



MONSU Caulfield Inc.
2020 ANNUAL ELECTIONS
Monday 2 November - Wednesday 4 November 2020

RULING – Campaigning by ‘Ignite’ group

Background

On 18 September I received two complaints regarding campaign material published on behalf of the unofficial ‘Ignite’ group of candidates. Candidates that form this group are Anna Purtill, Maxi Hunt, Hannah Cohen, Bridget Lee, Harvey Gibbs, Tiana Schurmann, Riley Fenn, Yingying Zhang, Ziyi Luo, Wenhan Jia, Jingyu Chen, Wen Xue and Nan Jiang (**the Ignite candidates**).

Complaint

The first complaint was regarding a message sent that day by a student named Madeena in a class group chat, in which the student stated that they are working with Ignite and encouraging students to vote in the election. This message breaches Regulations 19.2 and 19.5. The student deleted their message once they were made aware that they were breaching the Regulation.

As this appears to be an isolated incident and the student deleted the comments soon after they were made I am providing a reprimand to this student.

The second complaint was regarding two posts made on WeChat, which were subsequently also found to have been posted on Australia51.com. All posts appear to be made by a group called ‘Melbourne Campus Micro News’.

These posts, written in Mandarin, were published on 23 September (**post 1**) and 16 October (**post 2**). Regulation 19 covers all publicity made during the election period, which began when I was appointed as the Returning Officer on 2 October. While post 1 was made prior to the election period, it was available during the election period and as it is election material it is covered by Regulation 19 from 2 October. Post 2 was made during the election period.

All translations in this ruling were obtained through Google Translate and may not be exact.

Post 1 was titled “Monash Student Union MONSU is in a hurry! Your help is urgently needed!”. This post breaches a number of Election Regulations including:

- Regulation 19.2 – No authorisation is included on the publicity & the post was not provided to the Returning Officer for approval
- Regulation 19.3.2 - Multiple misleading or deceptive comments are in the article including that the current core members of MONSU are trying to make international students lose their right to vote and be elected
- Regulation 19.3.3 – No English translation is provided on the publicity

- Regulation 19.3.4 – The MONSU logo is used multiple times throughout the post
- Regulation 19.5 – Publicity was made available prior to the close of nominations
- Regulation 31.5.7 – Publicity being published that breaches each of the above regulations.

In response to the breaches of Regulations 19.2 and 19.5 I am directing that the post be removed, which has already been done from WeChat. No sanctions are required in response to these 2 breaches. Sanctions however are appropriate for the other 3 breaches.

Post 2 was titled “Let Chinese students "ignite" Monash Caulfield| 2020 MONSU Annual Election”. This post breaches a number of Regulations including:

- Regulation 19.2 – No authorisation is included on the publicity & the post was not provided to the Returning Officer for approval
- Regulation 19.3.2 – Multiple misleading or deceptive comments are in the article including that the ‘current main members of MONSU ...to seek power ... have seriously affected our rights as international students’
- Regulation 19.3.3 – No English translation is provided on the publicity
- Regulation 19.3.4 – The MONSU logo is used multiple times throughout the post, including prominently at the top of the article
- Regulation 19.5 – Publicity was made available 3 days prior to the close of nominations
- Regulation 19.6 – A QR code is provided to allow students to join a WeChat group chat set up for campaigning for the Ignite candidates. A statement is provided that if the group is full students should add a phone number on WeChat. This phone number belongs to Wen Xue, one of the Ignite candidates, based on their submitted nomination form.
- Regulation 31.5.7 – Publicity being published that breaches each of the above regulations.

Response

On requesting a response regarding these posts from one of the Ignite candidates, Riley Fenn, I was advised of the following:

1. No candidate or campaigner involved with the Ignite candidates had any involvement with the preparation of any campaign communications of the kind that are in the posts.
2. The posts were made by an individual named ‘Zixuan Li’ who is a person aware of the momentum that has been building behind the Ignite campaign, is a supporter of the campaign, and wanted to make a post on WeChat demonstrating his support.
3. The QR codes on the page were never set to link to any website.
4. The candidate had managed to connect to Zixuan Li and instructed them to remove the material.

I will deal with responses 1-3 in order. There are no issues with response 4.

Firstly, I do not believe it is credible that no candidate or campaigner was involved in the preparation these posts for two reasons:

1. The phone number of one of the candidates is listed on post 2 as the person to contact if the WeChat group is full. It seems nearly impossible that this candidate was never aware that this publicity was made with their phone number on it or that

someone who would create this post and a related group chat would suggest students contact someone with no knowledge of the post or group if the group became full.

