



Department of
Education

Public School Councils and Boards

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Public education
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INFORMATION PACKAGE

2018 Version 1

ROLES AND RESPONSIBILITIES OF SCHOOL COUNCILS/BOARDS

The functions of councils/boards are prescribed by the *School Education Act 1999* and the *School Education Regulations 2000* as follows:¹

Take part in:

- establishing and reviewing from time to time, the school's objectives, priorities and general policy directions;²
- planning financial arrangements necessary to fund those objectives, priorities and directions;^{3,4,5}
- evaluating the school's performance in achieving those objectives, priorities and directions;⁶
- formulating codes of conduct for students at the school;⁷ and
- take part in the selection of, but not the appointment of, the school principal or any other member of the teaching staff if prior approval is given by the Regional Executive Director.⁸

Approve:

- a charge or contribution determined by the principal for the provision of materials, services and facilities;⁹
- the costs determined by the principal to be paid for participation in an extra cost optional component of the school's educational program;¹⁰
- the items determined by the principal to be supplied by a student for the student's personal use in the school's educational program;¹¹ and
- an agreement or arrangement for advertising or sponsorship in relation to a government school.¹²

¹ The Director General (or delegate) may approve additional functions for a council/board. Section 129 of the [School Education Act 1999](#). * The Director General's delegates are the Deputy Director General, Schools (for all public schools); and Regional Executive Directors (only for schools in their region).

² Section 128(a)(i) of the [School Education Act 1999](#) and the Department of Education [School Improvement and Accountability policy](#) (section 4.3) and [School Improvement and Accountability Framework](#).

³ The principal submits the school's budget and any major revision to the budget which has an impact on the original programs and priorities to the council/board for noting. Section 128(a)(ii) of the [School Education Act 1999](#) and Department of Education [Financial Management in Schools Finance and Accounting manual](#) (V2.1 5.4(f)(i)).

⁴ Where the balance of a reserve account is no longer required or is more than required, the surplus amount should be re-allocated to other areas in need following noting by the school board/council. See Department of Education [Financial Management in Schools Finance and Accounting manual](#) (V2.1 6.4).

⁵ Principals provide relevant financial reports to the council/board. See Department of Education [Financial Management in Schools Finance and Accounting manual](#) (V2.1 11.3(d)).

⁶ Section 128(a)(iii) of the [School Education Act 1999](#)

⁷ Section 128(c) of the [School Education Act 1999](#)

⁸ Participation in selection processes by a representative of the council/board is restricted to positions determined through local selection and will not include vacancies filled through the central transfer or placement process or the redeployment process regulated by the *Public Sector Management (Redeployment and Redundancy) Regulations 1994*. Section 129(2) of the [School Education Act 1999](#)

⁹ Section 99(4) of the [School Education Act 1999](#)

¹⁰ Section 100(3) of the [School Education Act 1999](#)

¹¹ Section 108(2) of the [School Education Act 1999](#)

¹² Section 216(5) of the [School Education Act 1999](#)

Determine:

- in consultation with students, their parents and staff of the school, a dress code for students when they are attending or representing the school.¹³

Provide advice to the principal of the school:

- on a general policy concerning the use in school activities of prayers, songs and material based on religious, spiritual or moral values being used in a school activity as part of religious education;¹⁴ and
- on allowing time for the special religious education of students in the school, up to a total of 40 hours in a year.¹⁵

Promote:

- the school in the community.¹⁶

A school's Funding Agreement (with Schedules) is noted by the school council/board chair.¹⁷

Incorporated councils/boards

Incorporated councils/boards may also undertake additional functions with the approval of the Deputy Director General, Schools:

- *obtain funds for the benefit of the school;*¹⁸
- *employ persons other than a person referred to in section 235(1) of the [School Education Act 1999](#);*¹⁹
- *manage or operate facilities at the school,*²⁰ *such as:*
 - *a canteen;*
 - *a swimming pool;*
 - *residential accommodation for students; and*
 - *a school farm or horticultural centre.*

Incorporated councils/boards may:

- obtain funds (for example, through fundraising) for the benefit of the school;²¹ and
- purchase property for the use of the school.²²

Incorporated councils/boards may not borrow money.²³

For advice on incorporation:

¹³ Section 128(d) of the [School Education Act 1999](#)

¹⁴ Section 70 of the [School Education Act 1999](#)

¹⁵ Section 69(2) of the [School Education Act 1999](#)

¹⁶ Section 128(b) of the [School Education Act 1999](#)

¹⁷ Department of Education *Funding Agreement for Schools*

¹⁸ Regulation 113(a) of the [School Education Regulations 2000](#)

¹⁹ Regulation 113(b) of the [School Education Regulations 2000](#)

²⁰ Regulation 113(c) of the [School Education Regulations 2000](#)

²¹ Regulation 113(a) of the [School Education Regulations 2000](#)

²² Section 131 of the [School Education Act 1999](#) - any property acquired is vested in the Minister for Education

²³ Department of Education's [Councils and Boards in Public Schools policy and procedures](#)

Associations Branch

Department of Mines, Industry and Regulation

Website: <https://www.commerce.wa.gov.au/consumer-protection/charities-and-associations>

Phone: 1300 304 074 or 6552 9300

Innovation and Governance Unit Department of Education

Phone: 9264 5077

The responsibilities of a council/board are to:

- comply with the council/board's terms of reference (constitution for incorporated bodies), the Department of Education's [School Councils and Boards policy and procedures](#), the [School Education Act 1999](#) and the [School Education Regulations 2000](#);
- liaise with other groups/committees associated with the school e.g. the Parents and Citizens' Association;
- hold an annual public meeting at least once in every calendar year that is open to the public. An annual report will be presented at the meeting to advise the school community of the performance of the council/board in the last year;²⁴
- hold at least two (2) meetings per year;²⁵ and
- hold meetings that are generally open to the public.²⁶

Incorporated councils/boards

Incorporated councils/boards must also comply with the requirements of the [Associations Incorporation Act 2015](#) and [Associations Incorporation Regulations 2016](#).

