Incorporated school councils and boards information sheet

Version 4

# This document assists members of the school community to provide information on common topics about incorporated councils and boards.

More information about school councils and boards is available on the [Department website](https://www.education.wa.edu.au/school-councils-boards).

As of February 2023, there are no public schools that have an incorporated board. The remaining few schools who did have an incorporated board decided their needs were met through an unincorporated council or board together with an active Parents and Citizens’ Association (P&C).

**Difference to unincorporated councils and boards**

Incorporated councils and boards have higher levels of obligations and additional functions.

Under the [*School Education Act 1999*](https://www.legislation.wa.gov.au/legislation/statutes.nsf/main_mrtitle_878_homepage.html)*,* incorporated councils or boards can:

* obtain funds for the benefit of the school
* employ persons other than public service officers (for example, a canteen manager)
* manage or operate facilities at the school (such as a canteen, swimming pool, residential accommodation for students, school farm or horticultural centre).

Incorporated councils:

* are a separate legal entity that can sue and be sued
* do not have protection against liability provided by section 137 of the School Education Act
* are not covered for personal liability under the Department insurance
* have significant additional reporting and legislative responsibilities.

**Incorporated school council or board members**

An incorporated school council or board can have 10 to 15 members.

Members are elected for a maximum 3-year term, but can be elected for as many terms as they wish to nominate for.

Parents, staff and students are elected**.** Business, industry and community members are appointed**.**

Other persons with particular expertise can be co-opted for a pre-determined purpose and period of time. Co-opted members do not have voting rights.

**Student members**

Only students over the age of 18 can be a member.

**Relationship with the Parents and Citizens’ Association (P&C)**

The P&C is a valuable but separate entity to the council or board and should continue to function that way. Members of the school council or board and the P&C work together on different projects.

The P&C may be an incorporated body through Western Australian Council of State School Organisations (WACSSO), and if so, their school can apply for grants or funding through the P&C.

If a school has an active P&C there is usually no need for a council or board to be incorporated.

**Legislation**

School council or board decision making takes place within a framework of legislation, industrial agreements and policies including, but not limited to:

* the [*School Education Act 1999*](https://www.legislation.wa.gov.au/legislation/statutes.nsf/main_mrtitle_878_homepage.html)
* the [School Education Regulations 2000](https://www.legislation.wa.gov.au/legislation/statutes.nsf/main_mrtitle_2033_homepage.html)
* the [*Associations Incorporation Act 2015*](https://www.legislation.wa.gov.au/legislation/statutes.nsf/main_mrtitle_13715_homepage.html)
* the [Associations Incorporation Regulations 2016](https://www.legislation.wa.gov.au/legislation/statutes.nsf/main_mrtitle_13764_homepage.html)
* the council or board’s Constitution
* industrial agreements, for example, where the council or board is employing staff
* whole of government policies
* [Department policies](https://www.education.wa.edu.au/web/policies/home).

**Insurance and legal obligations**

# As a separate legal entity to the school and the Department, an incorporated council or board needs to seek its own legal and financial advice.

Incorporated councils and boards must seek their own insurance coverage as they are not covered by the Department’s insurer.

WACSSO offers insurance to incorporated councils and boards. Insurance coverage provided by WACSSO to the P&C does not extend to the council or board. The council or board must take out its own insurance.

**Protection from liability**

Any member of the public can be sued. Members need to seek advice from their council or board’s insurer as to their level of cover.

**Application process**

A school can usually avoid having an incorporate board or council through an active P&C and additional procurement processes. For example, if a school needs to operate a food service, there are several procurement options available, and the Department is available to assist with these. If a school wishes to seek donations in lieu of a P&C voluntary contribution, this can be achieved by establishing a building or library tax deductible fund.

You should seek further advice before becoming an incorporated council or board from the Leadership Institute at [SchoolCouncils-Boards@education.wa.edu.au](mailto:SchoolCouncils-Boards@education.wa.edu.au)

If your council or board decides by a majority decision to seek incorporation, the principal must then obtain approval from the Deputy Director General, Schools. The council or board can then apply to the Department of Mines, Industry Regulation and Safety.

Further information is provided in the [Councils and Boards in Public Schools Policy and Procedures](https://www.education.wa.edu.au/web/policies/-/councils-and-boards-in-public-schools-policy-1) and the [Department of Mines, Industry Regulation and Safety](https://www.dmirs.wa.gov.au/).