



Subiaco Primary terms of reference (constitution) non-incorporated School Board

The name of the Council is the Subiaco Primary School Board.

DEFINITIONS

In these terms of reference:

“Board” means “Council” as defined in the School Education Act 1999.

“Director General” means the Chief Executive Officer of the Department of Education as defined in section 229 of the School Education Act.

“Educational program” means an organised set of learning activities designed to enable a student to develop knowledge, understanding, skills and attitudes relevant to the student’s individual needs as defined in section 4 of the School Education Act.

“Minister” means the Minister responsible for administering the School Education Act.

“Parent” as defined in section 4 of the School Education Act 1999 is the person who is named in the school register as a parent of a student.

“School” means (Subiaco Primary School).

“School Education Act” means the School Education Act 1999.

“school fund” means the General Purposes Fund and a fund referred to in section 110 of the School Education Act, as defined in section 4 of the School Education Act; and

“Student” means student enrolled at the school.

PURPOSE

The Board is formed with the fundamental purpose of enabling parents and members of the community to engage in activities that are in the best interests of students and will enhance the education provided by the school.

FUNCTIONS OF THE BOARD

a) The Board has the powers and duties:

i) to make recommendations in the following:

establishing and reviewing from time to time, the school’s objectives, priorities and general policy directions;

the planning of financial arrangements necessary to fund those objectives, priorities and directions;

evaluating the school’s performance in achieving them; and

formulating codes of conduct for students at the school.

ii) to make recommendations in consultation with students, their parents and staff on an appropriate dress code for students when they are attending or representing the school;

iii) to promote the school in the community;

iv) to approve:

charges and contributions for the provision of certain materials, services and facilities under section 99(4) of the School Education Act;

extra cost optional components of educational programs under section 100(3) of the School Education Act;

items to be supplied by a student for use in an educational program under section 108(2) of the School Education Act; and

any agreements or arrangements for advertising or sponsorship in relation to the school under section 216(5) of the School Education Act.

v) to 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; and

the implementation of special religious education under section 69(2) of the School Education Act.

vi) with the approval of the Minister or Director General, as the Minister's delegate, to:

take part in the selection of, but not the appointment of, the school principal or any other member of the teaching staff under section 129(2) of the School Education Act.

b) The Board cannot:

i) intervene in the control or management of the school;

ii) intervene in the educational instruction of students;

iii) exercise authority over teaching staff or other persons employed at the school; and

iv) intervene in the management or operation of a school fund.

MEMBERSHIP OF THE BOARD

a) The School Education Act provides for the following categories of membership:

i) parents;

ii) members of the general community;

iii) staff of the school;

b) The Board is to determine its composition:

i) having regard 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;

ii) having regard to the functions of the Board and any changes in those functions; and

iii) with a view to including members of the general community, and staff of the school, and allocating a membership position to a member of an association referred to in section 149 of the School Education Act.

c) The number of members of the Board shall be at least five but not more than 15, but shall otherwise be determined by the Board.

d) The chair of the Board is to be elected by, and from, its members.

e) The principal is automatically a member of the Board.

f) The Parents and Citizens' Association may nominate one of its members to be a member of the Board in the parent or community membership category as is relevant to the nominee.

g) Parents and members of the general community must form the majority of the members of the Board.

h) There must be at least one parent member of the Board.

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

APPOINTMENT AND ELECTION OF MEMBERS

The composition of the board will consist of nine (9) members.

1. The Subiaco Primary School Principal
2. Two (2) elected teaching staff representatives
3. Four (4) elected parent representatives where one is a representative of the P&C.
4. Two (2) community representatives appointed by the board.

Elections

a) All elected members are appointed for a two year term of office.

b) Staff representatives are to be elected at the beginning of the school year, prior to distribution of the agenda of the first School Council Meeting. All staff members are entitled to nominate and vote.

c) Nominations for three parent representatives will be called for through the school newsletter at the commencement of the school year. An additional parent will be nominated by the P&C Executive.

d) Where the number of nominations for either role exceeds the number of positions a ballot will take place. All nominees are to be listed on the ballot paper with the order of names drawn at random.

e) For the staff representatives, should a ballot be required, every staff member is entitled to vote.

f) Eligible to vote in the category of parent membership positions is each parent whose name and address has been provided to the school under section 16(1)(b)(ii)(I) of the School Education Act, or if neither parent's name and address has been so provided, each person who is responsible for the student.

