



Victoria Government Gazette

No. S 156 Wednesday 4 April 2018
By Authority of Victorian Government Printer

Education and Training Reform Act 2006

MINISTERIAL ORDER NO. 1098

Order Amending the School Council Constituting Orders
of all Government School Councils

1. Purpose

The purpose of this Order is to amend the constituting orders of the school councils of all Government schools.

2. Authorising provisions

This Order is made under section 2.3.2(6) of the **Education and Training Reform Act 2006**.

3. Definitions

“Constituting Orders” means the constituting Orders of the school councils of all Government schools.

4. Commencement

This Order comes into operation on the day after it is made.

5. Amendments to the Composition and Election Provisions

The Composition and Election Provisions of the Constituting Orders are amended as follows:

Clause 5A – Definitions

In clause 5A.1 after the definition of “electorate of the school” insert:

““Exempt school council”, in respect of the requirement for a school council to include a “student member” category, means:

- (a) a school council of a Government school that only provides primary school education;
- (b) a school council of a Government school listed in *Schedule 2A*; or
- (c) a school council of a Government school which the Secretary has exempted in accordance with clause 5B.3A(c).”

In clause 5A.1 after the definition of “school year commencement date” insert:

“Secondary school student electorate of the school” means all persons who are students of the school that are enrolled in year 7 or above.

“Secretary” means the Secretary to the Department.

“Small school” means a school with less than 30 students enrolled in year 7 and above other than a school listed in *Schedule 2A*.

“Special school” means a special school or other school providing solely for students with disabilities other than a school listed in *Schedule 2A*.

“Rural school” means a rural school other than a school listed in *Schedule 2A*.

In clause 5A.6 omit all words after “including” and substitute, “in an acting capacity) as president of the school council.”.

After clause 5A.6 insert:

- 5A.7 A student is not eligible to serve (including in an acting capacity) as president, vice president or treasurer of the school council.

Clause 5B – Composition of the school council

In the clause heading to clause 5B.2 before “membership categories” insert “Variable”.

SPECIAL

After clause 5B.2, insert:

Clause 5B.2A – Fixed membership category – “student member” category

The total number of members in this category for the school council of a secondary school (other than an exempt school council) is two.

Omit clause 5B.3 and substitute:

5B.3 General rules applying to membership categories

(a) *“Parent member” category*

More than one third of the school council’s total membership must comprise members elected to this category. Members of the Parent electorate of the school are eligible for election to this category, according to this Order. No other persons are eligible for election to this category.

(b) *“Department employee member” category*

Members elected to the Department employee member category must not comprise more than one third of the school council’s total membership. The principal is an ex-officio member of the school council and counted in this category and in that one third.

Persons (other than the principal) must be elected to this category according to this Order. To be eligible for election to this category, a person must be a member of the Department employee electorate of the school.

(c) *“Community member” category*

These members are co-opted by the school council for the period up to the declaration of the poll in the second calendar year following the year of the co-option.

Any person may be co-opted by the school council to this category other than a Department employee.

(d) *“Student member” category*

Only members of the secondary school student electorate of the school are eligible for election to this category, according to this Order.

In this clause and in clause 5B.4(b) a reference to the “school council’s total membership” means the number listed immediately before the letter “T” appearing opposite the name of the school in *Schedule 1*, where that number excludes the students elected to the Student member category.

In subclause 5B.3A after “5B.2” insert “, 5B.2A”.

At the end of paragraph (b) in clause 5B.3A, omit “.” and substitute “; and”.

After paragraph (b) in clause 5B.3A, insert:

- (c) the school council of a secondary school may apply to the Secretary for an exemption from the requirements in this Order relating to the election of student members for a period not exceeding two years if the school council is required to include a “student member” category and the Secretary may grant an exemption if the Secretary is satisfied it is appropriate to do so because of exceptional circumstances, including if the school is a small school, a rural school or a special school. An application must be submitted to the Secretary, in accordance with the Secretary’s exemption policy, by the end of term 4 in the year before the exemption is proposed to commence. The Secretary must respond to an application made in accordance with this paragraph by the beginning of term 1 in the following year. If the Secretary grants an exemption, the exemption operates for the period specified in the exemption unless it is revoked earlier.

