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Political Neutrality in the AEC

Corporate Services Branch



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Objective

1. This policy is to establish the requirements that underpin the political neutrality requirements of all Employees engaged by the Australian Electoral Commission (AEC), including those engaged under Section 22 of the *Public Service Act 1999*, all Statutory Appointments or those employed under Section 35 of the *Commonwealth Electoral Act 1918*.
2. The concept of political neutrality requires that all Employees ensure that they are not publicly active in any political affairs and do not intend to publicly engage in such activities during their employment by the AEC.

Application

3. This policy applies to all AEC Employees engaged under the *Public Service Act 1999* or the *Commonwealth Electoral Act 1918* who are working in the AEC, including employees on secondment to the AEC.

Note: For the political neutrality requirements for suppliers, including labour hire personnel provided to the AEC through a contracted agency (i.e. where no employment relationship exists), refer to the AEC's Procurement Procedures.

Definitions Applicable to the Policy

Employee	<p>The same as an "APS employee" as defined in the <i>Public Service Act 1999</i> who is working in the AEC, and including employees on secondment to the AEC), including those engaged under Section 22 of the <i>Public Service Act 1999</i>, Statutory Appointments or those employed under Section 35 of the <i>Commonwealth Electoral Act 1918</i>.</p> <p>Note: The policy may also be extended to include contractors, being those persons employed through an employment of other labour hire agency, via the terms of the contract that governs their service. In such instances, a reference to an employee in this policy includes a reference to contractors.</p>
Manager	<p>Designated person or role to which the Employee reports for direction on a day-to-day basis, and includes the person referred to as a supervisor or a nominee of the Manager.</p>
Political Party	<p>An organisation the object or activity, or one of the objects or activities, of which is the promotion of the election to the Senate or to the House of Representatives of a candidate or candidates endorsed by it.</p>

Principles

General Principles

4. The Australia Public Service (APS) Values and Code of Conduct include various requirements about employees being apolitical, impartial and taking reasonable steps to avoid conflicts of interest. In the context of the statutory functions given to the AEC in relation to the conduct of elections and referenda, the AEC and its Employees must be, and must be seen to be, impartial

and politically neutral and must, at all times in connection with their employment, behave in a way that upholds both the APS Values and Code of Conduct.

Employment Condition

5. The Electoral Commissioner may engage Employees subject to them meeting notified conditions relating to the inherent requirements of their employment. Political neutrality is an inherent requirement of employment in the AEC. This is described at clause 5 of the AEC Enterprise Agreement 2016-2019. The AEC must maintain strict political neutrality and cannot engage as an Employee anyone who is, or is seen to be, publicly active in political affairs.
6. All prospective Employees are required to declare on engagement their non-engagement in political affairs and will be reminded at least annually of their obligation.
7. All AEC recruitment advertising, selection criteria and position descriptions must include a statement of the political neutrality requirement.

Meeting the requirement for political neutrality in the AEC

8. The AEC is responsible for providing the Australian people with an independent electoral service capable of meeting their needs, while enhancing their understanding of, and participation in, the electoral process. It is, therefore, essential that all Employees, staff and office-holders are, and are seen to be, politically neutral.
9. While each person's individual circumstances will be dealt with according to the relevant facts, some examples of activities that could be interpreted as conflicting with political neutrality, and which would preclude employment by the AEC, include:
 - Campaigning for a Political Party or candidate at either Federal, State or Territory elections – e.g. media statements, handing out how-to-vote material, attributable statements on the Internet,
 - Standing as a candidate at either Federal, State or Territory election,
 - Active public support for, or opposition to, a particular Political Party or candidate, – e.g. letters to the editor, attending political rallies, other publicly available statements of political views,
 - Publishing material on social media, which identifies that the person is an Employee and makes public comments that could be construed as supporting a particular Political Party or candidate,
 - Activities which could be interpreted by a reasonable person as publicly supporting or opposing a particular Political Party or candidate, – e.g. regular public appearances or association with a Political Party or candidate.
10. The following are examples of situations where political neutrality is not necessarily compromised:
 - Membership of organisations supporting or opposing the policies of Political Parties, or
 - Trade union membership or activity, provided it is not of a political nature.

