



MONSU Caulfield Inc.
2019 ANNUAL ELECTIONS
Wednesday 23 October - Wednesday 25 October 2019

2019 ELECTION REPORT

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1. Introduction

In 2019, MONSU Caulfield (**MONSU**) engaged OGL Group to conduct their Annual Elections, after having conducted their Annual Elections from 2015-2018.

Glenn Donahoo was the Returning Officer for the 2019 Annual Elections and is the author of this report.

This report sets out the process by which the elections were undertaken, specifically highlighting areas that required attention by the Returning Officer and electoral participants. An overview of the results is provided, emphasising trends and other observations. The key issues and other areas of concern experienced in the election are discussed in detail. Finally, a set of recommendations are provided to MONSU and future Returning Officers as suggestions by which the electoral process can be improved.

2. Process

In 2018, the MONSU Student Council passed a vastly updated set of Election Regulations (**Regulations**) that governed the conduct of these and future elections. In accordance with provisions in the Regulations, the dates of polling were called by the Student Council, with other electoral deadlines being consequently set by the Regulations.

Pursuant to the Regulations, notice was given on 12 August 2019 that Annual Elections would be held from Monday 16 September to Wednesday 18 September 2019 (see [Appendix 1 – Notice of Election](#)), with nominations due on Monday 2 September. Notice of the election also was disseminated to all Caulfield students by email.

On Monday 2 September the MONSU Student Council made several changes to the Role Regulations that increased the number of hours elected Representatives would have to work. This change had the effect of restricting the positions most international students were eligible to hold to OSS Officer, Postgraduate Representative and General Representative. Following my ruling that these changes would not come into effect for the 2019 Annual Elections (see [Appendix 2 – Ruling on Role Regulations](#)), an appeal was made to the Electoral Tribunal who ruled to set aside this decision and allowed the original changes (see [Appendix 3 – Electoral Tribunal Decision 5.9.19](#)). Another appeal was also made regarding the legality of the changes regarding employment law which was dismissed by the Election Tribunal (see [Appendix 4 – Electoral Tribunal Decision 6.9.19](#)).

In line with the decisions by the Electoral Tribunal, 5 candidates' nominations were found to be invalid as they were not eligible to work the number of hours required by the Role Regulations.

Due to the unrest on campus regarding the election, and given University and MONSU concerns about the ability of the election to be run at the scheduled time, on Wednesday 11 September following discussions with relevant staff at the University and MONSU, I ruled that the election was no longer able to be held as planned from Monday 16 September to Wednesday 18 September (see [Appendix 5 – Ruling on Election Timeline](#)). To provide for this new timeline, new notice of the election was provided on Monday 16 September for an election to be held from Wednesday 23 to Friday 25 October (see [Appendix 6 – Notice of Election \(updated\)](#)).

A number of minor changes were made to the Regulations and Role Regulations on Wednesday 18 September, decreasing the number of hours required to work in most positions and incorporating changes recommended in previous reports regarding Postgraduate students. These changes were communicated to all students who had engaged in the 2019 Annual Elections.

Nomination forms and other election paperwork could be submitted to the MONSU Workshop directly or to myself in person or via email. When forms were submitted to the Workshop election participants were given a receipt for the forms that they submitted and all paperwork tendered was scanned and sent daily to the Returning Officer by email by MONSU staff. Electoral participants availed themselves of both methods of submitting election paperwork over the course of the election.

Briefing Session

The Returning Officer held a briefing session for interested students on Wednesday 21 August in the OSS Lounge. The session was advertised in the notice of election posted to the MONSU website and sent to students by email. The purpose of the session was to provide students with an overview of the electoral process and to answer any questions arising.

The session was attended by four students and was well received.

Tickets

Ticket registrations were opened at 9am on Monday 23 September and closed at 5pm on Thursday 26 September. Three ticket registrations were received in total.

Ticket Name	Ticket Registrant	Notes
Forward	Qianhe Tian	Accepted
Go!	Junda Guo	Accepted
Students for Change	Yi Ran Wang	Accepted

Candidate Nominations

Nominations were opened at 9am on Monday 30 September and closed at 4pm on Monday 7 October.

The final notice of nominations received was posted on Tuesday 8 October (see [Appendix 7 – Notice of Nominations Received & Accepted](#)).

After the closing of nominations, a detailed verification process was undertaken to ensure that candidates and their nominators and seconders were eligible to participate in the election by virtue of their enrolment as a Caulfield student, their completion of the requisite number of semesters of study along with having the requisite number of units left in their course, as provided for in the Constitution and the Regulations.

The verification process resulted in all but one nomination being determined as being eligible.

Name	Position	Reason
Narenhar Muralidharan	Activities Officer 1	Candidate is not eligible due to being a postgraduate student

Following the verification of nominations, all positions had at least one valid nomination received, with Queer Officer 1, Queer Officer 2 and Clubs Officer only receiving one valid nomination. This led to the positions of Queer Officer 2 and Clubs Officer being elected unopposed, with the candidate for Queer Officer 1 also nominating for Vice-President and hence the position not being declared at the close of nominations.

At the close of the nomination and ticket registration periods:

- **29 nominations had been received**
 - **1 nomination was invalid**
 - **2 candidates were elected unopposed**
- **3 ticket names had been successfully registered**

3. Results

Declarations

Results were provisionally declared on Friday 25 October, with the notice made available on the MONSU website (see [Appendix 8 – Notice of Results](#)). Final declaration of results occurred on Monday 4 November.

Participation

The 2019 election recorded a significantly lower number of students voting compared to recent contested elections in 2016 & 2017, with 1419 votes cast over the three days by 734 undergraduate students and 685 postgraduate students. This represented 7.68% of students, breaking down as 8.03% of undergraduate students and 7.35% of postgraduate students. This is slightly more than half of the voter turnout of 2017 in which 14.31% of students voted.

A small number of provisional votes were also accepted following clarification with the University about their enrolment.

