

Returning officers' guide to governing council elections

Overview

The school's governing council model constitution, clause 6.2.7 states that the principal must be the returning officer for the council's election, nomination, and appointment of council members.

The returning officer is the person who is responsible for arranging and conducting a governing council election and who announces the result.

Scope

This guide provides direction to principals to support the conduct of governing council elections. The procedures and templates detailed in this guide are based on the requirements prescribed in the governing council model constitutions, the School Governance Administrative Instructions (the Instruction) and the *Education and Children's Services Act, 2019* (the Act).

Detail

What does it mean to conduct an election?

The governing council model constitutions, clause 13, set out the requirements for conducting an election and for the nomination and appointment of parent members to a governing council.

The returning officer must conduct the election of parent members. There are two methods of conducting a parent election:

- an election held at a general meeting of the school (AGM), or
- a postal ballot of the parents of the school.

The decision about which method to use is made by the governing council, in consultation with the principal. In most instances, the election of parent members occurs at a governing council's Annual General Meeting (AGM).

The returning officer should provide the school community with a minimum of 14 days' notice with the appropriate information about the parent member election by the means generally used to communicate with the school community, for example, through the school's newsletter, website, or electronic messaging system/application. The principal and the governing council should encourage all parents within the school community to participate in the nomination process.

For the returning officer to be able to clearly determine the number and category of vacancies on a governing council, the council should maintain a member register that lists the member's name, membership type, date of first appointment and current tenure. This provides the chairperson and the returning officer with a list of members whose terms are expiring.

Example member register

Name	Member type	Length of term (or tenure)	Date of appointment	Date term ends	Date first appointment to council
Jo Davis	Parent	1 year	March 2023	March 2024	March 2018
Anna Jones	Parent	2 years	March 2023	March 2025	March 2020
Ian Smith	Parent	Casual vacancy	September 2023	March 2023	September 2023

The returning officer is also able to make decisions to resolve any dispute that may arise in the process of conducting elections, nominations and appointments including the conduct of a ballot.

Pre-meeting formalities

Prior to an election being held, the governing council chairperson should write a letter of appreciation to each retiring council member, thanking them for their participation, advising them that their term of office is expiring and informing them of their eligibility to re-nominate or be nominated for another term.

If any casual vacancies were filled during the year, those members will need to be advised by the chairperson that their term has expired and of their eligibility to nominate in the current election process. This is because casual vacancies are only filled for the period until an election can be held.

The timetable for an election must be determined by the council, in consultation with the principal. Once the election process and dates, times, etc have been approved, the returning officer will call for nominations by the method generally used to communicate to the school community. Many schools use the school newsletter or electronic applications and have information available on the school's website, including electronic or downloadable nomination forms. Hard-copy or printed nomination forms should also be made available in the school's front office, or another suitable location on the school grounds. See parent member self-nomination form template.

The notice calling for nominations should clearly state:

- the date, time and location of the election (or indicate if its via postal ballot)
- opening and closing dates of the nomination period, and outline the process to be followed
- how nomination forms can be obtained, and how they must be lodged
- set out the number of known vacancies and the terms of those vacancies (1 or 2 years).

See notice for calling for nominations template. Noting the nomination form can be amended to allow candidates to elect which term of membership they are seeking.

Any nominations received after the closing date, should not be accepted. However, if there are still more vacancies than nominations after the nomination period closes, the returning officer can advise parents who provided a nomination form after the closing date that their nominations will be accepted.

Who can be nominated?

The election process relates to the election of parents to the governing council. The Act uses the term "person responsible for a child or student". In this guide, the term "parent" will be used instead. This term includes parents, guardians, and persons standing in loco parentis to a student or child but excludes any person whose custody or guardianship of a student or child, or whose responsibility for a student or child, has been excluded under any Act or law (for example, the Family Law Act 1975 (Cth)).

A parent can nominate themselves or be nominated by anyone from within the school's community.

All nominations must be in writing on nomination forms approved by the council and the principal.

Who can vote?

Parents of the school are the only people allowed to vote for elected parent members of council. Parents are as defined above.

