

Reprint
as at 16 November 2018



New Zealand Teachers Council Election Rules 2002

(SR 2002/192)

New Zealand Teachers Council Election Rules 2002: revoked, on 16 November 2018, by rule 44 of the Teaching Council of Aotearoa New Zealand Election Rules 2018 (LI 2018/234).

Pursuant to section 139AJ(1)(a) of the Education Act 1989, the New Zealand Teachers Council makes the following rules.

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.

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Rules

1 Title

These rules are the New Zealand Teachers Council Election Rules 2002.

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

close of nominations, in relation to any election, means the time and date calculated in accordance with rule 13(1)

close of voting, in relation to any election, means the time and date by which votes in that election must be received, as determined by the returning officer under rule 11(1)

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

returning officer means the returning officer appointed to run an election under rule 6; and includes any person for the time being 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 7

sector representative means—

- (a) the teacher representing the early childhood sector on the Teachers Council, who is to be elected by teachers from that sector; or
- (b) the teacher representing the primary sector on the Teachers Council, who is to be elected by teachers from that sector; or
- (c) the teacher representing the secondary sector on the Teachers Council, who is to be elected by teachers from that sector; or

(d) the principal representing principals on the Teachers Council, who is to be elected by principals

Teachers Council means the New Zealand Teachers Council established under section 139AC of the Act

voting document includes, if electronic voting is to be used at an election,—

- (a) an electronic document or electronic message that is designed to enable a voter to record his or her vote at an election and transmit it electronically for counting; and
- (b) any copy of that document or message (with or without the voter's vote recorded); and
- (c) any record of that document or message with that voter's vote recorded

voting method, in relation to any election, means the method of voting to be used at that election, as determined by the returning officer under rule 10

voting period, in relation to an election, means the period during which a voter may cast a vote at that election, as determined by the returning officer under rule 11(2).

4 Dates on which elections must be held

- (1) The Teachers Council must, as soon as practicable after the commencement of these rules, fix a date for the first election of the 4 sector representatives on the Teachers Council.
- (2) Subsequent elections of sector representatives must be held every 3 years, on a date fixed by the Teachers Council that is in the same month of the year as the month of the year in which that first election was held.

5 Extraordinary elections to fill vacancies

- (1) If the seat of a sector representative on the Teachers Council becomes vacant before the expiry of that person's term of office, the Teachers Council must, as soon as practicable after the seat becomes vacant, fix a date for an extraordinary election to replace that sector representative.
- (2) The term of office of a sector representative elected under subclause (1) expires when the former sector representative's term would have expired.
- (3) Despite subclause (1), if the seat of a sector representative becomes vacant within 120 days of the end of that person's term of office, the Teachers Council may postpone holding an election to fill that vacant seat until the triennial election is held under rule 4(2).

6 Teachers Council must appoint returning officer

- (1) The Teachers Council must appoint a returning officer to run each triennial election and extraordinary election that is to be held under these rules.

- (2) The Teachers Council must not appoint a person to be a returning officer who—
 - (a) is an employee of the Teachers Council; or
 - (b) holds an office under section 139AD of the Act; or
 - (c) is a candidate in the election for which the returning officer is being appointed.
- (3) If the returning officer becomes unable to carry out the duties of a returning officer, the Teachers Council must appoint a replacement returning officer.
- (4) Every returning officer must conduct the election—
 - (a) in accordance with these rules; and
 - (b) otherwise as he or she thinks fit.

7 **Returning officer must prepare rolls**

- (1) The returning officer appointed to run a triennial election under rule 4(2) must, before notice is given of that election, prepare the following rolls:
 - (a) a roll of teachers in the early childhood sector who the returning officer believes will, on election day, be entitled to vote for a teacher to represent that sector on the Teachers Council; and
 - (b) a roll of teachers in the primary sector who the returning officer believes will, on election day, be entitled to vote for a teacher to represent that sector on the Teachers Council; and
 - (c) a roll of teachers in the secondary sector who the returning officer believes will, on election day, be entitled to vote for a teacher to represent that sector on the Teachers Council; and
 - (d) a roll of principals who the returning officer believes will, on election day, be entitled to vote for a principal to represent principals on the Teachers Council.
- (2) The returning officer appointed to run an extraordinary election for a sector representative under rule 5(1) must, before notice is given of that election, prepare a roll of every person who the returning officer believes will, on the day of the election, be entitled to vote in the election for the relevant sector representative.
- (3) Each roll must contain, at a minimum, the name, address, date of birth, and teacher registration number of each person who the returning officer believes will be entitled to vote in the election for the relevant sector representative, and the expiry date of that person's practising certificate.
- (4) A person who is eligible to be included on more than 1 roll may choose which roll he or she is included on, but must not be included on more than 1 roll.