Omit clause 5B.4 and substitute:

In respect of any variable membership category, the school council may approve a change to the total number of school council members (noting that total excludes the elected Student members) and/or the composition of the school council once in any 12 month period provided that:

- (a) one of the options in the school council membership table in *Schedule 2* is selected; and
- (b) the proposed change to the total number of school council members and/or the composition of the school council is approved by a minimum 75% majority vote of the school council's total membership.

Clause 5E – Notice of election and nominations

In clause 5E.1(c) omit “or 5D” and substitute “, 5D, 5E or 5F”.

Omit clause 5E.3 and substitute:

5E.3 A candidate standing for election to a particular member category may be nominated by:

- (a) a member of the electorate for the same member category as the candidate; or
- (b) the candidate themselves.

Clause 5H – Prohibited activities

After clause 5H.2 insert:

“5H.3 Despite clauses 5H.1 and 5H.2, if the principal declares an eligible member of the secondary school student electorate of the school to be a candidate for the Student member category, the candidate may distribute or post campaign literature in the school if school policy determined by the principal permits them to do so.

Clause 5K – Number of vacancies equals nominations

After clause 5K.3 insert:

5K.3A If at the time fixed for the closing of nominations for elected positions, the number of vacancies in the Student member category is greater than zero and equals the number of candidates nominated, the principal must:

- (a) declare each of those candidates to be elected; and
- (b) inform the school community.

In clause 5K.5 after “5K.1” insert “, 5K.3A”.

In clause 5K.5 at the end of paragraph (a) omit “and”.

In clause 5K.5 at the end of paragraph (b) omit “,” and substitute “; and”.

In clause 5K.5 after paragraph (b) insert:

- (c) the number of vacancies in the Student member category equals the number of candidates nominated;

Clause 5L – Number of vacancies greater than nominations

After clause 5L.5 insert:

5L.5A If at the time fixed for the closing of nominations for elected positions, the number of vacancies in the Student member category is greater than the number of candidates nominated, the principal must immediately post in a prominent position in the school a notice stating that insufficient nominations have been received and calling for further nominations to be submitted in respect of candidates standing for election to the Student member category, within three school days from the date of the closing of the first Call for Nominations.

5L.5B At the expiration of the further three school days, the principal must consider all nominations received in response to both Calls for Nominations and declare any nominee who is eligible to be a candidate for the Student member category.

5L.5C If the number of candidates declared under clause 5L.5B does not exceed the number of vacancies in the Student member category, the principal must declare the eligible candidates to be elected. Where one candidate is declared under this clause to be elected to the Student member category, any remaining vacant position in that category is to be filled in accordance with clause 5L.6.

Clause 5M – Number of vacancies less than nominations

In paragraph (a) of clause 5M.4 after “Parent member category)” omit “ or” and substitute “ ,”.

In paragraph (a) of clause 5M.4 after “Department employee member category)” insert “or *Schedule 6D* (if the election is in relation to the Student member category)”.

After clause 5M.5 insert:

5M.5A If the number of vacancies in the Student member category is greater than zero and is less than the number of candidates declared by the principal in accordance with clause 5L.5B, then the principal must hold an election under clause 5M.4 in respect of the vacancies in the Student member category, and that election must be held at the same time as any other election required to be held in accordance with clause 5M.4.

After clause 5M.6 insert:

5M.6A If:

- (a) at the time fixed for the closing of nominations for elected positions, the number of vacancies in the Student member category is greater than zero and less than the number of eligible candidates seeking election in the Student member category; and
- (b) a clause of this Order requires the principal to hold an election under clause 5M.8.

the principal must hold an election in accordance with clause 5M.10 in respect of those vacancies, and that election must be held at the same time as any other election required to be held under clauses 5M.8 or 5M.9.

