



Teaching Council of Aotearoa New Zealand Election Rules 2018

Pursuant to section 388 of the Education Act 1989, the Teaching Council of Aotearoa New Zealand, after consultation in accordance with subsection (3) of that section, makes the following rules.

Contents

		Page
1	Title	3
2	Commencement	3
3	Interpretation	3
Part 1		
Timing of elections		
4	Dates on which elections must be held	5
5	Filling extraordinary vacancies	5
Part 2		
Returning officer or election agent		
6	Teaching Council must appoint returning officer or election agent	6
Part 3		
Entitlement to vote and preparation of rolls		
7	Entitlement to vote	7
8	Voting must take place by sectors	7
9	Returning officer to prepare roll	8
10	Amendments to roll after cut-off date	9
11	Rules apply to extraordinary elections	9
Part 4		
Voting method, electoral system, and notice of election		
12	Voting method	9
13	Electoral system	9
14	Voting period	10
15	Returning officer must give notice of election	10

Part 5		
Nominating candidates		
16	Nomination of candidates	11
17	Candidate profile statements	12
18	Council to be impartial	13
19	Withdrawal of nomination	13
20	Returning officer must notify list of candidates	13
21	Election unnecessary if only 1 nomination received	14
22	Re-advertising if no nominations received for sector	14
Part 6		
Preparing voting documents		
23	Returning officer must prepare voting documents	14
24	Returning officer must issue voting documents	15
Part 7		
Processing preferences		
25	Candidate may appoint scrutineer	15
26	Counting of preferences	16
27	Early processing of preferences	16
Part 8		
Determining election results		
28	Results of election	16
29	Declaration of results	17
30	Candidate may be elected despite non-material irregularity	17
31	Procedure in case of material irregularity	17
32	Decision of returning officer final	18
33	Returning officer to keep, then destroy, voting documents	18
34	Maintaining secrecy of election	18
Part 9		
Postal vote provisions		
35	Alternative voting method for certain persons	18
36	Postal voting method	19
37	Postal notice of election	19
38	Updating postal notice of election	19
39	Postal notice of candidate list	19
40	Additional requirements for paper voting documents	19
41	Postal issuing of voting documents	19
42	Validity of voting documents	20
43	Postal declaration of results	20
44	Revocation	20
Schedule		20
General description of single transferable voting electoral system		

Rules

1 Title

These rules are the Teaching Council of Aotearoa New Zealand Election Rules 2018.

2 Commencement

These rules come into force on the day after the date of their notification in the *Gazette*.

3 Interpretation

In these rules, unless the context otherwise requires,—

Act means the Education Act 1989

by post, in respect of an electronically uncontactable person, means posted to the person's address as set out in the register of teachers

close of nominations, in relation to any election, means the time and date determined under rule 16(1)

close of voting, in relation to any election, means the time and date on which the voting period ends

counting program means a computer application that is used to implement the New Zealand method of counting single transferable votes in elections for elected members

currently authorised person means a person who holds a limited authority to teach granted under section 366 of the Act

cut-off date means, in relation to the preparation of rolls for any election, the date, set by the returning officer under rule 9(2), on which the rolls close

elected member means—

- (a) the early childhood education teacher elected to the Teaching Council by early childhood education teachers; or
- (b) the primary teacher elected to the Teaching Council by primary teachers; or
- (c) the secondary teacher elected to the Teaching Council by secondary teachers; or
- (d) the teacher educator elected to the Teaching Council by teachers working in the fields of initial and ongoing teacher education; or
- (e) the primary principal elected to the Teaching Council by primary principals; or
- (f) the secondary principal elected to the Teaching Council by secondary principals; or

