(Model) Prescribed Constitution for Incorporated P&C Associations

Section 117 of the Education Act 1990 requires that the (model) prescribed constitution for Parents and Citizens' associations incorporated under the Federation of Parents and Citizens' Associations of New South Wales Incorporation Act 1976, be published by the Minister in the Education Gazette 1 of 2020.

This (model) prescribed constitution is as follows:

1. Name
This body shall be known as the (name of school) Parents and Citizens' Association, a body corporate under the Parents and Citizens' Associations Incorporation Act 1976.

2. Object and Functions
The objects and functions of this association shall be those set out in Section 116 of the Education Act 1990, which include:

(i) The objects:
- (a) to promote the interests of the school by bringing parents, citizens, students and teaching staff into close co-operation; and
- (b) to assist in providing facilities and equipment for the school and in promoting the recreation and welfare of the students at the school.

(i) The functions:
- (a) to report, when requested by the Minister for Education and Early Childhood, on the material requirements of the school and to advise on the subject of maintenance of the school, alterations and additions to school facilities, and the selection of new sites;
- (b) to assist and co-operate with the teaching staff in public functions associated with the school;
- (c) to be responsible for the election of parent representatives to any school council constituted at the school in consultation with the Principal of the school to ensure consistency with any guidelines for elections issued by the Secretary of the Department of Education;
- (d) to assist in any matters in which the Minister may seek the co-operation of the association and to exercise such other functions as may be prescribed by the regulations (under the Education Act 1990).

3. School Staff
The association shall not exercise any authority over the teaching staff or any matter relating to the control or management of the school. School staff may become members of the association. The Principal of the school, or the Principal's nominee, shall be a member, ex-officio, of the association and all its committees.

4. Membership

Membership will be open to all parents and carers of pupils attending the school and to all citizens within the school community. The association shall maintain a register of members. A person whose name appears in the register and who has paid the annual subscription shall be a member of the association.

The register shall be updated after each general meeting by the Secretary or the Secretary's nominee. If the name of a person has been omitted from the register when that person is otherwise entitled to be a member and their name should have been recorded in the register, then that person shall be a member of the association.

5. Office Bearers

(a) The executive committee, which shall be constituted of the Officers of the association and up to six other members, shall carry out the decisions of the association. Members of the executive committee shall not receive any remuneration or other material benefit by reason of their position in the association. A member of the Executive Committee may be removed from office by resolution of the association carried at a properly convened general meeting or special meeting, providing at least seven days' notice has been given to members.

(b) The Officers shall consist of President, two Vice-Presidents, Treasurer and Secretary, and shall be elected at the annual general meeting.

(c) The President shall preside at all meetings except that, in the absence of the President one of the Vice-Presidents shall preside and, in the absence of the President and Vice-Presidents, the committee shall elect a Chairperson.

(d) The Secretary shall attend meetings and keep a record of all business conducted. On relinquishing office the Secretary shall hand over records, minutes, account books, etc. to the incoming Secretary.

(e) The Treasurer shall receive and deposit monies, maintain records, draw cheques and present accounts to each General Meeting; present all records for auditing each year and shall hand over all records to the incoming Treasurer on relinquishing office. The requirements for handling money, keeping records, etc in the School Manual on Financial Management shall be followed. Should it be necessary during the unavoidable absence of the Treasurer, another Officer of the association may receive any monies, issue receipts and either deposit the monies in an association account or hand the monies to the Treasurer within two business days, taking a receipt for same.

6. Casual Vacancies

Any casual vacancy on the Executive shall be filled by a ballot of the members of the association at any general meeting. A casual vacancy shall have arisen where a member of the Executive Committee:

(a) dies;

(b) resigns from the committee by notice in writing;

(c) ceases to be a member of the association;

(d) is removed under clause 5(a); or

(e) has a continuing and long-term incapacity to fulfill the functions of the position.

7. Annual General Meeting

An annual general meeting shall be held once each calendar year at a date specified in the rules. At this meeting all Officer and other positions will become vacant and then be filled by nomination, and where necessary by ballot of members. All nominees shall be members of the association. The audited statement of income and expenditure and Annual Report will be presented. A copy of the audited statement of income and expenditure, certified by the auditor, is to be forwarded to the Federation of Parents and Citizens' Associations of New South Wales within one month of the annual general meeting at which it is adopted. An auditor for the ensuing year who is not an office bearer of the association shall be appointed. The appointed auditor shall possess appropriate skills and experience in auditing and financial record management together with an appreciation of the issues of probity as they relate to the role of association auditor. In particular, the auditor must not have or appear to have any conflict of interest arising, for example, from a personal or business relationship with an officer of the association.

8. General Meetings

A general meeting shall be held at least once during each school term.

9. Special Meetings

A special meeting shall be called by the Secretary at any time upon written request signed by at least 10 members or on the authority of the Executive Committee. The special meeting shall be held within one month of the date the Secretary receives the request or is given the authority. Members shall be given at least seven days' notice of the meeting which notice shall also state the business of the meeting.

