# MANAGING SCHOOL COUNCIL CONDUCT

## School council governance legislative framework

School councils in Victoria are public entities as defined in the *Public Administration Act 2004*. School councillors must abide by the Code of Conduct for Directors of Victorian Public Entities – the Code of Conduct, issued by the Victorian Public Sector Commissioner. The Code of Conduct is based on the Victorian Public Sector Values.

* Part 2.3 of the Education and Training Reform Act 2006 (ETRA) deals with the establishment, governance, performance and accountability of school councils. The Minister has extensive powers and functions in respect of school councils.
* Section 2.3.7(1) of the ETRA provides that school councils are legally accountable to the Minister in respect of the performance of their duties, powers and function.
* The Secretary supports this accountability framework through obligations under section 2.3.7(3) of the ETRA to put in place “an effective quality assurance regime” for school council financial and operational activities.

## Avoiding or preventing conflict on school council

Under section 2.3.4 of the ETRA, the school council’s objectives include:

* assisting in the efficient governance of the school;
* ensuring that the council’s decisions affecting students are made having regard to the best interests of the students;
* enhancing the educational opportunities of students; and
* ensuring the school council adheres to all legal and Department requirements.

School councils do this through their functions, as detailed in section 2.3.5 of the ETRA. These functions require the individuals who collectively make up a council to negotiate and agree upon actions. Therefore, it is not unusual for conflicts to arise. In an environment where mutual trust and respect prevail, it can be a positive force. It can encourage people to find creative solutions, clarify an issue, increase the involvement of members, encourage growth, and strengthen relationships. However, conflict can also divert energy from the group, affect morale and create disharmony.

Conflict can often be avoided and solutions more readily achieved when positive working relationships exist. It is important that council members take the time to get to know each other’s values, beliefs, and interests and to develop trust and helpful working relationships. The use of good communication skills will help clarify the council’s discussions and prevent misunderstanding. Conflict can be effectively managed if:

* councillors have a clear understanding of their roles and responsibilities
* the council has a clear set of Standing Orders
* clear expectations for behaviour are established – refer to the Code of Conduct for councillors as issued by the Victorian Public Sector Commissioner
* meetings are chaired in a firm, positive, constructive manner
* a clear well set out agenda is established
* discussions at meetings are focussed on school council matters
* each councillor’s concerns are considered legitimate
* the council has a regular process of self-reflection
* agreements and new understandings are acknowledged

## Managing conflict and the conduct of meetings

Some school councils will, at times, have members expressing strong conflicting views and there may be occasions where individual members are not working cooperatively with other councillors. It is for the chairperson (normally the president) to manage any conflict or conduct issues that arise during the course of a meeting.

The principal is responsible for managing any conflicts that extend beyond the meeting.

Some strategies for the chairperson/president dealing with difficult situations include:

* dealing respectfully with all comments and contributions
* using clearly understood protocols to ensure all councillors are heard
* stopping one individual dominating the meeting
* bringing the discussion back to school council’s core objectives – assisting in the efficient governance of the school; ensuring that its decisions affecting students of the school are made having regard, as a primary consideration, to the best interests of the students; enhancing the educational opportunities of students of the school; and ensuring the school and the school council complies with its legal obligations
* referring the matter for consideration by a sub-committee, or to a future meeting of the school council
* anticipating matters that might result in conflict between members and introducing them in a way to minimise tension
* being prepared to let an aggrieved council member express their view, but then being prepared to bring the debate to a conclusion
* reminding members of the Code of Conduct for school council members
* remaining objective and treating an individual’s grievance as legitimate, in accordance with the principles of natural justice.

## Attempting to manage school council conflict

When attempting to resolve school council member conflict, there are a range of options available. The school principal as the Executive Officer of school council should contact their Regional Office in the first instance to seek advice on how to move forward. It is also possible that, in spite of all efforts of a council to be productive and to work as a team, some council members may remain polarised on particular issues and it is difficult to move forward or make decisions.

The following options are recommended as a way of managing school council conflict.

### Internal resolution

This involves council members reflecting on and discussing the problem. All members should be prepared and encouraged to state their concerns and viewpoints. It is imperative that council members are allowed to clearly express how they wish to resolve problems. All proposed solutions must be attentively listened to and acknowledged. The process should conclude with a consensus on how to move forward. This may involve the council as a whole or the president and/or principal, or (failing that) the Regional Office, attempting to engage with disputing council members to try and reach a resolution.