While the hours of polling were decreased from previous years (15 hours compared to 20 hours in 2017) this factor did not greatly influence the number of students voting, with peak voting times around lunchtime appearing to be less busy than equivalent times in previous years.

Informal Votes

The rate of informal voting was incredibly low with only 2 (0.3%) postgraduate votes being informal and 3 (0.4%) undergraduate votes being informal for every position. There were a small number of undergraduate votes that were only formal for a small number of positions, leading to the individual informal counts for positions inside the ballot book ranging from 5 (0.7%) to 16 (2.2%).

As mentioned, this is an incredibly low rate of informal votes, indicating the instructions provided by polling staff and the design of the ballot papers made voting easy for students wishing to engage in the election.

Ticket votes

As provided for in the Regulations, this year's election continued to use a stapled booklet which contained separate pages for each category of position to be elected by undergraduate students. The front page of the booklet contained an option for voters who had successfully applied to be set out as a ticket, with both tickets contesting the election successful in their applications to be set out as a ticket. This is the first time since before 2016 that more than one ticket has been eligible to be set out as a ticket, with this largely a result of the loosening of front page requirements in the changes made to the Regulations in 2018.

707 votes in the voting booklet were for a ticket on the front page (96.6% of all votes cast).

Appeal

One appeal against the result of the election was received in the timeframe required by Regulation 40.1, with the appeal claiming that Nidzam Shah Hussain was not eligible to hold the position of Vice-President as he would not be studying for the entirety of 2020 and as such does not meet the requirement of C34.2 of the Constitution.

Following clarification with Monash University's Student Enrolments, I found that Enrolments had incorrectly calculated his eligibility, looking at the units remaining across semester 2, 2019 rather than looking at the number of units candidates would have remaining in their degree in 2020. This meant the eligibility of all students elected was required to be re-checked, with all students except for Nidzam Shah Hussain found to still be eligible. I was informed that Nidzam Shah Hussain only had 6 credit points, or 1 unit, remaining in his degree in 2020. In his response to the Electoral Tribunal Nidzam Shah Hussain stated that he did have 2 units remaining in his degree, to be studied over both semesters in 2020.

Following this response, clarification was sought regarding Nidzam Shah Hussain's enrolment to clarify this conflicting information. Enrolments clarified that Nidzam Shah Hussain changed his enrolment on 30 October, removing a subject from semester 2 2019 and enrolling in this for semester 2 2020.

The Electoral Tribunal found that at the time nominations closed Nidzam Shah Hussain was not eligible to stand for the position of Vice-President. As a result, the Electoral Tribunal ordered a new poll be held, resulting in the only remaining candidate Daniel Stonehouse being elected Vice-President (Appendix 9 – Electoral Tribunal Decision 4.11.19).

As such, the position of Queer Officer 1 was declared vacant, to be filled by the MONSU Student Council.

Following the conclusion of this appeal, the final declaration of results was published (Appendix 10 – Final Declaration of Results).

4. Issues

This section deals with specific problems which arose with the election process or logistics, as well as serious disputes or contentious rulings made by the Returning Officer. It is not intended to be an exhaustive account of each issue that became necessary for the Returning Officer to consider.

Change to Regulations during the electoral process

As discussed in section 2, the rules governing the election and who was eligible to nomination for positions was changed on the day that nominations were due through a change by the MONSU Student Council of the Role Regulations. While the Electoral Tribunal upheld these regulation changes, doing so undermined basic tenets of electoral practice and was contrary to good and fair electoral process. This student body must have faith in the election process, and the legitimacy of the electoral process was brought into question by these changes. The resulting student unrest and anger contributed to my decision to rule that the election timeline should be pushed back with all processes including nominations being redone.

Eligibility to nominate and second candidates

Once again, the issue of eligibility of students to nominate and second being restricted by Regulation 13.4.2 caused a number of nominations to appear to be invalid. Following some consideration, I decided that this clause was quite vague as to whether the candidate themselves or the nominator must be eligible to stand for that position and hence did not rule nominations invalid where this was the only issue present. A recommendation on this issue is provided in the recommendations section of this report.

During the first nomination period there were multiple General Representative nominations with the same nominator and seconder that I ruled to be invalid due to Regulations 13.2.1 and 13.2.2 however this ruling was overturned by the Electoral Tribunal on the grounds that the General Representatives are three “individual positions”. While “individual position” has a generally well defined definition in electoral processes, it is not defined within the Constitution or Regulations leading to this disputed meaning and the MONSU Student Council should consider clarifying this in the Regulations.

Dates of polling

Due to the need to change the election dates and week 12 of the University semester being the only dates left that would satisfy the required notice period, the election needed to be held in the final week of the semester. Due to a pre-organised MONSU event occurring on Tuesday 22 October, the election was scheduled for the Wednesday to Friday being the final 3 days of semester. This likely contributed to the significantly lower voter turnout compared to previous years, with the number of campaigners also appearing significantly lower due to the significant number of assignments due at the conclusion of the semester and the need to study for upcoming exams. While this was not the originally planned dates for the elections, MONSU should ensure that their elections are not scheduled this late in the semester again.

Location of polling

Following issues between campaigners and vendors in the S building during previous elections, MONSU made the decision to move the location of polling. Originally the SSAF marquee located outside the H building was to be used, however with the rescheduling of the elections this marquee was no longer available. Polling instead happened in the K walkway, which while covered was outside and made the area susceptible to weather conditions, particularly strong winds on the second day of polling. While polling staff effectively dealt with this through moving furniture and

taping down voting stands and ballot boxes, this was overall not a good location for polling as more severe weather such as heavy rain or particularly cold days could necessitate the stopping of polling for periods of time.

This location did however resolve the issues associated with the previous polling location in the S building, with no complaints received from staff, students or vendors about the polling or campaigners interfering with other operations.

MONSU should attempt to find a location that balances these competing demands, with the SSAF marquee outside building H likely to fulfil this requirement.

