



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

2020 ELECTION REPORT

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1. Introduction

In 2020, MONSU Caulfield (**MONSU**) engaged OGL Group to conduct their Annual Elections, after having conducted their Annual Elections since 2015.

MONSU Caulfield made a significant number of changes to their Constitution in 2020 through a Special Resolution held with the approval of Consumer Affairs Victoria after issues arose with their previous Constitution. Among other changes, membership of MONSU Caulfield was changed from an automatic right of all eligible students to a free opt-in membership system for eligible students. This changed the eligibility to participate in the election from all Caulfield undergraduate students to Caulfield undergraduate students that had opted into membership.

In response to the COVID-19 Pandemic, the MONSU Student Council additionally passed an updated set of Election Regulations (**Regulations**) to facilitate the smooth running of the election online in line with existing COVID-19 restrictions.

Jarrold Allen was the Returning Officer for the 2020 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

The MONSU Summer Executive, which had been acting in the place of the MONSU Student Council due to the COVID-19 pandemic, initially passed an updated set of Election Regulations to allow the election to occur online and subsequently called the election for 12-14 October. On 25 September I ruled that the MONSU Summer Executive did not have the proper authority to call the election (see [Appendix 1 – Notice on Calling of Election](#)).

The MONSU Student Council subsequently met to pass the updated Election Regulations, appoint the Returning Officer and call the election in accordance with the Constitution. In accordance with provisions in the Regulations, new dates of polling were outlined, with other electoral deadlines being consequently set and allowed for the appointment of Jarrod Allen as the Returning Officer for the 2020 MONSU Elections.

Pursuant to the Regulations, notice was given on 5 October that Annual Elections would be held from Monday 2 November to Wednesday 4 October 2020 (see [Appendix 2 – Notice of Election](#)), with nominations for all positions due 4PM Monday 19 October. The updated Notice of the election was disseminated to all Caulfield students by email and was also published on the MONSU Caulfield website.

In line with Victorian Government and University COVID restrictions, nomination forms and all other election paperwork including candidate and policy statements could only be submitted via email at these elections.

Candidate Nominations

Nominations were opened at 9am on Monday 12 October and closed at 4pm on Monday 19 October.

The final notice of nominations received was posted on Tuesday 20 October (see [Appendix 3 – 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 membership of MONSU Caulfield, 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 two nominations being determined as being ineligible.

First Name	Surname	Position	Reason
Kyle	Howden	Activities Officer 2	Nomination was submitted after the deadline
Helen	Xiong	General Representative	Nominator and seconder were not MONSU Caulfield members

Following the verification of nominations, all positions had at least one valid nomination received, with Activities Officer 1, Clubs Officer, Queer Officer 1 and Queer Officer 2 only receiving one valid nomination. Three nominations were received for the three available General Representative positions.

This led to all of the positions outlined above being declared elected unopposed.

At the close of the nomination period:

- **25 nominations had been received**
 - **2 nominations were invalid**
 - **7 positions were declared elected unopposed**

Voting

Due to COVID-19 Restrictions polling was conducted online via the MSL voting platform on the MONSU Caulfield website. To cast their vote, eligible members needed to log onto the MONSU Caulfield website through the University’s Okta Verification system and follow the prompts to the election webpage.

Eligibility to vote was restricted to members who had joined MONSU Caulfield by 4pm Wednesday 28 October, with notice of this deadline provided in the Notice of Election.

The following table summarises the times during which students cast their votes, with the majority of voting taking place almost immediately after the opening of polls.

Time	Monday 2	Tuesday 3	Wednesday 4
00:00-03:00	N/A	5	4
03:00-06:00	N/A	2	1
06:00-09:00	N/A	7	12
09:00-12:00	112	42	47
12:00-15:00	79	36	49
15:00-18:00	70	28	10
18:00-21:00	53	39	N/A
21:00-24:00	38	50	N/A

3. Results

Declarations

Results were declared on Wednesday 4 November, with the notice made available on the MONSU website and via an email sent to all candidates (see [Appendix 4 – Notice of Results](#)).

Participation

The 2020 election recorded a lower number of students voting compared to recent contested elections, with 684 voters casting a total of 5,093 votes through the polling period. This is in comparison with 1419 voters, including 734 undergraduate voters in the 2019 elections.

Appeals

One appeal against the result of the election was received in the timeframe required by Regulation 40.1, with the appeal claiming that a number of issues had a material effect on the result. This appeal was dismissed prima facie by the Election Tribunal (see [Appendix 5 – Election Tribunal Appeal 10 November](#)).

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.

Removal of tickets from Election Regulations

The removal of all references to tickets and groups of candidates from the Election Regulations resulted in a number of issues in ensuring fair and honest conduct throughout the 2020 MONSU Caulfield Elections.

I received a series of complaints pertaining to the behaviour of the 'Ignite' group that necessitated a blanket ban due to the coordinated nature of the indiscretions (see [Appendix 6 – Campaigning by 'Ignite' group](#)). This ruling was subsequently challenged on the basis that the Returning Officer did not have the ability to discipline groups of students and resulted in the ruling being upheld by the Election Tribunal and the capacity of the RO to discipline groups of students being partially recognised (see [Appendix 7 – Election Tribunal Ruling 23 October](#)).

The existing regulations do not prevent groups of students from operating as an informal grouping and may constrain the ability of the Returning Officer to discipline groups of students working as a collective. This may be a significant impediment to facilitating the smooth running of elections in the future.

Inadequacy of publicity rules for an online election

The move to an online election due to COVID-19 restrictions highlighted a number of issues with the publicity rules that govern the MONSU Caulfield Elections.

Currently, all election publicity must be approved by the Returning Officer, this includes private messages and other forms of like communication such as graphics and candidate statements posted online.

This resulted in the Returning Officer approving all personal messages that individual candidates distributed as soon as the relevant publicity rules came into effect.

The nature of campaigning in online elections necessitates candidates being able to directly contact individuals through messaging services and respond in a timely manner. The inability of the publicity rules to effectively account for real time campaigning through messaging services represents a significant flaw in the Election Regulations that needs to be corrected.

Proliferation of messaging and online publication platforms

A number of issues arose throughout the election in relation to the use of online messaging and publication services such as WeChat and Red. As outlined above, the existing publicity rules do not adequately account for the increasing number of messaging services available to campaigners and the increasingly sophisticated employment of online campaigning. This leaves candidates and campaigners with not enough clear guidance on what behaviour is acceptable.