8 List of persons on each roll must be made available

- (1) After each roll is prepared for an election, a list of the persons on that roll must be made available for inspection, at any reasonable time, up to election day, at—
 - (a) the offices of the Teachers Council; and
 - (b) the offices of the returning officer; and
 - (c) on the Teachers Council's website.
- (2) The list that is made available under subclause (1) must set out—
 - (a) the name of each person on the roll; and
 - (b) his or her teacher registration number; and
 - (c) the expiry date of his or her practising certificate.

9 Amendments to roll

- (1) The returning officer must—
 - (a) delete from a roll the name of any person who he or she reasonably believes will not, on election day, meet the criteria for voting in the election specified in section 139AD(2) of the Act; and
 - (b) add to a roll the name of any person who he or she reasonably believes meets, or will on election day meet, those criteria.
- (2) The returning officer may amend a roll at any time up to election day.

10 Returning officer must determine voting method

- (1) The returning officer must determine the voting method to be used at any election.
- (2) The returning officer may decide to use any method of voting, or combination of methods of voting, that he or she considers appropriate, including—
 - (a) postal voting; and
 - (b) any form of electronic voting, including Internet voting.

11 Close of voting and voting period

- (1) In any election, the returning officer must determine the time and date at which voting must close.
- (2) In any election, the returning officer must determine the voting period.

12 Returning officer must give notice of election

- (1) The returning officer must give notice of every election to each person who is listed on the register of teachers, and who appears to teach in the sector for which a representative is to be elected at that election, by posting or delivering a notice to that person at his or her address as set out in that register.
- (2) The notice under subclause (1) must—

- (a) be given at least 80 days before the election; and
- (b) state that an election is to be held and that the electoral system to be used is the system known as the first past the post system; and
- (c) describe the voting method or methods that will be used at that election; and
- (d) specify the voting period and the time and date of close of voting; and
- (e) specify the sector or sectors that the person or persons elected will represent on the Teachers Council; and
- (f) invite nominations of candidates to represent that sector or those sectors; and
- (g) specify the time and date of the close of nominations, the form in which nominations must be made, and where nomination forms may be obtained; and
- (h) set out the information that must be provided by candidates; and
- (i) specify the requirements for candidate profile statements, including—
 - (i) the requirements under rule 14(3); and
 - (ii) any additional requirements imposed by the returning officer under rule 14(4); and
- (j) advise that only persons whose names appear on the roll of persons who are entitled to vote for a representative of a particular sector may vote for a person to represent that sector; and
- (k) advise where to find further information about the election, including where the current list of persons on the roll or rolls prepared under rule 7 may be inspected; and
- (l) advise how a person may enrol on a roll, or switch rolls, and the closing time and date for additions and amendments to the rolls.

13 Nomination of candidates

- (1) The closing time and date for nomination of candidates must be 12 noon on the 60th day before the election day.
- (2) No person may be nominated as a candidate unless he or she meets the criteria set out in section 139AD(1)(b) of the Act.
- (3) Every nomination of a candidate must—
 - (a) be in writing; and
 - (b) specify the name of the nominator and the candidate that he or she is nominating; and
 - (c) be assented to by the candidate in writing; and

- (d) be seconded by a registered teacher who is on the roll of persons who are entitled to vote for a person to represent the sector that the candidate is being nominated to represent; and
- (e) include the teacher registration number of the candidate and his or her résumé in the form specified by the returning officer; and
- (f) include the candidate's profile statement (if any) in accordance with rule 14.

(4) A nomination of a person as a candidate for election as a sector representative is not valid unless the person who made that nomination is on the roll of persons who the returning officer believes will be entitled to vote for a person to represent that sector.

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

14 Candidate profile statements

- (1) A candidate may, before the close of nominations, give the returning officer a candidate profile statement for supply to voters.
- (2) If the returning officer considers, on reasonable grounds, that any part of a statement provided under subclause (1) is likely to be defamatory or offensive, or is too long, the returning officer may omit or abridge that part of the statement before supplying it to voters.
- (3) The candidate profile statement—
 - (a) must be no more than 150 words long; and
 - (b) must be in either English or Māori; and
 - (c) may include an accurate translation into another language of the nominee's choice; and
 - (d) must be confined to information concerning the candidate and the candidate's policies and intentions if elected to office; and
 - (e) must comply with any requirements imposed by the returning officer under subclause (4); and
 - (f) may include a recent passport size photograph of the candidate alone.
- (4) The returning officer may impose additional reasonable requirements on candidate profile statements.
- (5) 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, any 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 that returning officer under this rule, unless that act or omission was done in bad faith.

