

NORTHERN TERRITORY OF AUSTRALIA

EDUCATION (COLLEGE AND SCHOOL COUNCILS) REGULATIONS

As in force at 2 June 1997

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 2 June 1997

EDUCATION (COLLEGE AND SCHOOL COUNCILS) REGULATIONS

Regulations under the *Education Act*

Part I Introductory

1 Citation

These Regulations may be cited as the *Education (College and School Councils) Regulations*.

2 Commencement

These Regulations shall come into operation on the commencement of the *Education Amendment Act 1982*.

3 Definitions

In these Regulations, unless the contrary intention appears:

account means an account referred to in regulation 11(1).

invited member means a person who has been invited to be a member, and who has accepted the invitation.

member, in relation to a school council, means a member of the school council.

pre-school association means an organization of parents and teachers of children who have not attained the age of 6 years, and who attend the pre-school of a primary school for which a school council has been established.

school council means a school council established under section 71(1) of the Act and, in respect of the definition of ***School Council Official Account*** and regulations 11, 12, 13 and 14, includes a school management council and a group school management council established under section 71(5) of the Act.

School Council Official Account, in relation to a school council, means the school council's account referred to in regulation 11(1)(a).

Part II Councils for primary and secondary schools

3A Application of Part II

This Part applies to school councils established for Government schools other than post-school institutions.

4 Constitution of school council

- (1) For the purposes of section 71(3) of the Act, a school council shall, in respect of the Government school for which it is established, subject to this regulation, consist of the following members:
- (a) parents of students attending that Government school, other than such parents who are teachers at that Government school, elected at an annual general meeting by the parents of such students;
 - (b) teachers at that Government school elected at an annual general meeting by the teaching staff of that Government school;
 - (ba) where that Government school is a primary school having a pre-school association – one member of the association elected by its members;
 - (c) where that Government school is a secondary school – one or 2 senior students of the secondary school, elected by the students of that secondary school;
 - (d) the head teacher of that Government school, ex officio, who shall, as directed by the Secretary, inform and advise the school council on matters being considered by it; and
 - (e) such persons, if any, who are legible under subregulation (1A) to be invited members.
- (1A) Subject to this regulation, the persons who may be invited members on school council under subregulation (1)(e) are:
- (a) up to 3 persons who, in the opinion of the council, will assist the council in the exercise and performance of its powers and functions; and

- (b) the member of the Legislative Assembly for the electoral division in which the school is situated; and
- (c) a person nominated by the municipal or community government council for, or any other body performing functions of local government in, the area in which the school is situated,

but a person is not eligible to become an invited member by virtue of paragraph (a) if he is an employee within the meaning of the *Public Sector Employment and Management Act* who is employed as a teacher (including a head teacher) in a school.

- (1B) In the case of a school at which the only education provided is secondary education for years 11 and 12, a person who has been elected to the school council under subregulation (1)(a) as being the parent of a student attending the school shall, on the expiry of his term of office, be eligible for election thereunder for a second term of office notwithstanding that the student has in fact ceased to attend the school.
- (2) Unless the Minister otherwise determines by notice in the *Gazette*, a school council shall consist of not less than 5 and not more than 19 members, but so that persons who become invited members by virtue of subregulation (1A)(b) or (c) shall not be counted as members for the purposes of this subregulation.
- (3) A majority of members of each school council shall be parents elected under subregulation (1)(a).
- (4) Subject to subregulation (4A), of the persons elected to a school council under subregulation (1)(b), the number who are employees within the meaning of the *Public Sector Employment and Management Act* employed as teachers (including head teachers) in a school shall not in the aggregate exceed one third of the total number of members of the council.
- (4A) Where a school council, pursuant to section 71C(1)(m) of the Act, employs persons to perform teaching duties, then, of the persons elected to a school council under subregulation (1)(a) and (1)(b), the number who are employees within the meaning of the *Public Sector Employment and Management Act* employed as teachers (including head teachers) in a school shall not in the aggregate exceed one third of the total number of members of the council.

