

Meeting of Patron's Representatives

Points to note in formation of new Boards of Management

Indemnification for Board Members: page 12

Section 14(7) of the Education Act, 1998 states "Except as provided by this Act, no action shall lie against a member of a Board in respect of anything done by that member in good faith and in pursuance of this Act or any regulations made by the Minister under this Act".

Composition of Boards: page 13

For schools having a recognised staff of more than one teacher the Board of Management shall, subject to section 3.4 and section 6 comprise the following:

- (a) Two direct nominees of the patron.
- (b) Two parents elected from parents of children who are enrolled and have commenced attendance at the school (one being a mother, the other a father, elected by the general body of parents of children who are enrolled and have commenced attendance at the school).
- (c) The principal (or acting principal) of the school.
- (d) One other serving teacher on the staff of the school, elected by vote of the teaching staff which includes the principal.
- (e) Two extra members proposed by those nominees, described at (a) to (d) above, acting in accordance with the process set out at Appendix C.

For schools having a recognised staff of one teacher the Board of Management shall, subject to section 3.4 and section 6 comprise the following: 1:1:1:1

Each Board is a separate legal entity and must manage its own school in accordance with the duties and functions of a board of management as set out in the Education Act, 1998 and in accordance with the provisions of this manual.

To ensure the widest possible representation on a Board, where practicable: page 16

- Board members should bear no direct relationship to each other or to any staff member,
- parents of children who are enrolled and have commenced attendance at the school should not be nominated or elected to the Board other than in accordance with sections 3.1 (b), 3.2 (b) or 3.3.2 (b) and
- the members from the community selected in accordance with Appendix C should be independent of the other categories of persons set out at section 3.1 (a) to (d), 3.2 (a) to (c), or 3.3.2 (a) to (d) as applicable.
- it is also a requirement that a person, other than the principals or, where it arises, the elected teacher nominee, who is employed by the board of management/ETB for the purposes of the school shall not be appointed to nor be a member of the board of management.

4. Procedure for the election and nomination of members of Boards of Management: page 18

4.1 In accordance with sections 8 and 14 of the Education Act, 1998 the patron is responsible for initiating the steps necessary for the establishment of a board of management in a primary school. The process for the election and appointment of a board of management can take up to nine weeks. To this end the patron requests a representative to arrange for the elections and nominations as set out in Appendices A, B and C. It is open to the patron to select the person of his or her choice for this purpose.

4.2 Except in special circumstances with the approval in writing of the Minister, or in the case of teacher members of the Board so far as their remuneration as teachers is concerned, no member of the Board shall take or hold any beneficial interest in any property held or used for the purposes of the school or receive any remuneration for his or her services as a member of the Board. However, a principal in receipt of an allowance for carrying out duties as secretary to the board of management shall be deemed as an exception in this instance due to his or her receipt of remuneration for the carrying out of these duties.

4.3 The patron's representative will arrange for a meeting of those elected/nominated as per the procedures in Appendices A and B. The purpose of this meeting will be to agree the nomination of extra member(s), as set out in Appendix C. This includes the Patron's Nominees.

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4.4 The patron's representative shall communicate to the patron the names of the persons duly elected/nominated in accordance with Appendices A, B and C.

4.5 The patron shall then formally appoint the board of management.

4.6 The patron shall appoint one of the members so appointed as chairperson of the board of management.

4.7 In all cases, in relation to the appointment of the Board the patron shall submit to the Department a fully completed declaration at Form 1 (formerly Appendix F) which complies in full with the requirements of this manual. Where Boards have been appointed under a shared governance arrangement in accordance with section 3.3 the declaration at Form 1 (formerly Appendix F) must be submitted for each of the schools. Where there is a change in chairperson during the term of office of a Board, the patron should notify the Department accordingly using the declaration at Form 1 (formerly Appendix F).

The contact details within the patron's declaration are required to be provided to the Minister to facilitate official communication and will not be used by the Department for any other purposes. Full details of the Department's data protection policy is available at www.education.ie

4.8 Except where the Minister communicates to the contrary, within 10 days of receipt of the information at 4.7, the Board will be deemed to be recognised by the Minister.

4.9 The first meeting of the Board must be held within one calendar month of the date of recognition of the Board by the Minister. Every member of the Board shall, at or before his or her first attendance at a meeting of the said Board, sign the declaration set out at Form 2 (formerly Appendix G) of his or her acceptance of membership of the Board and his or her undertaking that he or she will adhere to the rules pertaining to his or her duties as per the Governance Manual for Primary Schools 2019 – 2023 and all other relevant rules, regulations, legislation (including the Charities Act, 2009) and Departmental circulars relating to the membership and operation of the Board. Until the declaration at Form 2 (formerly Appendix G) is signed by a Board member, he or she shall not be entitled to act as a member of the Board.