A council/board does not:

- manage the day to day running of the school (for example, staff management, and student assignment to classes);
- discuss individual issues relating to teachers, staff, students or parents;
- represent specific interest groups, or permit special interests to dominate the agenda of the council/board;
- intervene in the control or management of the school;²⁷
- intervene in the educational instruction of students;²⁸
- borrow money²⁹ or obtain funds³⁰
- purchase property;³¹
- exercise authority over teaching staff or other persons employed at the school;³²
or
- performance manage the principal or any other Department of Education employee.³³

Incorporated councils/boards

^ Incorporated councils/boards may:

²⁴ Regulation 117 of the [School Education Regulations 2000](#)

²⁵ School Compliance Program, Schools Resourcing and Support, Department of Education

²⁶ Regulation 115(3) of the [School Education Regulations 2000](#)

²⁷ Section 132(a) of the [School Education Act 1999](#)

²⁸ Section 132(b) of the [School Education Act 1999](#)

²⁹ Department of Education's [Councils and Boards in Public Schools policy and procedures](#)

³⁰ Regulation 113 of the [School Education Regulations 2000](#)

³¹ Section 131 of the [School Education Act 1999](#)

³² Section 132(c) of the [School Education Act 1999](#)

³³ Section 132(c) of the [School Education Act 1999](#)

- obtain funds (for example, through fundraising) for the benefit of the school;³⁴and
- purchase property for the use of the school.³⁵

^ Incorporated councils/boards may not borrow money.³⁶

Role of council/board members

- Parent members of council/boards bring their experience as parents at the school, and the views and context of the wider school community.
- Student members of council/boards bring their experience as students at the school.
- Community members may bring expertise such as business skills that the council/board is looking for at that time.
- Department of Education employees bring their educational expertise.

³⁴ Regulation 113(a) of the [School Education Regulations 2000](#)

³⁵ Section 131 of the [School Education Act 1999](#) - any property acquired is vested in the Minister for Education

³⁶ Department of Education's [Councils and Boards in Public Schools policy and procedures](#)

LEGAL FRAMEWORK OF SCHOOL COUNCILS/BOARDS

All public school council/boards in Western Australia are regulated by the [School Education Act 1999](#), [School Education Regulations 2000](#) and the individual council/board's terms of reference (constitution for incorporated bodies).

The Act provides for membership:

- mandated parent representation (except where the majority of students are 18 years of age or over);
- mandated staff representation (the principal is automatically included);
- mandated general community representation;
- optional co-opted community and industry representation;
- student representation (15+ years for an unincorporated council/board);³⁷
- where the school has a Parents and Citizens' Association (P&C), the association may nominate a representative to be considered for the parent or general community category of membership (subject to the conditions of the applicable membership category, see pages 11 and 26); and
- allocation of a member of another association in relation to the school or group of schools to which the school belongs.³⁸

The Act provides the means by which a council/board is established and operates, including how members are elected or appointed and outlines the structure of a council/board.

NOTE:

- *Parents and members of the community must make up the majority of a council/board's membership in schools where the majority of students at the school are under the age of 18.*
- *Students and members of the community must make up the majority of a council/board's membership where the majority of students at the school are over the age of 18.*
- *A person who is a staff member of the school, and a parent or community member, may only be a member of the council/board in his or her capacity as a staff member.*

An unincorporated council/board may find it useful to develop a terms of reference that describes the purpose, the functions and limits to functions, the membership, the roles of office bearers, the elections, the meetings and proceedings, management of finances and contracts, disputes and mediation, cessation and termination of membership, and alteration of the terms of reference.

A standard terms of reference for unincorporated councils/boards is available on the Department of Education's [School Councils/Boards website](#).

Incorporated councils/boards

A model constitution for incorporated councils/boards is available on the Department of Education's [Councils/Boards website](#)

³⁷ Section 127(1)(d) of the [School Education Act 1999](#) - no student under 18 years of age can be a committee member of an incorporated council/board.

³⁸ For example, an alumni association, but not a Parents and Citizens' Association.

Legal liability

Section 137 of the [School Education Act 1999](#) provides protection against liability for members of unincorporated councils/boards where they have acted in good faith.

Unincorporated councils/boards:

- are covered for personal liability while performing functions of the council/board under the Department of Education's General Liability and Professional Liability insurance coverage with RiskCover, the Department's "insurer";³⁹ and
- may be provided with legal advice by the Department of Education or the State Solicitor's Office.

Incorporated councils/boards

Incorporated councils/boards:

- *do not have protection against liability provided by section 137 of the [School Education Act 1999](#);*
- *are not covered for personal liability while performing functions of the council/board under the Department of Education's General Liability and Professional Liability insurance coverage with RiskCover.*
- *will not be afforded legal advice by the Department of Education or the State Solicitor's Office.*

An incorporated council/board that has been approved to undertake an additional function (such as operating a school canteen) needs to:

- *have an agreement with the school for the use arrangements of the canteen;*
- *issue employment contracts to employees and process pay including superannuation from its own bank accounts;*
- *have appropriate accountability and financial reporting processes in place;*
- *engage volunteers (separately from the school's process);*
- *have appropriate insurance⁴⁰ which should extend to cover employees and employer's liability (workers' compensation cover), volunteer, personal accident, and general liability (including personal injury liability and professional negligence); and*
- *seek its own legal advice.*

For advice on incorporation:

Associations Branch

Department of Mines, Industry and Regulation

Website: <https://www.commerce.wa.gov.au/consumer-protection/charities-and-associations>

Phone: 1300 304 074 or 6552 9300

School Innovation and Governance Unit

Department of Education

Phone: 9264 5077

³⁹ A member of an unincorporated council/board would be covered, for example, for an injury that occurred while attending a council/board meeting.

⁴⁰ One option for incorporated councils is to arrange insurance through the Western Australian Council of State School Organisation (WACSSO). WACSSO can be contacted on 9264 4000 or info@wacssso.wa.edu.au

ESTABLISHING A SCHOOL COUNCIL/BOARD

Public schools are required to have a council.⁴¹ Independent Public School councils are known as boards.