15 **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) The returning officer must take reasonable steps to ensure that voters are notified of the withdrawal of any candidate that occurs after the voting documents are issued.

16 **Returning officer must notify list of candidates**

The returning officer must, not less than 40 days before the date of an election, give notice of the list of candidates in that election—

(a) by publishing a list of the candidates on the Teachers Council's website; and

(b) by any other method that the Teachers Council may direct.

17 **Election unnecessary if only 1 nomination received**

(1) If only 1 valid nomination is received in an election for a sector representative, 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 a sector representative is held because of subclause (1) or subclause (2), the returning officer must take all reasonable steps to ensure that voters are notified of that fact.

18 **Returning officer must prepare voting documents**

(1) If an election is to be held, the returning officer must arrange for a sufficient number of voting documents to be prepared.

(2) Each voting document must—

(a) be uniquely numbered (unless that voting document is a copy of an electronic voting document, or record of an electronic voting document, as described in paragraphs (b) and (c) of the definition of **voting document**, in which case that copy or record must bear the unique number of the original electronic voting document supplied to the voter); and

(b) set out—

- (i) the position or positions to be filled at the election; and
- (ii) the name under which each candidate is seeking election, listed in alphabetical order of the candidates' surnames; and
- (iii) the date and time by which votes must be received by the returning officer; and
- (iv) the voting method or methods to be used; and
- (v) information that is sufficient to identify the person to whom the voting paper is issued on the roll of persons entitled to vote in that election; and
- (vi) information that is necessary to distinguish between any candidates that have the same or very similar names; and
- (vii) an illustration of how and where on the voting paper the voter must indicate his or her vote; and

(c) include the following instructions to the voter:

- (i) to read the directions carefully before voting;
- (ii) to vote for 1 candidate only;
- (iii) how and where on the voting document the voter must indicate his or her vote (for example, by ticking a box);
- (iv) what the voter should do if he or she spoils the voting document;
- (v) what the voter must do with the voting document after indicating his or her vote on it;
- (vi) any other requirements that are particular to the voting method being used.

(3) Voting documents may contain any other information that the returning officer considers appropriate to ensure that—

- (a) all voters who are qualified to vote have a reasonable and equal opportunity to vote; and
- (b) the secrecy of the vote is maintained.

19 Returning officer must issue voting documents

(1) The returning officer must, not later than 20 days before the election day, issue the voting documents to every person whose name is, on the day the voting documents are issued, listed on the roll of persons who the returning officer believes will be entitled to vote in that election.

(2) If, after the voting documents have been issued under subclause (1), a person's name is added to the roll of persons who the returning officer believes will be entitled to vote in an election, 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) Voting documents must be issued by—
 - (a) posting them to the voter; or
 - (b) personally delivering them to the voter; or
 - (c) electronically delivering them to the voter.
- (4) Every voting document that is issued by posting or personally delivering it to the voter 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 document printed on it.

20 **Validity of voting documents**

A vote is invalid and must not be counted if—

- (a) the voting document is received after the date and time specified on the voting document under rule 18(2)(b)(iii); or
- (b) the voting document does not, in the opinion of the returning officer, clearly indicate the candidate for whom the voter intended to vote; or
- (c) the voter votes for a candidate who has withdrawn from the election; or
- (d) the voter votes more than once in the election; or
- (e) the returning officer believes, on reasonable grounds, that—
 - (i) the voting document was not issued to the voter by the returning officer; or
 - (ii) the voter, at the time of the election, did not meet the criteria for voting in the election specified in section 139AD(2) of the Act.

21 **Candidate may appoint scrutineer**

- (1) Each candidate may, by notice in writing to the returning officer no later than 7 days prior to the commencement of the voting period, appoint 1 scrutineer.
- (2) The role of a scrutineer is—
 - (a) to be present at, and to observe, the opening of the envelopes containing the voting documents; and
 - (b) to examine the envelopes and the voting documents; and
 - (c) to observe the counting of the votes.
- (3) A candidate in an election may not be a scrutineer in that election.

22 **Counting of votes**

- (1) The returning officer must, as soon as practicable after the close of voting, count the number of votes that are, in his or her opinion, valid.
- (2) The returning officer may appoint 1 or more persons to assist him or her to count the votes, but must personally determine all questions relating to the validity of votes.