- (g) the early childhood education service leader elected to the Teaching Council by early childhood education leaders

election agent means a company or an organisation that the Teaching Council engages to conduct an election

election day means the day on which the voting period for an election ends

electronic voting means an online voting system that allows a person who is entitled to vote one-time access to express a preference

electronically uncontactable person means a teacher or currently authorised person who is entitled to vote but who cannot be contacted by electronic means

entitled to vote has the meaning given in rule 7

extraordinary election means an election held under rule 5 to fill a vacancy that arises on the Teaching Council before the term of the vacating member expires

first election means the first triennial election conducted under these rules to elect 7 members of the Teaching Council

in writing includes in electronic form, and **written** has a corresponding meaning

New Zealand method of counting single transferable votes means the method set out in Schedule 1A of the Local Electoral Regulations 2001 and described generally in the Schedule of these rules

preference means a voting document that has been completed by a person who is entitled to vote

returning officer—

- (a) means a returning officer appointed under rule 6 to run an election; and
(b) includes any person performing or exercising all or any of the duties and powers of that person with the returning officer's authority

roll means a roll prepared under rule 9

single transferable voting electoral system means the electoral system using the New Zealand method of counting single transferable votes

teacher educator means a registered teacher who teaches or delivers, or assists in the teaching or delivery of, a programme of either or both of the following:

- (a) study approved by the Teaching Council as suitable for people who want to teach (which is known as the field of initial teacher education);
(b) professional learning and development for teachers (which is known as the field of ongoing teacher education)

Teaching Council's Internet site means an Internet site maintained by or on behalf of the Teaching Council

voting document means a document prepared under rule 23 for a person entitled to vote to use to indicate preferences, whether the document is—

- (a) a paper form; or
- (b) a form accessed electronically

voting method, in relation to an election, means the voting method specified in rule 12

voting period, in relation to an election, means the period—

- (a) that the returning officer determines under rule 14; and
- (b) during which—
 - (i) a person entitled to vote at the election may indicate a preference at that election; and
 - (ii) all preferences in that election must be received by the returning officer.

Compare: SR 2002/192 r 3

Part 1

Timing of elections

4 Dates on which elections must be held

- (1) The Teaching Council of Aotearoa New Zealand must, as soon as practicable after the commencement of these rules and in accordance with clause 11H(2) of Schedule 1 of the Act, fix a date for the first election of the 7 elected members of the Teaching Council.
- (2) Subsequent elections of elected members must be held every 3 years on a date—
 - (a) that is at least 4 months before the date on which the term of office of their immediate predecessors expires; and
 - (b) that the Teaching Council fixes.

Compare: SR 2002/192 r 4

5 Filling extraordinary vacancies

- (1) This rule applies if—
 - (a) an extraordinary vacancy occurs; and
 - (b) the Teaching Council decides, under clause 4A(3) of Schedule 21 of the Act, to—
 - (i) appoint a replacement; or
 - (ii) hold an election for a replacement.
- (2) If the Teaching Council decides to hold an election for a replacement, it must—

- (a) fix a date for the election as soon as practicable after the seat becomes vacant; and
 - (b) hold the election in accordance with these rules.
- (3) If the Teaching Council decides to appoint a replacement, it must make the appointment, in accordance with the following process, as soon as practicable after the seat becomes vacant:
- (a) the Teaching Council must—
 - (i) identify the highest-ranking unsuccessful candidate in the previous triennial election in the sector for which the vacancy exists; and
 - (ii) determine whether the candidate is available to serve on the Teaching Council; and
 - (b) if the candidate confirms in writing that the candidate is available to serve, the Teaching Council must appoint the candidate; and
 - (c) if the candidate is unable to serve, the Teaching Council must repeat the step in paragraph (a) with respect to the next-highest-ranked candidate until a candidate who is available to serve is appointed; and
 - (d) if no candidate from the previous triennial election is available to serve, the Teaching Council may, after consultation with the sector as it considers appropriate, appoint an eligible person from the sector for which the vacancy exists.