5 Term of office

- (1) Subject to subregulation (3) and regulation 7, a member referred to in regulation 4(1)(a), (b) and (c) shall hold office for a term of 2 years, and a member referred to in regulation 4(1)(ba) for a term of one year.
- (2) A person who becomes an invited member of a school council pursuant to regulation 4(1)(e) shall hold office for 2 years or, in the case of a person becoming an invited member by virtue of regulation 4(1A)(a) or (b), for 2 years or such shorter period as the council determines, and shall be eligible to become an invited member for a further term.
- (3) Where a school council is first established, one-half of its members referred to in subregulation (1) shall retire at the end of their first year of office (for the purposes of this subregulation, **one-half** shall, if the total number of members referred to is uneven, mean the integer nearest to but not more than one-half of the number of such members).
- (4) A member shall not hold office for more than 3 consecutive terms of office.

6 Chairman of school council

- (1) Subject to regulation 9(1), a school council shall, as the occasion requires, appoint one of its members referred to in regulation 4(1)(a) (other than a member who is a head teacher or an acting head teacher at any Government school) to be its Chairman.
- (2) Subject to subregulation (4), a member appointed under subregulation (1) shall hold office as Chairman of the school council for the remainder of his term of office as a member.
- (3) A member appointed under subregulation (1) may resign his office as Chairman of the school council by writing signed by him and delivered to the Secretary.
- (4) Where a person appointed under subregulation (1) ceases to hold office as a member of the school council before the expiration of his term of office as a member, he shall thereupon cease to hold office as Chairman.
- (5) Subject to regulation 5(4), a Chairman of a school council is eligible to be reappointed as Chairman of the school council.

7 Casual vacancies

- (1) The Minister may remove a member from office where the member:
 - (a) is absent, without good cause, from 3 consecutive meetings of the school council;
 - (b) is convicted of an offence which, in the opinion of the Minister, is such as to make him unsuitable to remain a member; or
 - (c) is physically or mentally incapacitated to such an extent that he is incapable of carrying out his duties as a member.
- (2) The office of a member shall become vacant where:
 - (a) he dies;
 - (b) his term of office expires;
 - (c) other than where he is the Chairman of a school council, he resigns by notice in writing given to the Chairman of the school council; or
 - (d) in pursuance of subregulation (1), he is removed from office by the Minister.
- (3) A casual vacancy in the membership of a school council, other than the member referred to in regulation 4(1)(d), shall be filled as the school council shall determine and the person elected, appointed or co-opted to fill that casual vacancy shall hold office for the balance of the term of his predecessor.
- (4) Where a person ceases to be a member, or where a member ceases to hold a particular office on the school council, he shall immediately hand over to his successor all books, papers and funds which he held by virtue of that office.

8 General meetings

- (1) Subject to subregulation (2), in each year the member referred to in regulation 4(1)(d) shall give notice of a meeting or meetings for the purpose of electing persons to fill the vacant positions, if any, in the membership of the school council and to carry out such other business as is required by the Act, these Regulations, or as the Minister determines.

- (2) The member referred to in subregulation (1) shall not, in pursuance of that subregulation, call for a meeting or meetings in each year:
 - (a) until after the audit referred to in regulation 14(d) has been completed; and
 - (b) except with the consent of the Minister, later than 15 March.