Eligibility of City (Melbourne) students

Early in the polling period I received an enquiry from a student from the City (Melbourne) campus regarding their eligibility to vote in the MONSU Caulfield 2020 Elections. This required the Returning Officer to make a ruling in relation to this matter (see [Appendix 8 – Ruling on City \(Melbourne\) Campus Students](#)), following precedence from previous elections.

5. Recommendations

Recommendation 1 – That MONSU Caulfield update the definition of members to include any campus represented by the organisation

The issue regarding the eligibility of students based at the City (Melbourne) campus to vote in the 2020 MONSU Caulfield Elections can largely be attributed to the definition of members currently outlined within the MONSU Caulfield Constitution.

This definition determines a student's eligibility to participate in elections exclusively on if they are a Caulfield enrolled students irrespective of the fact that MONSU Caulfield appears to represent students from the City (Melbourne) campus in their services and advocacy.

I recommend updating the definition of member in the MONSU Caulfield Constitution to be simplified to include individuals from all campuses represented by MONSU Caulfield.

Recommendation 2 – That the definition of publicity be changed to exclude direct person to person campaigning regardless of the method

The definition of publicity currently, and appropriately, excludes verbal communication between one person directly to another, however no exemption is provided for the same communication in a written form. The ability of candidates to effectively campaign in an online election is significantly constrained by this exemption not being provided by the Regulations due to the fact that all direct messages require approval from the Returning Officer prior to distribution.

In order to facilitate the smooth running of elections going forward, especially given the proliferation of online messaging platforms in both online and in-person elections, all communication between one person directly to another should be excluded from the definition of publicity, regardless of the form of that communication.

I recommend that all person to person campaigning be excluded from publicity rules and all personal messages that are not replicated en masse, or sent via a bulk message services, not be required to gain approval from the Returning Officer.

Recommendation 3 – Outline explicitly in the Election Regulations the ability of the Returning Officer to issue sanctions to groups of students operating as a collective

The need for the Returning Officer to be able to issue sanctions to groups of students operating as a collective is important to ensure the smooth running of elections

Groups of students operating as a collective under a common banner will remain an inherent feature of all future elections and necessitates making clear that the Returning Officer has powers to be able to ensure fair and honest conduct throughout the election in response to group behaviour

I recommend that Regulation 31.12 be changed to explicitly state that the Returning Officer can place sanctions on any group of students deemed to be operating as a collective under a common banner.

Recommendation 4 – That MONSU Caulfield review the voting procedure for autonomous positions

Despite an announcement at the top of the Women’s Officer ballot, the number of votes cast in this ballot indicate that the voting in this position was not limited to members that identify as women.

The MSL voting system is built to allow autonomous voting, however, the method this system prefers to use for autonomous voting follows a different process to the requirements set out in the relevant Election Regulations.

I recommend that MONSU Caulfield work with MSL to determine how they are best able to implement effective voting for self-identifying autonomous positions and modify the Election Regulations to use this process.

6. Conclusion

This year saw the MONSU Caulfield Elections be conducted exclusively online for the first time due to standing COVID-19 restrictions. This occurred successfully with a small number of issues of inappropriate candidate behaviour representing the only impediment to the smooth running of the election.

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 goes Ming-En Koh and Lyn Nye.

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

Jarrold Allen
Returning Officer
2020 MONSU Elections

7. List of Appendices

Appendix 1 – Notice on Calling of Election

Appendix 2 – Notice of Election

Appendix 3 – Notice of Nominations Received & Accepted

Appendix 4 – Notice of Results

Appendix 5 – Election Tribunal Appeal 10 November

Appendix 6 – Campaigning by 'Ignite' group

Appendix 7 – Election Tribunal Ruling 23 October

Appendix 8 – Ruling on City (Melbourne) Campus Students

Appendix 9 – Election Tribunal Decision 27 October

APPENDIX 1 – NOTICE ON CALLING OF ELECTION



MONSU Caulfield Inc.
2020 ANNUAL ELECTIONS
Monday 12 October- Wednesday 14 October 2020

NOTICE ON CALLING OF ELECTION

I have become aware that Regulations 3.1 and 8.1, that dictate the appointment of the Returning Officer and the setting of the dates and times of polling, were not correctly complied with by the MONSU Student Council. As such the Returning Officer was not correctly appointed and the dates of polling were not correctly set.

All actions taken regarding the election up until the time this notice has been published are void. New notice of the election will be provided once Regulations 3.1 and 8.1 have been correctly complied with.

Jarrold Allen
Returning Officer

25 September 2020

APPENDIX 2 – NOTICE OF ELECTION



MONSU Caulfield Inc.
2020 ANNUAL ELECTIONS

Monday 2 November – Wednesday 4 November 2020

NOTICE OF ELECTION

The MONSU Caulfield Inc. (**MONSU**) 2020 Annual Elections will be held from Monday 2 November 2020 to Wednesday 4 November 2020 for the following positions:

Student Council

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

Eligibility

To be eligible to nominate and vote in the MONSU Caulfield Annual Elections students must be a member of MONSU Caulfield.

To join as a member students must log into the MONSU Caulfield website (<https://www.monsu.org/login/>) using the student login. Membership is open to undergraduate students enrolled in a course at the Caulfield campus.

Students must be a member by the close of nominations in order to stand as a candidate in the election.

Students must be a member by 5pm Wednesday 28 October in order to vote in the election.

Nominations

Nominations will open at 9am Monday 12 October and close at 4pm on Monday 19 October.

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

Nomination Forms will be available 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 online between 9am Monday 2 November and 4pm Wednesday 4 November.

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

Contact details

The contact details for the Returning Officer are:

Email: monsu.returningofficer@gmail.com

Telephone: 0448 813 547

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.

**Jarrold Allen
Returning Officer
0448 813 547
5 October 2020**

APPENDIX 3 – NOTICE OF NOMINATIONS RECEIVED AND ACCEPTED



MONSU Caulfield Inc.

2020 ANNUAL ELECTIONS

Monday 2 November – Wednesday 4 November 2020

NOTICE OF NOMINATIONS RECEIVED & ACCEPTED

The following nominations have been received by the deadline for positions to be elected at the 2020 MONSU Annual Election. These nominations have been subject to verification checks with the University and MONSU for eligibility requirements.