Schools establishing a council/board may wish to refer to information available:

- Roles and responsibilities
- Legal framework
- Membership
- Public sector functions
- Role of the chairperson
- Role of the principal
- Role of the secretary
- Joint councils/boards
- New member induction
- Code of conduct
- Nominations and elections

Suggestions for establishing councils/boards

Step 1: Parent and school community information session

Invite interested people in the school community to attend a parent and community information session. At the information session:

- Provide information on the roles and responsibilities of council/boards.
- Circulate nomination forms for membership of the council/board.
- Discuss how membership of the council/board will represent the best interests of the students and the school community.

Step 2: Preparing a draft terms of reference

Councils/boards need to comply with the relevant provisions of the [School Education Act 1999](#) and the [School Education Regulations 2000](#) and a terms of reference can make this easier for members to understand.

The model terms of reference provided by the Department of Education meets the requirements of the legislation for an unincorporated council/board and can be found on the Department of Education's [Councils/Boards website](#)

Incorporated councils/boards

Incorporated councils/boards must have a constitution.

Incorporated council/board constitutions must comply with the relevant provisions of the [School Education Act 1999](#), [School Education Regulations 2000](#) and the [Associations Incorporation Act 2015](#) and [Associations Incorporation Regulations 2016](#).

The model constitution for incorporated councils/boards provided by the Department of Education meets the requirements of the legislation. To obtain a copy, contact the Innovation and Governance Unit phone 9264 5077.

The Deputy Director General, Schools is responsible for approving incorporated council/board constitutions. After approval by the Deputy Director General, Schools, councils/boards must also submit the constitution to the Commissioner for Consumer

⁴¹ Section 126 of the [School Education Act 1999](#) - unless the school (not an Independent Public School) has been exempted by the Minister for Education.

Protection at the Department of Mines, Industry Regulation and Safety. The constitution will not take effect until it is approved by the Commissioner.

Information for councils/boards considering incorporation is provided in the [Councils and Boards in Public Schools policy and procedures](#)

For advice on incorporation:

Associations Branch

Department of Mines, Industry and Regulation

Website: <https://www.commerce.wa.gov.au/consumer-protection/charities-and-associations>

Phone: 1300 304 074 or 6552 9300

School Innovation and Governance Unit

Department of Education

Phone: 9264 5077

Step 3: Appointment or election of members to the council/board

The principal seeks nominations for membership of the council/board.

Parents, students, and staff may be appointed to the appropriate category of membership of the council/board if there is only one nominee for each position. Where it is applicable to the membership category, a Screening Clearance Number must be issued by the Department of Education's Screening Unit before an appointment is made.⁴²⁴³

In applicable categories, where nominations for council/board membership exceed the number of positions, the principal conducts an election.

For more details on the categories of membership, see Membership.

Step 4: The first council/board meeting

At the first meeting the council/board will:

- consider the model terms of reference and any provisional decisions if necessary;
- seek agreement on the terms of reference from the council/board;
- provide an induction pack for the new members and background information on their new roles;
- appoint a chairperson and secretary to manage the affairs of the council/board; and
- set the agenda for the upcoming issues the council/board needs to consider.

Step 5: Additions or alterations to the terms of reference

If the council/board proposes to add to or alter the terms of reference, advice on complying with the legislation is available from:

Innovation and Governance Unit Department of Education

Phone 9264 5077

⁴² [Criminal History Screening policy and procedures](#) and [Councils and Boards in Public Schools policy and procedures](#)

⁴³

Incorporated councils/boards

If an incorporated council/board wishes to alter its constitution this must be done by special resolution.⁴⁴

The amended constitution must then be lodged with and approved by the Deputy Director General, Schools and after this with the Commissioner for Consumer Protection at the Department of Mines, Industry Regulation and Safety.⁴⁵ The amended constitution does not have effect until all the policy and legislation requirements have been met and following approval by the Commissioner for Consumer Protection.

For advice on incorporation:

Associations Branch

Department of Mines, Industry and Regulation

Website: <https://www.commerce.wa.gov.au/consumer-protection/charities-and-associations>

Phone: 1300 304 074 or 6552 9300

Innovation and Governance Unit *Department of Education*

Phone: 9264 5077

⁴⁴ Section 30 of the [Associations Incorporation Act 2015](#)

⁴⁵ Section 30 of the [Associations Incorporation Act 2015](#) and [Councils and Boards in Public Schools policy and procedures](#)

MEMBERSHIP OF SCHOOL COUNCILS/BOARDS

Section 127 of the [School Education Act 1999](#) specifies the membership categories as:

- parents/adult students;
- members of the general community;
- staff of the school (in addition to the principal who is automatically a member); and
- students 15 years and over.

Identifying quality members is a critical part of the process of establishing and maintaining a successful council/board. It is imperative that schools have broad networks to ensure a wide variety of people are considered.

A council/board seeks to be representative of the school community. In determining the composition (or the balance between categories), regard should be given to the nature of the student population of the school and the social, cultural, lingual, economic or geographic factors that may be relevant to the school.

Parents (or where relevant students) and community members must form the majority of the council/board.⁴⁶

The number of members of the council/board must be at least 5 and not more than 15.^{47*48}

The principal of the school will invite nominations from all persons in each membership category to fill vacancies in the council/board membership.⁴⁹ (See Nominations and Elections)

Prior to being appointed to the council/board, nominees (with the only exceptions being students under 18 years of age and existing Department of Education employees) undergo a National Police History Check. That is, before the announcement of the election result (where there has been an election) and before any confirmation of appointment is made.⁵⁰

Where members of the public attend an ordinary council/board meeting they do so as observers.