2. Post 2 contains images of the logo being used by the Ignite candidates, both as an individual image and on candidate images for 6 candidates that have nominated. This logo was subsequently provided to me by Riley Fell for approval for use from the close of nominations and the six candidates subsequently submitted nominations to me. Unless this logo was posted publicly prior to post 2 being made, which would itself be a breach of the Election Regulations but does not appear to have occurred, the logo and details on which positions six Ignite candidates were nominating for must have come directly from the Ignite candidates or campaigners involved with the candidates.

Accordingly, Riley Fenn has breached Regulations 31.2, 31.3 and 31.5.1 by providing false, dishonest and deceptive information to the Returning Officer.

Regarding Zixuan Li, based on eligibility checks this person is not a student. As such, he has breached Regulation 31.5.9 by campaigning on behalf of candidates through publishing this publicity.

Thirdly, regarding the QR code, a scan of this QR code shows that it does contain a link within WeChat to a group that translates to "MonSU 2 group preparation - ! see group announcement (0)". This group requires approval to join and as such I am unable to see what is in the group, however I can see that this group does exist.

Again, Riley Fenn has clearly breached Regulations 31.2, 31.3 and 31.5.1 by providing false, dishonest and deceptive information to the Returning Officer.

Summary

Post 1 was made on 23 September and breaches Regulations 19.3.2, 19.3.3 and 19.3.4, along with other regulations that do not require sanctions in this instance.

Post 2 was made on 16 October and breaches Regulations 19.2, 19.3.2, 19.3.3, 19.3.4, 19.5, 19.6 and 31.5.7.

In her response, Riley Fenn stated that these posts were made by an individual named Zixuan Li who is not a student. As such, these posts additionally breach Regulation 31.5.9.

Riley Fenn also provided other information in her response that was false, dishonest and deceptive, breaching Regulations 31.2, 31.3 and 31.5.1.

Sanctions

The Regulations state:

- 31.12. If the Returning Officer finds that there has been a breach, they may:*
 - 31.12.1. reprimand the person;*
 - 31.12.2. report the person to the University's Safer Community Unit;*
 - 31.12.3. suspend the person from campaigning for a period of time;*
 - 31.12.4. disqualify the person from voting in that election; or*
 - 31.12.5. disqualify the person reported from campaigning or standing or campaigning and standing in:*

- 31.12.5.1. that election; or*
- 31.12.5.2. that election and a specified number of future elections; or*
- 31.12.5.3. all elections.*

While the Regulations only make provision for an individual person to be sanctioned for breaches of the Regulations, it is reasonable through implication that individuals campaigning as a group on behalf of one or more candidates can be sanctioned as a group even if not every person in that group directly breached the Regulations.

If this were not true it would be impossible to enforce certain regulations, such as Regulation 31.5.9, as a person who is not a student could campaign on behalf of a candidate and there would be no remedy available to sanction that candidate who received an advantage over other candidates due to a breach of the Regulations. Similarly, if this were not true, a candidate could breach the Regulations to obtain an advantage for themselves but there would be no sanctions available to stop that candidate's campaigners for campaigning on their behalf, significantly reducing the effectiveness of the sanctions.

These are examples of actions that cause a defect in the conduct of an election that could materially affect the result, meaning these actions could result in a successful appeal against the result of the election. The purpose of sanctions during the election is to deal with these actions as they arise during the election and avoid an appeal against the final result.

As post 2 was made to directly benefit the Ignite candidates and with the knowledge of at least some of the candidates, it is appropriate that sanctions be placed on all of the Ignite candidates and any students campaigning on their behalf. Post 1 was made by the same person as post 2 and as such will be treated to have also been made to benefit the Ignite candidates.

Accordingly, in response to the breach of Regulation 19.5 in the publication of post 2, I am banning the Ignite candidates and any students campaigning on their behalf from campaigning for 3 days. This is equivalent to the period campaigning was occurring before it was allowed to occur in accordance with Regulation 19.5.

Further, in response to all other breaches of the Regulations in the publication of posts 1 and 2, including the creation of a WeChat group, I am banning the Ignite candidates and any students campaigning on their behalf from campaigning for an additional 2 days. Further, I am directing that the posts be removed from Australia51.com, the WeChat group cease to be used for any campaign purposes and any Ignite candidates leave the group.

These shall not be concurrent, with a combined ban from campaigning for 5 days from 6pm Tuesday 20 October until 6pm Sunday 25 October.

Finally, for breaching Regulations 31.2, 31.3 and 31.5.1 by providing false, dishonest and deceptive information to the Returning Officer, Riley Fell shall be banned from campaigning for an additional 4 days. Accordingly, Riley shall be banned from campaigning for a total of 9 days, from 6pm Tuesday 20 October until 6pm Thursday 29 October.

RULING MADE AT 5:00PM, TUESDAY 20 OCTOBER 2020

Jarrod Allen
Returning Officer