4.10 The patron's representative dealing with a vacancy arising during the term of office of the Board need not necessarily be the same person who acted as patron's representative for the initial Board appointments.

Position in the event of failure to nominate the extra members from the Community in accordance with Appendix C: page 19

If there is a failure to appoint the extra members as provided under the process at Appendix C, the management of the school, under normal funding arrangements, shall revert to the patron who shall manage the school or nominate a manager/managers in accordance with section 14 of the Education Act, 1998.

Ineligibility: page 20

6.1 A person, other than the principal or, where it arises, the elected teacher nominee, who is employed by the board of management or ETB, and/or for the purposes of the school may not be appointed to nor be a member of the board of management.

A person shall not be eligible to be a member of a Board if that person: page 20

- (a) is an undischarged bankrupt,
- (b) makes a composition or arrangement with creditors under the protection or procedure of a court,
- (c) is convicted on indictment of an offence,
- (d) is sentenced to a term of imprisonment by a court of competent jurisdiction,
- (e) is disqualified or restricted from being a director of any company within the meaning of the Companies Acts, or is prohibited, removed or suspended from being a trustee of a scheme under the Pensions Act 1990 to 2008,
- (f) has been removed from the position of charity trustee of a charitable organisation by an order of the High Court under section 74 of the Charity Act, 2009,
- (g) has been placed on the Sex Offenders Register by order of a court.

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The Department has consulted with the Charities Regulator and the ineligibility provision's set out in (a) to (f) of this section align with the requirements of section 55(1) of the Charities Act, 2009.

Where a school principal is ineligible to be a member of the Board under section 55(1) of the Charities Act, 2009 the principal shall not be a member and shall not act as secretary to the Board for the duration of the period during which he or she is ineligible to serve on the Board. For the period of ineligibility the principal's position on the Board shall remain vacant, however the principal should be present at board meetings to assist the Board in the conduct of its business. page 20

Confidentiality: page 25

Individual members of the Board are required to keep the matters discussed at meetings including all documents drafted and disseminated to Board members confidential unless otherwise agreed by the Board.

Note: Board members are not delegates of their electorates. They have no obligation to either report back to their electors or to take instruction from them on how to vote at board meetings. Such reporting may be a breach of confidentiality requirements. It is a matter for each Board to decide what may be reported and by whom and, in this respect, it is essential that personnel, financial and personal matters are dealt with in line with relevant confidentiality requirements.

Decisions arrived at by consensus or by vote are decisions of the Board. Individual members of the Board are obliged to keep the matters discussed at meetings confidential, unless otherwise agreed by the Board and where so agreed, members of the Board must not publicly criticise or make any negative public comment about Board decisions, irrespective of their own personal views on the matter.

Section 9.3 provides for the Board to put in place an agreed report to support good communications to parents, staff and the school community. The agreed report shall not include details of any issues which must remain confidential to Board members.

The Chairperson:

10.1 Each board of management shall have a chairperson, who shall be entitled to vote and who in the event of a tied vote shall also have a second and casting vote.

10.2 The chairperson shall be appointed by the patron and his or her authority shall derive from such appointment. In exercising this function the patron may give due consideration to the opportunity to engage in a consultative process within the school community and/or with members of the Board.

The patron, in appointing an individual as chairperson shall also give due consideration to the possibility of perceived conflicts of interest in holding the position of chairperson and shall have regard to the individual's capacity to undertake the duties of the role.

10.3 The principal or elected teacher nominee shall not be eligible for appointment as chairperson/acting chairperson. In addition, the chairperson/acting chairperson should, where practicable, bear no direct relationship to any serving staff member or Board member.

10.4 In the absence of a chairperson from a particular meeting or where the chairperson, on account of a conflict of interest, withdraws from a meeting or part thereof, the Board shall elect an acting chairperson to preside at that meeting only or part thereof only, as appropriate. Otherwise, the patron shall appoint a new or acting chairperson where the circumstances require it (e.g. due to the long-term absence of the chairperson).

10.5 The Board may authorise the chairperson, and/or another member, in respect of a particular function or functions, to act on its behalf for a specified period of time.

10.6 In schools other than community national schools the Board shall authorise the chairperson to act on behalf of the Board in entering into an agreement with each new staff member appointed to the staff of the school. In community national schools, the ETB enters into an agreement with each new staff member appointed.

10.7 In schools other than community national schools the chairperson or where applicable, the principal (with the permission of the chairperson) shall act on behalf of the Board in certifying the school returns and other official forms as required. In community national schools the principal and

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the Chief Executive (or their delegated officer) shall certify the school returns and other official forms as required.

10.8 The Rules for National Schools state that managers should visit their schools and satisfy themselves that the Rules are being complied with; this requirement shall be fulfilled by the chairperson of the board of management/manager(s). Board members may also visit their schools; however such visits must only be undertaken where official Board business is being conducted and as authorised by the chairperson of the Board.