Parent/Student Category of Membership

- Primary school councils/boards have parent members to represent the students and families enrolled at the school.
- Secondary school councils/boards may have both parents and students aged 15 years and over, or who will reach 15 years during the calendar year.
- Where the school has a majority of students who are adults (such as senior colleges) membership is drawn from students at the school.
- There must always be at least one parent/adult student member.⁵¹

Incorporated councils/boards

No student under 18 years of age can be a member of an incorporated council/board.⁵²

⁴⁶ Section 127(4) of the [School Education Act 1999](#)

⁴⁷ Regulation 106(1)(a) of the [School Education Regulations 2000](#)

* An incorporated council/board is to have at least 10 members and not more than 15 members.

⁴⁸ Regulation 106(1)(c) - If a council/board operates for 2 or more schools jointly, it is to have such number of members as is determined by the Minister for Education.

⁴⁹ Regulation 108 of the [School Education Regulations 2000](#)

⁵⁰ [Criminal History Screening policy and procedures](#) and [Councils and Boards in Public Schools policy and procedures](#)

⁵¹ Section 127(a) of the [School Education Act 1999](#) and Regulation 107(2) of the [School Education Regulations 2000](#)

An incorporated council/board is to have at least 10 members and not more than 15 members.⁵³

For advice on incorporation:

Associations Branch

Department of Mines, Industry and Regulation

Website: <https://www.commerce.wa.gov.au/consumer-protection/charities-and-associations>

Phone: 1300 304 074 or 6552 9300

Innovation and Governance Unit Department of Education

Phone: 9264 5077

People who are eligible to nominate for a category are also eligible to vote for that category.⁵⁴ That is, only parents vote for the parent members, only students vote for the student members.

Community Category of Membership

Any member of the community considered to have suitable qualifications or experience is eligible to be placed on the list of nominees for the community category of membership.

There will not be an election to appoint community members. The council/board may appoint suitably qualified persons from the list of nominees by vote in a meeting.⁵⁵

Parents and Citizens' Associations

A school's Parents and Citizens' Association (P&C) is a valuable but separate entity to the council/board. Members of the council/board and the Parents and Citizens' Association often work together on different projects. A P&C can nominate one of their members for either a) a parent or b) a community member position depending on the individual circumstances of the nominee. If the P&C nominates a parent member, that nomination is treated the same as any other parent nomination and is required to face an election (with all parents voting and all parent candidates considered, not just P&C members) if there are more nominations than positions.⁵⁶ If the P&C nominates a community member, that nomination is treated the same as any other community nomination and is considered by the council/board with the other community member nominees. Community members are appointed, not elected.⁵⁷

Staff Category of Membership

The principal is automatically a member of the council/board.⁵⁸

Staff* employed at the school are eligible to be staff members on the council/board.⁵⁹

All staff employed at the school are eligible to vote for staff members.⁶⁰

Staff who are also parents or community members may only serve on the council/board in their capacity as Department of Education employees.⁶¹

⁵² Section 127(1)(d) of the [School Education Act 1999](#)

⁵³ Regulation 106(1)(b) of the [School Education Regulations 2000](#)

⁵⁴ Regulation 109 of the [School Education Regulations 2000](#)

⁵⁵ Regulation 108(2)(b) of the [School Education Regulations 2000](#)

⁵⁶ Regulation 107(3) of the [School Education Regulations 2000](#)

⁵⁷ Regulation 107(3) of the [School Education Regulations 2000](#)

⁵⁸ Section 127(2) of the [School Education Act 1999](#)

⁵⁹ Section 127(3) of the [School Education Act 1999](#)

⁶⁰ Regulation 109(3) of the [School Education Regulations 2000](#)

⁶¹ Section 127(3) of the [School Education Act 1999](#)

*a person listed on the school's appointed staffing list. NB: A relief teacher who occasionally works at the school on a casual basis (paid hourly) will not appear on the school's appointed staffing list.

If a person who has a child enrolled at the school, who is also a relief teacher for the school, wishes to nominate for a parent position on the council/board they should discuss their individual situation with the principal prior to nominating. Some issues that could be considered include whether the person works regularly at the school/is likely to act in a position, any potential for conflict of interest and the effect on the current composition of the council/board, given that parents and community members must form a majority of members.

Both the parent/teacher and the principal should be satisfied that there are no issues that are likely to impact on the person's ability to represent the parent perspective before proceeding with a nomination.

Co-opted Members

The council/board may co-opt a member of the local community to be a member of the council/board for a specified time period, or in relation to such matters, as determined by the council/board where that person's experience, skills or qualifications would enable him or her to make a contribution to the council/board's functions.⁶²

There will not be an election to appoint co-opted members. The council/board may appoint suitably qualified persons from the list of nominees by vote or consensus in a meeting.⁶³

A co-opted member is not entitled to a vote, and is not a full member of the council/board.⁶⁴

A co-opted member is appointed to the council/board for a specific purpose or project. The term of the co-opted member is determined by the length of the project.

⁶² Regulation 112 of the [School Education Regulations 2000](#)

⁶³ Regulation 112 of the [School Education Regulations 2000](#)

⁶⁴ Regulation 140(a) of the [School Education Regulations 2000](#) Co-opted members are present by virtue of some particular attribute or knowledge which is considered likely to be of assistance to a council/board in a given situation and as such they do not have voting rights.

PUBLIC SECTOR FUNCTIONS FOR SCHOOL COUNCILS/BOARDS

The functions and governance of councils/boards are mandated in the [School Education Act 1999](#), and the [School Education Regulations 2000](#). Public sector functions are provided below.

DIRECTOR GENERAL

The Director General has delegated certain duties in relation to the governance of council/boards to the Deputy Director General, Schools and Regional Executive Directors.