In paragraph (a) of clause 5M.10 after “Parent member category)” omit “ or” and substitute “ ,”.

In paragraph (a) of clause 5M.10 after “Department employee member category)” insert “or *Schedule 6D* (if the election is in relation to the Student member category)”.

In paragraph (c) of clause 5M.10 omit “Parent electorate of the school, of the Department employee electorate of the school, or both those electorates,” and substitute “relevant electorate or electorates of the school”.

Clause 5N – Declaration of the poll

In subparagraph (a)(i) of clause 5N.6 after “Parent member category (if any),” omit “and”.

In subparagraph (a)(i) of clause 5N.6 after “Department employee member category (if any),” insert “and the candidates standing for election to the Student member category (if any),”.

After paragraph (e) of clause 5N.7 insert:

- (f) The principal must formally declare to be elected as members of the Student member category of the school council the highest ranking candidates up to the number of vacancies to be filled in the Student member category.

Clause 5O – Next steps after declaration of the poll

In paragraph (c) of clause 5O.2 after “Department employee electorate of the school” omit “and by” and substitute “;”.

In paragraph (c) of clause 5O.2 after “Parent electorate of the school” insert “and the Secondary school student electorate of the school”.

Clause 5P – Voting

After paragraph (b) of clause 5P.1 insert:

- (c) Each voter in the secondary school student electorate of the school must complete a ballot paper by placing a mark next to the name of each candidate for whom the voter wishes to vote.

At the end of subparagraph (b)(ii) of clause 5P.2 omit “;” and substitute “; or”.

After subparagraph (b)(ii) of clause 5P.2 insert:

- (iii) against the list of names under the heading “Candidates nominated for election to the Student member category” in *Schedule 6D*,

After paragraph (b) of clause 5P.5 insert:

- (c) Only members of the secondary school student electorate may vote for candidates standing for election to the Student member category of the school council.

Clause 5R – Creation of casual vacancies

In paragraph (g) of clause 5R.1 after “clause 5B.3(c)” insert “; or who being elected or co-opted to the Student member category ceases to be eligible for election to this membership category under clause 5B.3(d)”.

After paragraph (i) in clause 5R.1 insert:

“(ia) in the Student member category goes on any form of leave from the school (including an exchange) for a period of more than six months;”.

At the end of paragraph (j) in clause 5R.1 omit “or”.

After paragraph (j) in clause 5R.1 insert:

“(ja) in the Community member category becomes a Student member during their term of office; or”

In clause 5R.2 omit all words after “that student’s year level” and insert:

“and:

- (a) the student’s parent had been elected or co-opted to the Parent member category, the parent may continue to be a member of the school council until the next school council election; or
- (b) the student had been elected or co-opted to the Student member category and the student was a year 12 student, the student may continue to be a member of the school council until the next school council election.”

Clause 5S – Filling casual vacancies

In clause 5S.1 omit all words after “Parent member category” and insert “, the Department employee member category, or the Student member category provided he or she is eligible to be elected to the relevant membership category.”.

Transitional provisions

After clause 5V insert:

“Clause 5W – Transitional provisions: exemptions relating to the election of Student members in 2018

5W Despite the timeframes specified in clause 5B.3A(c), the school council of a secondary school that is required to include a “student member” category may submit to the Secretary an application for an exemption from the requirements of this Order relating to the election of student members, in accordance with the Secretary’s exemption policy, by the end of week 4, term 2 in 2018. The Secretary must respond to an application otherwise made in accordance with clause 5B.3A(c) and this clause by the end of week 6, term 2 in 2018.

Clause 5X – Transitional provisions: terms of office of Student members elected in 2018

5X Despite clause 5C.2, the term of office for each Student member elected in 2018 under clause 5D.4 is as follows:

- (a) the member who receives the highest number of votes from the student member electorate is elected to serve a term of office from the date of their election to the date of the declaration of the poll for the election to be held in 2020.”
- (b) the member who receives the second highest number of votes from the student member electorate is elected to serve a term of office from the date of their election to the date of the declaration of the poll for the election to be held in 2019.

