

# NORTHERN TERRITORY OF AUSTRALIA

## EDUCATION (COLLEGE AND SCHOOL COUNCILS) REGULATIONS

As in force at 16 September 2009

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 16 September 2009

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## 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 organisation** means the organisation or body, if any, 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 Composition of school councils**

- (1) For the purposes of section 71(3) of the Act, the composition of a school council of a Government school is to be in accordance with this regulation.
- (2) A school council is, unless otherwise approved by the Minister, to consist of not less than 5, but not more than 19, members.
- (3) The number of members of a school council is to be specified in the constitution of the school council.
- (4) A school council is to consist of the following members or class of members:
  - (a) subject to regulation 4A, parents of students who attend the Government school, elected to office by the parents of the students attending the Government school;
  - (b) subject to regulation 4B, teachers who teach at the Government school (but not the head teacher), elected to office by the teachers teaching at the Government school;
  - (c) where the Government school provides secondary education and the constitution of the school council provides for student representation on the school council, not more than 2 students elected to office by students who attend the school from amongst themselves;
  - (d) the head teacher of the Government school;
  - (e) where the Government school is a school providing primary education which has a pre-school organisation, a member of the pre-school organisation.
- (5) In subregulation (4), ***the Government school*** means the Government school for which a school council is established.

### **4A Members who are parents**

- (1) The number of members holding office under regulation 4(4)(a) must not be less than half the number of members of the school council.

- (2) A person is not eligible to be a member under regulation 4(4)(a) unless the person:
- (a) subject to subregulation (3), has a child who is a student attending the Government school; and
  - (b) is not a teacher teaching at, or the head teacher of, the Government school.
- (3) In the case of a Government school which provides only secondary education for the years 11 and 12, a member holding office under regulation 4(4)(a) whose child ceases to be a student attending the Government school:
- (a) where the child ceases to be a student attending the Government school during the member's term of office, may continue in office until the expiry of that term; and
  - (b) notwithstanding regulation 5(4), may hold office for not more than 2 consecutive terms of office.
- (4) A person must not hold office as a member under regulation 4(4)(a) and (e) contemporaneously.

#### **4B Members who are teachers**

- (1) A person is not eligible to be a member under regulation 4(4)(b) unless the person is a teacher teaching at the Government school.
- (2) A person shall not hold office as a member under regulation 4(4)(b) and (e) contemporaneously.

#### **4C Number of members who are teachers**

The number of members of the school council who are teachers teaching at, or the head teacher of, any Government school (but not including the member under regulation 4(4)(d)) must not be more than one-third of the number of members of the school council.

#### **4D Head teacher**

The head teacher of a Government school is to, subject to the direction of the Secretary, inform and advise the school council in respect of the Government school on any matter before it.

**4E Council may invite persons to be members**

- (1) A school council may invite any one or more of the following persons to be a member of the school council:
  - (a) not more than 3 persons who the school council considers to have special qualifications, knowledge or experience which will be able to assist the school council in the exercise and performance of its functions by the giving of information or advice;
  - (b) the member of the Legislative Assembly for the electoral division in which the Government school is situated;
  - (c) one person nominated by the municipal or shire council for, or any other body performing functions of local government in, the area in which the Government school for which the school council is established is situated.
- (2) A school council must not invite a person who 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 to be a member under subregulation (1).

**5 Term of office**

- (1) Subject to subregulation (3) and regulation 7, a member referred to in regulation 4(4)(a), (b) and (c) shall hold office for a term of 2 years, and a member referred to in regulation 4(4)(e) for a term of one year.
- (2) A person who becomes an invited member of a school council pursuant to regulation 4E shall hold office for 2 years or, in the case of a person becoming an invited member by virtue of regulation 4E(1)(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(4)(a) (other than a member who is a teacher, 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;
  - (ba) he is no longer eligible to hold office;
  - (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(4)(d), shall be filled as the school council determines (except that the person who fills the vacancy must in any case be eligible under regulation 4) 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(4)(d) is to:
  - (a) give notice of the vacancies, if any, in the membership of the school council for the year; and
  - (b) ensure that, as soon as practicable after giving notice, a meeting is, or meetings are, held at which members are elected to fill the vacancies and such other business required by the Act or these Regulations, or as the Minister determines, is conducted.
- (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 or a person authorised to consent by 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(4)(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 the Territory Insurance Office or at one or more ADIs approved by the Secretary an account to be known as the "School Council Official Account"; and
  - (b) may open and maintain at the Territory Insurance Office or at one or more ADIs 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 who is:
    - (i) a member of the Institute of Chartered Accountants or CPA Australia; or
    - (ii) approved by the Secretary as suitable to carry out the audit,

and who the school council has, not later (except with the consent of the Minister or a person authorised to consent by the Minister) than 27 February in each year, appointed to carry out the audit 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 either secretary or treasurer, or as both 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 persons'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.

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**ENDNOTES**
**1****KEY**

Key to abbreviations

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

**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	28 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

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**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

**Amendments of Education (College and School Councils) Regulations (SL No. 23, 1997)**

Notified	9 July 1997
Commenced	9 July 1997

**Territory Insurance Office (Miscellaneous Amendments) Act 1998 (Act No. 37, 1998)**

Assent date	27 May 1998
Commenced	27 May 1998

**Statute Law Revision (Financial Provisions) Act 2002 (Act No. 38, 2002)**

Assent date	13 September 2002
Commenced	30 October 2002 (Gaz G43, 30 October 2002, p 3)

**Statute Law Revision Act (No. 2) 2002 (Act No. 59, 2002)**

Assent date	7 November 2002
Commenced	7 November 2002

**Statute Law Revision Act 2009 (Act No. 25, 2009)**

Assent date	1 September 2009
Commenced	16 September 2009 (Gaz G37, 16 September 2009, p 3)

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**SAVINGS AND TRANSITIONAL PROVISIONS**

r 7 *Amendments of Education (School Councils) Regulations* (SL No. 74, 1991)



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**4 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 – 4D	ins No. 23, 1997, r 3
r 4E	ins No. 23, 1997, r 3
	amd Act No. 25, 2009, s 11
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); Act No. 37, 1998, s 5(1); Act No. 38, 2002, s 7
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; Act No. 59, 2002, s 6
r 15	amd Act No. 28, 1993, s 3(2); No. 23, 1997, r 10