Staff Selection

A council of a school that is not an Independent Public School may apply to the Director General or delegate to take part in the selection of, but not the appointment of, the school principal or any other member of the teaching staff.⁶⁵

An Independent Public School board takes part in the selection of, but not the appointment of, the school principal. An Independent Public School board may apply to the Director General or delegate[^] to take part in the selection of, but not the appointment, of any other member of the teaching staff.⁶⁶

Directions may be given to the council/board

The council/board may be given directions in writing by the Director General or delegate* with respect to the performance of its functions, either generally or in relation to a particular matter.⁶⁷

Elections

The principal may be given directions by the Director General in relation to the conduct of elections.⁶⁸

The Director General may inquire into any matter affecting an election or appointment of the council/board.⁶⁹

If an irregularity has occurred the Director General may:

- declare the results of an election or appointment invalid; or
- order an election or appointment; or
- order a new election or appointment to be conducted.⁷⁰

Joint councils/boards

A council/board may operate for two or more schools jointly.⁷¹

The Deputy Director General, Schools will determine:

⁶⁵ Section 129(2) of the [School Education Act 1999](#)

[^] Where the school is an Independent Public School, the Director General's delegate is the school Principal.

⁶⁶ Section 129(2) of the [School Education Act 1999](#)

⁶⁷ Section 135(1)(2) of the [School Education Act 1999](#) * The Director General's delegate for all public schools is the Deputy Director General, Schools; and only for schools in their region the Regional Executive Director.

⁶⁸ Regulation 108(3) of the [School Education Regulations 2000](#)

⁶⁹ Regulation 109(4) of the [School Education Regulations 2000](#)

⁷⁰ Regulation 108(4) of the [School Education Regulations 2000](#)

⁷¹ Section 125(2) of the [School Education Act 1999](#)

- the number of members of a joint council/board;⁷² and
- the composition of a joint council/board.⁷³

Incorporated councils/boards

In the case of governance groups which are incorporated, these councils/boards' functions are mandated in the [School Education Act 1999](#), [School Education Regulations 2000](#) and the [Associations Incorporation Act 2015](#) and [Associations Incorporation Regulations 2016](#).

The provisions above for unincorporated councils/boards also apply to incorporated governance groups.

In addition to the functions for unincorporated councils/boards, incorporated councils/boards may apply to the Deputy Director General, Schools to take on additional functions to:

- *obtain funds for the benefit of the school;*
- *employ persons other than public service officers; and*
- *manage or operate facilities at the school (such as a canteen, swimming pool, residential accommodation for students, school farm or horticultural centre).⁷⁴*

Note:

A school's Parents and Citizens' (P&C) Association is incorporated under the umbrella of the Western Australian Council of State Schools Organisations Inc. (WACSSO) and may, therefore, fulfil these functions.

Council/board constitution

The Deputy Director General, Schools is responsible for approving constitutions that comply with the provisions of the [School Education Act 1999](#), the [School Education Regulations 2000](#) and the [Associations Incorporation Act 2015](#) and [Associations Incorporation Regulations 2016](#). The standard constitution provided by the Department of Education complies with these provisions. See Department of Education's Councils/Boards [website](#)

For advice on incorporation:

Associations Branch

Department of Mines, Industry and Regulation

Website: <https://www.commerce.wa.gov.au/consumer-protection/charities-and-associations>

Phone: 1300 304 074 or 6552 9300

Innovation and Governance Unit Department of Education

Phone: 9264 5077

⁷² Regulation 106(1)(c) of the [School Education Regulations 2000](#)

⁷³ Regulation 107(4) of the [School Education Regulations 2000](#)

⁷⁴ Regulation 113 of the [School Education Regulations 2000](#)

Termination of Membership

The Director General may remove a member of the council/board if continuation would be detrimental to the interests of the council/board.⁷⁵

MINISTER FOR EDUCATION

The Minister for Education may dismiss an unincorporated council/board that is not performing its legislatively required functions.⁷⁶

Dismissal of council/board

A council/board may be dismissed if its conduct is:

- in breach of the [School Education Act 1999](#); or
- incompetent, inadequate, or improper.⁷⁷

The Minister will advise the council/board by written notice, stating:

- the particulars of the allegations against it; and
- requiring that the situation be remedied within the time specified in the notice.⁷⁸

If the Minister is not satisfied the council/board has complied with the notice, the Minister may, by order of the *Government Gazette*, dismiss the council/board.⁷⁹

⁷⁵ Regulation 111(2) of the [School Education Regulations 2000](#)

⁷⁶ Section 130 of the [School Education Act 1999](#)

⁷⁷ Section 138(2) of the [School Education Act 1999](#)

⁷⁸ Section 138(2) of the [School Education Act 1999](#)

⁷⁹ Section 138(3) of the [School Education Act 1999](#)

Incorporated councils/boards

MINISTER FOR EDUCATION

The Minister for Education may:

- may dismiss an unincorporated council/board, but this does not apply to an incorporated council/board,⁸⁰
- approve that a council/board may perform additional functions where the council/board is incorporated,^{81,82} and
- make an application to the Supreme Court for an incorporated council/board to be wound up if the council/board is in breach of the School Education Act 1999 (or Associations Incorporation Act 2015) or its conduct is incompetent, inadequate or improper.⁸³

COMMISSIONER FOR CONSUMER PROTECTION DEPARTMENT OF MINES, INDUSTRY REGULATION AND SAFETY

For incorporated councils/boards, the Commissioner requires the constitution to comply with the provisions specified in Schedule 1 of the Associations Incorporation Act 2015, the School Education Act 1999 and the School Education Regulations 2000. The standard constitution provided by the Department of Education complies with these provisions. See Department of Education's Councils/Boards website.

The Commissioner has other powers under the Associations Incorporation Act 2015.

Ending an association

There are a number of ways in which an association's incorporation can cease.

These include the:

- association's members voluntarily applying for its cancellation;
- Commissioner for Consumer Protection ordering its cancellation;
- association's members voluntarily applying for its winding; or
- association or its members, creditors or the Commissioner applying to Supreme Court for its winding up.