9 Meetings

- (1) The Chairman of a school council or, if for any reason the Chairman of the school council is not available, the member referred to in regulation 4(1)(d) of the school council, may convene meetings of that school council.
- (2) The Minister, the Secretary, or not less than 3 members may, by notice in writing given to the Chairman of a school council, request that a meeting of the school council be convened for the purpose of considering the matter or matters specified in the notice.
- (3) Without prejudice to any other method of giving the notice, a notice may be given for the purpose of subregulation (2) to the Chairman of a school council by delivering the notice, addressed to the Chairman, to the head teacher of the Government school for which the school council is established.
- (4) Where a notice has been given under subregulation (2) to the Chairman of a school council, the Chairman shall convene a meeting of the school council by giving to each member not less than 3 days notice in writing of the date, time and place of the meeting and of the matter or matters specified in the notice.
- (5) At a meeting convened for the purpose of subregulation (2), no business shall be dealt with other than business arising out of a matter specified in the notice given under that subregulation in respect of that meeting.
- (6) The Chairman of a school council shall preside at all meetings of the school council at which he is present.
- (7) Where the Chairman of a school council is not present at a meeting of the school council, the members present shall appoint one of their number to preside at the meeting.
- (8) A quorum at a meeting of a school council is constituted by not less than one-half for the time being of the members and no business shall be conducted at a meeting unless a quorum is present.

- (9) Questions arising at a meeting of a school council shall be determined by a majority of the votes of the members present and voting.
 - (10) The person presiding at a meeting of a school council has a deliberative vote only.
 - (11) Where there is a vacancy in the office of Chairman of a school council and, but for this subregulation, the school council would not be able to appoint a member to be the Chairman of the school council, the Secretary may convene a meeting of the school council for that purpose.
- 10 Powers and functions of school council not affected by vacancies**
- The exercise of a power, or the performance of a function, by a school council is not affected by a vacancy in the membership of the school council.

Part IIA Batchelor College Council

10A Composition of Batchelor College Council

- (1) In addition to the members of the council of the Batchelor College holding office under section 45(2)(a), (b), (c), (d), (e) and (f) of the Act, the Minister shall appoint not more than 14 members in accordance with this regulation.
- (2) Of the members appointed under subregulation (1):
 - (a) one shall be the member of the Northern Territory Aboriginal Education Advisory Committee, known as FEPPI, established under section 19(1) of the Act nominated by that Committee;
 - (b) one shall be the person nominated by the council of Batchelor College who, in the opinion of the council, has expertise in Aboriginal health services;
 - (c) one shall be the person elected in accordance with this regulation; and
 - (d) not more than 11 shall be the persons nominated by the council of Batchelor College who, in the opinion of the council, have a commitment to the development of education and vocational education opportunities for Aborigines and the ability to represent public opinion in the area in which they reside.

- (3) The election of a person referred to in subregulation (2)(c):
 - (a) shall be conducted in accordance with Chapter 2 of the Batchelor College By-law, with the necessary changes, as if the election were an election under that Chapter; and
 - (b) only full-time members of the staff of Batchelor College whose names are entered on the Roll of Non-Academic Staff or the Roll of Academic Staff under the Batchelor College By-law who are of Aboriginal or Torres Strait Islander descent and who are not on leave from the College at the time at which the election is called or held are eligible to nominate and to vote in the election.
- (4) For the purposes of the council of Batchelor College nominating persons for appointment as members under this regulation, the council may, by notice in such manner and form as it thinks fit:
 - (a) request nominations from the public of persons suitable for appointment; and
 - (b) advise to whom nominations are to be directed and the date by which nominations are to be received.
- (5) In nominating persons under subregulation (2)(d), the council of Batchelor College shall ensure that, as far as practicable, the persons nominated, when appointed, will be, together, representative of all regions of the Territory.
- (6) In relation to the exercise of a power conferred on the council of Batchelor College by this regulation, a reference to the council means the members of the council then holding office.

Part III Accounts of school council

11 School council shall open and maintain certain accounts

- (1) A school council:
 - (a) shall open and maintain at a bank or banks, a building society or building societies or a credit union or credit unions approved by the Secretary an account to be known as the "School Council Official Account"; and
 - (b) may open and maintain at a bank or banks, a building society or building societies or a credit union or credit unions approved by the Secretary such other banking accounts as the Secretary approves.