For the three parent representatives, every family with children attending the school will have the opportunity to vote. Numbered ballot papers will be posted to the parent name and address (as indicated above) early in Term 1. Should a tie eventuate, a second election between only those candidates who tied will be conducted.

g) The School Principal will act as returning officer for parent and staff elections.

h) The P&C representative will be elected by the P&C Executive

i) In the category of general community membership positions, the Board may appoint suitably qualified members of the general community from the list of nominees.

j) The Director General may, from time to time, specify standards or requirements in relation to the conduct of elections.

k) The Director General may inquire into any matter affecting an election or appointment of a member of the Board and, if any irregularity has occurred, may declare the results of an election or appointment invalid or order an election or appointment or a new election or appointment to be conducted.

l) A member of the Board (other than the principal) shall hold office for a term not exceeding two years as determined by the Board and may be reappointed more than once.

m) Any member appointed or elected to a casual vacancy in the Board shall hold office for the balance of the term of the member of the Board whose seat on the Board has become vacant.

CESSATION OR TERMINATION OF MEMBERSHIP

a) The office of a member of the Board becomes vacant if the member:

- i) becomes ineligible to hold office as a member;
- ii) resigns by written notice delivered to the Board; or
- iii) is removed from office by the Director General or delegate.

b) The Director General, or Executive Directors as delegates of the Director General, may remove a person as a member of the Board on the grounds that the continuation of the person as a member would be detrimental to the interests of the Board.

c) The Board may remove a person as a member of the Board on the grounds that the person:

- i) has neglected his or her duty as a member;
- ii) has misbehaved or is incompetent;
- iii) is suffering from mental or physical incapacity, other than temporary illness, impairing the performance of his or her function as a member; or
- iv) has been absent, without leave or reasonable excuse, from three consecutive meetings of which the member has had notice.

d) The Board must not remove a person as a member unless the person has been given a reasonable opportunity to show that he or she should not be removed from office.

e) A decision of the Board to remove a person from office is to be made by resolution of a majority comprising enough of the members for their number to be at least two thirds of the number of offices, whether vacant or not.

MEETINGS AND PROCEEDINGS OF THE BOARD

a) The Board will determine the number of meetings for each year. Meetings of the Subiaco School Council Primary School Board will be conducted twice a term at dates to be decided by the group. Extra meetings may be scheduled if and when deemed necessary by the Board.

b) The positions of School Board Chairperson and Secretary are to be elected annually from within the group at the first meeting of the year.

c) The chair of the Board is to convene Board meetings in accordance with the directions of the Board in relation to the venue and time of meeting and giving notice of the meeting. An agenda, (prepared by the elected secretary or Principal in consultation with the School Board Chair) along with the previous minutes, are to be submitted to all members at least seven (7) days prior to each meeting.

d) Meetings of the Board are generally to be open to the public. Non School Board members (all other P & C and staff members) may attend School Board meetings as an observer if they so desire but must notify the Chairperson of their intention to do so at least twenty-four hours in advance.

e) The Board is to hold each calendar year at least one meeting that is open to the public, 14 days' notice of which has been given to parents and in which a report is presented on the performance of the Board's functions.

f) The Board may decide to close to members of the public a meeting or part of the meeting on the grounds set out in rule 8.6 unless the meeting is the annual public meeting or a special meeting called under regulation 118 of the School Education Regulations 2000.

g) The Board may decide to close to members of the public a meeting or part of the meeting if it deals with any of the following:

i) a matter affecting a person who is employed at the school;

ii) the personal affairs of any person;

iii) a contract entered into, or which may be entered into, by the school and which relates to a matter to be discussed at the meeting;

iv) legal advice obtained, or which may be obtained, by the Board and which relates to a matter to be discussed at the meeting;

v) a matter that, if disclosed, would reveal:

1) information that has a commercial value to a person and that is held by, or is about, a person other than the Board; or

2) information about the business, professional, commercial or financial affairs of a person and that is held by, or is about, a person other than the Board;

vi) information which is the subject of a direction given under section 23(1a) of the Parliamentary Commissioner Act 1971.

h) A decision to close a meeting or part of the meeting and the reason for the decision are to be recorded in the minutes of the meeting.

i) The chair is to convene a special meeting of the Board if the meeting is called for in a notice to the chairperson setting out the purposes of the proposed meeting, that is provided by at least 20 families of students at the school or at least half the number of families of students at the school, whichever is the lesser number of families.

j) The chair is not to convene a meeting if the purposes of the proposed meeting are not relevant to the Board's functions.

k) A meeting convened is to deal only with matters relevant to the purposes set out in the notice received by the chair.

l) Each Board member, including the chairperson, is entitled to one vote only.

m) A decision of the Board does not have effect unless it has been made by an absolute majority.

n) An absolute majority means a majority comprising enough of the members of the Board for their number to be more than 50 per cent of the number of offices whether vacant or not.

o) Subject to these rules, the procedure and order of business to be followed at a meeting shall be determined by the Board.

FAILURE TO ACT PROPERLY

a) In the event that the Board breaches the School Education Act, or the conduct of the Board is incompetent, inadequate or improper, the Minister may give written notice to the Board requiring that the situation be remedied.

b) If the Minister is of the opinion that a Board has not complied with such a notice, the Minister may dismiss the Board.

COMMITTEES OF THE BOARD

a) The Board is empowered to appoint such committees as it deems necessary.

b) Membership of committees is not confined to members of the Board but at least one Board member is required to serve on each Committee.

c) The duties of any committee shall be clearly defined by the Board and, where appropriate, a specific date shall be set for the completion of the tasks assigned to the committee.

d) In all cases a committee makes its recommendations to the Board.

DUTIES TO BE ALLOCATED

a) The Board is to allocate to a member or members the following duties:

i) coordinate the correspondence of the Board;

ii) ensure that full and correct minutes of the meetings and proceedings of the Board are kept; and

iii) have custody of all books, documents, records and registers of the Board.

QUORUM

A quorum will be more than 50 per cent of the members of the Board but decisions must still be made with an absolute majority.

COMMUNICATION

a) The P&C representative will give regular reports from all School Board Meetings at the following P&C Executive Meeting.

b) Minutes from all meetings will be available to any member of the P&C, staff or general community should they so be requested after they have been approved by the Chairperson of the School Board.

OPERATIONAL GUIDELINE CHANGES

a) These Operational Guidelines may be altered, amended, rescinded or otherwise varied by a resolution passed by at least a three quarters majority of the School Council members present at any School Board Meeting.

b) Any School Board member desiring to move an amendment to the Operational Guidelines shall deposit with the Secretary notice of his or her intention to move such an amendment at the next meeting of the committee.

Legal framework of School Boards (non-incorporated)

All public schools in Western Australia are regulated by the School Education Act 1999, School Education Regulations 2000 and the individual Board's constitution.

The Act provides the means by which Board members are elected or appointed and outlines the structure of a Board including:

Mandated parent representation;

Mandated staff representation (the principal is automatically included);

Optional community and industry representation;

Co-opted membership to council or sub-committees; and

Optional student representation (15+ years).

A Board's constitution specifies the size of the membership (and configuration), objectives and functions of the Board, accountability requirements, role of the chair and rules of operation.

Legal liability

Section 137 of the School Education Act 1999 provides appropriate protection for members of Independent Public School Boards.

Section 137:

(1) An action in tort does not lie against a person for anything that the person has done in good faith as a member of a Council.

(2) Subsection (1) does not relieve a Council that is an incorporated association under the Associations Incorporation Act 1987 of any liability that it might have for the doing of anything referred to in that subsection.

(3)

In this section, a reference to the doing of anything includes a reference to the omission to do anything.

Personal injury cover for volunteers is provided under a miscellaneous policy provided by Risk cover to the Department. A Board member would be covered, for example, for an injury that occurred while attending a Board meeting.