If a school has a school-based preschool, parents of a child enrolled at or attending the preschool are included in the school's community and are also eligible to vote.

Assessing the nominations

The returning officer must assess all the received nominations to ensure the candidate meets the eligibility requirements and that the nomination form has been completed correctly. If there is an error or concerns about a parents' nomination, the returning officer must contact the candidate to make a correction, ask them to resubmit a nomination form or advise them of their ineligibility to nominate to be on the governing council.

In accordance with clause 7.5 of the governing council constitution, and with the school governance administrative instructions, a person cannot be elected to, appointed to, or nominated for a governing council if the person:

- is an undischarged bankrupt or is receiving the benefit of a law for the relief of insolvent debtors (such as arrangements under Part IX or Part X of the Bankruptcy Act 1966 (Cth))
- has been convicted or found guilty of any offence prescribed by administrative instruction (clause 7.5.2). The offences prescribed are:
 - any offence of dishonesty
 - any offence of a sexual nature
 - any offence of or involving violence
- is subject to any other disqualifying circumstances as prescribed by administrative instruction (clause 7.5.3) is not eligible for election, appointment, or nomination to a governing council. The disqualifying circumstances prescribed are:
 - the person has been issued with a barring notice in accordance with section 93 of the Act
 - an intervention order has been issued against the person in accordance with the Intervention Orders (Prevention of Abuse) Act 2009, or with a foreign intervention order as defined in that Act has been issued against the person
 - the person is a prohibited person in accordance with the Child Safety (Prohibited Persons) Act 2016
 - the person is not compliant with, or states that they will not comply with, directions issued under the *Emergency Management Act 2004* or the *South Australian Public Health Act 2011*
 - the person is serving a sentence of imprisonment (whether or not the sentence is suspended, or being served in the community on home detention or under an intensive correction order)
 - the person has been removed from a governing council pursuant to section 44 of the Act.

The majority of the members on a governing council must be parents. Of these parents, the majority must not be persons employed at a government school, or persons employed by an administrative unit the Minister is responsible, and those appointed under the *Act* or the *Technical and Further Education Act 1975* (refer to clause 7.3 of the governing council constitution). As such, the returning officer must note all candidate's disclosure of employment.

If a school has a school-based preschool, parents of a child enrolled at or attending the preschool are part of the school community and are eligible (subject to the above eligibility criteria) to nominate, and be elected to, the governing council.

Once the nomination period has closed, the returning officer should advertise the names of the candidates in an easily seen position at the school, for example, on the school's notice board or in the front office), and if applicable, notify the parents of the school via electronic means too.

The returning officer should notify the parents of the school, of any withdrawal of candidates as

soon as possible.

It is good practice to post a receipt form to candidates and nominators as soon as practicable after receiving a valid and complete form (see nomination receipt form template).

Nomination forms must be kept at the school for a period of 1 year from the date of the declaration of the election poll for record keeping purposes only.

Conducting an election

For a parent election held at the AGM, candidates are not required to be present.

When the number of persons nominated is the same or less than the number of vacancies to be filled, the principal should declare that the vacancies are filled by the persons who nominated.

If the number of persons nominated is greater than the number of vacancies to be filled, the principal must declare that it is a contested election. The vote must be conducted by a secret ballot.

At the AGM, eligible parents can cast their vote by completing a ballot paper. The ballot paper must clearly list all the candidates (see ballot paper for AGM template). Parents can then select their preferred candidates and place their form in a secure ballot box that has been provided by the returning officer.

When conducting a contested election by postal ballot, the returning officer will need a postal ballot paper (see postal ballot paper template). The ballot paper must clearly list all the candidates. The ballot paper, along with a prepaid return envelope should be posted or electronically sent to all eligible parents. Set timeframes for the postal ballot must be clearly detailed, for example two weeks, to allow enough time for completed forms to be returned via post or submitted electronically. A ballot box can also be placed in the school's front office for the return of completed postal ballots.

Postal ballot papers must be sent to all eligible individual parents as per the definition in the governing council's constitution.

