



Government of South Australia

Department for Education and
Child Development

HAWTHORNDENE PRIMARY SCHOOL COUNCIL

MODEL CONSTITUTION

Issued March 2017

MINISTER FOR EDUCATION AND CHILD DEVELOPMENT

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SCHOOL COUNCIL MODEL CONSTITUTION

1 NAME

The name of the Council is Hawthorndene Primary School Council Incorporated

For example: Sunny Creek Primary School Council Inc

2 INTERPRETATION

In this constitution, unless the contrary intention appears:

'the Act' means the *Education Act 1972* as amended.

'administrative instructions' means administrative instructions issued pursuant to section 96 of the Act.

'adult' means a person who has attained 18 years of age.

'affiliated committee' means a committee affiliated with the Council, and the constitution of which is approved by the Minister in accordance with section 86 of the Act.

'Chairperson' means the presiding member of the Council as referred to in section 84(1)(a)(iii) & (iv) of the Act.

'Chief Executive' means the Chief Executive of the Department for Education and Child Development in accordance with section 11 of the Act.

'Council' means the (Hawthorndene Primary School Council Incorporated)

'councillors' are the members of the Council.

'Department' means the Department for Education and Child Development established pursuant to the *Public Sector Act 2009*.

'financial year' means the year ending 31 December or as varied by administrative instruction.

'general meeting' means a public meeting of the school community.

'Government school' means a school established under section 5 of the Act, for the purpose of providing courses of instruction in pre-school, primary or secondary education.

'majority' means more than half the total number.

'Minister' means the person to whom the administration of the Act is committed pursuant to the *Administrative Arrangements Act 1994*.

'parent' in relation to the school means the parent of a child attending the school and the parent of a child enrolled, but not yet attending, at the school.

'parent of a child' includes -

- (a) a person who has legal custody or guardianship of the child; and
- (b) a person standing *in loco parentis* to the child

but does not include a parent of the child where another parent or person has legal custody or guardianship of the child to the exclusion of that parent.

'Principal' means the head teacher of the school within the meaning of the Act.

'Regulations' means regulations made under the Act.

'school community' means all parents, students and staff of the school and all other persons who have a legitimate interest in or connection with the school.

'secondary school' means a school that teaches students at the secondary level of education, whether or not it also teaches students at other levels of education.

'secondary students' means students receiving education at the secondary level.

'special resolution' of the Council means a resolution, for the purposes of amending the constitution or to remove an office holder from office, passed by a duly convened meeting of the Council if-

- (1) at least 21 days written notice has been given to all councillors specifying the intention to propose the resolution as a special resolution; and
- (2) it is passed by a majority of not less than three quarters of councillors as vote in person or by proxy at that meeting.

'student' is a person attending the school, or enrolled but not yet attending the school.

3 OBJECT

The object of the Council is to provide advice to the principal so as to strengthen and support public education in the community.

4 POWERS OF THE SCHOOL COUNCIL

4.1 In addition to the powers conferred under the Act, the Council may:

- 4.1.1 employ persons, except as teachers, as members of the staff of the school on terms and conditions approved by the Chief Executive;
- 4.1.2 enter into contracts;
- 4.1.3 construct any building or structure for the benefit of the school or make any improvements to the premises or grounds of the school, with the approval of the Chief Executive;
- 4.1.4 purchase or take a lease or licence of premises for student residential facilities, and enter into any other agreements or arrangements for the establishment, management, staffing and operation of such facilities;
- 4.1.5 establish and conduct, or arrange for the conduct of, facilities and services to enhance the education, development, care, safety, health or welfare of children and students;
- 4.1.6 do all those acts and things incidental to the exercise of these powers.

4.2 The Council's powers must be exercised in accordance with legislation, administrative instructions and this constitution.