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

First Name	Surname	Position
Ziyi	Luo	Activities Officer 1
Jingyu	Chen	Clubs Officer
Alyssa	Wheaton	Queer Officer 1
Harvey	Gibbs	Queer Officer 2
Bridget	Lee	General Representative
Nan	Jiang	General Representative
Tiana	Schurmann	General Representative

The following nominations have been accepted:

First Name	Surname	Position
Anna	Purtill	President
Caitlyn	Dunne	President
Daniel	Stonehouse	Vice President
Zhen	Zhang	Vice President
Wen	Xue	Overseas Student Services Officer
Chi	Ngo	Overseas Student Services Officer
Maxi	Hunt	Activities Officer 2
Ning	Chong	Activities Officer 2
Ebony	Hartridge-Linton	Education Officer
Riley	Fenn	Education Officer
Yingying	Zhang	Marketing Officer
Natalie	Tian	Marketing Officer
Nils	Bellarts	Welfare Officer
Wenhan	Jia	Welfare Officer
Anne	Gordon	Women's Officer
Hannah	Cohen	Women's Officer

The following nominations have not been accepted:

First Name	Surname	Position	Reason
Kyle	Howden	Activities Officer 2	Nomination was submitted after the deadline
Helen	Xiong	General Representative	Nominator and seconder are not members

Jarrold Allen
Returning Officer
20 October 2020

APPENDIX 4 – NOTICE OF RESULTS



MONSU Caulfield Inc.
2020 ANNUAL ELECTIONS

Monday 2 November – Wednesday 4 November 2020

NOTICE OF RESULTS

President

Candidate	Total
Anna Purtill	369
Caitlyn Dunne	246
Abstentions	34
Total	649

Anna Purtill was declared elected.

Vice President

Candidate	Total
Daniel Stonehouse	239
Zhen Zhang	377
Abstentions	26
Total	642

Zhen Zhang was declared elected.

Overseas Student Services Officer

Candidate	Total
Wen Xue	398
Chi Ngo	205
Abstentions	33
Total	636

Wen Xue was declared elected.

Education Officer

Candidate	Total
Ebony Hartridge-Linton	202
Riley Fenn	414
Abstentions	20
Total	636

Riley Fenn was declared elected.

Activities Officer 2

Candidate	Total
Maxi Hunt	549
Ning Chong	51
Abstentions	33
Total	633

Maxi Hunt was declared elected.

Marketing Officer

Candidate	Total
Yingying Zhang	384
Natalie Tian	237
Abstentions	24
Total	645

Yingying Zhang was declared elected.

Welfare Officer

Candidate	Total
Nils Bellarts	212
Wenhan Jia	396
Abstentions	18
Total	626

Wenhan Jia was declared elected.

Women's Officer

Candidate	Total
Anne Gordon	176
Hannah Cohen	423
Abstentions	27
Total	626

Hannah Cohen was declared elected.

Jarrold Allen
Returning Officer
4 November 2020

APPENDIX 5 – ELECTION TRIBUNAL APPEAL 10 NOVEMBER

Election Tribunal Appeal (10 November 2020)

Jurisdiction

1. The appeal is to be submitted against the result of the election in writing within five days of the declaration of the result as required (r.35.1).
2. The tribunal must be satisfied there is a prima facie case and there has been a defect in the conduct of the election which has materially affected the result (r.35(2) &(3)).

The MONSU election declaration was issued on 4 November 2020. On 9 November 2020, the Election Tribunal (“the Tribunal”) received submissions including an “Attachment Reference List” from Mr. Daniel Stonehouse, the Vice President of MONSU before the election declaration. Mr. Stonehouse is seeking to void the election on several grounds. The Returning Officer filed submissions in reply that there is no prima facie case to grant the appeal. Both submissions are summarised below.

Appellant Evidence

The appellant relied on a video demonstrating the online voting process as evidence in support of the following claim.

The video demonstrates that the Women’s Officer position did not display the necessary disclaimers, nor was it included on a separate ballot. Further, this demonstrates the alteration to the items available for Riley Fenn.

The appellant also presented online chat group messages as evidence to support the following claims:

1. *Jett Foggarty’s claim to ‘Ignite’ candidates belonging to him.*
2. *Evidence of members of the prohibited group chat utilising data from the group chat to campaign on behalf of ‘Ignite’.*
3. *Attempts to influence votes by Nidzam Shah Hussain and Alex Bourikas in contravention of r. 31.4.*
4. *Evidence of knowledge of the pervasive influence of James McDonald by candidate Maxi Hunt.*
5. *Untrue claims made either on behalf of or by ‘Ignite’ candidates.*
6. *Screenshots pertaining to the outside and pervasive influence by non-students upon MONSU Caulfield elections.*
7. *An image containing the members of Ignite including Riley Fenn.*

Appellant Submission Summary

1. Application of Sanctions

The appellant submitted that the ruling of the Returning Officer in September 2020 regarding “Campaigning by Ignite Candidates” failed to sufficiently mitigate the unfair impacts it sought to resolve, compromising the position of the Returning Officer to properly govern this election. The appellant submitted the results of the election for Vice President must be recalled, as should all positions in this election on the following basis:

1. *Sanctions were not applied to Zhen Zheng at any point despite equal grounds to do so.*
2. *The Returning Officer has not acted with due diligence with regards to materials made available to him in the course of applying sanctions.*
3. *Sanctions placed were not sufficient in rectifying the material benefit afforded to ‘ignite candidates.*
4. *This has materially affected the result of the election by*

protecting the image of the 'Ignite Candidates', with particular regard to Zhen Zheng.
5. *These sanctions were not sufficient in balancing the material benefit that has affected the result of the election.*
6. *These sanctions were circumvented to the material benefit of Ignite.*

2. Women's Officer / Ballot Draw / Election Timeline

The appellant submitted the following:

1. the Returning Officer has failed to comply with Election Regulations pertaining to the Autonomy of Women's Officer;
2. the Returning Officer has failed to comply with Election Regulations pertaining to the drawing of the ballot;
3. the Women's Officer result was materially affected as a result;
4. candidates have not been afforded a fair process as they are entitled in regard to the Ballot Draw;
5. the lack of this process has caused reasonable doubt as to the governance of this election given the apparent occurrence of exceptions that candidates ought to have been given the opportunity to identify; and
6. with particular regards to Riley Fenn, exceptions or anomalies appear to have occurred in regard to the Election Timeline that is unfair to other persons attempting to run in this election, who were unable to do so as they were not afforded the same flexibility of timeline.

