



MONSU Caulfield Inc.  
**2016 ANNUAL ELECTIONS**  
Monday 19 September - Wednesday 21 September 2016

## **RULING – ELECTION OF NUS DELEGATES**

1. Clause 36 of the Constitution provides, *inter alia*, the following:

### **C36 Eligibility to Stand and Vote**

36.1 *All members who have been enrolled and completed **one full semester may stand in elections** except for the positions of President and Vice President. Members who been enrolled and completed two full semesters may stand for the positions of President and Vice President. (emphasis added)*

2. Rule 18 of the National Union of Students (**NUS**) Regulations provides, *inter alia*, the following:

### **R18 Election of Delegates**

18.1 *Each member organisation must elect its delegates to meetings of National Conference at its annual elections.*

18.2 *Delegates must be elected:*

- (a) by secret ballot,*
- (b) using optional preferential proportional representation,*
- (c) in a separate ballot in which other positions are not elected,*
- (d) **from the students represented by that organisation,** and*
- (e) by the students represented by that member organisation. (emphasis added)*

3. On Sunday 21 August, I became concerned that the provisions in the Constitution may be inconsistent with the NUS Rules, insofar as they may require candidates for the position for the position of NUS delegate to have completed at least one semester of study in order to be eligible.
4. I have since contacted the General Secretary of the National Union of Students, Cameron Petrie. He confirmed my preliminary view that such an interpretation of the Constitution would be inconsistent with the NUS Rules. Further, Mr Petrie shared my concern that such an interpretation would increase the possibility that MONSU's delegates to the NUS National Conference would be declared ineligible by

the NUS Accreditation Committee, on the basis that their election did not confirm to the requirements as set out in the NUS Rules.

5. Regulation 4 of the Election Regulations provides, *inter alia*, the following:

**4 Responsibilities of Returning Officer**

**4.1 The Returning Officer:**

**4.1.1 is responsible for the conduct of the election;**

**4.1.2 may decide all matters not provided for in the Constitution or these regulations; and**

**4.1.3 is subject only to the Electoral Tribunal. (emphasis added)**

6. The Regulations do not provide for a scenario where the provisions of the Constitution are inconsistent with the rules of an external body insofar as they relate to an election conducted for the purposes of that body.
7. Indeed, I consider that the eligibility requirement in Clause 36 of the Constitution were never intended to apply to elections like that of NUS delegates, given that they are positions which are not contemplated in the Constitution for the purposes of elections.
8. Accordingly, I rule that the requirement that students who have completed at least one semester of study in order to be eligible to stand for positions in the election (as provided for in Clause 36) will not apply to the position of NUS delegate.
9. To give effect to this ruling, I have today caused a revised notice of election to be made available, which clarifies the eligibility requirements of students intending to stand for the position of NUS delegate.
10. Students wishing to appeal this decision may do so pursuant to the procedure outlined in the Election Regulations.

**RULING MADE AT 7.40AM, TUESDAY 23 AUGUST 2016**

**Ben Zocco  
Returning Officer**