Compare: SR 2002/192 r 5

Part 2

Returning officer or election agent

6 Teaching Council must appoint returning officer or election agent

- (1) The Teaching Council must appoint a returning officer or an election agent to run each triennial election and extraordinary election held under these rules.
- (2) The Teaching Council must not appoint as a returning officer a person who—
 - (a) is an employee of the Teaching Council; or
 - (b) holds an office under section 380 of the Act; or
 - (c) is a candidate in the election for which the returning officer is being appointed.
- (3) If an election agent is engaged, the election agent (or one of its officers) must carry out any functions of the returning officer under these rules in relation to the election that are agreed upon between the Teaching Council and the election agent.

- (4) If the returning officer or election agent becomes unable to carry out the duties of a returning officer, the Teaching Council must appoint a replacement returning officer or a replacement election agent.
- (5) Every returning officer or election agent must conduct the election—
 - (a) in accordance with these rules; and
 - (b) otherwise as the returning officer or election agent thinks fit.
- (6) However, the Teaching Council remains responsible for the conduct of any elections.

Compare: SR 2002/192 r 6

Part 3

Entitlement to vote and preparation of rolls

7 Entitlement to vote

- (1) A person is **entitled to vote** if that person's name appears on the roll prepared under rule 9.
- (2) However, a person may not vote for a candidate in a sector unless, when the person votes, that person makes a declaration to the returning officer that the person is entitled to vote in that sector because—
 - (a) the person is a registered teacher or a currently authorised person; and
 - (b) where applicable, the person holds a current practising certificate; and
 - (c) the person is currently (or was most recently) employed in that sector.

8 Voting must take place by sectors

- (1) Voting must take place by sectors to ensure that—
 - (a) early childhood education teachers elect 1 member; and
 - (b) primary teachers elect 1 member; and
 - (c) secondary teachers elect 1 member; and
 - (d) teacher educators elect 1 member; and
 - (e) primary principals elect 1 member; and
 - (f) secondary principals elect 1 member; and
 - (g) early childhood education service leaders elect 1 member.
- (2) A person who is entitled to vote—
 - (a) may vote only once; and
 - (b) may vote only in the sector in which the person is currently (or was most recently) employed.
- (3) For the purposes of subclause (2)(b),—

- (a) a person who works in more than 1 sector may vote only in 1 sector and must choose the sector in which to vote before making the declaration specified in rule 7(2):
- (b) a teacher educator must confirm, when making the declaration under rule 7(2), that the teacher educator is currently employed in the field of initial teacher education or the field of ongoing teacher education, or both.

9 Returning officer to prepare roll

- (1) Before notice is given of an election, the returning officer must prepare a roll for the election.
- (2) The returning officer must, before the election voting period begins, set a cut-off date, which must be at least 30 days before election day, on which the roll will close.
- (3) Subject to rule 10, no person may be added to the roll after the cut-off date.
- (4) The roll is to consist of persons who, on the cut-off date, will, on election day, be—
 - (a) registered teachers without current practising certificates; and
 - (b) registered teachers with current practising certificates; and
 - (c) currently authorised persons.
- (5) Despite anything in rule 7, a person—
 - (a) must be entitled to vote on election day to be included on the roll for the election; and
 - (b) may not be added to the roll for the election after the cut-off date if the person becomes eligible to vote after the cut-off date.
- (6) A person's name may be included on the roll for the election on or before the cut-off date if the returning officer reasonably believes, based on the register of teachers and the sector information that the Teaching Council provides, that the person will, on election day,—
 - (a) in respect of the early childhood education sector, the primary education sector, the secondary education sector, the primary education principals sector, and the secondary education principals sector, be a teacher who will—
 - (i) be a registered teacher and hold a current practising certificate; or
 - (ii) be a currently authorised person; or
 - (b) in respect of the teacher educator sector, be a teacher who will—
 - (i) be a registered teacher; and
 - (ii) be working in the field of initial teacher education or the field of ongoing teacher education, or both; or