Sanctions

Following the close of nominations sanctions were placed on Eric Lee and Nidzam Shah Hussain due to the assistance they received from Sam Roberts, a Swinburne student, in completing the nomination process. This breach of 36.5.22 resulted in a 2-hour ban for both students from the start of polling on 23 October.

A small number of 2-hours bans were given out for bad conduct by campaigners on the first day of polling, including interfering with other candidate's publicity and campaigning within the exclusion zone around the polling area. One of these bans was extended by an hour for continuing to campaign while banned.

There was an allegation on the first day of polling that a candidate and a voter were pushing each other, with both students making complaints about each other. As there were no witnesses to this incident that I was made aware of and Monash security would not provide CCTV vision or a summary of the vision, no findings could be made on what occurred.

No sanctions were placed on students on the second or third days of polling, with campaigner behaving improving significantly on previous years.

Campaigner Eligibility

Several campaigners were found to have not completed the University's Respectful and Responsible module or the subsequent Respect at Monash module, with these students directed to complete this module before returning to campaigning. No students were found to have continued to campaign after being notified of these breaches before having completed the relevant module.

Some students were not able to find the Respect at Monash module to complete due to it not appearing in their Moodle dashboard; however this issue was resolved after the first day of campaigning with instructions provided to tickets on how students could access the module.

One student campaigning was found to be a Clayton student, who once notified ceased to campaign.

5. Recommendations

Recommendation 1 – Eligibility to nominate & second candidates

The Regulations state, under regulation 13.4.2, that the Returning Officer must reject any nomination where the person nominating is not eligible to run for this position. As discussed earlier in the report, this is a vague definition using different phrasing to the rest of the Regulations.

This issue stems from the use of the words “person nominating” which could refer to the “candidate” or the “nominator” depending on the reading of the clause.

I would recommend that this clause be rewritten to be:

where the nominator or seconder is not eligible to vote for that position.

This ensures that autonomous positions such as Queer Officer still require students from that group to nominate and second the nominations but does not require nominators for President to have completed at least 2 semesters of study which seems to be an arbitrary requirement for a nominator or seconder.

Recommendation 2 – Restrictions on changing Regulations

The Regulations should include a clause stating when and if the Regulations can be changed during the electoral process to create a final date that changes can be made. This ensures that the rules governing the election do not change too late in the process to cause significant fairness and equity issues between candidates, and that any changes do not undermine faith in the electoral process.

The MONSU Student Council should consider exactly when they want this deadline to be, however three appropriate options would be that no changes can be made once the Returning Officer is appointed, once the dates of the election have been set or once notice of the election has been provided.

Recommendation 3 – Clarification around City (Melbourne)

The constitution currently states that the members of MONSU Caulfield are Caulfield campus enrolled students who pay a prescribed fee (currently set at \$0). In my discussions with staff and representatives of MONSU over a number of years I have been told that MONSU Caulfield also represents City (Melbourne) campus students as they do not have their own student organisation, however the constitution does not make any allowance for these students to be members and hence engage in the annual elections.

MONSU Caulfield should clarify the students they represent with the University, including whether City (Melbourne) campus and online students are represented by MONSU Caulfield, and ensure the Constitution reflects these groups as members.

Recommendation 4 – ‘Stories’ on Social Media

Stories are images or short videos that can be posted on certain social media platforms and are only viewable for 24 hours before they disappear. Generally, stories are made with photos or videos captured in real-time and posted straight away with captions on the image. While these images/videos with captions can be downloaded and be sent for approval before being posted, this is often quite cumbersome and can distort the story when posted.

The MONSU Student Council should consider whether they want to keep the current system that provides a quasi-ban on the use of many types of stories or whether an exemption should be provided to allow stories to be posted without first obtaining approval from the Returning Officer.

in the same way that short text-only posts on social media do not need approval before being posted.

Recommendation 5 – Perceived conflicts of interest in the composition of Electoral Tribunal

It is worth considering if it is appropriate for the same lawyer used by MONSU for general advice to also be the Electoral Tribunal, as it is entirely possible that as Electoral Tribunal the lawyer will be ruling on issues that they have already provided advice on in their capacity as MONSU's lawyer. This could create a perceived or actual conflict of interest in which the Tribunal may be inclined to follow previous advice given on an issue that is subject to an appeal. The perceived conflict of interest that would occur in this such instance would likely undermine the faith of participants in the appeal system and the overall electoral process.

There are a small number of lawyers who compose Electoral Tribunals for other student organisations in Victoria and hence have a large amount of experience and knowledge in this type of electoral law. MONSU should consider approaching these lawyers to determine if it would be appropriate to appoint one of them for future elections.

Recommendation 6 – Printed Publicity

Following changes to the Regulations in 2018, candidates and tickets now need to use watermarked paper provided by the Workshop to print all of their publicity, with the Workshop providing free black and white printing. Tickets were eligible for a maximum of 8000 A4 sheets and 80 A3 sheets which both tickets availed themselves of, however it was clear throughout polling that this was vastly in excess of the needs of tickets with a maximum of approximately 2,500 A4 sheets used by a ticket.

Recognising that voter turnout was significantly lower than usual which decreases the amount of campaign flyers needed, a ticket in a large election would likely require between 4000 and 5000 A4 sheets. The maximum amount of paper given to tickets should hence be decreased to 4000 A4 and 80A3, as a reduced amount of paper would encourage greater recycling of campaign material meaning that tickets should not run out of paper throughout polling.

Recommendation 7 – Monash Security

While Monash Security were present at various points during the election to ensure no major issues were occurring, the instructions given to security officers by University management was at times counter to the intention of the directions. As discussed in the previous section, I requested from Monash Security CCTV vision of an incident that occurred with no witnesses that I believed was of moderate severity. While similar vision has been provided in the past at different Monash campuses, I was informed by Security that they were instructed not to intervene in the student elections unless a very serious incident occurred.

The intention of not intervening in the student elections is a good intention, to ensure the University does not be seen to override the outcomes decided by students, however in this case the desire to not be involved in the election impeded the election process. Accurate information surrounding an issue that may have resulted in bans of students campaigning or even nominating in this or future elections could not be obtained, resulting in what may have been a serious issue not being dealt with.