The appellant also claimed the following:

1. the Women's Officer Ballot is, by regulation, required for avoidance of doubt to be a separate ballot. The ballot paper must be in the form of an electronic booklet;
2. the Returning Officer did not email all candidates; and cause a notice to be published on the MONSU website stating when, where, and how the draw will take place;
3. there is a question of if a ballot draw has occurred as a result, and there has been confusion amongst candidates regarding the order of the ballot draw;
4. in addition to this, changes to nomination information appear to have occurred. This is particularly noticeable in the matter of Riley Fenn. The Returning Officer mistakenly approved publication of material which circumvented his election ban on Riley Fenn, as "at the time it did not register with me that the photo of Riley was included". Upon the initial release of candidates and their manifestos, no image was included of Riley Fenn. However, upon the release of the ballot Riley Fenn image, identical to that included in Ignite's campaign material that was required to be removed, was supplied. This demonstrates either:
 - 1) a failing of the Returning Officer to exercise due diligence in the review of items released for publicity; or
 - 2) reason to believe that Riley Fenn was afforded provision to include items after their due date, contrary to the election regulations.

The election regulations allow for the submission of three core items pertaining to election materials:

- 1) a photo
- 2) a policy statement
- 3) a nomination form

These items all hold the same deadline, and providing an extension for one such item and not all others, including that of Nomination Forms without due notice, infringes upon the progress of this election.

5. The Returning Officer's failure to abide by Clause 15 provides space for reasonable doubt for the governance of this election. Candidates were to be afforded the opportunity to mutually confirm the items that had been provided as present and to confirm the legitimacy of this draw. The Returning Officer has breached the Election Regulations and has not provided a reason as to why this has not been provided.
6. It is highly of doubt that only 20-50 persons who do not identify as a woman have voted in this election, as can be assumed most generously by the differential between votes for President and Women's Officer. Least generously, only 9 persons who do not identify as a woman are to be assumed to have voted in this election by comparison with votes cast for Welfare Officer.

This is further complicated by the fact that the Returning Officer failed to publish at the opening of elections notice instructing persons to only vote upon the position of Women's Officer as is required.

It is entirely unreasonable to assume that this has not affected the result of the election, and as such requires the ballot to be recalled.

3. Outside Influence

The appellant made the following claims:

1. the Returning Officer has not been able to govern the conduct of this election due to the pervasive influence of non-student;
2. the involvement of non-students can reasonably be assumed to have been the impetus for the existence of a set of candidates, which would, in turn, ought to invalidate their ability to participate in these elections; and
3. the involvement of non-students has allowed candidates to receive material benefit affecting the result of the election.

Public Comments: A number of individuals involved with Together made public comments with the intent of either a) influencing persons to vote for Ignite Candidates and b) that were untrue and with the intent of influencing persons to vote against incumbent candidates. This is in addition to those comments published by Melbourne Campus Micro News, which at the time was identified as being from non-students. However, at a later point, the Returning Officer has determined that posting on Melbourne Campus Micro News was campaigning by candidates, and as such permissible. The use of this forum as a whole is highly problematic due to the lack of clarity regarding its organisation and as such reason for the belief that the use of this platform may not occur without eliciting sanctions due to the involvement of non-students in its operation. This is further aggravated by the matter of the 'Together' party having used the same platform in the RUSU and MSA elections.

Involvement in the organisation of 'Ignite': It has been demonstrated that James McDonald created the group for candidates and campaigners of Ignite. In addition to this, Jett Foggarty has publicly taken responsibility for the members of Ignite as his 'candidates' in the MONSU election. Through this, it is of doubt that 'Ignite' would exist without the presence of these persons, as they are positioned as having been responsible for creating the platforms by which organisation has occurred. This is in addition to evidence that has been tendered to the Returning Officer regarding statements from Maxi Hunt regarding James McDonald having been organising a ticket

to run in the MONSU elections.

Group Chats: The Returning Officer's instructions that candidates of 'Ignite' leave the group chats made through the use of prohibited conduct was not followed, nor was it sufficient in ensuring that the ruling was not circumvented. Candidates were added back to the chat by a person of the screen name "Mr. Alex Wang" - who is believed to be an associate of Together and assumed to be Alex Wang a person associated with the SDA faction and a non-student. The Returning Officer believed that the candidates were unaware that this was the same group chat, and as such were again instructed to leave with new provisions for the formation of a group chat: most notably that they were not to use the same names of persons in the previous group chat. The action of persons that are non-students, or are otherwise as such yet to be identified, poses a hazard in the RO's ability to govern these elections in that the capacity for these breaches to occur has come as a direct result of the influence and presence of such persons external to the reprimand of the Returning Officer.

This is further complicated by the fact that persons, as yet unidentified, from the group chat, continued to use the data obtained from the group chat to campaign on an individual basis. This has circumnavigated the election ruling regarding the use of these group chats for campaigning.

Given that the group chat from which this evidence of connection has come forward contains over 140 members, it is entirely reasonable to assume that additional votes may have been cast in favour of Ignite Candidates due to this practice. This is in turn further complicated by the fact that there are known to be at least three of these group chats, presumably of comparable size, which were not accessible to informants and as such were not vetted for the occurrence of breaches.

While it is unreasonable to assume that all such members of groups have voted in favour of Ignite (as this would contribute to almost the entirety of votes cast for Ignite), it is reasonable to assume that at least 120 votes may have been cast as a result of these actions, which would have materially affected the result of the election.

Returning Officer Submission Summary

1. Application of Sanctions

Zhen Zhang was not included for two reasons:

1. the Ignite candidates, through Riley Fenn, had provided me with the publicity that showed each of their candidates except Zhen Zhang, and the WeChat article the sanction was made about also listed all of the Ignite candidates except Zhen Zhang. This made me doubt Zhen was an Ignite candidate; and
2. many of the Ignite candidate's nomination forms were submitted in bulk, Zhen Zhang submitted his own nomination form directly to me.