Clause 5Y – Transitional provisions: notice of election of Student members in 2018

5Y Despite clause 5D.3, in 2018 the election processes required under clauses 5D.1 and 5D.2 for the Student member category must be completed on or before 29 June 2018.

Clause 5Z – Transitional provisions: notification of Student members and office bearers in 2018

5Z Despite clause 5V.2, in 2018 upon the Student members and any office bearers being elected to the school council, the principal must:

- (a) inform the school community of the names of the members who are office bearers; and
- (b) inform the Secretary of the names and addresses of the members and any office bearers, by providing a notification in the form of *Schedule 7* to the appropriate regional office by 29 June 2018.

Clause 5ZA – Transitional provisions: school council properly constituted until election of Student members in 2018

5ZA Subject to clause 5U.5, in 2018 a school council is properly constituted until the completion of election processes in accordance with clauses 5D.1, 5D.2 and 5Y for the Student member category and the associated notification requirements in accordance with clause 5Z.”

6. Amendments to other SchedulesNew Schedule 2A

Before Schedule 3 insert:

Schedule 2A – “Student Member” category – Exempt school councils

For paragraph (b) of the definition of “exempt school council”, the specified schools are exempt.

A council for one of the following schools that provides secondary education:

- a. Blackburn English Language School
- b. Collingwood English Language School
- c. Noble Park English Language School
- d. Western English Language School
- e. Victorian School of Languages
- f. Sovereign Hill School
- g. The Alpine School
- h. Monash Children's Hospital School
- i. Royal Children's Hospital Education Institute
- j. Austin Hospital School
- k. Travancore School
- l. Yarra Me School
- m. Rubicon Outdoor Centre
- n. Parkville College
- o. Outdoor School
- p. Somers School Camp
- q. Distance Education Centre Victoria
- r. Avenues Education

Schedule 3 – Notice of election and call for nominations (for first school council election)

At the end of the table in Schedule 3, insert the following new row for the Student member category:

Student member	From the day after the date of the declaration of the poll in 20..... to and inclusive of the date of the declaration of the poll in 20.....	
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Schedule 4 – Notice of election and call for nominations

At the end of the table in Schedule 4, insert the following new row for the Student member category:

Student member	From the day after the date of the declaration of the poll in 20..... to and inclusive of the date of the declaration of the poll in 20.....	
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Schedules 5E and 5F –

After Schedule 5D insert:

School Council Elections – Schedule 5E

SELF-NOMINATION FORM FOR STUDENT MEMBER CATEGORY

I wish to declare my candidacy for an elected position as a student member on the school council.

Name:.....

Residential address:.....

Contact phone (mobile or landline):.....

Email:

I am currently enrolled at this school - Yes / No (please circle)

I am enrolled in year 7 or above at this school - Yes / No (please circle)

I have discussed standing for election to school council with my parents or guardians - Yes / No (please circle)

I have a sound understanding of the obligations and level of commitment required to participate on school council - Yes / No (please circle)

I am prepared to serve as a Student member of the above-named school council. I hereby declare that I am not:

- an undischarged bankrupt
- of unsound mind
- currently serving a sentence for an indictable offence; or
- a registrable offender within the meaning of the *Sex Offenders Registration Act 2004*.

Signature of Candidate: Date...../...../.....

You will be notified when your nomination has been received.

Personal information provided in this form is collected as part of the school council election nomination process. The information may be used to determine your eligibility as a candidate. Your personal information may be disclosed as a result of inspection prior to the commencement of voting or at any time up to one year from the declaration of the poll.

Your name will be included in a list of school council candidates and nominators (where applicable) posted in a prominent position at the school and for candidates, on a ballot paper (where applicable).

Further, the name, membership category, gender, term of office, office held (if any) of school council members and notification whether the member is an employee of the Department will be forwarded to the Department by the principal by 30 April each year as a record of council membership and may be used for statistical purposes.