In relevant meetings with the University and Monash Security, MONSU should raise that assisting in enquiries by the Returning Officer does not intervene in the election but rather assists in the proper running of the election. I strongly believe that if University management was aware that the effect of their policy to not intervene in the elections resulted in an impediment to bad behaviour being dealt with by the Returning Officer they would attempt to rectify this policy.

Recommendation 8 – Eligibility to stand as a candidate

Clause 34.2 of the Constitution requires that to be eligible to stand in the elections, candidates must be able to complete a full term if elected, equating to two semesters. The eligibility checks surrounding this include a statement on the nomination form acknowledging that candidates who sign intend to study for the entirety of the following year when they would be in office and a check with the University that the candidate has at least 12 credit points (equivalent to 2 units) remaining in their degree, assuming all currently enrolled units are passed.

While this is the interpretation that has been used since this clause was inserted into the constitution and is generally sufficient to determine if domestic students who are eligible to underload can complete their entire term, it has limitations in that many students are either not eligible to underload, such as international students, or may choose not to underload.

As such, I would recommend that the MONSU Student Council strengthen the Regulations to include minimum requirements of the number of credit points, possibly with different requirements for different classes of students to account for the ability of domestic students to underload. As students have not provided the University with their enrolment for the following year by the close of nominations, I am unsure of any means others than requirements of credit points that can be used to ensure candidates are able to complete their entire term.

6. Conclusion

This year's elections saw the updated Regulations implemented for the first time in a contested election. While the first attempt to hold the elections was aborted due to a number of issues that arose during the election process, the second run through the electoral process occurred in an effective and efficient manner.

Thanks go to all the staff involved in running the elections, including OGL Group, MONSU and University staff who assisted in various ways throughout the election. In particular, my thanks go to Sharina Mach, Ming-En Koh and the Workshop team for their assistance in preparing all of the printing necessary throughout the election.

I wish all successful candidates the very best as they undertake their new responsibilities in the coming year.



Glenn Donahoo
Returning Officer
2019 MONSU Elections

7. List of Appendices

Appendix 1 – Notice of Election

Appendix 2 – Ruling on Role Regulations

Appendix 3 – Electoral Tribunal Decision 5.9.19

Appendix 4 – Electoral Tribunal Decision 6.9.19

Appendix 5 – Ruling on Election Timeline

Appendix 6 – Notice of Election (updated)

Appendix 7 – Notice of Nominations Received & Accepted

Appendix 8 – Notice of Results

Appendix 9 – Electoral Tribunal Decision 4.11.19

Appendix 10 – Final Declaration of Results

APPENDIX 1 – NOTICE OF ELECTION



MONSU Caulfield Inc.
2019 ANNUAL ELECTIONS

Monday 16 September - Wednesday 18 September 2019

NOTICE OF ELECTION

The MONSU Caulfield Inc. (**MONSU**) 2019 Annual Elections will be held from Monday 16 September 2019 to Wednesday 18 September 2019 for the following positions:

Student Council

- | | |
|--------------------------------------|-------------------------------|
| - President – Chair | - Welfare Officer |
| - Vice President – General Secretary | - Queer Officer (x2) |
| - Overseas Student Service Officer | - Clubs Officer |
| - Activities Officer (x2) | - Women's Officer |
| - Marketing Officer | - Postgraduate Representative |
| - Education Officer | - General Representative (x3) |

Nominations

Nominations will open at 9am Monday 26 August and close at 4pm on Monday 2 September.

Details on eligibility requirements for all positions can be found in the Election Regulations. Nominees must be available to attend a Governance Camp from Monday September 30 to Wednesday October 2 should they be elected.

Nomination Forms will be available from Monday 26 August at the MONSU Caulfield office, on the MONSU website (www.monsu.org) or by contacting the Returning Officer.

Candidates may submit a candidate statement and a photograph with their nomination. These must be received by the close of nominations. All statements and photographs must be submitted by emailing the Returning Officer (monsu.returningofficer@gmail.com). Further details regarding candidate statements can be found in the Election Regulations.

Voting

Polling will be conducted on the Caulfield campus between the hours of 10am – 3pm on Monday 16 September, Tuesday 17 September and Wednesday 18 September.

Further details of polling will be made available prior to the close of nominations.

Postal votes are available for those unable to attend the election in person. Postal Vote Application Forms will be available from the Returning Officer or on the MONSU Caulfield website (www.monsu.org) from Monday 26 August. **Completed Postal Vote Application Forms must be received by the Returning Officer no later than 5pm Wednesday 11 September.**

Tickets

A person may register a ticket name to allow candidates to run as a group. Ticket registrations will open at **9am on Monday 19 August** and close at **5pm on Thursday 22 August**.

In addition to registering a ticket, the authorised officer of a group of candidates wishing to run on a ticket must complete an application to be set out as a ticket. An application must list candidates for a minimum number of positions in order to be eligible, as provided for in the Election Regulations.

Briefing Session

A briefing session will be held by the Returning Officer on the Monash Caulfield campus from **11am – 12pm** on **Wednesday 21 August**. Any students interested in participating in the election are recommended to attend. The briefing will contain additional information regarding the process of ticket registration, applying to be set out as a ticket and nominating for positions in the election. An opportunity will also be available for students to ask questions.

RSVPing for the session is compulsory and should be done by email to the Returning Officer (monsu.returningofficer@gmail.com) by no later than 5pm Monday 19 August. The location of the briefing session will be advised to those students who have submitted an RSVP by the deadline.

Contact details

The contact details for the Returning Officer are:

Email: monsu.returningofficer@gmail.com

Telephone: 0447 189 538

Post: Attention: MONSU Returning Officer, 1/123 Swan Street, Richmond, VIC, 3121

Copies of the MONSU Caulfield Election Regulations and the MONSU Caulfield Constitution governing this election are available from the MONSU Caulfield office or via the MONSU Caulfield website at (www.monsu.org). The Returning Officer strongly encourage all those interested in taking part in these elections to make themselves familiar with these important documents as they govern how these elections are run.

