive:

7.2.1 Resolve the tie by lot.

7.2.1.1 Any means of resolving the tie by lot must be acceptable to all the candidates involved in the tie.

- 7.2.2 In accordance with clause 39.6 of the OUSA Constitution, extend a voting period, whether or not the voting period has closed.
 - 7.2.2.1 The duration of any voting period extension must be determined by the Executive on the advice of the Returning Officer.
 - 7.2.2.2 Only those eligible voters who did not cast a ballot during the initial voting period will be permitted to vote during a voting period extension.
 - 7.2.2.3 The only options that will appear on the ballot during a voting period extension will be the candidates involved in a tie, Abstain and No-Confidence.
 - 7.2.2.4 Recommend a re-election.
- 7.3 If the Returning Officer does not resolve the tie, a casual vacancy shall be deemed to exist, and a by-election must be held.
- 7.4 No member of the Executive will vote on the resolution of a tied election in which they are interested.
- 7.5 Where a candidate receives the same number of votes as a no-confidence option, the tie shall be resolved in favour of the candidate.

8. Election Rules

- 8.1 Candidates must campaign in accordance with the OUSA Election Rules. Failure to do so may result in the Returning Officer taking action under Section 6 of this Policy.

9. Related Policies, Procedures and Forms

- 9.1 The Constitution and Rules of the Otago University Students Association Incorporated
- 9.2 OUSA Candidates' Information Sheet
- 9.3 OUSA Elections Rules
- 9.4 OUSA Executive Nomination Form
- 9.5 OUSA Returning Officer's Job Description
- 9.6 OUSA Returning Officer's Election Report
- 9.7 OUSA Candidates' Financial Return Form