An association's incorporation may also come to an end if its members choose to either amalgamate (merge) the association with another incorporated association to form a new incorporated association or becoming registered as a different type of body corporate under another law.⁸⁴

For advice on incorporation:

Associations Branch

Department of Mines, Industry and Regulation

Website: <https://www.commerce.wa.gov.au/consumer-protection/charities-and-associations>

Phone: 1300 304 074 or 6552 9300

Innovation and Governance Unit *Department of Education*

Phone: 9264 5077

⁸⁰ Section 138 of the School Education Act 1999

⁸¹ Section 130 of the School Education Act 1999

⁸² Section 113 of the School Education Regulations 2000

⁸³ Section 139 of the School Education Act 1999

⁸⁴ Department of Mines, Industry Regulation and Safety

ROLE OF THE CHAIRPERSON OF A SCHOOL COUNCIL/BOARD

The chairperson leads the council/board.

The role of the chairperson is to:

- work in partnership with the principal;
- ensure a wide variety of people are considered for membership and that members are representative of the school community, for example gender, social, cultural, lingual, economic or geographic factors relevant to the school;
- chair and convene council/board meetings;⁸⁵
- ensure minutes of meetings are taken and reviewed;
- provide leadership to the council/board;
- manage the business of the council/board;
- declare the result of decisions and motions;
- uphold council/board decisions;
- works with the principal to induct members;
- ensure the council/board stays focused on supporting the school to achieve the best outcomes for students;
- prepare and present an annual report to members and the school community at annual public meetings;⁸⁶
- comply with any directions of the council/board in relation to the venue and time of meeting and giving notice of the meeting;⁸⁷
- resolve disputes as required;
- facilitate mediation meetings as required; and
- represent the school in the community and formal functions.

The council/board chairperson may also participate as an ex officio member of all sub-committees established by the council/board.

Incorporated councils/boards

In addition to the above, the chairperson of an incorporated council/board:

- *has a second or casting vote where voting has taken place at a general meeting and the votes are divided equally;⁸⁸*
- *declares resolutions;⁸⁹ and*

⁸⁵ Regulation 115(2) of the [School Education Regulations 2000](#)

⁸⁶ Regulation 117(c) of the [School Education Regulations 2000](#)

⁸⁷ Regulation 115(2) of the [School Education Regulations 2000](#)

⁸⁸ Regulation 57(6) of the [Associations Incorporation Regulations 2016](#)

- *undertakes to manage the membership of the council/board to ensure compliance with the legislation and oversees the association's meeting procedures are consistent with the constitution.*

Chairing meetings

The council/board chairperson effectively leads meetings. This entails:

- preparing the agenda and relevant papers with the principal;
- ensuring that meeting processes comply with the council/board's terms of reference;^{90*}
- ensuring meetings are run efficiently and achieve their purpose;
- ensuring all members have the opportunity to be heard;
- ensuring the meeting focuses on whole of school outcomes rather than personal affairs;
- ensuring the minutes from the previous meeting are confirmed as accurate and signing and dating those minutes;
- starting and finishing meetings on time;
- notifying the council/board of any apologies received;
- tabling all correspondence, in and out; and
- facilitating the resolution of any conflict.

Who can be a chairperson?

The chairperson is elected by, and from, the council/board's membership.⁹¹

It is good practice for the council/board to review on an annual basis, for example at the first meeting of the year, who will undertake the role of Chair.

Reference

Department of Education and Early Childhood Development Victoria (2009) *Making the Partnership Work* (Used with permission).

⁸⁹ Regulation 59 of the [Associations Incorporation Regulations 2016](#)

⁹⁰ Regulation 115(2) of the [School Education Regulations 2000](#) * Incorporated councils/boards have a constitution.

⁹¹ Section 127(6) of the [School Education Act 1999](#)

ROLE OF THE PRINCIPAL OF A SCHOOL COUNCIL/BOARD

The principal is automatically a member of the council/board.⁹² The principal's role as school leader is to manage the administration of the school, the staff of the school and the educational instruction of students.

The role of the principal on the council/board is to:

- form a council unless a school has been exempted from this requirement;⁹³
- provide advice and guidance to the council/board in relation to legislative requirements and school policy; establish a plan for the school in consultation with the board/council and the school's teaching staff setting out its objectives and how the objectives and priorities will be achieved;⁹⁴
- in consultation with the board/council and the school's teaching staff to monitor and report on the school's performance in relation to the plan referred to above;⁹⁵
- submit the school's annual budget to the council/board for noting;⁹⁶
- submit proposed major revisions to the budget, which have an impact on the original programs and priorities, to the council/board for noting;⁹⁷
- submit proposed contributions, charges and fees and personal items list to the council/board for approval;⁹⁸
- invite nominations to fill vacancies in the council/board membership;⁹⁹
- conduct elections (where elections are applicable to the membership category);¹⁰⁰
- assist in identifying appropriate general community representatives to be placed on the list of nominees;
- provide the council/board with support services;¹⁰¹ and
- represent the Department of Education.

⁹² Section 127(2) of the [School Education Act 1999](#)

⁹³ Section 125(1) of the [School Education Act 1999](#) – Independent Public Schools are required to have a board

⁹⁴ Section 63(1)(e) of the [School Education Act 1999](#)

⁹⁵ Section 63(1)(f) of the [School Education Act 1999](#)

⁹⁶ Department of Education's [Financial Management in Schools Finance and Accounting manual](#) (V2.1 5.4(f))

⁹⁷ Department of Education's [Financial Management in Schools Finance and Accounting manual](#) (V2.1 5.4(i)).

⁹⁸ Department of Education's [Financial Management in Schools Finance and Accounting manual](#) (V2.1 6.3) and [Contributions, Charges and Fees Manual](#) (V1.3 3.2.1).

⁹⁹ Regulation 108(1) of the [School Education Regulations 2000](#)

¹⁰⁰ Regulation 108(2)(a)(c)(d) of the [School Education Regulations 2000](#)

¹⁰¹ Section 134 of the [School Education Act 1999](#)

ROLE OF THE SECRETARY OF A SCHOOL COUNCIL/BOARD

Where there is such a position, the secretary manages the administration affairs of the council/board.