**Glenn Donahoo
Returning Officer
0447 189 538**

12 August 2019

APPENDIX 2 – RULING ON ROLE REGULATIONS



MONSU Caulfield Inc.
2019 ANNUAL ELECTIONS
Monday 16 September - Wednesday 18 September 2019

RULING ON ROLE REGULATIONS

The MONSU Student Council met this morning (Monday 2 September) and passed a number of changes to the Role Regulations. Summarised, these changes mean that the required number of hours to be worked in each position to be elected in the Annual Elections, other than President, OSS Officer, Postgraduate Representative and General Representative, has been changed to 22 hours per week.

The effect of this change is that students holding certain categories of student visas are now no longer eligible to run for each of the positions not listed above.

As the Election Regulations do not state a deadline for when changes can be made to any regulations that affect the running of the Annual Elections, such as the Role Regulations, Clause 4.1.2 of the Election Regulations has affect. This clause states that

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)

Due the timing of these changes being the morning that nominations are due, with notification of these changes including providing me with the update Role Regulations not occurring until 2:45pm, only an hour and 15 minutes before nomination close, I believe it would be unfair on election participants to have these rules changed at such late notice. This is especially the case for students who provided me with their nomination before these changes to the Role Regulations were sent to myself.

The students who have attempted to participate in the Elections by nominating have done so with the knowledge of which positions they can and cannot nominate for and will not be given sufficient notice of these changes to reasonably change the positions they are wishing to nominate for.

As such I am ruling that the changes to the Role Regulations will not take affect until after the conclusion of the Annual Elections.

RULING MADE AT 3:05PM, MONDAY 2 SEPTEMBER 2019

Glenn Donahoo
Returning Officer
0447 189 538

APPENDIX 3 – ELECTORAL TRIBUNAL DECISION 5.9.19

Election Tribunal Appeal Decision

Background Summary

1. On 2 September 2019 the MONSU Student Council passed changes to the Role Regulations requiring the number of hours to be worked in each position to be elected in the Annual Elections, other than President, OSS Officer, Postgraduate Representative and General Representative, to 22 hours per week.
2. The Returning Officer made a ruling in accordance with clause 4.1.2 of the Election Regulations, that the Role Regulations will not take effect until after the conclusion of the Annual Elections. The basis for that ruling is that it would be unfair on election participants to have these rules changed at such late notice.
3. The basis for the Appeal is that the hours set out per position in the Role Regulations did not align with the actual time required from office bearers to complete their duties; incoming council members need to be aware of those actual hours; and those elected will be expected to meet the increased hours regardless of the ruling.

Decision

4. While it is preferably that such changes are made as early as possible, the Election Regulations do not state a deadline for when changes can be made to any regulations that affect the running of the annual elections. Therefore, the changes made to the regulations are not in breach of any legal obligation.
5. After careful consideration of both submissions, the Tribunal finds that the changes made are required in order for those elected to properly undertake the roles of office bearers and it would be unfair to all concerned if, upon begin elected, they were unable to carry out the duties required.
6. The Appeal is upheld, the ruling is overturned, and the changes be notified to all concerned in accordance with the regulations.

Election Tribunal

5 September 2019

APPENDIX 4 – ELECTORAL TRIBUNAL DECISION 6.9.19

Election Tribunal Appeal Decision

Appeal Submission Summary

1. On 5 September 2019, the Tribunal received an appeal that the Elections Regulations introduced by the Student Council on 2 September 2019 breach clause 37 of the MONSU Constitution (the Constitution) and s.9 of *Equal Opportunity Act (VIC) 2010* (the EEO Act).
2. The basis for the appeal is that:
 - a) The constitution provides that officer positions are to be held by elected student office bearers, not employees within the meaning of the Fair Work Act. The circumstances under which an officer can be removed from office are prescribed in the Constitution (at clause 37). Failure to undertake a prescribed number of work hours is not among them. Consequently, the regulations exclude those prohibited from working more than 20 hours but not those who simply won't.
 - b) The terms of international students' migration visas prohibit them from working more than 40 hours per fortnight. With respect to the position of Vice President, it is difficult to see why the role requires 22 hours per week as opposed to 20 hours, as it was at had been at the time the election was called. Regardless of the Student Council's intention, the effect of the new provisions makes them a form of indirect discrimination.

Returning Officer Submission Summary

1. Clause 4.1 of the Election Regulations states:
 - a. **4.1. The Returning Officer:**
 - b. **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.
2. At no point do the Regulations give the Returning Officer the power to rule on the legality of the Constitution, Election Regulations or any other Role Regulations. Doing so would be a significant over-reach of the powers of the Returning Officer who is employed to conduct the election in accordance with the Constitution and Election Regulations provided by MONSU.

MONSU submission summary

1. The Equal Opportunity Act 2010 does not include visa or citizenship requirements as an attribute on the basis of which discrimination is prohibited. There is no attribute listed in section 6 of the Equal Opportunity Act on the basis of which the regulations introduced by the Student Council on 2 September can be deemed indirect discrimination. The Equal Opportunity Act does not prohibit organisations from

imposing Visa Requirements as a part of role regulations. Therefore, section 9 of the Equal Opportunity Act 2010 does not apply to the regulations introduced by the MONSU Student Council on 2 September.

