

## **Administrative Instruction to grant approval to a governing council of a school to disregard the requirements of section 35(3)(b)**

*This administrative instruction was issued by the Chief Executive, Department for Education under section 9 of the Education and Children's Services Act 2019. Governing councils are bound by this administrative instruction.*

The *Education and Children's Service Act 2019* in section 35(3) requires that the chairperson of a school's governing council be a governing council member who is (a) a parent of a child enrolled at or attending the school (except in the case of a school wholly or principally for adult students) and (b) not a person who is a member of the staff of the school or a person employed in an administrative unit for which the Minister is responsible. This includes employment in another government school, preschool or children's centre or in corporate office.

However, if there is no parent member willing to hold the role who meets the requirement in section 35(3)(b), that is, to not be employed at the school or in an administrative unit for which the Minister is responsible, section 35(3) states that a governing council may, with the approval of the Chief Executive or delegate, elect a parent member who does not meet the requirement in section 35(3)(b) to the position of chairperson until such time as a person who does meet that requirement is willing to be the chairperson. It is important to note that the chairperson must meet the requirement in section 35(3)(a) to be a parent member.

As the deputy chairperson acts as chairperson when the chairperson is unable to act, it is necessary that the deputy be a parent member and it is preferable, but not mandatory, that the deputy chairperson also meets the requirement in section 35(3)(b).

### **How to seek approval**

As soon as practicable after the declaration of the results of the parent election at the annual general meeting, the principal must call and preside at the first council meeting.

After the appointment process of nominating bodies, if applicable (such as staff, affiliated committee and community members) is complete, the principal will conduct a separate nomination and election process for the council's office holder positions. All office holder positions should be vacant as they are only held for one year.

If, after reasonable attempts, the council is unable to find a council member that meets all of the chairperson requirements as specified in section 35(3) of the Act, but has a parent council member who does not meet the requirement in section 35(3)(b) and is willing to act as chair, the following approval process must occur:

1. The principal, acting as the interim chairperson, must complete and submit a 'Chairperson appointment - request to disregard section 35(3)(b) letter' that formally seeks the Chief Executive's approval to disregard the requirement in section 35(3)(b) and approve the appointment of a willing parent member to the chairperson position.
2. The request must be accompanied by an explanation as to why the requirement in section 35(3)(b) could not be met by council. The request should be provided to the education director, who will then endorse and forward to the Director, Partnerships and Professional Practice Directorate, through the Site Governance Team.
3. The Chief Executive or delegate:
  - will approve the request and return the signed letter to the principal via email; or
  - will not approve the request and will advise council that the request has not been approved and the reasons for that. The council will need to reconsider and resubmit.