5 FUNCTIONS OF THE COUNCIL

- 5.1 The Council will perform the following functions:
 - 5.1.1 ascertain the educational needs of the local community and the attitude of the local community to educational developments within the school and advise the principal on these matters;
 - 5.1.2 express to the principal from time to time, its views in relation to the local community's perception of the school;
 - 5.1.3 advise the Chief Executive of any improvements that the Council considers are necessary to the accommodation, grounds and equipment of the school;
 - 5.1.4 determine, where the Minister has provided funds to the Council, with the agreement of the principal of the school, the application of the funds;
- 5.2 The Council must be responsible for the proper care and maintenance of any property owned by the Council.
- 5.3 The Council may perform such functions as necessary to establish and conduct, or arrange for the conduct of:
 - 5.3.1 facilities and services to enhance the education, development, care, safety, health or welfare of children and students;
 - 5.3.2 residential facilities for the accommodation of students.
- 5.4 The Council may raise money for school related purposes.
- 5.5 The Council may perform other functions as determined by the Minister.
- 5.6 The Council may do all those acts and things incidental to the exercise of these functions.
- 5.7 The Council's functions must be exercised in accordance with legislation, administrative instructions and this constitution.

6 FUNCTIONS OF THE PRINCIPAL IN COUNCIL

- 6.1 The Principal is answerable to the Chief Executive for providing educational leadership in the school and for other general responsibilities prescribed in the Act and the Regulations.
- 6.2 The principal must also:
 - 6.2.1 provide accurate and timely reports, information and advice relevant to the general educational policy of the school and to the Council's functions;
 - 6.2.2 supervise and promote the development of staff employed by the Council;
 - 6.2.3 be the returning officer for the election, nomination and appointment of councillors;
 - 6.2.4 call and preside at the general meetings of the school community;
 - 6.2.5 chair the initial meeting of the Council held for the purpose of receiving nominations from nominating bodies, the appointment of co-opted councillors by the Council and the election of office holders;
 - 6.2.6 be an ex-officio member of Council with full voting rights; and
 - 6.2.7 contribute to the formulation of the agenda of Council meetings.

7 MEMBERSHIP

- 7.1 The school Council must be comprise 17 councillors and must comply with the requirements of the Act, administrative instructions and this constitution.
- 7.2 The majority of councillors must be parents of the school, except in the case of a school that is wholly or principally for adult students.
- 7.3 The Hawthorndene Primary School Governing Council must comprise councillors including:
- 1 Principal of the school (ex officio)
 - 9 Elected parents
 - Up to 2 staff elected by staff members
 - 2 Affiliated Committee Representatives
 - 3 Community Members elected by the Governing Council
- 7.4 A person is not eligible for election, appointment or nomination to the Council, if the person:
- 7.4.1 is an undischarged bankrupt or is receiving the benefit of a law for the relief of insolvent debtors; or
 - 7.4.2 has been convicted of any offence prescribed by administrative instruction.

8 TERM OF OFFICE

- 8.1 Elected parent councillors will be appointed for a term not exceeding two years, except in the case of the first Council only, where one-half (or, if the total number of councillors to be elected is odd, the highest integer that is less than one-half) of the parent councillors elected at the Annual General Meeting of the school community will be elected for a term not exceeding one year.
- 8.2 A councillor nominated by an affiliated committee will be nominated for a term not exceeding two years, subject to the provisions that:
 - 8.2.1 for the first Council only, where two or more affiliated committees each nominate a councillor, one will be appointed for a term not exceeding one year. The person so appointed must be determined by agreement between the affiliated committees, or on failure to agree, by lot.
 - 8.2.2 the nomination may be revoked, in writing by the affiliated committee.
- 8.3 Any councillor nominated by the Student Representative Council or elected by the body of students will hold office for a term not exceeding one year or until the nomination is revoked, in writing by the nominating body.
- 8.4 A councillor elected by the staff of the school will hold office for a term not exceeding one year subject to being a member of the staff of the school.
- 8.5 Each councillor directly appointed by the Council, will serve for a period not exceeding two years.
- 8.6 Upon expiry of term of office, each councillor will remain incumbent until the position is declared vacant at the Annual General Meeting.
- 8.7 Councillors are eligible for subsequent re-election, re-nomination or re-appointment.