2. The terms of international students' migration visas prohibit working more than 40 hours per fortnight. The Returning Officer is required by external legislation to ensure those working in roles in MONSU are not doing so in violation of the law. Therefore, the Returning Officer must ask candidates to provide evidence of their right to work the hours stated in the MONSU Role Regulations.
3. The issue of the Role Requirements of the position of Vice President is an issue to be decided by the MONSU Student Council. Candidates for election do not determine the Role Requirements for positions. The role of Vice President has seen increased responsibility for the rostering of MONSU's Exam Help Desk, one of MONSU's biggest programs that provides for more than one third of all student interactions over the course of the year. In addition to this, the MONSU Vice President is responsible for the Human Resource Management of the Student Council and committee. There are increasing expectations that Monash University has placed upon MONSU Caulfield. Human Resource Management has required a great portion of weekly time to adapt to these increased expectations in order to support MONSU Council members and ensure their mental wellbeing is being prioritised. MONSU does not believe an external candidate has a greater understanding of the requirements of the Vice President than a sitting student council that unanimously supported these regulations.
4. Clause 37 specifically relates to vacancies in the Student Council, not the eligibility to stand and vote. Clause 34.4 allows for regulations that limit the eligibility to stand and vote in particular elections to specified categories of students. The MONSU Constitution explicitly allows for regulations limiting the eligibility to stand and vote and the Role Regulations passed by the MONSU Student Council are not in breach of the MONSU Constitution.
5. The Electoral Tribunal has previously ruled on this matter and found the regulations to be both required and not in breach of legal obligation, as stated in points 4 and 5 of the ruling on 5 September 2019. Section 38.5 of the Election Regulations states that the rulings of the electoral tribunal are final. The ruling handed down on 5 September 2019 relating to the MONSU Student Council appeal surrounding role regulations has been ruled on. The MONSU Student Council believes the appeal against the Returning Officer's request for proof of the right to work constitutes an appeal against the Electoral Tribunal's prior decision, is in violation of Section 38.5 of the Election Regulations and is therefore an invalid appeal.
6. Section 38.2 of the Election Regulations states that parties may not be represented unless the Electoral Tribunal decides that without representation a party will be unable to fairly put its case. The appeal provides no evidence that the party has been unable to fairly put its case. The MONSU Student Council believes this is insufficient grounds to hold a hearing on this matter.

Decision

The appeal is dismissed on the following grounds:

1. The EEO Act does not include visa or citizenship requirements as an attribute on the basis of which discrimination is prohibited, as such, the EEO Act does not apply to the regulations introduced by the Student Council on 2 September 2019.
2. The Constitution does not prevent the regulations from limiting the eligibility to stand and vote in particular elections to specified categories of students. Clause 37 specifically relates to vacancies, not the eligibility to stand and vote. Clause 34.4 allows for regulations that limit the eligibility to stand and vote in particular elections to specified categories of students. Therefore, the regulations passed on 2 September 2019 are not in breach of the MONSU Constitution.

Election Tribunal

6 September 2019

APPENDIX 5 – RULING ON ELECTION TIMELINE



MONSU Caulfield Inc.
2019 ANNUAL ELECTIONS
Monday 16 September - Wednesday 18 September 2019

RULING ON ELECTION TIMELINE

Following discussion with both MONSU and the University, it has been confirmed to me that the arrangements currently in place to hold the ballot for next week cannot be done in a safe or timely manner. Given the basic requirements of polling and the necessary consideration of the safety of participants in the scheduled elections which cannot be guaranteed, no polling will be occurring from 16-18 September as originally planned. This was entirely unforeseen and was not expected to occur during the crucial phase of the election period.

In light of this, and again in consultation with the relevant staff at the University and MONSU, I am therefore changing the dates and times of polling to be October 21 to October 23, from 10am until 3pm each day in accordance with regulation 9.2.2.3 of the Election Regulations. To provide for this new timeline, new notice of the election will be provided on Monday 16 September.

All ticket registrations, nominations and other submissions received until this point will be voided, with new periods for election forms to be received in line with regulation 9.1 of the Election Regulations.

I have been advised that the MONSU Student Council will be making changes to the Role Regulations immediately to clarify eligibility and expectation around office-bearer roles. These changes will then take effect for the upcoming election period and I will communicate these to all previous 2019 election participants once they have been passed.

RULING MADE AT 4:45PM, WEDNESDAY 11 SEPTEMBER 2019

Glenn Donahoo
Returning Officer
0447 189 538

APPENDIX 6 – NOTICE OF ELECTION (UPDATED)



MONSU Caulfield Inc.
2019 ANNUAL ELECTIONS

Wednesday 23 October - Friday 25 October 2019

NOTICE OF ELECTION

The MONSU Caulfield Inc. (**MONSU**) 2019 Annual Elections will be held from Wednesday 23 October 2019 to Friday 25 October 2019 for the following positions:

Student Council

- | | |
|--------------------------------------|-------------------------------|
| - President – Chair | - Welfare Officer |
| - Vice President – General Secretary | - Queer Officer (x2) |
| - Overseas Student Service Officer | - Clubs Officer |
| - Activities Officer (x2) | - Women's Officer |
| - Marketing Officer | - Postgraduate Representative |
| - Education Officer | - General Representative (x3) |

Nominations

Nominations will open at 9am Monday 30 September and close at 4pm on Monday 7 October.

Details on eligibility requirements for all positions can be found in the Election Regulations.

Nomination Forms will be available from Monday 30 September on the MONSU website (www.monsu.org) or by contacting the Returning Officer.

Candidates may submit a candidate statement and a photograph with their nomination. These must be received by the close of nominations. All statements and photographs must be submitted by emailing the Returning Officer (monsu.returningofficer@gmail.com). Further details regarding candidate statements can be found in the Election Regulations.

Voting

Polling will be conducted on the Caulfield campus between the hours of 10am – 3pm on Wednesday 23 October, Thursday 24 October and Friday 25 October.

Further details of polling will be made available prior to the close of nominations.

Postal votes are available for those unable to attend the election in person. Postal Vote Application Forms will be available from the Returning Officer or on the MONSU Caulfield website (www.monsu.org) from Monday 30 September. **Completed Postal Vote Application Forms must be received by the Returning Officer no later than 5pm Wednesday 16 October.**

Tickets

A person may register a ticket name to allow candidates to run as a group. Ticket registrations will open at **9am on Monday 23 September** and close at **5pm on Thursday 26 September**.