Employees who intend to contest an election

11. Section 32 of the Public Service Act 1999 and Regulations provide for Employees who are candidates at prescribed elections to resign up to 6 months prior to the closing date for nominations. Such Employees have a right of return if they are unsuccessful. The Regulations 3.13 to 3.15 set out in detail the arrangements for return. However, in summary:
 - A prescribed election is a Commonwealth or State parliamentary election, an ACT or NT legislative assembly election, or a Torres Strait Regional Authority member or zone election under the *Aboriginal and Torres Strait Islander Act 2005*.
 - For a non-ongoing Employee, the term of the Employee's original engagement has not expired and the task has not been completed.
 - The Employee applies to return to the AEC no later than two months after the results of the election are declared or a final decision is made on the results.
 - Engagement is on the same basis as when the Employee resigned, i.e. classification, duties, terms and conditions of employment and remuneration, (or if these have changed since the person resigned, the changed terms, conditions and remuneration).
 - The resignation period counts as service for the accrual of leave entitlements for the Employee.

Disregard of political neutrality

12. Where an Employee disregards lawful directions concerning their political neutrality, they may be in breach of the APS Code of Conduct or their terms of engagement under section 35 of the Commonwealth Electoral Act 1918.
13. Alleged breaches of conduct will be managed in accordance with the process set out in the AEC Procedures for Determining Breaches of the APS Code of Conduct and Sanctions and may result in sanctions under section 15 of the Public Service Act 1999 or termination of employment for a breach of the terms and conditions of engagement under section 35 of the *Commonwealth Electoral Act 1918*.

Responsibilities

14. In accordance with the APS Values, the AEC will deal with questions or issues of political neutrality in a fair, open and transparent manner. (Complex cases where the political neutrality of either a prospective or actual Employee is an issue should be brought to the attention of the Electoral Commissioner).

Managers

15. Managers must be aware of this policy and its application. They are required to be aware of the obligations relating to political neutrality, the implications of non-compliance with these obligations and their implications for Employees who disregard their obligations for political neutrality.

Employees

16. Employees must discuss their responsibilities and AEC requirements in respect of their being and remaining politically neutral by notifying their Manager in the first instance, their intention to contest an election. This also includes advising of any changes to their personal circumstances..

Questions or Concerns

17. Corporate Services Branch are able to advise Employees and Managers on available options for handling situations where there is potential for political neutrality to be breached, e.g. counselling, reassignment to other duties, redeployment to another agency, termination of a person engaged under the *Commonwealth Electoral Act 1918*, or the APS Code of Conduct requirements.

Recording and Reporting

18. Employees are required to acknowledge and declare the requirement for political neutrality, in that it is a condition of engagement to maintain political neutrality during the period of any engagement with the AEC. A copy of the ADKO form is placed on an employee's personnel file.

Legislation

- *Commonwealth Electoral Act 1918*
- *Public Service Act 1999*
- *Public Service Regulations 1999*
- AEC's Conflict of Interest Policy

Contact

People, Security & Integrity, Corporate Services Branch

Version Control

Version	Last review date	Action	Next review date	Owner	Approved by
1.0	April 2016	Review of Policy	April 2017	PSB – ERSS	Electoral Commissioner
1.1	1 December 2016	Review for 2016-2019 EA	1 March 2018	PSB – Performance and Conduct	Assistant Director, Performance and Conduct
1.2	November 2017	Update references to PSB to Corporate Services Branch and re-format in line with AEC Policy Format	November 2018	Director, People, Security and Integrity	Assistant Commissioner Corporate Services Branch
1.3	March 2019	Annual Review	March 2020	Director, People, Security and Integrity	Assistant Commissioner Corporate Services Branch