9 OFFICE HOLDERS AND EXECUTIVE COMMITTEE

9.1 Appointment

- 9.1.1 The office holders of the Council are the Chairperson, Secretary and Treasurer who must be elected by the Council from amongst its councillors within one month of the Annual General Meeting.
- 9.1.2 The Treasurer must not be a member of the staff of the school.
- 9.1.3 The Council may appoint an executive committee comprising the office holders and the Principal, which is to
- (i) meet to carry out business delegated or referred by the Council; and
 - (ii) report to subsequent Council meetings.

9.2 Removal from office

- 9.2.1 The position of any office holder absent for three consecutive executive committee meetings without leave of absence automatically becomes vacant. Acceptance of an apology at the executive committee meeting will be deemed a grant of such leave.
- 9.2.2 An office holder of the Council may be removed from office, but not from membership of the Council, by special resolution of the Council, provided that:
- at least 21 days written notice is given to all councillors and to the office holder concerned, of any proposed resolution, giving reasons for the proposed removal;
 - the office holder is given the right to be heard at the Council meeting;
 - voting on the special resolution is by secret ballot.

9.3 The Chairperson

- 9.3.1 The Chairperson must
- (i) subject to 6.2.5 and 13.10.1, call and preside at the meetings of the Council and the executive committee;
 - (ii) in consultation with the Principal and Secretary, prepare the agenda for all Council meetings;
 - (iii) include on the agenda any item requested by the Principal;

- (iv) facilitate full and balanced participation in meetings by all councillors and decide on the manner in which meetings are conducted and matters of order;
- (v) report at the Annual General Meeting on the proceedings and operations of the Council for the period since the date of the previous Annual General Meeting.

9.3.2 As spokesperson of the Council, the Chairperson may only speak with regard to Council matters and must not speak on behalf of the school on matters of school policy.

9.3.3 If the Chairperson of the Council is absent or unable to preside at a meeting a councillor elected by the councillors present at the meeting, must preside.

9.4 The Secretary

9.4.1 The Secretary must ensure that notices of meetings are given in accordance with the provisions of this constitution.

9.4.2 The Secretary is responsible for ensuring the maintenance and safekeeping of:

- (i) the constitution of the Council.
- (ii) official records of the business of the Council and a register of minutes of meetings;
- (iii) copies of notices, a file of correspondence and records of submissions or reports made by or on behalf of the Council;
- (iv) register of councillors;
- (v) contracts or agreements entered into by the Council; and
- (vi) copies of policies of the Council.

9.4.3 The Secretary must ensure that copies of this constitution are available for public inspection at the school during normal school hours and that copies requested are provided.

9.4.4 The Secretary must ensure the safekeeping of the common seal and must ensure that a record is kept of every use of the common seal.

9.4.5 Prior to each meeting the Secretary must ensure that a copy of the meeting agenda is forwarded to each councillor.

9.4.6 The Secretary must conduct the official correspondence of the Council.

9.4.7 The Secretary must ensure that the minutes of meetings are recorded and forwarded to each councillor prior to the next meeting.

9.5 The Treasurer

9.5.1 If the Council establishes a School Finance Advisory Committee, the Treasurer must be the Chairperson and must preside at the meetings of this committee.

9.5.2 If the Treasurer is absent or unable to preside at a meeting of the School Finance Advisory Committee a member elected by the members present at the meeting, must preside.

9.5.3 The Treasurer must:

- (i) ensure that the Council's financial budgets and statements are prepared;
- (ii) submit a report of those finances to each Council meeting;
- (iii) present the Council's audited accounts to the Annual General Meeting.

10 VACANCIES

- 10.1 Membership of the Council ceases when the councillor
- 10.1.1 dies; or
 - 10.1.2 in the case of an elected councillor or a councillor appointed or nominated for a term, completes a term of office and is not re-elected, re-nominated or re-appointed; or
 - 10.1.3 ceases to hold office in accordance with 8.2.2 and 8.3; or
 - 10.1.4 in the case of a member nominated by the staff of the school, is no longer a staff member of the school; or
 - 10.1.5 resigns by written notice to the Council; or
 - 10.1.6 is removed from office by the Minister in accordance with section 97 of the Act; or
 - 10.1.7 is declared bankrupt or applies for the benefit of the a law for the relief of insolvent debtors; or
 - 10.1.8 has been convicted of any offence as prescribed administrative instruction; or
 - 10.1.9 is absent from three consecutive Council meetings without leave of absence approved by the Council. Acceptance of an apology will be deemed grant of such leave.
- 10.2 The Council may appoint a person to temporarily fill a casual vacancy in its membership until a councillor can be elected, nominated or appointed in accordance with this constitution.