The role of the secretary is to:

- co-ordinate the correspondence of the council/board;
- ensure that full and correct minutes of the meetings and proceedings of the council/board are kept in a minute book and are signed by the chairperson after every meeting;
- serve formal notice to council/board members and the community, at the direction of the chairperson, in advance of:
 - ordinary, special and annual public meetings; and
 - motions;
- keep and maintain in an up to date condition a register of the members of the council/board and their postal and residential addresses;*
- keep a list of nominees of members of the general community that may be appointed to the council/board in the category of general community membership;¹⁰²
- keep and maintain the terms of reference (if applicable),[^] and have copies of the terms of reference available to all members;
- ensure every member has access to inspect the records and documents of the council/board;
- have custody of all books, documents, records and registers of the council/board;** and
- have custody of all other records held by the council/board.

It is good practice for council/board meeting minutes to be made available to the school community.

[^] Incorporated councils/boards have a constitution.

Incorporated councils/boards

In addition to the above, incorporated councils/boards have other requirements, through the [Associations Incorporation Act 2015](#) and [Associations Incorporation Regulations 2016](#), which must be met. These requirements include, but are not limited to, the requirement to maintain a register of the incorporated association's members and record any changes to the membership¹⁰³; the requirement to attempt

¹⁰² Regulation 108(2)(b) of the [School Education Regulations 2000](#)

¹⁰³ Section 53 of the [Associations Incorporation Act 2015](#)

to resolve disputes within a specified timeframe;¹⁰⁴ and the duties of members and office holders such as the secretary and treasurer.¹⁰⁵

The model constitution for incorporated councils/boards provided by the Department of Education meets the requirements of the legislation. The model constitution can be found on the Department of Education's Councils and Boards [website](#).

Note:

*Secretaries may also wish to keep a register of members of the council/board with up to date names, residential addresses, phone numbers and email addresses. Please note that it is advisable to obtain consent first, as councils/boards may be in breach of the [Privacy Act 1988](#) (Commonwealth) by keeping phone numbers on the register.

**It may be useful to have two custodians of the records and documents of the council/board, in the event that the first custodian is unavailable.

¹⁰⁴ Regulation 19 of the [Associations Incorporation Regulations 2016](#)

¹⁰⁵ Division 2 Composition of committee and duties of members of the [Associations Incorporation Regulations 2016](#)

JOINT SCHOOL COUNCILS/BOARDS

Schools may apply to have one council/board that operates jointly for two or more schools.

Step 1

Submit application to form a joint council/board to the Deputy Director General, Schools. The form is available in Appendix E of the [Councils and Boards in Public Schools policy and procedures](#).

A statement will need to be attached that outlines:

- how a joint council/board will benefit the students and the schools concerned;
- the consultation that has occurred between the school communities; and
- the composition, number of members and their terms of office.

The principal and a council/board member from each school will need to sign the application form.

One of the principals must be nominated on the application form for purposes relating to the filling of council/board vacancies and the conduct of elections.

Step 2

If the application request is approved by the Deputy Director General, Schools it will be forwarded to the Minister for Education. The [School Education Act 1999](#) states that the Minister for Education must give approval for joining councils/boards and once approved, publish notice of the joint arrangement in the *Government Gazette*.¹⁰⁶

Step 3

Once schools have been notified of approval, follow the process outlined in the [Establishing a School Council/Board](#).

In the event that a joint council/board arrangement no longer meets the needs of the schools, approval will need to be sought to establish one council/board for each school. For advice on joint councils, contact Innovation and Governance Unit Department of Education phone: 9264 5077.

¹⁰⁶ Section 126(1)(b) of the [School Education Act 1999](#)

NEW MEMBER INDUCTION

Induction ensures new council/board members are suitably prepared to fulfil the role by providing information, familiarisation and socialisation.

A typical induction covers the following:

Information about the school

- glossary of common terms and acronyms;
- the school plan and the Department of Education's strategic plan;
- organisational structure;
- the role of key stakeholders;
- relevant school policies;
- reporting requirements; and
- compliance obligations.

In addition to the above, members of Independent Public Schools boards would also provide copies of the school's:

- Delivery and Performance Agreement;
- business plan; and
- independent review (if applicable).

Information about the council/board

- role of the council/board (including the terms of reference, code of conduct and meeting protocols);
- legal obligations of a council/board member;
- role of the principal;
- council/board structure (including committees);
- council/board procedures;
- minutes from recent council/board meetings;
- procedures for managing conflicts of interests;
- code of conduct;
- council/board annual calendar of activities; and
- register of members (contact information for other council/board members).

It may be beneficial to:

- provide information in a written pack; or through a secure on-line facility;
- invite experienced council/board members, including those from neighbouring schools to act as mentors;
- meet with the chairperson;
- conduct briefing sessions with individual council/board members;
- provide access to the on-line information produced by the Department of Education; and
- arrange formal meetings with staff and other council/board members.

CODE OF CONDUCT FOR SCHOOL COUNCIL/BOARD MEMBERS

The following suggestions are a guide only for schools developing a council/board Code of Conduct or council/board Protocols.

- The primary consideration is that the school's values are in the best interests of students.
- A council/board abides by all the relevant legislation and industrial agreements.
- A council/board is accountable to both its local school community and the Director General or delegate.¹⁰⁷
- A council/board encourages members to behave in a civil and respectful manner, avoiding discrimination, harassment and bullying.
- The underlying principles of a council/board's code of conduct include the promotion of:
 - **respectful** partnerships;
 - clear and **honest** two-way communication;
 - **transparent** processes;
 - **democratic**, informed decision making; and
 - personal and professional **integrity**.
- Conflict between council/board members is dealt with respectfully and fairly and in a manner that reflects the principles of natural justice.
- Council/board members declare any conflicts of interest when they arise. Council/board members who have declared a conflict of interest are not entitled to vote on that issue.¹⁰⁸
- Council/board members are expected to represent the school community. Members do not represent one viewpoint or the view of an individual or for example, political or religious affiliations. Council/board members therefore regularly seek the views and opinions of the whole school community, especially when policies are being developed.
- Council/board members respect the need for confidentiality and privacy with regard to sensitive matters that might arise at council/board meetings, especially where there are matters of a personal nature relating to staff, students or parents.
- The council/board is not an appropriate forum for the discussion of individual school staff, students, parents or other members of the school community.
- A council/board member who is approached by a parent with a concern relating to an individual is in a privileged position and is expected to treat such discussion with discretion, protecting the confidentiality and privacy of the people involved. If the issue relates to an operational matter of the school, the parent should be encouraged to speak with the principal or classroom teacher. If the issue relates to a school policy or procedure, it is put on the agenda and approached in a generic sense to protect the privacy of individuals involved.