10. Holding Meetings and Quorum

a) Parents and carers of pupils attending the school and citizens within the school community who are not members may attend meetings of the association but are not entitled to attend meetings of the Executive Committee or subcommittees of the association.

b) Where the association has a current membership of 50 or more, the quorum at all meetings of that association shall be 10 members. Where the association has a current membership of less than 50, the quorum shall be set according to the rules of that association but shall not be less than five.

c) The association will in the usual course hold all meetings of the association at the school or, if the school is not available, at a convenient and suitable location nominated by the Secretary [or, in his or her absence, by another Officer].

d) If for any reason a quorum at any meeting convened in accordance with paragraph (c) cannot be formed in accordance with paragraph (b) and the rules of the association, the association may hold a meeting of the association at 2 or more venues using any technology that gives the members as a whole an opportunity to participate effectively in that meeting.

e) In any case in which a meeting of the association is held using technology of the kind referred to in paragraph (d):

I. notice of the meeting must specify the date, time and details of the technology needed to participate in the meeting;
II. a quorum must be maintained for the duration of the meeting;
III. any member of the association attending in person or using technology will be taken to be present for the purposes of forming a quorum and for all other purposes;
IV. all votes on a resolution must be taken by ballot open to all members and not on a show of hands; and
V. the President or other presiding Officer appointed to chair the meeting may adjourn the meeting if there is any failure in technology with a consequence that a resolution cannot be put or the business of the meeting cannot be conducted.

11. Liability

(a) A member or Officer of the association is not, by reason only of being such a member or Officer, liable to contribute towards the payment of the debts and liabilities of the association or the costs, charges and expenses of the winding up of the association.

(b) The association must effect and maintain approved public liability insurance, unless the association is covered by such insurance affected and maintained by the Federation of Parents and Citizens' Associations of New South Wales. In this section "approved public liability insurance" means public liability insurance, which an association incorporated under the associations Incorporation Act 1984 is required by Part 6 of that Act to effect and maintain.

12. Subscriptions

The annual subscription shall be set by the rules but shall not be less than 50 cents.

13. Subcommittees

(a) The association may establish subcommittees, however styled, to carry out specific functions on its behalf. Any subcommittees that are established shall report regularly at meetings of the association and follow any directions received from the association. The association may dissolve a subcommittee at any time. Any funds raised or handled by a subcommittee shall be, for all purposes, funds of the association.

(b) Subject to any direction from the association, all meetings of subcommittees will be conducted on the same basis and subject to the same rules as apply to meetings of the association with any necessary modification appropriate to the functioning of that subcommittee.

14. Dissolution

(a) The association may be dissolved in terms of a resolution carried at a general meeting or a special meeting of members, providing at least seven days' notice has been given to members and subject to the concurrence of the Minister for Education and Early Childhood, or otherwise at the Minister's discretion.

(b) The association shall be dissolved if the number of members falls below the quorum or the school to which the association is attached is closed.
(c) Where the association is dissolved minute books, audited accounts and other records, together with the residue of funds, shall be given to a kindred organisation having a taxation status accepted by the Australian Taxation Office as equivalent to that of the association. In particular, where the association maintains a deductible gift fund (such as a School Building Fund) on dissolution any remaining assets or funds must be transferred to another gift deductible fund with similar objects to the association. Any records given to a kindred organization will be retained in accordance with taxation legislation requirements. The transmission shall occur within two months of the dissolution of the association, and only after the books of account have been audited as provided under Clause 16. If the association is registered for GST, dissolution shall not be finalized until all accounts have been paid, all revenue received and all GST transactions have been accounted for in the association's Business Activity Statement.
(d) Where the association is dissolved, assets and funds on hand after payment of all expenses and liabilities shall not be paid to or distributed among the members.

15. Rule-Making Power

The association shall make such rules as are required to carry out its functions. The rules shall not contravene the terms of this Constitution, the Education Act 1990, or the Parents and Citizens' Associations Incorporation Act 1976. The rules may be adopted, altered or withdrawn according to a simple majority vote at any meeting of the association for which a month notice has been given. Such notice shall include details of the proposed changes. The rules shall provide for the procedure to be followed:

(a) at meetings of the association;
(b) to convene a substitute meeting when a quorum is not attained at a meeting; and
(c) in making an application for membership.

16. Accounts

The funds of the association shall be banked in the name of the association with any institution holding trustee status within the meaning of the Trustee Act 1925, provided interest is allowed on the balance. The account shall be operated by two or more officers of the association delegated in that behalf by the association. No commitment shall be entered into for the expenditure of association funds, except by resolution of a meeting of the association. The association must make such financial reports about its affairs (including reports of its auditors) as are required by its rules or by the Minister for Education and Early Childhood.