- (c) in respect of the early childhood education service leaders sector, be an early childhood education service leader who will be a registered teacher and hold a current practising certificate.
- (7) For the purposes of subclause (6)(a), a person is to be treated as not holding a current practising certificate on the cut-off date or election day if the person's practising certificate is subject to an interim suspension under section 402 of the Act.
- (8) The roll must be made available for inspection on the Teaching Council's Internet site.
Compare: SR 2002/192 rr 7, 8

10 Amendments to roll after cut-off date

- (1) The returning officer must—
 - (a) delete from the roll the name of any person who the returning officer reasonably believes will, on election day, not be entitled to vote; and
 - (b) add to the roll prepared on the cut-off date the name of any person who the returning officer reasonably believes was incorrectly excluded from the roll but who, on the cut-off date, was entitled to vote on election day.
- (2) The returning officer may amend the roll at any time up to election day.
Compare: SR 2002/192 r 9

11 Rules apply to extraordinary elections

The rules in this Part apply, with any necessary modifications, to extraordinary elections conducted under rule 5.

Part 4

Voting method, electoral system, and notice of election

12 Voting method

- (1) The voting method to be used for an election is electronic voting.
- (2) Voting documents and any notices given under these rules must be issued electronically.
- (3) This rule is subject to Part 9, which provides for postal voting in certain circumstances.

13 Electoral system

The electoral system that must be used for an election is the single transferable voting system.

14 Voting period

In any election, the returning officer must determine the times and dates of the voting period.

Compare: SR 2002/192 r 11

15 Returning officer must give notice of election

- (1) The returning officer must give notice of every election to each person who, at the time notice is given,—
 - (a) is listed on the register of teachers; or
 - (b) is a currently authorised person.
- (2) The notice must—
 - (a) be sent to the person's email address specified in the register of teachers or otherwise held by the Teaching Council; and
 - (b) be given at least 80 days before election day.
- (3) The notice must—
 - (a) state that an election is to be held; and
 - (b) state the electoral system to be used; and
 - (c) state the voting method to be used; and
 - (d) state the voting period; and
 - (e) state the sector or sectors from which a candidate or candidates will be elected; and
 - (f) invite nominations of candidates to be elected members for a sector or sectors; and
 - (g) state the time and date of the close of nominations; and
 - (h) state the form in which nominations must be made; and
 - (i) state where nomination forms may be obtained; and
 - (j) state the information that must be provided by candidates; and
 - (k) state the requirements for candidate profile statements, including—
 - (i) the requirements specified in rule 17(3); and
 - (ii) any additional requirements that the returning officer may impose under rule 17(5); and
 - (l) include a code of conduct for candidates; and
 - (m) state that a person who is entitled to vote may only vote for a candidate who represents the sector in which the person is currently (or was most recently) employed; and
 - (n) state the cut-off date; and

- (o) state where further information about the election may be found and inspected.

Compare: SR 2002/192 r 12

Part 5

Nominating candidates

16 Nomination of candidates

- (1) The closing time and date for the nomination of candidates must be 12 noon on the 60th day before the election day.
- (2) To be nominated as a candidate, a person must meet the criteria set out in section 380 of the Act.
- (3) A nomination of a person as a candidate for election as an elected member is not valid unless—
 - (a) the person who made the nomination is—
 - (i) entitled to vote under rule 7; and
 - (ii) currently (or was most recently) employed in the same sector as the candidate they are nominating; and
 - (b) the nomination is seconded by a person who—
 - (i) is entitled to vote under rule 7; and
 - (ii) is currently (or was most recently) employed in the same sector as the candidate whose nomination they are seconding; and
 - (iii) is not the person who nominated the candidate.
- (4) Every nomination of a candidate must—
 - (a) be in writing; and
 - (b) state the name of the nominator and the candidate; and
 - (c) be assented to by the candidate in writing; and
 - (d) include the teacher registration number of the candidate; and
 - (e) include the candidate's résumé in the form specified by the returning officer; and
 - (f) include the candidate's profile statement (if any) in accordance with rule 17; and
 - (g) include statutory declarations signed by the candidate, the nominator, and seconder to the effect that each meets the criteria to vote, nominate, second, or be a candidate (as the case may be).
- (5) A candidate may be nominated for only 1 sector.
- (6) A current employee of the Teaching Council may not be nominated as a candidate.