### Resolution led by the Regional Office

If internal resolution fails to resolve the issue, the school’s Senior Education and Improvement Leader (SEIL) should be called upon to engage with disputing council members by:

* + acknowledging the conflict exists and determining the source of the conflict
  + planning on how to deal with the conflict – this would involve all council members reflecting on the problem and being prepared to state their concerns and viewpoints
  + allowing council members to clearly express how they wish to resolve problems and making sure that their proposed solutions are listened to and acknowledged
  + building consensus to arrive at a positive solution for all council members involved.

In the event that this fails to resolve the problem, the SEIL may recommend education and training as a means of moving forward. Depending on the issue, this may involve:

* + in relation to the whole council, attending governance training including effective governance, roles and responsibilities and the Code of Conduct for school councillors. Council members must conduct themselves with honestly, integrity and in good faith in the best interests of the council (which could include for example under section 79 of the Public Administration Act 2004);
  + support for the president including training on the characteristics of an effective school council, relationships, managing conflict and the conduct of meetings
  + in relation to the principal and/or president, training on behavioural management and dispute resolution
  + gender equality training with a focus on workplace issues.

### External mediation and conciliation

This would involve engaging an external mediator to assist in resolving the dispute using techniques as described as above. The [Dispute Settlement Centre of Victoria](https://www.disputes.vic.gov.au/) <www.disputes.vic.gov.au> provides free dispute resolution services across Victoria.

### Conducting a formal investigation

As a last resort, the council president and/ or principal may formally request that an investigation be conducted into a certain council member’s behaviour or the council as a whole. It should be noted that, depending on the situation, a SEIL may instigate an investigation at step 2.

The Regional Office on behalf of the Minister will manage the conduct of the investigation. When conducting an investigation, the investigator and the Regional Director must ensure that rules of procedural fairness and natural justice are complied with. The Department’s Legal Division can provide further advice on those issues as and when it is necessary. Depending on the outcome of any formal investigation, a recommendation may be made to the Minister that disciplinaryaction should be taken which may include that the membership of the member of the school council is suspended or terminated.

## What if a council member refuses to participate in steps 1–3?

Council members should be informed at step 1 that, any investigation conducted, as a last resort could lead to a recommendation to the Minister that their membership is suspended or terminated.

There is no explicit legislative power to require council members to mediate or undertake training.

Regional Office should keep a record of all communications with any council members. This includes letters, correspondence, file notes and any strategies that were recommended to the council. In addition, a record of any training undertaken should also be kept on file, as this will be important if a formal investigation is conducted.

# MANAGING SCHOOL COUNCIL MISCONDUCT

## Code of conduct for school councillors

School councillors must abide by the Code of Conduct issued by the Victorian Public Sector Commissioner. The Code of Conduct is based on the Victorian Public Sector Values and requires councillors to:

* act with honesty and integrity – be truthful, open and clear about their motives and declare any real, potential or perceived conflict of interest and duty
* act in good faith in the best interests of the school – work cooperatively with other councillors and the school community, be reasonable, and make all decisions with the best interests of students foremost in their minds
* act fairly and impartially – consider all relevant facts of an issue before making a decision, seek to have a balanced view, never give special treatment to a person or group and never act from self-interest
* use information appropriately – respect confidentiality and use information for the purpose for which it was made available
* use their position appropriately – not use their position as a councillor to gain an advantage
* act in a financially responsible manner – observe all the above principles when making financial decisions
* exercise due care, diligence and skill – accept responsibility for decisions and do what is best for the school
* comply with relevant legislation and policies – know what legislation and policies are relevant for which decisions and obey the law
* demonstrate leadership and stewardship – set a good example, encourage a culture of accountability, manage risks effectively, and exercise care and responsibility to keep the school strong and sustainable.

## The Department’s values and the code of conduct for Victorian public sector employees

DET has adopted the Victorian Public Sector Values as the Department's values. These are set out in the Code of Conduct for Victorian Public Sector Employees – the Public Sector Values.

DET’s Values are:

* Responsiveness
* Integrity
* Impartiality
* Accountability
* Respect
* Leadership
* Human Rights.

The Code is binding on all public sector employees, including all staff working in Victorian Government schools. This means all employees are required to demonstrate the Values in their work.

A failure to uphold the Department’s Values can result in employment action for the individuals concerned, reputation damage for the Department and government, and undermines confidence in democracy. The government’s immediate response to serious breaches of the Code is more monitoring and controls over the public sector. For this reason, employees within the Department must have higher standards than the private or even not-for-profit sectors, and be beyond reproach.

## What is misconduct?

A failure to behave in the ways described in the Code may be considered misconduct and in the most serious cases may lead to suspension or removal from office or school council.