Accordingly, based on the information I had viewed at the time I had sufficient doubt that Zhen Zhang was an Ignite candidate such that it would have been inappropriate to include him as one of the candidates in the case he was not an Ignite candidate.

Regardless of the above, the omission of Zhen Zhang from the ruling could not have made a material impact on the result of the election for the following reasons:

1. no evidence has been provided to me or as part of this appeal to the contrary that Zhen Zhang did not campaign at any time during the application of the sanction on the Ignite candidates. As such, as Zhen Zhang complied with the ruling based on the evidence provided, no

change would have occurred had Zhen Zhang been listed on the complaint;

2. had Zhen campaigned during this period he could have only done so in a way that benefited him and no other Ignite candidates and did not use any Ignite campaign publicity. If this did occur and had a material effect on the result, there would have been a distinct difference in the vote tally between Zhen Zhang and other candidates which were not present; and
3. no limit was placed on 'items of truth' as candidates can make statements, they believe to be true if they have evidence of this. At no point did I disallow any publicity that claimed Zhen Zhang was an Ignite candidate. Regardless, this had no material impact on the result as other candidates, such as Caitlyn Dunne, would have done significantly better in her vote tally than Daniel Stonehouse since she had the ability to campaign on this item. No significant vote difference was present.

2. Women's Officer

Clause 23.5 states:

23.5. The electronic ballot paper for the Women's Officer must have in writing either above or below the ballot "Please only vote in this ballot if you identify as a woman."

As can be seen in the video provided this text was included in a bolded font at the top of the page for the Women's Officer ballot.

Clause 23.1 states:

23.1. The ballot paper must be in the form of an electronic booklet. Ballot papers for the Queer Officers and Women's Officer will be separate.

The voting system provided by MONSU Caulfield for this election is limited in how it allows the ballot to be set out. In particular, Clause 23.2 of the Regulations could not be followed as each position had to be on a separate page, noting that no definition is provided in the Regulations of an electronic booklet.

Regardless of the above, 599 valid votes were cast in the Women's Officer ballot. Based on 2019 data, which is unlikely to have changed significantly, 43% of students are male, hence we can assume, based on no men self-selecting out of voting for this position, that 257 men voted in this ballot. Based on the results of 423 votes for Hannah Cohen and 176 votes for Anne Gordon, for the result of men to have overturned this result would have only occurred if less than 2% of men voted for Anne Gordon and more than 98% of men voted for Hannah Cohen. This is exceedingly unlikely to have had a material impact on the result.

Accordingly, as the requirements of the Regulations were followed and the gender-split of results would need to be extreme beyond any reasonable statistical chance.

3. Ballot Draw

There was no discernible advantage to candidates based on the order they are listed on the back end of the voting system and especially no discernible advantage to the extent required to materially affect the result.

4. Election Timeline/Riley Fenn

Riley Fenn's nomination form, candidate statement, and candidate photo were submitted via email at 2:23 pm on Monday, October 19, before the deadline of 4 pm on Monday, October 19. There is therefore no basis for being allowed to submit items after the

deadline. It is not uncommon for items of publicity to be authorised and subsequently have the authorisation revoked, with Regulation 19.4 providing the manner for this to occur. In accordance with Regulation 19.4.1 once I became aware the item breached publicity rules, I revoked the authorisation, and it was removed.

5. Outside Influence Public Comments

It is outside of the bounds of my role as Returning Officer to govern the conduct of individuals who are not students but make public comments on the election unless those people are supported in some way by students who are involved in the election.

Should a new poll be called for this, it is entirely possible that a person could cause MONSU to continually re-hold their elections by constantly making comments in support of a single or group of candidates for the sole purpose of stopping MONSU Caulfield from operating. This would be ludicrous.

6. Involvement in Organisation of 'Ignite'

James McDonald was directed to leave any Ignite groups or chats on 19 October 2020 and to cease to have any further involvement in the election. Mr. Stonehouse was notified of this at the time and did not appeal this decision. I have not been provided any complaints about McDonald's involvement after this date.

The comments produced are not sufficient proof that he had a pervasive influence over a set of candidates.

7. Group Chats

The Ruling on Ignite candidates directed that the candidates leave the WeChat group and the group cease to be used for campaigning. The candidates did indeed leave the group. As one of the candidates was the admin of this group, they had to make a different person the admin for the group, with Alex Wang chosen. Approximately 2 days later Alex Wang changed the name of the group and after more time had passed added the candidates back into the group which they stated they believed was a different group. The candidates then provided me with access to the group to ensure I could see what was being posted. A small number of authorised campaign publicity posts were made in the group during the week before polling opened.

I received a complaint from Mr. Stonehouse that the group was the same group that was discussed in the ruling. The Ignite candidates stated that they believed they were following the ruling as they believed it was a new group for the purpose of the ruling. After reviewing the evidence, I directed the candidates to leave the group again and made clear that this group could not be used again in any form, including by changing the name and re-joining it. No campaign material was posted in this group following this, including during the time that polls were open. Accordingly, I do not believe this group could have had any impact on the result of the election in any meaningful way.

Tribunal Ruling

The appellant must present a prima facie case to avoid dismissal of the appeal, this requires the enough evidence on all elements to support the claims and shift the burden of evidence. If the plaintiff fails to make a prima facie case, the Tribunal must dismiss the appeal, even without the need for the Returning Officer to produce any evidence to rebut the evidence the appellant has presented. This is because the burden of persuading the Tribunal rests with the appellant.

1. Application of Sanctions

This tribunal has made previous rulings on the sanctions including the Tribunal decision dated 27 October 2020 that stated:

- 1. In deciding on sanctions, the RO considered all matters raised in the appellant's submission including the seriousness of the breaches and the impact on the election.*
- 2. The RO made a comparison with the other beaches found to have occurred.*
- 3. The RO provided a logical and balanced basis for deciding on the severity of the sanctions.*
- 4. The RO complied with the relevant provisions of the Election Regulations.*
- 5. There are no additional facts submitted in this appeal that were not presented to the RO at the time of the ruling.*
- 6. The previous appeal, seeking to overturn the ruling and remove the sanctions, was dismissed by this tribunal in its decision published on 23 October 2020, on the same basis that this appeal is also dismissed.*

After considering the submissions, this tribunal finds there is no new evidence to support a prima facie case on this ground and no basis to overturn the previous rulings on 23 and 27 October 2020.