- (7) The returning officer must determine the validity of every nomination.

Compare: SR 2002/192 r 13

17 Candidate profile statements

- (1) A candidate may, before the close of nominations, give the returning officer a candidate profile statement for supply to persons entitled to vote at the election.
- (2) The returning officer may omit or abridge part of the candidate profile statement before supplying it to persons entitled to vote at the election if the returning officer considers, on reasonable grounds, that it is likely to be defamatory or offensive.
- (3) The candidate profile statement—
- (a) must be no more than 150 words long; and
 - (b) must be in English or te reo Māori; and
 - (c) may also be translated into Māori or English; and
 - (d) may include a translation into another language of the nominee's choice (although no additional words are permitted for this translation); and
 - (e) must be confined to information about the candidate and the candidate's policies and intentions if elected to office; and
 - (f) must comply with any requirements imposed by the returning officer under subclause (5); and
 - (g) may include a recent passport-style photograph of the candidate alone.
- (4) If any requirements set out in subclause (3)(a) to (f) are not met, the returning officer may omit or abridge any part of the candidate profile statement that does not comply, before supplying it to persons entitled to vote at the election.
- (5) The returning officer may impose additional reasonable requirements on candidate profile statements.
- (6) The returning officer—
- (a) is not required to verify or investigate any information included in a candidate profile statement; and
 - (b) may include, in or with any candidate profile statement that is published, displayed, or distributed, a disclaimer concerning the accuracy of the information contained in the statement that the returning officer considers appropriate; and
 - (c) is not under any civil or criminal liability for any act or omission in connection with the performance or exercise of a function or power of the returning officer under this rule, unless the act or omission was done in bad faith.
- (7) Candidates must sign a statutory declaration that states that their candidate profile statement is true and correct to the best of their knowledge.

Compare: SR 2002/192 r 14

18 Council to be impartial

- (1) The Teaching Council may not endorse, comment on, give advice to, or financially contribute to any candidate.
- (2) During the election process, all communications from candidates to the Teaching Council regarding the election process must be directed to the returning officer.

19 Withdrawal of nomination

- (1) A person who has been nominated as a candidate may, at any time before the election day, withdraw from the election by giving written notice to the returning officer.
- (2) If the returning officer becomes aware that a person who has been nominated as a candidate ceases to be eligible to be a candidate, the returning officer must withdraw the candidate from the election.
- (3) Before withdrawing a candidate, the returning officer must—
 - (a) give written notice to the candidate that—
 - (i) states that the returning officer intends to withdraw the candidate from the election; and
 - (ii) specifies the reasons for the intended withdrawal; and
 - (b) allow the candidate at least 3 working days to submit a response, in writing, to the returning officer regarding whether the candidate should be withdrawn; and
 - (c) consider any submission from the candidate that is received within the time period.
- (4) The returning officer must take reasonable steps to check periodically before the election that persons nominated as candidates remain eligible to be candidates.
- (5) The returning officer must, before the voting period begins, take reasonable steps to ensure that persons entitled to vote at the election are notified of the withdrawal of any candidate.

Compare: SR 2002/192 r 15

20 Returning officer must notify list of candidates

The returning officer must, at least 30 days before the date of an election, give notice of the list of candidates in the election—

- (a) by publishing a list of the candidates and any candidate profile statements the candidates have provided on the Teaching Council's Internet site; and
- (b) by any other method that the Teaching Council may direct.