Some examples of misconduct include:

* verbal abuse or harassment of other council members or the chairperson
* constantly interrupting speakers
* interjecting or making derogatory comments at a council meeting
* speaking against council decisions within the community
* breaching confidentiality
* disrespecting the differing points of view posed by other members of the council
* demeaning or disparaging comments / emails with regard to other council members.
* failure to declare any conflicts of interest
* displaying behaviour that is inappropriate for adults entrusted to represent their school community and work towards desirable outcomes for the students in the school
* improper use of school council information.

The school council president and the principal should be mindful of council members acting contrary to the Code of Conduct within meetings or speaking against council decisions to members of the community. School principals should contact their Regional Office in the first instance to seek advice on how to move forward.

The following options are recommended as a way of managing school council misconduct.

### Misconduct within the meeting

The school council president should remind the councillor/s of their obligations under the Code of Conduct. Depending on the nature of the misconduct if it continues the person presiding at the meeting has the authority to close the meeting and the principal as the occupier of the school property has the legal authority to demand and require members to leave the school property.

### Follow up meeting

The principal and the president may need to meet the individual/s separately and remind them of their specific obligations under the Code of Conduct, as well as respecting the school’s values and the behavioural requirements outlined in the council’s Standing Orders.

### Misconduct escalates or continues

The principal with support from the SEIL should meet with the councillor/s outlining that their behaviours are contrary to the Code of Conduct and any continuation of such behaviours may result in an investigation which may result in a recommendation to the Minister that disciplinary action should be taken. A letter of warning may be also appropriate at this time.

### Conducting a formal investigation

As a last resort, the council president and/or principal may formally request that an investigation be conducted into a certain council member or council’s behaviour. Note that, depending on the situation, a SEIL may instigate an investigation at step 3.

The Regional Office on behalf of the Minister will manage the conduct of the investigation. When conducting an investigation, the investigator and the Regional Director must ensure that rules of procedural fairness and natural justice are complied with. The Department’s Legal Division can provide further advice on those issues as and when it is necessary. Depending on the outcome of any formal investigation, a recommendation may be made to the Minister that disciplinaryaction should be taken which may include that the membership of the member of the school council is suspended or terminated.

## Misconduct steps

Step 1 Internal management

* Attempt to manage the issues at a council meeting.
* Remind councillors of their obligations under the Code of Conduct and the council Standing Orders.

Step 2 Internal management

* Principal and school council president meet the individual/s separately and remind them of their specific obligations under the Code of Conduct and the council Standing Orders.

Step 3 Regional involvement – escalation/continuation of misconduct

* SEIL liaises with the School Operations and Governance Unit, RSG to discuss the matters and possible options.
* SEIL and the principal should meet with the councillor/s outlining that their behaviours are contrary to the Code of Conduct and continuation of such behaviours may result in an investigation. This in turn may result in a recommendation to the Minister that disciplinary action be taken.
* A letter of warning may be appropriate at this time.

Step 4 Conducting a formal investigation

* The Regional Office will manage the investigation. The SEIL will inform the School Operations and Governance Unit, RSG of the progress of the investigation.
* If required, the Regional Office will liaise with Legal Division on legal issues for example, rules of procedural fairness and natural justice.
* Formal investigation initiated and depending on the outcome a recommendation may be made to the Minister that disciplinary action should be taken which may include the suspension or termination of the membership of the school councillor/s.

## Resources

[Education and Training Reform Act 2006](http://www.austlii.edu.au/au/legis/vic/consol_act/eatra2006273/)

<https://www.education.vic.gov.au/about/department/legislation/Pages/act2006regs.aspx>

[Education and Training Regulations 2017](https://www.education.vic.gov.au/about/department/legislation/Pages/act2006regs.aspx)

<https://www.education.vic.gov.au/about/department/legislation/Pages/act2006regs.aspx>

[Victorian Public Sector Commission Codes and Standards - Director's Code of Conduct](https://vpsc.vic.gov.au/resources/code-of-conduct-for-directors/)

<https://vpsc.vic.gov.au/resources/code-of-conduct-for-directors/>

[School councils](https://www.education.vic.gov.au/school/teachers/management/community/Pages/schoolcouncils.aspx)

<https://www.education.vic.gov.au/school/teachers/management/community/Pages/schoolcouncils.aspx>

[Governance – School Policy and Advisory Guide](https://www.education.vic.gov.au/school/principals/spag/governance/pages/governance.aspx)

<https://www.education.vic.gov.au/school/principals/spag/governance/pages/governance.aspx>

[Conflict Resolution Support Service](https://www.education.vic.gov.au/Documents/school/principals/management/conflictresolutionflyer.pdf)

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