- (2) Subject to subregulation (2A), a school council shall pay into the School Council Official Account all moneys of the council referred to in section 71G of the Act.
- (2A) Notwithstanding subregulation (2), where a school council opens a banking account under subregulation (1)(b), it may pay into that account the moneys of the council referred to in section 71G(b) or (c) of the Act.
- (3) A school council shall hold moneys in the School Council Official Account on behalf of the Minister.
- (4) A school council shall keep separate records of transactions concerning each account.
- (5) A school council shall nominate those persons who shall be signatories to the cheques of an account and such cheques shall be signed by not less than 2 of the signatories so nominated.
- (6) For the purposes of subregulation (5), a school management council or group school management council established under section 71(5) of the Act shall obtain the approval of the Secretary before nominating a person under that subregulation.

12 Expenditure of moneys

A school council shall not, except with the approval in writing of the Secretary, expend moneys from an account other than on, or in relation to, the Government school for which it is established.

13 Ownership of materials and property purchased by school council

Where a school council purchases materials or property:

- (a) partly or wholly from moneys of the school council referred to in section 71G(a) of the Act – such materials and property are the materials and property of the Minister; and
- (b) wholly from moneys of the school council referred to in section 71G(b) or (c) of the Act – such materials and property are the materials and property of the school council.

14 General accounting requirements

- (1) A school council shall ensure that:
 - (a) interest earned on moneys in an account is credited to the account;

- (b) a payment made from an account is made by "Not Negotiable" cheque;
 - (c) a receipt is issued for money received by the school council, other than:
 - (i) in respect of over-the-counter sales by a Government school canteen or book store run by that school council; or
 - (ii) where the Secretary, by instrument in writing, otherwise determines;
 - (d) each account is audited, and a statement of receipts, payments and balance on hand with respect to the account is prepared, by a person appointed by the school council and approved by the Secretary for that purpose, not later, except with the consent of the Minister, than 27 February in each year for the immediately preceding year;
 - (e) at each annual general meeting, there is presented to it, in respect of each account, the statement referred to in paragraph (d) relating to that account;
 - (f) a copy of the statement referred to in paragraph (d) relating to an account is forwarded to the Secretary as soon as practicable after the meeting referred to in paragraph (e) at which that statement was presented; and
 - (g) a person is appointed, whether a member or otherwise, whose duty it is to:
 - (i) maintain books of each account; and
 - (ii) bank all moneys received for an account and, subject to regulation 11(5), make payments, as authorized by the school council, out of the account.
- (2) Notwithstanding the definition of ***school council*** in regulation 3, subregulation (1)(e) and (f) do not apply to or in relation to a school management council or group school management council established under section 71(5) of the Act.

15 Secretary and treasurer to school council

- (1) A school council may request the head teacher of the Government school for which it is established to direct the secretary or registrar of that Government school to act as secretary and treasurer to the school council.

- (2) Upon the receipt of an application referred to in subregulation (1), the head teacher may:
 - (a) subject to subregulation (3), give a direction referred to in subregulation (1); or
 - (b) reject the application.
- (3) The head teacher referred to in subregulation (1) shall not give under subregulation (2)(a) a direction referred to in subregulation (1) where the direction would require the person the subject of that direction to work, or attend meetings of the school council to which that direction relates, outside of that person's normal working hours, unless:
 - (a) that person agrees to comply with that direction; and
 - (b) the Department of Education has arranged with the Commissioner as defined in the Public Sector Employment and Management Act for that person to receive recompense for work or attendance outside of that person's normal working hours arising as a consequence of that person's compliance with that direction.
- (4) A person the subject of a direction given under subregulation (2)(a) shall comply with that direction.

Part IV Miscellaneous

16 Prescribed services

For the purposes of section 71C(h) of the Act, ***prescribed services*** means repair, maintenance and general upkeep.