2. Women's Officer

Pursuant to r.23.1 and 23.2, there should have been two pages containing ballots, the first page containing all ballots excluding the Women's Officer ballot, and the second page containing the Women's Officer ballot. Although this did not occur, it is not a defect that would materially affect the election result. As such, this appeal ground is dismissed.

3. Ballot Draw

The ballot draw followed the correct election process and complied with the election regulations. There is no prima facie case on this ground.

4. Election Timeline

One image of a candidate available for less than 24 hours would not have had a material effect on the result of the election. There is no prima facie case on this ground.

5. Outside Influence

It is the role of the Returning Officer to govern the actions of those who are involved in the election, this did occur. The Returning Officer is unable to govern the conduct of individuals who are not students that make public comments on the election. Third parties making such comments, while frustrating, cannot be considered the responsibility of candidates who did not request or encourage such comments. Based on the material provided, including the fact that there is no evidence of campaign material posted following the Returning Officer's directive, the tribunal finds there is no prima facie evidence to support this ground of appeal.

Summary

The material relied upon by the appellant identified as "Attachment Reference List" is insufficient to support a prima facie case on the grounds claimed.

The appeal is dismissed.

Election Tribunal

10 November 2020

APPENDIX 6 – CAMPAIGNING BY ‘IGNITE’ GROUP



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 “Monso 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

APPENDIX 7 – ELECTION TRIBUNAL RULING 23 OCTOBER

Election Tribunal Appeal Decision (23 October 2020)

On 21 October 2020 at 5.39pm the Returning Officer (RO) provided the Election Tribunal (Tribunal) a document requesting that the tribunal consider an appeal of the Returning Officers decision dated 20 October 2020 at 5.00pm. There were no details provided as to who was making the appeal. The tribunal requested from the RO the details of the person(s) making the appeal. The Tribunal received the contact details for Anna Purtill (the appellant). The election tribunal contacted the appellant to confirm the appeal and provided an opportunity for the appellant to provide any additional submissions in relation to that appeal including the names of any relevant persons. The appellant confirmed it was her appeal and provided no further submissions.

Original complaint and RO ruling

On 18 September 2020, the RO received two complaints regarding campaign material published on behalf of the unofficial 'Ignite' group of candidates. Candidates that allegedly formed 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.

For the purpose of this appeal it is the second complaint that is most relevant.

The second complaint was regarding two posts made on WeChat, which were subsequently also found to have been posted on Australia51.com. These posts, written in Mandarin, were published on 23 September 2020 (**post 1**) and 16 October 2020 (**post 2**).

The RO was appointed on 2 October 2020. 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.

Post 2 was made during the election period.

Post 1 was found by the RO to be in breach of the Election Regulations for the following reasons: (relevant to this appeal are r.19.2, 19.3.3 and 19.3.3).

1. Regulation 19.2 – No authorisation was included on the publicity and the post was not provided to the Returning Officer for approval.
2. 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.
3. Regulation 19.3.3 – No English translation is provided on the publicity.
4. Regulation 19.3.4 – The MONSU logo is used multiple times throughout the post.
5. Regulation 19.5 – Publicity was made available prior to the close of nominations.
6. 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 the RO directed that the post be removed, which has already been done from WeChat and the RO determined that no sanctions were required in response to breaches these two breaches. The RO did make sanctions regarding breaches of r.19.3.2, 19.3.4 and 31.5.7.

On requesting a response regarding the posts, Riley Fenn advised the RO 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.*

The RO found that it was not credible that no candidate or campaigner was involved in the preparation of the posts was for the following reason.

- 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 Fenn 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.*

The RO determined Riley Fenn breached Regulations 31.2, 31.3 and 31.5.1 by providing false, dishonest and deceptive information to the Returning Officer and imposed a ban from campaigning for an additional 4 days from 6pm Tuesday 20 October until 6pm Thursday 29 October. Riley Fenn did not appeal the RO's decision.

The RO found the Zixuan Li, based on eligibility checks was not a student. As such, the RO found that Zixuan Li breached Regulation 31.5.9 by campaigning on behalf of candidates through publishing this publicity.

Relevant to this appeal is the decision that Post 2 dated 16 October 2020 breached r. 19.2, 19.3.2, 19.3.3, 19.3.4, 19.5, 19.6 and 31.5.7.

Accordingly, in response to the breach of Regulation 19.5 in the publication of post 2, the RO imposed a ban on 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 permitted in accordance with Regulation 19.5.

Further, for the breaches of the Regulations in the publication of posts 1 and 2, the RO banned the Ignite candidates and any students campaigning on their behalf from campaigning for an additional 2 days and directed 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.

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

Appeal

The appeal made by Anna Purtill on the following basis:

1. The Regulations clearly limit the scope of the Returning Officer's disciplinary authority in relation to "the person" – that is, the relevant person responsible for the particular conduct which allegedly has contravened the Regulations.
2. There is no clause within the Regulations that confers any power upon the Returning Officer to punish any one student for the conduct of another student (or non-student) on the purported factual basis that they share a common team banner, or had actual knowledge of a breach by another. Even if knowledge is a sufficient foundation to impute responsibility to a candidate for the actions of another, that actual knowledge must be proven positively, and is not proven by the mere fact of candidates sharing a common banner.
3. Moreover, that allegation of knowledge is flatly denied. The Returning Officer only provided one student with questions and did not provide any other student subject to the discipline any

questions. Moreover, the Returning Officer did not provide the appellant with the relevant factual material upon which he based his conclusion that and d other campaigners, knew or were party to the relevant conduct. Nor did he provide his interpretation of the Election Regulations, that is an egregious breach of natural justice, as we were robbed of any opportunity to attack the factual and interpretative bases of your decision and offer reasonable, alternative interpretations and conduct additional inquiries.