11 MEETINGS

11.1 General Meetings of the school community

- 11.1.1 Subject to 13.2, all persons within the school community are eligible to attend general meetings of the school community and vote on any matters proposed for resolution.
- 11.1.2 The Principal of the school, must call and preside at, general meetings of the school community, the timing to be agreed between the Council Chairperson and the Principal of the school.
- 11.1.3 At least 14 days written notice of the meeting must be given to the school community by the means generally used to communicate with the school community. The notice must specify the date, time and place of the meeting.
- 11.1.4 A general meeting must be held:
- (i) at least once annually (the Annual General Meeting) to present reports, to elect councillors and/or declare election results;
 - (ii) for any other reason relating to the affairs, functions or membership of the Council, determined by agreement between the Council Chairperson and the Principal.
- 11.1.5 The period between each Annual General Meeting must not exceed 16 months.
- 11.1.6 A general meeting must be held to elect councillors, to discuss the finances of the Council, or for any other reason relating to the affairs or functions of the Council:
- (i) at the request of the Chief Executive
 - (ii) by the resolution of the Council
 - (iii) at the request of 20 parents of the school or one half of the parents of the school, whichever is less.

11.2 Council Meetings

11.2.1 The Council must meet at least twice in each school term.

11.2.2 Notice of meeting must be given at the previous Council meeting or by at least 7 days written notice distributed to all councillors or in an emergency by such other notice as the Council may determine.

11.3 Extraordinary Council Meetings

11.3.1 The Chairperson of the Council must call an extraordinary meeting of the Council by written request from at least 3 councillors.

11.3.2 Notice of meeting must be given by written notice to all councillors within reasonable time, setting out the time, date, place and object of the meeting.

11.3.3 The business of any extraordinary meeting must be confined to the object for which it is convened.

11.4 Voting

11.4.1 Voting must be by show of hands, but a secret ballot must be conducted for:

- (i) a contested election; or
- (ii) a special resolution to remove an office holder from office.

11.4.2 For the purposes of voting on a special resolution, each councillor is entitled to appoint another councillor as his/her proxy by notice in the form issued as an administrative instruction.

12 PROCEEDINGS OF THE COUNCIL

12.1 Meetings

- 12.1.1 The quorum for the Council meeting is a majority of the filled positions of the Council.
- 12.1.2 If at the expiration of 30 minutes after the appointed time for the meeting there is no quorum present, the meeting must stand adjourned to such time and place as those councillors present determine.
- 12.1.3 Except in the case of a special resolution, a decision of the majority of those councillors present and eligible to vote is the decision of the Council.
- 12.1.4 The Chairperson has a deliberative vote and, if councillors are evenly divided on any matter, a casting vote.
- 12.1.5 The Council or any committee of Council may, at its discretion, allow non-members who have special interests or knowledge relevant to the Council to attend its meetings as observers and, if it agrees, take part in discussions on particular issues. Non-members cannot vote.
- 12.1.6 Where there are one or more vacancies in the membership of the Council, the Council is not prevented from acting by the requirement that the majority of its members must be elected parents of the school or by any other requirement of membership (except the requirement as to quorum).
- 12.1.7 The Council may from time to time determine procedures to facilitate and expedite its business.

12.2 Conflict of interest

- 12.2.1 In accordance with section 94 of the Act, a councillor who has a direct or indirect pecuniary interest in a contract or proposed contract with the Council must:
 - (i) disclose the nature of the interest to the Council as soon as the councillor becomes aware of the interest; and
 - (ii) not take part in deliberations or decisions of the Council with respect to that contract.