ENDNOTES

1 KEY

Key to abbreviations

amd = amended	od = order
app = appendix	om = omitted
bl = by-law	pt = Part
ch = Chapter	r = regulation/rule
cl = clause	rem = remainder
div = Division	renum = renumbered
exp = expires/expired	rep = repealed
f = forms	s = section
Gaz = <i>Gazette</i>	sch = Schedule
hdg = heading	sdiv = Subdivision
ins = inserted	SL = Subordinate Legislation
lt = long title	sub = substituted
nc = not commenced	

2 LIST OF LEGISLATION

Education (School Councils) Regulations (SL No. 3, 1983)

Notified	4 February 1983
Commenced	11 February 1983 (r 2, s 2 <i>Education Amendment Act 1982</i> (Act No. 95, 1982) and <i>Gaz G6</i> , 11 February 1983, p 8)

Amendment of the Education (School Councils) Regulations (SL No. 23, 1983)

Notified	29 July 1983
Commenced	29 July 1983

Amendments of the Education (School Councils) Regulations (SL No. 31, 1987)

Notified	1 July 1987
Commenced	15 July 1987 (r 1)

Amendments of the Education (School Councils) Regulations (SL No. 55, 1987)

Notified	13 January 1988
Commenced	27 January 1988 (r 1)

Amendments of the Education (School Councils) Regulations (SL No. 4, 1988)

Notified	9 February 1988
Commenced	1 February 1988 (r 1)

Amendments of the Education (School Councils) Regulations (SL No. 9, 1988)

Notified	7 March 1988
Commenced	7 March 1988

Amendments of the Education (School Councils) Regulations (SL No. 51, 1988)

Notified	1 December 1988
Commenced	1 December 1988

Amendments of Education (School Councils) Regulations (SL No. 74, 1991)

Notified	20 December 1991
Commenced	20 December 1991 (r 1, s 2 <i>Education Amendment Act (No. 2) 1991</i> (Act No. 71, 1991) and Gaz S65, 20 December 1991)

Public Sector Employment and Management (Consequential Amendments) Act 1993 (Act No. 28, 1993)

Assent date	30 June 1993
Commenced	1 July 1993 (s 2, s 2 <i>Public Sector Employment and Management Act 1993</i> (Act No. 11, 1993) and Gaz S53, 29 June 1993)

Amendments of Education (School Councils) Regulations (SL No. 1, 1994)

Notified	1 February 1994
Commenced	1 February 1994

Amendments of Education (School Councils) Regulations (SL No. 28, 1995)

Notified	9 August 1995
Commenced	9 August 1995

Financial Institutions (Miscellaneous Amendments) Act 1997 (Act No. 23, 1997)

Assent date	2 June 1997
Commenced	2 June 1997

3 LIST OF AMENDMENTS

r 1	amd No. 28, 1995, r 1
r 3	amd No. 31, 1987, r 3; No. 51, 1988, r 2; No. 74, 1991, r 3; No. 23, 1997, r 2
pt II hdg	sub No. 55, 1987, r 3
r 3A	ins No. 55, 1987, r 3
r 4	amd No. 31, 1987, r 4; No. 4, 1988, r 3; No. 9, 1988; No. 51, 1988, r 3; No. 1, 1994
	sub No. 23, 1997, r 3
rr 4A – 4E	ins No. 23, 1997, r 3
r 5	amd No. 31, 1987, r 5; No. 4, 1988, r 4; No. 51, 1988, r 4; No. 23, 1997, r 4
r 6	amd No. 51, 1988, r 5; No. 23, 1997, r 5
r 7	amd No. 23, 1997, r 6
r 8	amd No. 31, 1987, r 6; No. 23, 1997, r 7
r 9	amd No. 23, 1997, r 8
pt IIA hdg	ins No. 55, 1987, r 4
	sub No. 28, 1995, r 2
r 10A	ins No. 55, 1987, r 4
	sub No. 28, 1995, r 2
rr 10B – 10H	ins No. 55, 1987, r 4
	rep No. 28, 1995, r 2
r 11	amd No. 23, 1983; No. 74, 1991, r 4; Act No. 23, 1997, s 6(2)
r 13	amd No. 74, 1991, r 5
r 14	amd No. 31, 1987, r 7; No. 74, 1991, r 6; No. 23, 1997, r 9
r 15	amd Act No. 28, 1993, s 3(2); No. 23, 1997, r 10