Correspondence:

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The chairperson shall act as correspondent for the Board with the Department and all others. The chairperson may, however, nominate the principal to act as correspondent in his or her absence, where necessary. However, any correspondence indicating that it is being sent to the chairperson in a private and confidential manner should not be opened by any person other than the chairperson.

Patron's Nominees:

The Patron nominates his two nominees-this can be done at any time prior to the process for the selection of the community nominee(s).

Appendix A - Procedure for the nomination/election of a person who will be nominated to the Patron for appointment as a Teacher nominee:

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- 1 A meeting of teaching staff should be held for the purpose of selecting the teacher who will be nominated to the patron for appointment as teacher nominee on the board of management. At least ten days' notice of such a meeting shall be given in writing to each person entitled to vote at such a meeting.
- 2 At the meeting, nominations shall be invited from among the serving teachers, including the principal who also has a vote. For this purpose, serving teachers may self-nominate and shall be taken to mean teachers serving in the school in a permanent capacity or in a fixed-term (full-time or part-time) capacity where the term of appointment is six months or greater. A serving teacher employed by more than one school is eligible to nominate, vote and/or be nominated in each of the schools in which they are employed.
- 3 The following teachers are not eligible to nominate, vote and or be nominated:
 - a) teachers (including substitutes) whose term of appointment is less than six months*;
 - b) teachers on career break;
 - c) teachers on secondment;
 - d) teachers on service overseas.*Such a teacher may, however, be regarded as a serving teacher in circumstances where otherwise it is not possible to nominate/elect a serving teacher (other than the principal/acting principal) to the Board.
4. Each nomination must be seconded.
5. If there is only one nomination, the person nominated shall be deemed to be elected.
6. If there is more than one nomination, a secret ballot shall be held at the meeting, in which case two tellers shall be appointed.
7. The vote shall be counted in public at the meeting and the result of the ballot shall be notified to the staff and to the patron's representative.
8. In the event of a tied vote between nominees, the election of the teacher nominee shall be determined by the drawing of lots.
9. In the case of a two teacher school, the classroom teacher automatically becomes the nominee to the patron for appointment as teacher nominee, unless the school is a base school for a resource or learning support teacher in which case the procedure set out at 1 – 8 of this appendix applies. This provision of Appendix A does not apply where a shared governance arrangement in accordance with section 3.3 of this manual is being put in place.
10. In relation to the two teacher members on boards of management for Convent and Monastery Schools the position shall be that if the principal be a religious person, the elected teacher member shall be a lay

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person and, if the principal be a lay person, it is recommended that the elected teacher member shall be a religious person.

11. The procedure set out at 1 - 10 of this appendix shall be used to fill any teacher nominee vacancy including a replacement teacher nominee to fill the vacancy created by the first teacher nominee taking up the position of acting principal.

Appendix B - Procedures for the nomination/election of a Parent(s) for appointment by the Patron as a Parent nominee(s) to the Board: page 56

This procedure should be used for the initial selection of a parent nominee(s) and in the case of any by-election held following consultation with the parents' association.

The method of election of parent nominees shall be determined in consultation with the parent nominees on the outgoing Board and any parents' association in the school.

There is a choice of two procedures which apply*.

These are set out at options 1 and 2 of this appendix. Only one of the options can be applied. The chosen option must be followed in its entirety. At the conclusion of the process the patron's representative shall inform the patron which option has been used and shall confirm that the procedures under the chosen option have been adhered to in full.

Option 1 requires letters to be sent to parents inviting them to a meeting at which parental nominations will be sought. It should be explained in the letter whether the nominees will be elected at the meeting or by postal ballot afterwards. If there is only one nominee for either panel, such person is deemed elected. If there is a tied vote at the meeting, it may be agreed by everyone that there will be a further vote between the two tied candidates. Otherwise a tied vote will be decided by drawing lots.

Option 2 requires letters to be sent to parents seeking nominations for the mother and father nominee positions. When a list of nominations has been prepared, a further letter is sent to parents, asking them each to nominate one of the fathers on the list and one of the mothers on the list for election to the board of management. If only one nomination is received for either panel, that person is deemed elected. If more than one nomination is received, a further ballot will be required.

Votes are required to be counted in public. Nominees will be required to sign a consent form in relation to personal information being shared with other parents. It should be noted that Appendix B provides that a parent nominee on a board of management may be a member of the parents' association committee, but should not hold a position of office on the parents' association committee.

To ensure the widest possible representation, where practicable:

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- both parents should be from separate families and bear no relationship to any other member of the Board or staff member and be elected by the general body of parents of children who are enrolled and have commenced attendance at the school.
- parents who have children enrolled and have commenced attendance at the school should not be nominated or elected to the Board other than in accordance with section 3.1 (b) or 3.2 (b) or 3.3.2 (b) of this manual.
- Parents of children who are enrolled and have commenced attendance at the school from junior infants to sixth class inclusive are eligible for nomination and election to the Board.