Compare: SR 2002/192 r 16

21 Election unnecessary if only 1 nomination received

- (1) If only 1 valid nomination is received in an election for an elected member, the returning officer must immediately declare that nominee duly elected and no election for that sector's representative may be held.
- (2) If, at any time between the close of nominations and the election day, a candidate withdraws and, as a result of that withdrawal, only 1 candidate remains, the returning officer must immediately declare that remaining candidate duly elected and no election for that sector's representative may be held.
- (3) If no election for an elected member in a given sector is to be held, the returning officer must, when publishing the list of candidates and their candidate profile statements (if any), publish the result on the Teaching Council's Internet site and by any other method that the Teaching Council may direct.

Compare: SR 2002/192 r 17

22 Re-advertising if no nominations received for sector

- (1) If no nominations are received for a sector, the returning officer must re-advertise the election for the sector.
- (2) The period for re-advertising must—
 - (a) be 20 days; and
 - (b) end at least 30 days before election day.

Part 6**Preparing voting documents****23 Returning officer must prepare voting documents**

- (1) If an election is to be held, the returning officer must arrange for voting documents to be prepared.
- (2) Each voting document accessed by a person entitled to vote—
 - (a) must specify—
 - (i) the position or positions to be filled at the election; and
 - (ii) the full names of the candidates seeking election, listed in alphabetical order of the candidates' surnames; and
 - (iii) the date and time by which preferences must be received by the returning officer; and
 - (iv) the voting method or methods to be used; and
 - (v) information that is necessary to distinguish between any candidates who have the same or very similar names; and
 - (vi) an illustration of how and where on the voting paper the person entitled to vote at the election must indicate his or her preference; and

- (vii) the declaration required by rule 7(2); and
- (b) must include the following instructions to the person:
 - (i) how to read the directions carefully before voting; and
 - (ii) what the person must do to establish whether the person is entitled to vote; and
 - (iii) how to complete the declaration to the returning officer and what the consequences of making a false or misleading declaration are; and
 - (iv) how to rank the candidates in order of preference; and
 - (v) how and where the person entitled to vote at the election must indicate the person's preference (for example, by ticking a box); and
 - (vi) what the person entitled to vote at the election must do after indicating the person's preference.
- (3) Voting documents may contain any other information that the returning officer considers appropriate to ensure that—
 - (a) all persons entitled to vote at the election have a reasonable and equal opportunity to vote; and
 - (b) the secrecy of the vote is maintained.

Compare: SR 2002/192 r 18

24 Returning officer must issue voting documents

- (1) The returning officer must, at least 20 days before election day, issue the voting documents to every person whose name is, on the day the voting documents are issued, listed on the roll.
- (2) If, after the voting documents have been issued, a person's name is added to the roll, the returning officer must issue voting documents to that person as soon as practicable after that person's name is added to the roll.
- (3) Subject to Part 9, voting documents must be issued electronically.

Compare: SR 2002/192 r 19

Part 7

Processing preferences

25 Candidate may appoint scrutineer

- (1) Each candidate may, by written notice to the returning officer at least 7 working days before the commencement of the voting period, appoint 1 scrutineer.
- (2) The role of a scrutineer is to observe the counting of preferences.
- (3) A candidate in the election may not be a scrutineer in that election.

Compare: SR 2002/192 r 21

26 Counting of preferences

- (1) The returning officer must, as soon as practicable after the close of voting, count preferences that are, in the returning officer's opinion, valid.
- (2) The returning officer may appoint 1 or more persons to assist with counting preferences, but must personally determine all questions relating to the validity of preferences.
- (3) The returning officer must use a counting program to determine the results of the election.
- (4) The Teaching Council must be satisfied that the returning officer has taken all reasonable steps to ensure that the counting program to be used produces outcomes consistent with the New Zealand method of counting single transferable votes.