Postal ballot papers must be clearly marked with the parent's name and signature.

Counting the votes

The voting method used is 'first past the post'. This means the person with the most votes is declared as the successful candidate.

The returning officer is responsible for ensuring only eligible parents vote in the election and that any ineligible votes are not counted.

Clause 13.7 of the constitution allows for scrutineers to be present at the vote counting. The returning officer must permit scrutineers, who are independent of the election, to be present at the counting of votes. The returning officer should appoint a scrutineer for the voting process and permit any other scrutineers as nominated by any candidates. A candidate in the election cannot be a scrutineer. Any candidate wishing to appoint a scrutineer must advise the returning officer by a set time before the ballot process is undertaken.

In a contested election each candidate can inform the returning officer in writing of their nominated scrutineers, should they wish to nominate one.

A scrutineer can be present at any stage in the ballot count. Any scrutineer that interferes with vote counting will be removed from the process by the returning officer.

The role of the returning officer in vote counting is to:

- make sure the counting and recording of votes is conducted appropriately

- appoint vote counters to help with counting and recording the votes for each candidate and to make sure the appointed scrutineers are present, and view the count
- determine with respect to any possible informal ballot whether the ballot should be treated informally or not
- conduct a drawing of lots where there is a tie between nominees and the number of vacancies cannot accommodate the tied candidates
- formally declare the highest ranking candidates to be elected as parent members of the council, up to the number of vacancies (being sure not to exceed the number of vacancies).

Where a secret ballot has been conducted for a contested election, the only people to be present at the counting of votes are:

- the returning officer
- scrutineers
- vote counting officers.

When recording votes, the returning officer should clearly set out the votes for each candidate in a spreadsheet, register or electronic counter. The returning officer needs to be completely satisfied with the vote tally before declaring the poll. As a matter of good practice, any invalid votes should be re-examined for validity.

In the case of a tied vote, the result will be determined by lot; for example: drawing names out of a hat.

How to determine invalid votes

There is no set method for marking a ballot paper. Therefore, ticks, crosses and numbers are all valid and should be interpreted as voting for a particular candidate.

Ballot papers should be deemed invalid if:

- it is not received or placed in the ballot box by the closure time
- it is not properly or clearly marked as advised
- the voter selects more candidates than they're allowed to vote for
- in any other way the ballot fails to clearly indicate for whom the vote is intended for, or does not comply with any other stated requirement.

Declaring the election

The returning officer must declare the candidates elected. It is preferable that this be done at the annual general meeting but can be done by the method usually used to inform the school community, such as the school newsletter and website.

It is good practice to ensure all successful candidates complete an appointment form (see model governing council appointment form template).

The new governing council of the school comes into operation at the declaration of the election (see the governing council constitution). All successful elected members must meet the department's screening and suitability and training requirements before they can be considered a full voting member – please refer to the administrative instructions for more information.

Further nomination for unfilled position

If at an the AGM, after the declaration of the election results, there are still vacancies, the returning officer can call for additional nominations from the floor (refer to clause 13.9 governing council

constitution). However, if at this stage more parents nominate, than there are remaining vacancies, a secret ballot will need to be conducted to determine which candidates are successful (same as for parent election).

For a parent election held via a postal ballot, the principal will need to apply the same pre-meeting formalities detailed above. Noting that if the returning officer receives more nominations than vacant positions, the returning officer must conduct the voting process via a postal ballot.

Screening and Suitability

In accordance with department screening and suitability requirements, all governing council members must have a valid Working with Children Check (WWCC).

Screening requirements are in addition to the governing council's eligibility criteria which relates to a person's ability to nominate and be elected to council (see clause 7.5 of the constitution and the administrative instruction, as detailed above).

All council members must also complete the Responding to Risks of Harm, Abuse and Neglect – Education and Care (RRHAN-EC) course for volunteers.

