



SCHOOL COUNCILS AND BOARDS

D18/0129789

Incorporated School Councils and Boards: Frequently asked questions

1. Are many public school councils/boards incorporated?

No. Only a handful are incorporated. The great majority of schools have their needs met through an unincorporated council/board together with an active Parents and Citizens' Association (P&C).

2. Who sits on an incorporated school council/board?

- An incorporated school council/board can have **10 to 15** members (5 to 15 for unincorporated).
- Members are elected for a maximum of **three** years.
- Parents, staff and students (if applicable) are **elected**.
- Only students over the age of 18 may be a member.
- Business, industry and community members are **appointed** by the council/board.
- Other persons with particular expertise can be **co-opted** by the council/board for a pre-determined period of time. Co-opted members do not have voting rights.

The maximum length of a council/board membership is three years, but a person can be nominated for a further membership tenure, or for as many tenures, as he/she wishes to be involved. Tenures are determined by an individual council/board's terms of reference.

3. What is the relationship between the P&C and the school council/board?

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

The P&C may be an incorporated body through WACSSO, and if so, their school can apply for grants or funding through the P&C. Where a school has an active P&C there is usually no need for a council/board to be incorporated.

4. Can students be on an incorporated school council/board?

Yes, if they are over 18 years of age.

5. What legislation are incorporated school councils/boards required to work within?

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

- the *School Education Act 1999*;
- the *School Education Regulations 2000*;
- *Associations Incorporation Act 2015*;
- *Associations Incorporation Regulations 2016*;
- the council/board's Constitution;
- industrial agreements (e.g. where the council/board is employing staff);
- whole of government policies; and
- mandated Department policies.

6. Can an incorporated council/board seek legal or financial advice from the Department of Education?

No. As a separate legal entity to the school and the Department, an incorporated council/board needs to seek its own advice.

7. What insurance cover do council/board members have?

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

The Western Australian Council of State School Organisations offers insurance to incorporated P&Cs and also incorporated councils/boards. Insurance coverage provided by WACSSO to the P&C does not extend to the council/board. The council/board must take out its own insurance.

8. Are incorporated council/board members protected from liability?

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

9. How does a council/board become incorporated?

The first thing to do is to consider all options available to achieve the outcomes desired. This could include for example, working with the P&C (which is usually incorporated), or procurement through the school. The Department's Innovation and Governance unit should be approached for advice and referral phone 9264 5077.

Where the council/board decides by a majority decision to seek incorporation, the principal must then obtain approval from the Deputy Director General, Public Schools. The Innovation and Governance Unit can provide advice on how to go about this.

Where this approval is received, the council/board may then proceed to apply to the Department of Mines, Industry Regulation and Safety.

Further information is provided in the Department's Public School Councils and Boards Policy and Procedures and the Department of Mines, Industry Regulation and Safety website.

10. Can a council/board become incorporated without gaining approval from the Department of Education first?

No. This is the Department can work with the school to ensure all options have been considered and help the council/board to meet the significant legislative and policy obligations incorporation entails.

11. What can an incorporated council/board do that an unincorporated council/board can't?

The *School Education Act 1999* provides that an incorporated council (or board) may apply to undertake the additional functions to:

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

12. How is an incorporated council/board different from an unincorporated council/board?

See Question 10. 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 1999*;
- are not covered for personal liability under the Department of Education's General Liability and Professional Liability insurance coverage with RiskCover; and
- have significant additional reporting and legislative responsibilities.

13. Do incorporated councils/boards have additional responsibilities compared with those that are unincorporated?

Yes. See Questions 10-11.

14. Is having an incorporated council/board the only option for a school that doesn't have an active Parents and Citizens' Association?

No. For example, if a school needs to operate a food service, there are a number of procurement options available and the Department is available to assist with these. Where 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. Information on how to go about this is available to school staff on the Department's Finance for Schools intranet.