Vacancies among Parent nominees:

When a vacancy occurs among parent nominees, the board of management having consulted with the parents' association may recommend to the patron either;

- (a) co-option or

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(b) by-election.

Note: A parent nominee on a board of management while they can be a member of the parents' association committee, they should not hold a position of office on the parents' association committee.

Data Protection and GDPR:

page 57

When circulating details of nominees put forward for appointment as parent nominees on a Board, the patron's representative and parents' association should exercise vigilance and be aware of their obligations arising from the GDPR and Data Protection Acts and the need to ensure full compliance with the Acts in relation to the collection, use, retention, security and disclosure of any processed personal data.

It should be noted that parents' names must not be circulated without prior consent – See Option 2

(2) of this appendix.

The Acts are designed to protect the privacy of individuals with regard to personal data and to give effect in this country to the EU General Data Protection Regulation (GDPR).

Appendix C - Procedure for the selection of a member(s) from the Community for appointment to the Board:

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(This process shall also apply, mutatis mutandis, for the selection of one extra member in the case of Boards of schools with only one teacher or for the selection of three extra members where a shared governance arrangement in accordance with section 3.3 of this manual is being put in place.)

1. The patron's representative shall convene a meeting of the two nominees of the patron, the two elected parent nominees, the elected teacher nominee and the principal.
2. This meeting of the 6 nominees to the Board shall be convened within seven days of the completion of the election processes set out in Appendices A and B.
3. At this meeting, having discussed the skill needs of the Board, in line with the criteria set out at point 4 below, for the effective management of the school, the 6 nominees/members shall propose two extra members from the wider community, agreed unanimously amongst them, to the patron for appointment. To ensure the widest possible representation, where practicable, the two selected members from the community should be independent of the other categories of persons on the Board (see section 3.1 or 3.2 or 3.3 of this manual).

Every effort shall be made to reach unanimous agreement. However, if the members are experiencing difficulty in this regard they may hold further meetings in order to facilitate the process. A maximum of three such meetings is recommended.

In the event that it is not possible to get unanimous agreement by the third meeting, a majority of 5 to 1 (8 to 1 in the case of a shared governance arrangement) of the members shall propose two extra members from the wider community to the patron for appointment. These discussions, including the three recommended meetings, shall conclude within ten days. It would be expedient for the members to identify those other persons who might be approached in the event that those initially selected decline the invitation. The members should determine the order in which the persons selected will be approached. The period for agreement on the selection of the two extra members may be extended from ten days to an absolute maximum of seventeen days but only where the two persons initially selected decline.

If there is failure by the majority of the members to nominate the two extra members as set out above, the patron shall appoint two members from the persons originally considered by the Board for nomination.

4. The criteria to be applied in selecting persons to act as Board members from the community shall be:
 - (a) Persons nominated shall possess skills complementary to the Board's skill requirements.
 - (b) Persons shall be nominated with a consciousness of having a gender balance on the Board.

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(c) Persons nominated shall be **interested in education** and its promotion but would not normally be parents of pupils attending the school.

(d) In addition to (a), (b) and (c), the following criteria shall be applied as appropriate:

In the case of Roman Catholic primary schools:

(i) Persons nominated shall have a **commitment to the ethos** of the school and the community/parish served by the school and shall have an understanding of and commitment to Catholic education as outlined in the Deed of Trust for Catholic Schools.

(ii) In the case of Roman Catholic Gaelscoileanna/Gaeltacht schools, people nominated shall also have an understanding of and **commitment to the ethos** of the school. It is also expected that those nominated shall have a **good knowledge of the Irish language**.

5 The patron's representative shall immediately **establish the willingness** of the nominees to act.

6. **When the nominees have been chosen and it has been confirmed that they have agreed to act as members, the patron's representative shall forward the names of the agreed nominees to the patron for appointment together with the names of the other persons nominated to serve on the Board. It should be noted that the total period provided for notification of the composition of the Board to the patron, acceptance by the patron and notification to the Minister shall not exceed ten days.**

7. In the event of a vacancy the remaining members of the Board should propose a name to the patron for appointment using the criteria at section 4 of Appendix C **within one month of the vacancy occurring.**

In any case where vacancies on the Board result in the membership falling below the number required for a quorum, the Board shall cease to exist and the exercise of the functions of the Board shall revert to the patron who shall manage the school or appoint a manager/managers in accordance with section 14 of the Education Act, 1998. In such cases, the patron shall, as soon as it is practicable to do so, appoint a new board of management in accordance with the relevant provisions of this manual. The quorum of the Board is set out in section 13.3 (c) of this manual.