After an election, an individual will be considered an 'elected or appointed person'. Elected or appointed persons do not have voting rights and are considered observers to the council. A person does not become a council member until the principal is satisfied that the person meets the department's screening and suitability requirements. If the principal has reasonable grounds to consider someone is unsuitable or ineligible this may preclude them from nominating (or being nominated) for a position on council or result in them being removed from council by the Minister.

To ensure that elected persons can become council members promptly, schools should coordinate WWCC applications using the Department for Human Services (DHS) screening portal as soon as practicable.

Prior to the first meeting of council

Prior to the first meeting of council, the principal will need to:

- undertake an election process for staff members on council. This will only need to happen if there are staff positions outlined in the governing council constitution membership (section 7.1). 'Staff' does not include the principal, who is on council as an ex official member.
- undertake (or support) an election process for student members on council. This will only need to happen if there are student positions outlined in the governing council constitution membership (section 7.1).
- review the current community members on council to determine if there are vacancies that need to be filled. This will only need to happen if there are community positions outlined in the governing council constitution membership (section 7.1). The principal, in consultation with the council, should assess the skill mix needed for the council to function effectively and consider what skill gaps can be filled through appointing a community member(s).
- The principal will need to determine if current community members are continuing, or if their term is expiring (if appointed for a 2-year term). If there will be vacancies, the principal should undertake the usual process determined by council to appoint community members. This can be done by either approaching community members directly or by undertaking an expression of interest or nomination process.
- Contact affiliated committees to seek a nomination from the committee. This will only need to happen if there are affiliated committee members outlined in the governing council constitution membership (section 7.1).

These membership category representatives are confirmed and appointed by council at their first meeting.

The first meeting of council

As soon as possible after the declaration of the results of the election, or within 1 month of the election, the principal must call and preside at the first council meeting. The principal takes on this role in the first meeting as all office holder positions are vacated at the AGM. Office holder positions are only held for 1 year.

At this meeting the principal will have received nominations from the nominating bodies (staff, students and any affiliated committees, as applicable) and would have undertaken the agreed process to determine the appointment of community members.

What to do with casual vacancies

At times, the council may not be able to fill all their vacant positions at the parent member election. These vacant positions become casual vacancies.

Clause 10.2 in the model governing council constitution states, the council may appoint a person to temporarily fill a casual vacancy in its membership until a council member can be elected, nominated or appointed in line with the constitution.

This means the council can appoint an appropriate person, who meets the eligibility and screening requirements prescribed above and in the Instructions. Noting this person will need to fit the relevant membership category(s). Consideration could be given to any unsuccessful candidates from the contested election process and offer a vacancy to the candidates with the highest of votes. Alternatively, the council could choose to select entirely different person. Whichever process the council selects to appoint persons to the casual vacancies, the council should be able to provide rational as to why that selection process was adopted, if ever it were to be challenged.

If there are multiple parent member casual vacancies, the council could call for nominations from the school's parent community and appoint to fill the vacancies until the next council election process. The principal may be nominated as the officer to receive these nominations. An amended nomination form that details that it's for a casual vacancy should be used.

Throughout the year, current members may resign from their positions from council, creating additional vacancies, also creating casual vacancies. If this occurs, the council may choose to leave this position(s) vacant or agree to the fill the casual vacancy temporarily.

Roles and responsibilities

Site Governance Team

Maintain and review these guidelines every 3 years or as required.

Provide advice and support to principals, council members and department representatives to make sure there is effective and efficient governance of schools.

Principals

Comply with the requirements of the School Governance Administrative Instructions, the governing council's constitution, the Act, these guidelines, and any other relevant departmental policy or procedure.

Governing council members

Comply with the requirements of the School Governance Administrative Instructions, the governing council's constitution, the Act, these guidelines, and any other relevant departmental policy or procedure.

Supporting templates

- [Notice for calling for nominations template](#)
- [Parent member self-nomination form template](#)
- [Parent member nomination form template](#)
- [Nomination receipt form template](#)
- [Ballot paper for annual general meeting template](#)
- [Postal ballot form template](#)
- [Appointment form template](#)

Related legislation and documents

- [Education and Children's Services Act 2019](#)
- [School Governance Administrative Instructions](#)

Contact

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