You can access your personal information by contacting the principal on.....

If you choose not to give some or all of the information requested your nomination may not be accepted. If you have any queries about the school council nomination process, please contact the principal.

School Council Elections – Schedule 5F
NOMINATION FORM FOR STUDENT MEMBER CATEGORY

I wish to nominate..... for an elected position as a student member on the
 school council.

CANDIDATE’S DETAILS

Name.....

Residential address:.....

Contact phone (mobile or landline).....

Email.....

I am a student who is currently enrolled in year 7 or above at this school: Yes / No (please circle)

Name of Nominator.....

Signature of Nominator.....

Date..... /..... /.....

CANDIDATE TO COMPLETE:

I am currently enrolled in year 7 or above at this school:

Yes / No (please circle)

I have discussed standing for election to school council with my parents or guardians:

Yes / No (please circle)

I have a sound understanding of the obligations and level of commitment required to participate on school council:

Yes / No (please circle)

I accept the nomination and I am prepared to serve as a Student member of the above-named school council. I hereby declare that I am not:

- an undischarged bankrupt
- of unsound mind
- currently serving a sentence for an indictable offence
- a registrable offender within the meaning of the *Sex Offenders Registration Act 2004*.

Signature of Candidate..... Date..... /..... /.....

You will be notified when your nomination has been received.

Personal information provided in this form is collected as part of the school council election nomination process. The information may be used to determine your eligibility as a candidate and to nominate. Your personal information may be disclosed as a result of inspection prior to the commencement of voting or at any time up to one year from the declaration of the poll.

Your name will be included in a list of school council candidates and nominators (where applicable) posted in a prominent position at the school and for candidates, on a ballot paper (where applicable).

Further, the name, membership category, gender, term of office, office held (if any) of school council members and notification whether the member is an employee of the Department will be forwarded to the Department by the principal by 30 April each year as a record of council membership and may be used for statistical purposes.

You can access your personal information by contacting the principal on

If you choose not to give some or all of the information requested your nomination may not be accepted. If you have any queries about the school council nomination process, please contact the principal.

Schedule 6D –

After Schedule 5C insert:

School Council Elections – Schedule 6D

BALLOT PAPER for the SCHOOL COUNCIL OF.....

STUDENTS

Vote using this ballot paper if you are a **student** at the school enrolled in year 7 or above.

In the ballot, there are vacancies to be filled. Therefore, you may mark up to boxes in the ballot.	Candidates nominated for election to the Student member category:	

**YOUR VOTE WILL BE INVALID IF
YOU VOTE FOR MORE
CANDIDATES THAN THE NUMBER
OF VACANCIES TO BE FILLED.**

To **register your vote**, you must:

- Make a clear mark beside the name of the candidate/s
- Place the completed ballot paper in a blank envelope and either -
 - a) place the blank envelope in an envelope with your name and address on the back and post it to the principal in sufficient time for it to reach the principal by 4pm on, the closing day of the ballot, or deliver the envelope by hand to the school on any school day between 8am and 4pm up to the closing date; or
 - b) between 8am and 4pm on any school day up to the closing date, place the blank envelope containing your ballot paper into the ballot box and print your name and address on the register of voters.

Schedule 7 – School Council Membership Table

In the first row of the table in Schedule 7, after “Community []”, insert “Student []”.

At the end of the table in Schedule 7, insert the following new rows for the Student member category:

Student members

Ends at next election	1				
Ends at election in two years	2				

Schedule 8 – Nomination form receipt

In Schedule 8 omit “OR DET (delete one)” and substitute “OR DET OR student (delete two)”.

Dated 29 March 2018

THE HON. JAMES MERLINO MP
Minister for Education

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Level 2, 1 Macarthur Street
Melbourne 3002
Victoria Australia

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Ground Floor, Building 8,
658 Church Street,
Richmond 3121
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Telephone

(03) 8523 4601



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(03) 9600 0478

email

gazette@bluestargroup.com.au

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