Compare: 2001 No 35 s 19AB; SR 2002/192 r 22

27 Early processing of preferences

- (1) The returning officer may, before the close of voting, begin to process preferences that are received during the voting period.
- (2) If the returning officer decides to begin processing preferences before the close of voting,—
 - (a) the returning officer must appoint at least 1 Justice of the Peace (and may appoint as many additional Justices as the returning officer considers necessary) to observe the processing of those preferences; and
 - (b) the processing of any preference that is partly processed at the close of voting must be completed after the close of voting.
- (3) At least 1 Justice of the Peace must be present when—
 - (a) any preference is processed during the voting period; and
 - (b) any preference is processed after the close of voting.
- (4) A scrutineer may not be present when a preference is processed during the voting period.
- (5) However, any scrutineer may be present when a preference is processed after the close of voting.

Compare: SR 2002/192 r 23

Part 8

Determining election results

28 Results of election

The counting of preferences is complete when the number of successful candidates is equal to the number of vacancies.

Compare: SR 2002/192 r 24

29 Declaration of results

- (1) The returning officer must, as soon as practicable after the results of an election for an elected member are known,—
 - (a) advise the successful candidate by whatever means the returning officer considers appropriate; and
 - (b) notify the Teaching Council and each candidate, in writing, of—
 - (i) the full name of the candidate who is declared to be elected; and
 - (ii) the absolute majority of votes determined at the first iteration; and
 - (iii) the absolute majority of votes determined at each iteration at which a candidate was elected or excluded; and
 - (iv) the number of votes recorded for each candidate and the number of transferable votes at each iteration at which a candidate was excluded; and
 - (v) the iteration number at which each candidate was excluded; and
 - (vi) the full names of the unsuccessful candidates; and
 - (vii) the total number of voting documents used at the election; and
 - (viii) the number of blank voting documents; and
 - (ix) the number of informal voting documents.
- (2) The names of all successful candidates must, as soon as practicable after the results of an election are known, be publicly notified—
 - (a) on the Teaching Council’s Internet site; and
 - (b) by any other method that the Teaching Council may direct.
- (3) The returning officer must retain a record of the order in which the unsuccessful candidates were ranked for a period of 3 years.

Compare: SR 2002/192 r 26

30 Candidate may be elected despite non-material irregularity

The candidate who is declared to be elected may be elected even though 1 or more of the requirements of these rules were not complied with if, in the opinion of the returning officer, the irregularity or irregularities that occurred did not materially affect the results of the election.

Compare: SR 2002/192 r 27

31 Procedure in case of material irregularity

- (1) If, in the opinion of the returning officer, an irregularity occurred that may have materially affected the results of the election, the returning officer may—
 - (a) recount preferences; or
 - (b) notify the Teaching Council that another election must be held.

- (2) Any person who was declared to have been elected before a recount, but who is found not to have been elected after the recount, is to be treated as having resigned as an elected member, and the candidate who is declared to be elected after the recount becomes the elected member.
- (3) If the irregularity that occurred is attributable to a person acting otherwise than in good faith, the returning officer must advise the Teaching Council of the name of the person.

Compare: SR 2002/192 r 28

32 Decision of returning officer final

- (1) The decision of the returning officer as to all matters that relate to the regularity and propriety of the election is final.
- (2) However, nothing in these rules may be taken as limiting or precluding the right of an affected party to seek judicial review of a decision of the returning officer.

Compare: SR 2002/192 r 29

33 Returning officer to keep, then destroy, voting documents

The returning officer must—

- (a) keep all voting documents received in safe and secure custody for 3 months from the date on which the results of the election are declared under rule 29; and
- (b) then destroy them.

Compare: SR 2002/192 r 30

34 Maintaining secrecy of election

The returning officer and any scrutineer or other person involved in the conduct of the election must maintain the secrecy of the election and must not—

- (a) reveal any information from which the final results of the election may be known before the results are declared; or
- (b) reveal details of who voted for whom.

Compare: SR 2002/192 r 31

Part 9

Postal vote provisions

35 Alternative voting method for certain persons

- (1) This Part applies to persons who are electronically uncontactable persons.
- (2) In respect of electronically uncontactable persons, the rules in this Part prevail over any rules in any other Part that are inconsistent with the rules in this Part.