12.2.2 A disclosure of such an interest must be recorded in the minutes of the Council.

12.2.3 If a councillor discloses an interest in a contract or proposed contract:

- (i) the contract is not liable to be avoided by the Council on any ground arising from the fiduciary relationship between the councillor and the Council; and
- (ii) the member is not liable to account for the profits derived from the contract.

13 ELECTION OF SCHOOL COMMUNITY COUNCILLORS

13.1 Eligibility for nomination for election

Subject to 7.4, all adults from the school community are eligible to nominate for election as a councillor.

13.2 Eligibility to vote

Only parents of the school may vote to elect councillors.

13.3 Conduct of elections for school community councillors

The Principal must conduct elections of school community councillors at a general meeting of the school community.

13.4 Notice of election

13.4.1 The timetable for an election will be determined by the Principal in consultation with the Council.

13.4.2 Notice of the date and time for an election must be given by the Principal by the means generally used to communicate with the school community.

13.4.3 The notice must:

- (i) fix the period during which nominations for election as councillors must be accepted and outline the process to be followed; and
- (ii) fix the date and time of the general meeting for the election (not being less than 14 days from publication of the notice).

13.4.4 In consultation with the Council, the Principal must determine the form for nominations and the period during which nominations will be accepted.

13.4.5 A nomination for election as a councillor must be:

- (i) in a form approved by the Principal; and
- (ii) received by the Principal at or before the time the nomination is due.

13.5 Election without ballot

If the number of persons nominated is the same or less than the number of vacancies to be filled by election, the Principal may declare that the vacancy or vacancies has or have been filled by the persons or person nominated.

13.6 Contested election

13.6.1 If the number of persons nominated is greater than the number of vacancies to be filled, the ballot conditions apply.

13.6.2 The process for conducting the ballot for a contested election must be in accordance with administrative instructions.

13.7 Scrutineers

The Principal must permit such scrutineers, who are independent of the election, to be present at the counting of votes as he or she thinks fit. A candidate in the election cannot be a scrutineer.

13.8 Declaration of election

13.8.1 The Principal must declare the candidate or candidates elected to fill the vacancy or vacancies, at a general meeting of the school community.

13.8.2 The new Council comes into operation at the declaration of the election.

13.9 Further nomination for unfilled positions

After the result of an election has been declared, and if the required number of elected school community councillor positions has not been filled, eligible candidates present at the Annual General Meeting may be invited to nominate and be elected by a further ballot to the remaining vacancies.

13.10 Nomination and appointment of councillors

13.10.1 As soon as is practicable after the declaration of the results of an election, the Principal must call and preside at the first Council meeting for the purpose only of

- (i) receiving the nominations from nominating bodies and determining the appointment of members of the community; and
- (ii) electing office holders.

13.10.2 The first meeting of the Council may be adjourned to a date decided by the meeting if purpose of the meeting cannot be achieved.

13.10.3 If upon the resumption of the meeting the appointment of community members or receiving nominations cannot be resolved, the Council may proceed to the election of office holders.

14 MINUTES

14.1 Proper minutes of Council, the Annual General Meeting and general meetings of the school community must be entered into books kept for that purpose.

14.2 The minutes must be confirmed at the next respective annual, general or council meeting and signed by the Chairperson of the meeting at which the proceedings took place or by the Chairperson of the subsequent meeting.

14.3 Upon reasonable notice, the books containing the minutes of any meetings must be made available for inspection by any councillor.

15 COMMITTEES

15.1 Committees

The Council may appoint committees, comprised of councillors or both councillors and non-councillors, which will meet as directed by the Council, and report to the Council at subsequent Council meetings. Any committee must consist of at least three people and at least one of these must be a councillor.

15.2 Terms of reference

The Council must specify terms of reference for its committees.

15.3 School Finance Advisory Committee

15.3.1 The Council must establish a School Finance Advisory Committee to advise the Council on budgetary and financial matters, including the preparation of the preliminary budget showing:

- (i) the anticipated income available for the ensuing twelve months (both from normal transactions and from fund-raising activities);
- (ii) the proposed expenditure to be made;
- (iii) details of any funds held for special purposes.