In addition to registering a ticket, the authorised officer of a group of candidates wishing to run on a ticket must complete an application to be set out as a ticket. An application must list candidates for a minimum number of positions in order to be eligible, as provided for in the Election Regulations.

Contact details

The contact details for the Returning Officer are:

Email: monsu.returningofficer@gmail.com

Telephone: 0447 189 538

Post: Attention: MONSU Returning Officer, 1/123 Swan Street, Richmond, VIC, 3121

Copies of the MONSU Caulfield Election Regulations and the MONSU Caulfield Constitution governing this election are available from the MONSU Caulfield office or via the MONSU Caulfield website at (www.monsu.org). The Returning Officer strongly encourage all those interested in taking part in these elections to make themselves familiar with these important documents as they govern how these elections are run.

**Glenn Donahoo
Returning Officer
0447 189 538**

16 September 2019

APPENDIX 7 – NOTICE OF NOMINATIONS RECEIVED AND ACCEPTED



MONSU Caulfield Inc.

2019 ANNUAL ELECTIONS

Wednesday 23 October – Friday 25 October 2019

FINAL NOTICE OF NOMINATIONS RECEIVED AND ACCEPTED (IN BALLOT ORDER)

The following nominations have been received by the deadline for positions to be elected at the 2019 MONSU Annual Election. These nominations have been subject to verification checks with the University for eligibility requirements (enrolment and course progression), in accordance with the Election Regulations.

The following nominations have been accepted and have been declared elected unopposed:

First Name	Surname	Position	Ticket
Yan Yan	Hou	Clubs Officer	Go!
Malachi	Van Souphan	Queer Officer 2	

The following nominations have been accepted:

First Name	Surname	Position	Ticket
Caitlyn	Dunne	President	Students for Change
Eric	Lee	President	Go!
Nidzam Shah	Hussain	Vice President	Go!
Daniel	Stonehouse	Vice President	Students for Change
Qianhe	Tian	Overseas Student Service Officer	Students for Change
Xiwen	Sun	Overseas Student Service Officer	Go!
Driti	Thyagaraj	Activities Officer 1	Students for Change
Jasper	Wells	Activities Officer 1	Go!
Caitlyn	Dunne	Activities Officer 2	
Xitong	Han	Activities Officer 2	Go!
Ryan	Marks	Marketing Officer	Students for Change
Duan	Li	Marketing Officer	Go!
Omar	Alkanter	Education Officer	Students for Change
Yi Jia	Hao	Education Officer	Go!
Hexin	Dai	Welfare Officer	Go!
Nils	Bellarts	Welfare Officer	Students for Change
Daniel	Stonehouse	Queer Officer 1	
Isabella	O'Leary	Women's Officer	Students for Change
Yixuan	Xin	Women's Officer	Go!
Daoyuan	Zhang	General Representative	Go!
Yuyin	Xu	General Representative	Go!
Charles	Lim	General Representative	Go!
Kyle	Howden	General Representative	Students for Change
Chloe	Gordon	General Representative	Students for Change
Manas	Bhaskar	Postgraduate Representative	Students for Change
Junda	Guo	Postgraduate Representative	Go!

The following tickets have been accepted to be set out as tickets:

Ticket
Go!
Students for Change

The following nominations have not been accepted:

First Name	Surname	Position	Ticket	Reason
Narenhar	Muralidharan	Activities Officer 1		Candidate is not eligible due to being a postgraduate student

If you believe there are any errors, please contact me by email as soon as possible.

Glenn Donahoo
Returning Officer
0447 189 538
monsu.returningofficer@gmail.com

10 October 2019

APPENDIX 8 – NOTICE OF RESULTS



MONSU Caulfield Inc.
2019 ANNUAL ELECTIONS
Wednesday 23 October – Friday 25 October 2019

NOTICE OF RESULTS

PRESIDENT

Name	Ticket	Total
Caitlyn Dunne	Students for Change	222
Eric Lee	Go!	503
Informal		7
TOTAL		732

Eric Lee was declared elected.

VICE PRESIDENT

Name	Ticket	Total
Nidzam Shah Hussain	Go!	500
Daniel Stonehouse	Students for Change	222
Informal		10
TOTAL		732

Nidzam Shah Hussain was declared elected.

OVERSEAS STUDENT SERVICES OFFICER

Name	Ticket	Total
Qianhe Tian	Students for Change	223
Xiwen Sun	Go!	501
Informal		8
TOTAL		732

Xiwen Sun was declared elected.

ACTIVITIES OFFICER 1

Name	Ticket	Total
Driti Thyagaraj	Students for Change	220
Jasper Wells	Go!	502
Informal		10
TOTAL		732

Jasper Wells was declared elected.

ACTIVITIES OFFICER 2

Name	Ticket	Total
Caitlyn Dunne		216
Xitong Han	Go!	503
Informal		13
TOTAL		732

Xitong Han was declared elected.

MARKETING OFFICER

Name	Ticket	Total
Ryan Marks	Students for Change	218
Duan Li	Go!	504
Informal		10
TOTAL		732

Duan Li was declared elected.

EDUCATION OFFICER

Name	Ticket	Total
Omar Alkanter	Students for Change	221
Yi Jia Hao	Go!	501
Informal		10
TOTAL		732

Yi Jia Hao was declared elected.

WELFARE OFFICER

Name	Ticket	Total
Hexin Dai	Go!	502
Nils Bellarts	Students for Change	220
Informal		10
TOTAL		732

Hexin Dai was declared elected.

QUEER OFFICER 1

Daniel Stonehouse was declared elected unopposed.

QUEER OFFICER 2

Malachi Van Souphan was declared elected unopposed.

CLUBS OFFICER

Yan Yan Hou (Go!) was declared elected unopposed.

WOMEN'S OFFICER

Name	Ticket	Total
Isabella O'Leary	Students for Change	219
Yixuan Xin	Go!	503
Informal		10
TOTAL		732

Yixuan Xin was declared elected.

POSTGRADUATE REPRESENTATIVE

Name	Ticket	Total
Manas Bhaskar	Students for Change	223
Junda Guo	Go!	462
Informal		2
TOTAL		687

Junda Guo was declared elected.