¹⁰⁷ Where the school is not an independent public school, the Director General's delegate is the Regional Executive Director

¹⁰⁸ Where the council/board is incorporated, Sections 42 and 43 of the [Associations Incorporation Act 2015](#) applies.

- The council/board “speaks as one voice” in the public arena once a decision has been made.
- Council/board members actively participate in sub-committees and meetings as the need arises.
- If members are unable to attend a meeting, they are requested to submit an apology before the meeting.

There is no requirement for council/board members who are also current members of Parliament or local government or are planning to nominate as candidates for an election to resign from the council/board. However, it may be appropriate for these council/board members not to attend council/board meetings in the period leading up to the election if the council/board or the member considers there is a real or perceived conflict of interest.

Reference

Department of Education and Early Childhood Development Victoria (2009) *Making the Partnership Work* (used with permission).

NOMINATIONS AND ELECTIONS

Nominations

When a vacancy arises in the council/board the principal is to call for nominations from the whole school population for the relevant category of membership. For example, if there is a vacancy for a parent member, all parents are to be given the opportunity to nominate.

A person may nominate themselves.

Nominations use the school's prescribed nomination form and should include a short candidate profile.

Parents and Citizens' Associations

A school's Parents and Citizens' Association (P&C) is a valuable but separate entity to the council/board. Members of the council/board and the Parents and Citizens' Association often work together on different projects. A P&C can nominate one of their members for either a) a parent or b) a community member position depending on the individual circumstances of the nominee. If the P&C nominates a parent member, that nomination is treated the same as any other parent nomination and is required to face an election (with all parents voting and all parent candidates considered, not just P&C members) if there are more nominations than positions.¹⁰⁹ If the P&C nominates a community member, that nomination is treated the same as any other community nomination and is considered by the council/board with the other community member nominees. Community members are appointed, not elected.¹¹⁰

Eligibility of Voters and Nominees

In certain membership categories if the number of nominations exceeds the number of positions then an election is to be held.

The membership categories that require an election if there are more than one nomination are:

- parents/adult students;
- staff of the school; and
- students 15 years and over.¹¹¹

Incorporated councils/boards

Members of an incorporated council/board must be 18 years or older.

See also Membership of School Council/Boards.

People who are eligible to nominate for a category are also eligible to vote for that category. That is, only parents vote for the parent members, only students vote for the student members and only staff vote for the staff members.¹¹² Each parent whose name and address has been provided to the school at the time of the application for enrolment is eligible to vote and is to be provided with the opportunity to vote.¹¹³

Casual Vacancies

¹⁰⁹ Regulation 107(3) of the [School Education Regulations 2000](#)

¹¹⁰ Regulation 107(3) of the [School Education Regulations 2000](#)

¹¹¹ Regulation 108 of the [School Education Regulations 2000](#)

¹¹² Regulation 109 of the [School Education Regulations 2000](#)

¹¹³ Regulation 109 of the [School Education Regulations 2000](#)

The same process is to be undertaken for a casual vacancy as for any other vacancy however the person nominated/elected will only hold office for the remainder of the term of office which applied to the original office holder.¹¹⁴

PROCESS

The Principal usually appoints a returning officer.

Electronic voting is a useful tool, however consideration needs to be given to the issue of the privacy where information, for example names and contact details are supplied to a third party.

The following process is a guideline only for a formal nomination and election process that would minimise the potential for disputes.

Commencement Date and Close Date of Ballot

The principal determines the date of commencement of issuing ballot papers and the time and the close of the ballot with regard to:

- time required to circulate to the school community and return ballot papers; and
- time required to finalise the election.

Election Package

The Election Package distributed to eligible voters contains:

- a ballot paper;
- an envelope marked 'Ballot Paper';
- any voting instructions; and
- candidate profiles if available.

The Ballot Paper

The order of names of nominees for election that appear on the ballot paper is drawn by lot by the principal as soon as practicable following the close of nominations.

When the First Past the Post counting method is used, ballot papers are marked as follows:

- If only one office is to be filled at the election, an elector is to mark the ballot paper by placing a cross or tick in the box opposite the name of the nominee whom the elector wishes to elect.
- If two or more offices are to be filled at the election, an elector is to mark the ballot paper by placing a cross or tick in the box opposite the name of each candidate whom the elector wishes to elect, but is not to place ticks in more boxes than the number of offices to be filled.

Ballot Boxes

The principal provides such ballot boxes as are necessary for the election at convenient places for use by voters (staff, students and/or parents as is relevant). Before a ballot box is used the principal ensures that it is empty and secure in such a way as to prevent anything being removed from the box.

The Count

Votes are to be counted by the First Past the Post method as soon as practicable after the time of the close of the ballot and in the presence of at least one scrutineer. The scrutineer is appointed by the principal. If the principal is aware that the vote may be contentious, nominees may be permitted to also appoint scrutineers.

In the event of a tie, the names are to be placed in a hat and drawn out.

Declaration of the Result

¹¹⁴ Regulation 110 of the [School Education Regulations 2000](#)

The result should be declared by the principal to the whole school population as soon as practicable after the votes have been counted and after the requirement for a National Police History Check has been met.¹¹⁵

The declaration of an election result, or appointment to a council/board, must not occur until after a Screening Clearance Number has been issued by the Department of Education's Screening Unit.¹¹⁶

¹¹⁵ Department of Education [Criminal History Screening policy and procedures](#)

¹¹⁶ Department of Education [Criminal History Screening policy and procedures](#)