4. In this ruling the Returning Officer suggests that if there is a common association between candidates, that 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.'
5. The text of the Regulations does not support that interpretation. There is no reasonable basis for that interpretation as the Regulations were specifically amended to deregulate the conduct of students campaigning collectively.
6. The fact that there are gaps in the Regulations with respect to the Returning Officer's powers to deliver sanctions – for example, the regulations referred to in 31.5.9 in his declaration – does not mean that the Returning Officer can by fiat fill that gap on the basis of what he declares to be 'reasonable to assume.' That gap can only be filled by the Student Council which is the repository of that power under C33.1 of the MONSU Constitution.
7. The Returning Officer has in so declaring put the burden on candidates that he alleges to have a common association to disprove any connection to or actual knowledge of the offending student and non-students. Moreover, these candidates have not been given an opportunity to offer any evidence to counter the Returning Officer's position and discharge that burden.
8. The effect of the Returning Officer's declaration is that any student that publicizes material branded similarly to a candidate or group of candidates can, by publishing prohibited publicity, compel the RO to punish all associated candidates using that branding regardless of the intent and actions of the publisher or the punished candidates, and regardless of their actual association to the punished candidates. That is a nonsense.
9. The Returning Officer has penalized individual candidates for conduct:
 - a. Engaged in by other students and non-students;
 - b. Not within the candidate's sphere of influence;
 - c. Without any evidence actually demonstrating on the balance of probabilities a connection to the relevant students and non-students that engaged in the offending conduct (in breach of Reg 4.3)
 - d. On the basis of an extraordinarily unlikely interpretation of the Regulations which has no foundation in its text. The Returning Officer has wrongly assumed the role of the Council which is to declare the Regulations.
10. The appellant requested that the Returning Officer immediately, and for the period preceding the Election Tribunal's declaration, restricts this ruling in its operation only to the offending individuals – i.e. the publishers.
11. The Returning Officer's ruling was without basis and failed to provide a fair hearing to the persons he alleges to be of the 'Ignite' team. That will constitute a defect in the conduct of the election. Meanwhile, the consequence of the Returning Officer's ruling is that several candidates are prohibited from campaigning for some 5-6 days. That may materially affect the results of their individual elections and the election as a whole. Therefore, any one of those students may appeal against the result of the election under 35.2 to the Election Tribunal.
12. The best pathway in my view to avoid there being any doubt with respect to the validity of the election is for the Returning Officer to withdraw his ruling, and immediately (within 24 hours) convening a meeting of the Election Tribunal in relation to the declaration he made yesterday.

Tribunal Ruling

After examining all submissions and the relevant documents, this Tribunal finds that based on facts and evidence as presented before the RO, the RO acted appropriately in his deliberations. Further, the RO ruling dated 20 November 2020 was in accordance with the authority afforded on him pursuant to the MONSU Constitution and Election Regulations on the following basis:

1. 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 have been identified by the RO as the 'Ignite' candidates, by virtue of their conscious decision to organise themselves and brand themselves as such. Accordingly, they each hold responsibility for the actions of persons or organisations acting to the benefit of the collective 'Ignite'.
2. The ruling by the RO upon the 'Ignite' candidates has taken into consideration communications created in breach of Election Regulations. The MONSU governing documents including, the constitution and regulations, is paramount for the conduct and appraisal of the severity of breaches made by such a collective, as well as their contained individuals.

The Constitution states:

C7. Obligations and Liability

Members must at all times comply with this constitution and any regulations made under it.

C24.4 Members must at all times comply with the regulations as if they formed part of this constitution.

3. The Returning Officer has highlighted the following crucial point:

"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."

4. The level at which sanctions may be passed by the RO is made in consideration of the following regulations:

31.13.1. the severity of the breach;

31.13.2. whether or not the person was dishonest in the course of their breach of the regulations; and

31.13.3. the likely number of votes influenced or affected as a result of the person breach of the regulations.

5. Pursuant to the following regulations, the Returning Officer must apply sanctions for such breaches.

31.13.1.1. in judging the severity of the breach, if a serious breach has occurred the Returning Officer shall apply at least one of regulation 32.12.3 - 32.12.5 to the person that committed the breach. For the avoidance of doubt a breach of regulations 32.4 or 32.5.1 – 32.5.5 shall be automatically considered to be a serious breach.

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.

6. The Returning Officer in making the ruling considered the group 'Ignite' conduct, as evidenced by the content in the posts (and the statements of Riley Fenn) to have engaged in breaches of the Election Regulations.
7. The RO's application of the sanctions was based on the following.
"This is equivalent to the period campaigning was occurring before it was allowed to occur in accordance with Regulation 19.5."
8. Regulation 4.1.2 provides that the Returning Officer may decide on all matters not provided for in the Regulations. The conduct of informal groups of candidates and their supporters falls into the category of matters not provided for in the Regulations.
9. The removal of tickets from the Regulations is to remove ticket names and ticket voting from the ballot; and
10. Riley Fenn did not appeal the RO ruling pertaining to her.

The appeal is dismissed, and the RO ruling dated 2 October 2020 is upheld.

Election Tribunal
22 October 2020

APPENDIX 8 – RULING ON CITY (MELBOURNE) STUDENTS



MONSU Caulfield Inc.
2020 ANNUAL ELECTIONS
Monday 12 September - Wednesday 14 September 2020

RULING ON CITY (MELBOURNE) CAMPUS STUDENTS

During the 2018 Annual Elections an election participant requested clarification on their eligibility to participate in the Annual Elections, due to their status as a Monash University student enrolled at the City (Melbourne) campus.

Following discussions with MONSU Caulfield and Monash University staff the following facts were used in determining the ruling on this student's eligibility:

- Monash University's City (Melbourne) campus does not have a Student Organisation.
- MONSU Caulfield appears to represent students from the City (Melbourne) campus in discussions with Monash University and in other forums where MONSU Caulfield is the representative for students, while no other Student Organisation appears to do this.
- For all other purposes MONSU Caulfield appears to have given City (Melbourne) campus students the same standing in its affairs as Caulfield campus students have under the Constitution.

Based on these facts I ruled that City (Melbourne) campus students would be enfranchised within the elections of MONSU Caulfield with the same voting and standing rights of an equivalent Caulfield campus student.

As these facts have not changed since the 2018 Annual Elections, I rule that Monash University students enrolled at the City (Melbourne) campus will be eligible to participate in the 2020 Annual Elections with the same rights of an equivalent student enrolled at the Caulfield campus.