GENERAL REPRESENTATIVE

Name	Ticket	Total
Daoyuan Zhang	Go!	497 – 1 st elected
Yuyin Xu	Go!	1 – 3 rd elected
Charles Lim	Go!	0
Kyle Howden	Students for Change	210 – 2 nd elected
Chloe Gordon	Students for Change	9
Informal		16
TOTAL		732

Daoyuan Zhang, Kyle Howden & Yuyin Xi were declared elected.

Glenn Donahoo
Returning Officer

25 October 2019

APPENDIX 9 – ELECTORAL TRIBUNAL 4.11.19

Election Tribunal - Appeal Decision

Appeal Submission

1. On 29 October 2019, the Tribunal received an appeal regarding the provisional declaration of the MONSU election result for the position of Vice President.
2. The basis for the appeal was that candidate elect for Vice President, Mr Nidzam Shah Hussain ("Mr Hussain"), was not eligible to stand pursuant to r.12 of the MONSU Election Regulations ("the Regulations") and clause 34 of the MONSU Constitution ("the Constitution").

3. The Regulations at r.12 states:

All students shall be eligible to stand in an election, subject to clauses 34 and 35 of the Constitution and this regulation 12.

4. The Constitution at cl. 34 states:

All members wishing to stand in elections must do so on the basis that they can complete a full term if they are elected, which equates to two full semesters.

Returning Officer Submission

Submissions from the Returning Officer are summarised as follows:

1. Monash University Enrolment Services ("Enrolment Services") confirmed to the Returning Officer that Mr Hussain will be enrolled for this summer semester and will have completed his studies before the beginning of Semester 1.
2. Each nomination form includes the statement:

"If you are standing as a candidate, you acknowledge that you intend to study at Monash University for the entirety of 2020".

Signing this nomination form as a candidate, when the student does not intend to study at Monash for the entirety of 2020, is providing a false statement to the Returning Officer which itself is considered a search breach of the prohibited conduct section of the Regulations.

3. There has been a defect in the conduct of the election of the Vice President that has materially affected the result. In finding this, the Electoral Tribunal may order a new poll or election. Ordering a new poll, would cause a new poll to occur with all remaining eligible candidates. As there would only be one remaining eligible candidate for Vice-President, Daniel Stonehouse, this would cause the remaining candidate to be elected unopposed to the position of Vice-President. This would also mirror the result if the candidate's ineligibility had been determined following the close of nominations and is the appropriate outcome.

Mr Hussain

1. Immediately upon receiving the appeal on 29 October 2019, Mr Hussain was provided a copy of the full submissions summarised above and afforded the opportunity to provide a submission in response. Mr Hussain agreed to provide a submission to the Tribunal no later than 1 November 2019. The tribunal received submissions from Mr Hussain on 2 November 2019 summarised as follows:

1. there is an administrative error that has seen one of the two remaining units assigned to Summer Term instead of Semester One; and
2. in 2020, Mr Hussain will be undertaking one unit in Semester 1, and one unit in semester 2, and as such, the requirements of clause 34.2 of the MONSU Constitution will be complied with.

Enrolment Services

The Returning Officer made further enquiries with the Enrolment Services and received confirmation that:

1. at the time of nomination, Mr Hussain had enrolled to undertake the 1 unit remaining in his degree the summer semester; and
2. on 30 October 2019 Mr Hussain changed his enrolment on from having 1 unit remaining to be undertaken in the summer semester to having 2 units remaining, by reducing his load for the second half of 2019 and adding a unit in the second half of 2020.

Decision

1. The tribunal determined there was a *prima facie* case and proceeded with the appeal in accordance with r.40 of the Regulations.
2. The constitution is clear that at the time on nominations “*a member wishing to stand in elections must do so on the basis that they can complete a full term if they are elected, which equates to two full semesters.*”
3. At the time of nominations, Mr Hussain was enrolled to complete his degree in the summer semester and hence not eligible to stand as candidate in the election pursuant to r.21.1 of the Regulations and cl 34 of the Constitution.
4. The fact that Mr Hussain changed his enrolment after the election does not support the submission that an administrative error had occurred at the time of nominations.
5. As a consequence of Mr Hussain’s ineligibility to stand, there has been a defect in the conduct of the election for the Vice President position that has materially affected the result.
6. In finding in favour of the appeal, the one remaining eligible candidate for Vice-President, Mr. Stonehouse, is elected unopposed to the position of Vice-President.
7. The Returning Officer is to declare the election and make the necessary notification of the results.

Decision of the Election Tribunal

4 November 2019

APPENDIX 10 – FINAL DECLARATION OF RESULTS



MONSU Caulfield Inc.

2019 ANNUAL ELECTIONS

Wednesday 23 October – Friday 25 October 2019

FINAL DECLARATION OF RESULTS

Following the counting of the 2019 MONSU Caulfield Annual Election the following students have been declared elected.

First Name	Surname	Position	Ticket
Eric	Lee	President	Go!
Daniel	Stonehouse	Vice President	Students for Change
Xiwen	Sun	Overseas Student Service Officer	Go!
Jasper	Wells	Activities Officer 1	Go!
Xitong	Han	Activities Officer 2	Go!
Duan	Li	Marketing Officer	Go!
Yi Jia	Hao	Education Officer	Go!
Hexin	Dai	Welfare Officer	Go!
Malachi	Van Souphan	Queer Officer 2	
Yan Yan	Hou	Clubs Officer	Go!
Yixuan	Xin	Women's Officer	Go!
Daoyuan	Zhang	General Representative	Go!
Kyle	Howden	General Representative	Students for Change
Yuyin	Xu	General Representative	Go!
Junda	Guo	Postgraduate Representative	Go!

As no nominations were received for the position of Queer Officer 1, this position is vacant and is to be filled by the MONSU Student Council in accordance with 37.6 of the Constitution.

Glenn Donahoo
Returning Officer

4 November 2019