15.3.2 The membership must be determined by the Council and must include:

- (i) the Treasurer;
- (ii) the Principal or nominee;
- (iii) representatives of each affiliated committee; and

15.3.3 The membership may include student representation and persons co-opted by the Council.

15.3.4 The School Finance Advisory Committee must meet at least once each school term to examine receipts and payments and review the school budget.

16 DELEGATION

- 16.1 Subject to 16.2, the Council may delegate its functions or powers to its committees, but may only delegate its functions or powers to another council with the prior written consent of the Chief Executive.
- 16.2 The Council cannot delegate any of its functions or powers in relation to the approval of the school's budget and annual financial statement.
- 16.3 Any conferral of delegation must be properly recorded in the minutes.

17 ACCOUNTS TO BE KEPT AND OTHER FINANCIAL MATTERS

- 17.1 The Council must ensure that proper accounts are kept of its financial affairs, and in controlling any account must ensure proper books and accounts are kept of all funds paid to that account, together with details of any dealings involving those funds.
- 17.2 All accounts must be operated on the basis of the designated financial year.
- 17.3 The accounts must be kept in accordance with provisions of the Act, Regulations, administrative instructions and this constitution.
- 17.4 The funds of the Council must only be expended for school related purposes.
- 17.5 The Council may transfer funds as it thinks fit to:
 - (i) an affiliated committee;
 - (ii) another existing or proposed Government school.

18 AUDIT

- 18.1 The Council must arrange for any accounts under its control to be audited at least once in every year, as soon as possible after the end of the financial year, or at such other time as determined by administrative instruction.
- 18.2 The Council may arrange for accounts to be audited by a person appointed by the Council at such other intervals as the Council determines.
- 18.3 The Council must make available for inspection at any time by the Chief Executive or the Auditor-General, any accounts under its control, including all relevant records and papers connected with an account.
- 18.4 The audit of any accounts under the control of the Council will be in accordance with the provisions of the Act, Regulations, administrative instructions and this constitution.

19 REPORTING TO THE SCHOOL COMMUNITY

19.1 The Council must report to the school community at least once a year, at the Annual General Meeting of the school, called by the Principal.

19.2 At that meeting:

19.2.1 the Chairperson must report on:

- (i) the proceedings and operations of the Council for the period since the date of the previous Annual General Meeting community; and
- (ii) the outcomes of those proceedings in relation to the functions of the Council.

19.2.2 the Treasurer must present an up-to-date statement of receipts and expenditure with respect to all accounts controlled by the Council, and a copy of the audited statement of receipts and expenditure of the Council for the year ended as at the designated financial year.

19.3 Where any statement has not been audited by the time the annual meeting is held, the audited statement is to be subsequently made available for inspection at the school, as determined by the meeting.

20 THE COMMON SEAL

20.1 The Council must have a common seal. The common seal must be affixed only by resolution of the Council and in the presence of two councillors appointed by the Council.

20.2 Every use of the seal must be recorded in the minute book of the Council.

21 RECORDS

21.1 The Council is responsible for the safe and proper storage of its records.

21.2 The Council must make the records available at any time to the Minister or to any person authorised by the Minister in that behalf and allow those records to be removed from the school premises by any such person.

22 AMENDMENT OF THE CONSTITUTION

- 22.1 This constitution may be altered, modified or substituted at the direction of the Minister, in accordance with section 88 of the Act.
- 22.2 This constitution may also be amended, altered, modified or substituted by the Council by special resolution and approval in writing by the Minister.
- 22.3 An amendment to the constitution has no effect until submitted to, and approved by, the Minister.

23 PUBLIC ACCESS TO THE CONSTITUTION

The Council must keep available for public inspection a copy of its constitution (as in force from time to time) at the school during normal school hours.

24 DISSOLUTION

In accordance with section 85 of the Act, a council may be dissolved.

25 PROHIBITION AGAINST SECURING PROFITS FOR MEMBERS

The assets and income of the Council must be applied exclusively to school related purposes and no portion must be paid or distributed directly or indirectly to councillors in their role as councillors, except for expenses incurred on behalf of the Council.