Jarrold Allen
Returning Officer

14 September 2020

APPENDIX 9 – ELECTION TRIBUNAL DECISION 27 OCTOBER

Election Tribunal Appeal Decision (27 October 2020)

Jurisdiction

1. The appeal is in relation to the Returning Office ("RO") ruling of 5pm, 20 October 2020, 'RULING – Campaigning by 'Ignite' group' ("the ruling").
2. At 10:56am on Thursday 22 October 2020, the RO received an email from the appellant which contained the following request for clarification:

"I am assuming the ban for Riley also extends to any-one campaigning on her behalf, and then should it not stand that during this time period, no-one from Ignite or anywhere should be able to campaign for her either?"

3. At 7:43pm on Thursday 22 October 2020, the RO responded to the above clarification with the following statement:

To clarify, the additional 4 days is a ban against Riley only and not anyone campaigning on her behalf. As such the other candidates can continue to campaign by encouraging students to join MONSU and to vote for the Ignite candidates including Riley. If you disagree with this ruling you are able to submit an appeal against my decision to the Electoral Tribunal, however appeals must occur within 24 hours of a ruling being made. While it has been over 24 hours since I made the ruling, if you believe my ruling was unclear and you are only now aware of what the ruling involves because of this clarification you may be able to request the 24 hour period begin when I sent this clarification. I believe it would be unlikely that the Electoral Tribunal would grant you an exemption to this requirement, however they may.

4. The Election Regulations state:

34.1. A student may appeal against a decision of the Returning Officer by writing to the Returning Officer within:

- 34.1.1. 4 hours of the decision if it was made during a polling period; and
34.1.2. 24 hours for all other decisions.*

5. The RO raised a jurisdictional objection that the appeal was received more than 24 hours after the ruling was made.
6. Due to the RO's email above at 7:43pm on the 22 October 2020, the tribunal considers this email to come within r.34.1.2. As the appeal was filed within 24 hours from that time, the tribunal agreed to convene and consider the appeal pursuant to r.34.1.2.

Appeal

1. The appeal is seeking to overturn the Returning Officer's ruling on 20 October 2020 banning Riley Fenn from campaigning for a total of 9 days, from 6pm Tuesday 20 October until 6pm Thursday 29 October, and instead, seeking to disqualify Riley Fenn and any involved in her campaign from the election.
2. The appellant submitted that there was inconsistency in his administration of the bans, and contended that whilst Riley Fenn is banned, no other individual should be able to campaign on her behalf.
3. Any publicity or efforts made by individuals of 'Ignite' or otherwise, attempting to influence votes for Riley Fenn, either in specificity or as part of the collective 'Ignite', would circumvent

the sanction imposed upon Riley Fenn to mitigate the consequences of her severe breach of governing documents.

4. By association, any content promoted by 'Ignite' during the period of her ban, given her overtly public affiliation with them as demonstrated by the fact that all of their public posts have (or likely will) be authorised by Riley Fenn, should also be banned. This is due to the fact that the entire 'Ignite' Facebook Page is authorised by her. Thus, any material shared on that page is related to Riley Fenn and is of material benefit to her campaign. Ultimately, this undermines the ban itself.
5. By failing to comply with all key documents of MONSU Caulfield, Riley Fenn infringed upon the process of the election to an extent such as to warrant the application of further sanctions and/or penalties.
6. The election tribunal consider elevating this matter to apply any or all of the following sanctions to Riley Fenn, and any involved in her campaign:
 - 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.

RO submission

1. The ruling has been adequately complied with by both Riley Fenn and candidates running under the "Ignite" banner and that the appeal does not bring additional evidence to light that necessitates further sanctions.
2. Students who are participating in the election have the ability to support candidates of their choice irrespective of that candidate being subject to a ban from campaigning themselves.
3. Allowing students to express support for Riley Fenn during her ban does not represent an inconsistency in administration of the bans.
4. If the appeal is upheld, the ability of students to campaign and fully participate in the election process would be significantly compromised.
5. The RO considered the penalty that was applied to Riley Fenn was appropriate given the severity of the breaches and that this matter has been adequately dealt with and does not require additional consideration.
6. As this appeal does not challenge the ruling made by the RO and only the penalty applied, it is not necessary for the Election Tribunal to recommend additional sanctions in regard to this matter.
7. The RO provided a ruling and outlined an appropriate penalty for the behaviour.
8. The RO fully fulfilled my obligations as in relation to this matter and consider the issue completely resolved.

Tribunal Findings

1. The appellant is seeking to have the ban imposed on Riley Fenn, “*and any involved in her campaign*” by the RO in his ruling of 20 October 2020 (the ruling) overturned, and instead disqualify Riley Fenn, and any involved in her campaign, from campaigning or standing or campaigning and standing in the election.
2. As provided in the tribunal decision of 23 October 2020, the level at which sanctions may be passed by the RO is made in consideration of the following regulations:
 - 31.13.1. the severity of the breach;
 - 31.13.2. whether or not the person was dishonest in the course of their breach of the regulations; and
 - 31.13.3. the likely number of votes influenced or affected as a result of the person breach of the regulations.
3. Pursuant to the following regulations, the Returning Officer must apply sanctions for such breaches.
 - 31.13.1.1. in judging the severity of the breach if a serious breach has occurred the Returning Officer shall apply at least one of regulation 32.12.3 - 32.12.5 to the person that committed the breach. For the avoidance of doubt a breach of regulations 32.4 or 32.5.1 – 32.5.5 shall be automatically considered to be a serious breach.
 - 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.
4. In the RO ruling, consideration of the conduct is evidenced by the examination of content in the posts, and the statements of Riley Fenn being taken into account in finding the breaches of the Election Regulations and the RO’s application of the sanctions was based on the following.
 - a. *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.*
 - b. *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.*
 - c. *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.*
 - d. *These shall not be concurrent, with a combined ban from campaigning for 5 days from 6pm Tuesday 20 October until 6pm Sunday 25 October.*

- e. *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.*

Tribunal Decision

1. In deciding on sanctions, the RO considered all matters raised in the appellant's submission including the seriousness of the breaches and the impact on the election.
2. The RO made a comparison with the other beaches found to have occurred.
3. The RO provided a logical and balanced basis for deciding on the severity of the sanctions.
4. The RO complied with the relevant provisions of the Election Regulations.
5. There are no additional facts submitted in this appeal that were not presented to the RO at the time of the ruling.
6. The previous appeal, seeking to overturn the ruling and remove the sanctions, was dismissed by this tribunal in its decision published on 23 October 2020, it on the same basis that this appeal is also dismissed.

Election Tribunal

27 October 2020