36 Postal voting method

- (1) For electronically uncontactable persons, the default voting method to be used for an election is electronic voting.
- (2) However, instructions for electronic voting, including electronic addresses for election materials, must be sent to electronically uncontactable persons by post.
- (3) Despite subclause (1), electronically uncontactable persons may ask the returning officer to send voting documents to them by post.

37 Postal notice of election

- (1) The returning officer must give notice of every election to each electronically uncontactable person by post.
- (2) The notice must contain the particulars specified in rule 15.

38 Updating postal notice of election

For the purposes of rule 19, **taking reasonable steps** includes sending, as soon as practicable, the required notice to electronically uncontactable persons by post.

39 Postal notice of candidate list

The returning officer must, at least 30 days before election day, send to each electronically uncontactable person by post an electronic address linking to—

- (a) the list of candidates in the election; and
- (b) any candidate profile statements that the candidates have provided.

40 Additional requirements for paper voting documents

- (1) The returning officer must arrange for a sufficient number of physical voting documents to be prepared to ensure that every electronically uncontactable person who wishes to receive voting documents by post may receive them.
- (2) In addition to the requirements set out in rule 23, each voting document prepared under this rule must—
 - (a) be uniquely numbered; and
 - (b) set out information that is sufficient to identify the electronically uncontactable person entitled to vote; and
 - (c) include instructions regarding what should be done if the electronically uncontactable person spoils the voting documents.

41 Postal issuing of voting documents

- (1) For the purposes of rule 24, voting documents must be sent by post to an electronically uncontactable person who has requested that the voting documents be sent to that person by post.

- (2) Voting documents sent by post must be accompanied by a postage-paid envelope that—
- (a) is addressed to the returning officer; and
 - (b) has the unique number of the voting documents printed on it.

42 Validity of voting documents

A voting document is informal and must not be counted if—

- (a) the voting document is received after the date and time specified on the voting document; or
- (b) the voting document does not, in the opinion of the returning officer, clearly indicate the voter's preference or preferences; or
- (c) the voter votes more than once in the election; or
- (d) the returning officer believes, on reasonable grounds, that—
 - (i) the voting document was not sent to the voter by the returning officer; or
 - (ii) the voter, at the time of the election, was not entitled to vote in the election.

43 Postal declaration of results

For the purposes of rule 29, the returning officer must, as soon as practicable after the results of an election are known, send notice by post of the names of all successful candidates to electronically uncontactable persons who requested the returning officer to send voting documents to them by post.

44 Revocation

The New Zealand Teachers Council Election Rules 2002 (SR 2002/192) are revoked.

Schedule

General description of single transferable voting electoral system

r 3

For the Teaching Council's purposes, the single transferable voting electoral system has the following features:

- (a) voters express a first preference for 1 candidate and may express second and further preferences for other candidates;
- (b) an absolute majority of votes for election is calculated from the number of votes and positions to be filled;
- (c) the first preferences are counted and, if a candidate's first preference votes equal or exceed the absolute majority of votes, that candidate is elected:

- (d) if no candidate is elected under paragraph (c), the candidate with the fewest votes is excluded and that candidate's votes are redistributed according to voters' further preferences:
- (e) if no candidate is elected under paragraph (d), the steps described in paragraph (d) are repeated until a candidate is elected.

Dated at Wellington this 13th day of November 2018.

Barbara Ala'alatoa,
Chairperson, Teaching Council of Aotearoa New Zealand.

Explanatory note

This note is not part of the rules, but is intended to indicate their general effect.

Section 380 of the Education Act 1989 provides that the Teaching Council of Aotearoa New Zealand is to consist of 13 members, of which 7 must be elected. This legislative instrument, which comes into force on the day after the date of its notification in the *Gazette*, sets out the rules that apply to those elections.

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 15 November 2018.

These rules are administered by the Teaching Council of Aotearoa New Zealand.