23 Early processing of votes

- (1) The returning officer may, before the close of voting, begin to process voting documents that are received by him or her during the voting period.
- (2) If the returning officer decides to begin processing votes before the close of voting,—
 - (a) he or she 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 voting documents; and
 - (b) the processing of any voting document 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 appointed under subclause (2)(a) must be present when—
 - (a) any voting document is processed during the voting period under subclause (1); and
 - (b) the processing of any voting document is completed after the close of voting under subclause (2)(b).
- (4) No scrutineer may be present when any voting document is processed during the voting period under subclause (1).
- (5) Any scrutineer may be present when the processing of any voting document is completed after the close of voting under subclause (2)(b).

24 Result of election

- (1) The candidate who receives the greatest number of valid votes in an election for a sector representative is elected.
- (2) If 2 or more candidates receive the same number of valid votes, the returning officer must decide which of them is elected by lot.
- (3) A lot under subclause (2) must be drawn in the presence of the candidates' scrutineers (if any).

25 Preliminary results

At any time after the close of voting and before the official result of the election for a sector representative is declared, the returning officer may make announcements of preliminary results.

26 Declaration of result

- (1) The returning officer must, as soon as practicable after the result of an election for a sector representative is known,—
 - (a) advise the successful candidate by whatever means the returning officer considers appropriate; and
 - (b) notify the Teachers Council and each candidate, in writing, of—

- (i) the name of the candidate elected; and
- (ii) the number of valid votes cast for each candidate; and
- (iii) the number of invalid votes cast.

(2) The information described in subclause (1)(b) must, as soon as practicable after the result of an election is known, be publicly notified—

- (a) on the Teachers Council’s website; and
- (b) by any other method that the Teachers Council may direct.

27 Candidate may be elected despite non-material irregularity

The candidate who received the greatest number of valid votes in an election for a sector representative 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 result of the election.

28 Procedure in case of material irregularity

(1) If, in the opinion of the returning officer, an irregularity occurred that may have materially affected the result of the election, the returning officer may—

- (a) recount the votes; or
- (b) notify the Teachers Council that another election must be held.

(2) Any person who is declared to have been elected before a recount of votes under subclause (1)(a), but who is found not to have been the candidate who received the greatest number of valid votes after that recount, is deemed to have resigned his or her seat on the Teachers Council, and the candidate who received the greatest number of valid votes after the recount is elected.

(3) If subclause (1) applies, and if the irregularity that occurred was attributable to a teacher acting otherwise than in good faith, the returning officer must advise the Teachers Council of the name of the teacher who acted otherwise than in good faith.

29 Decision of returning officer final

The decision of the returning officer as to all matters that relate to the regularity and propriety of the election is final.

30 Returning officer to keep, then destroy, voting documents

The returning officer must keep all voting documents received by him or her in safe and secure custody for 3 months from the date on which the result of the election is declared under rule 26, and must then destroy them.

31 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 result of the election may be known before that result is declared; or
- (b) reveal details of who voted for whom.

32 Term of office of elected members

- (1) Every person who is elected to be a member of the Teachers Council comes into office on the later of—
 - (a) the day after the date on which he or she is elected; or
 - (b) the day after the date on which the term of the vacating member expires.
- (2) The term of office of every person who is elected to be a member of the Teachers Council is 3 years unless he or she vacates office sooner.

Stan Rodger,
Chairperson of the New Zealand Teachers Council.

Explanatory note

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

Under section 139AD of the Education Act 1989, 4 members must be elected to the New Zealand Teachers Council to represent the early childhood sector, the primary sector, the secondary sector, and principals. These rules, which come into force on the day after the date of their notification in the *Gazette*, set out the rules that apply to those elections.

Elections must be held every 3 years, and there is provision for an extraordinary election to be held if the seat of an elected member becomes vacant before that member's 3-year term expires.

Whenever an election is to be held, the Teachers Council must appoint a returning officer. That returning officer will be responsible for preparing the roll, giving notice of the election, notifying the list of candidates, preparing and issuing the voting documents, and counting the votes.

Issued under the authority of the Legislation Act 2012.
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Reprints notes

1 *General*

This is a reprint of the New Zealand Teachers Council Election Rules 2002 that incorporates all the amendments to those rules as at the date of the last amendment to them.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Teaching Council of Aotearoa New Zealand Election Rules 2018 (LI 2018/234): rule 44