Policy: Political elections

Purpose
To advise staff of the University's expectations regarding participation in political elections.

Overview
The University’s expectations regarding participation in political elections.

Scope
This Policy applies across the University.

Policy Statement

Preamble
2. The University accepts that its staff members may, from time to time, wish to be involved in political activities, and that this involvement may include staff members contesting political elections.

3. In such circumstances staff members must continue to abide by the terms of the University’s Code of Conduct. In particular the University expects that staff members:

   a. will not hold themselves out as campaigning for, on behalf of or in association with, the University;

   b. will not harass other members of staff with their political opinions; and

   c. will not use University time and/or resources for their political work.

4. In addition to this, staff members should be aware that externally imposed regulations might restrict their ability to nominate for elections.

Restrictions on nominating for or contesting Federal elections

5. The Commonwealth Constitution provides that certain individuals are restricted from contesting federal elections. In particular s44(iv) provides that any person who:
Holds any office of profit under the Crown, or any pension payable during the pleasure of the Crown out of any of the revenues of the Commonwealth...shall be incapable of being chosen or of sitting as a senator or a member of the House of Representatives.

6. Recent High Court decisions have shown that this restriction unquestionably applies to employees of the Public Service (even if they take leave without pay during the specific period) and to members of the Australian Defence Force. Therefore, if such an employee wishes to contest a federal election he or she must resign his/her Public Service position prior to nominating (the resignation should be prior to nomination as it is believed that the disqualification is activated by the nomination).

7. The situation is not so clear for employees of organisations that do not form part of the Public Service but are created by Commonwealth statute (such as the University).

8. The Australian Electoral Commission stresses that it is the candidate’s responsibility to ensure that they are qualified, and not disqualified, to stand for election. The Australian Electoral Commission urges any intending candidate, who is in doubt as to whether their personal circumstances might disqualify them from standing, to obtain independent legal advice. The University endorses this approach and will not provide advice to staff, they must seek their own advice.

Staff member to advise delegate if intending to nominate for parliamentary positions

9. If a staff member is intending to nominate for a parliamentary position he/she must advise his/her Delegate at the earliest opportunity.

If staff member is not required to resign – Arrangements during the election period

10. If a staff member has received independent legal advice to the effect that he/she would not be disqualified from nomination because of his/her employment relationship with the University, the staff member must provide the Delegate with a reasonable estimate of the duration of any absence that will be required in order to campaign for the election.

11. It will generally be necessary for staff members who are candidates to be absent from the University during the campaign period (usually from the date nominations close until the date of the election). This protects the candidate, the University and colleagues from potential conflicts of interest, and/or impairment.
of operations that may otherwise arise.

12. The staff member must apply for leave for any campaign related absences.

13. He/she may apply for paid leave (up to the extent of any available accrued leave entitlement) or leave without pay. However, if there is a shortfall in the amount of available accrued leave entitlement, the staff member must apply for leave without pay.

14. The Delegate has the discretion to approve, or not to approve leave without pay. However, the Delegate should not unreasonably refuse to grant the leave. When making a decision the Delegate is to consider the operational requirements of the area as well as the individual staff member’s needs.

Exceptional circumstances – leave may not be required

15. In exceptional circumstances, where the staff member does not expect to require time away from the University, she/he may, with the support of the Delegate, make application to the Director of Human Resources for a waiver of the requirement to take leave.

16. In making the decision the Director of Human Resources may consider:
   • any potential conflict of interest for the University;
   • the operational requirements of the area;
   • whether the staff member’s campaigning activities will preclude him/her from providing a satisfactory level of time dedicated to his/her University work;
   • and the needs of the individual.

17. Where the Director of Human Resources determines that leave must be taken, that decision is final, and is not reviewable. Where the Director of Human Resources has waived the requirement to take leave and, if at any time during the election period, it is apparent to the Delegate that the staff member’s work is being adversely affected by his/her commitment to the election, the Delegate will request that the Director of Human Resources reconsider the decision. This may result in the Director of Human Resources informing the staff member that the waiver has been revoked.

If the staff member is the successful candidate

18. If the staff member is the successful parliamentary candidate, he/she will be required to resign his/her position with the University.
Exceptional circumstances – resignation may not be required

19. In exceptional circumstances, to be determined by the Delegate, the Delegate may approve leave without pay for the duration of the staff member’s parliamentary appointment. In such circumstances the staff member and the Delegate must come to a mutually acceptable arrangement dealing with issues such as:

- the length of the absence (including any intention to seek re-election);
- the circumstances of return to work to the specific area; and
- any arrangements in case there is no suitable vacant position available in the area.

20. Leave without pay does not break continuity of service but does not count for service for accrual of annual leave, long service leave, personal leave or any other like purpose.

If staff member advised that restriction may apply

21. If the staff member has obtained independent legal advice to the effect that they would be disqualified from running for office because of his/her employment relationship with the University, and if he/she still wishes to nominate, it follows that he/she will need to resign his/her position with the University.