TERMS OF REFERENCE

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For assistance on the legislation and policy with respect to boards/boards please see the Department of Education's School Boards and Boards website https://www.education.wa.edu.au/school-boards-boards
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1 Name of Board

The name of the Board is
Mount Hawthorn Education Support Centre (planning name) Board.

2 Definitions

In these rules, unless the contrary intention appears-

- "Annual public meeting" is the annual meeting in which the Council presents to the school community an annual report based on the Council's functions **(SER r.117)**.
- "Board" means the council of an Independent Public School. "Council" means the Council referred to in rule 1, established in **SEA s.125.**
- "Director General[1]" means the chief executive officer of the Department of Education as defined in **SEA s.229.**
- "Ordinary meeting" means a meeting held by determination of the Council **(SER r.115(1))**.
- "Parent" in relation to a child, means a person who at law has responsibility –
  - For the long term care, welfare and development of the child; or
  - For the day to day care, welfare and development of the child **(SEA s.4).**
- "PCA" means ***Parliamentary Commissioner Act 1971***.
- "Minister" means a body corporate with the name "Minister for Education" **(SEA s.214(1)).**
- "SEA" means ***School Education Act 1999***.
- "SER" means ***School Education Regulations 2000***.
- "Special meeting" means a meeting of the Council called for by written notice to the chairperson by parents of students at the school for a specific purpose **(SER r.118)**.
- "Student" means a person who is enrolled at the school **(SEA s.4).**
- "Terms of Reference" means these rules that will apply to the Council and members.

[1] All but one of the functions of the Director General mentioned henceforth have been delegated from the Director General to the Deputy Director General, Public Schools, under the current delegation instruments.

3 Purpose of Board

3.1

The Board is formed with the fundamental purpose of enabling parents and members of the community to engage in activities that are in the best interests of students and will enhance the education provided by the school.

4 Functions of the Board

4.1

The Board has the following functions:

To take part in:

a) establishing and reviewing from time to time, the school's objectives, priorities and general policy directions **(SEA s.128(a)(i))**;
b) the planning of financial arrangements necessary to fund those objectives, priorities and directions **(SEA s.128(a)(ii))**;[2]
c) evaluating the school's performance in achieving them **(SEA s.128(a)(iii))**; and
d) formulating codes of conduct for students at the school **(SEA s.128(c)).**

4.2

With the approval of the Director General to:

a) take part in the selection of, but not the appointment of, the school principal or any other member of the teaching staff **(SEA s.129(2))**[3][4]**.**

4.3

To approve[5]:

a) of a charge or contribution determined by the principal for the provision of certain materials, services and facilities **(SEA s.99(4));**
b) of the costs determined by the principal to be paid for participation in an extra cost optional component of the school's educational program **(SEA s.100(3));**
c) of the items determined by the principal to be supplied by a student for the student's personal use in the school's educational program **(SEA s.108(2));** and

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[2] The principal submits the school's annual budget to the Board for noting. School boards note major revisions to the budget, which have an impact on the original programs and priorities. (Department of Education's *Financial Management in Schools Finance and Accounting* manual). Principals provide relevant financial reports to the school board. (Department of Education's *Financial Management in Schools Finance and Accounting* manual.) The School Compliance Program confirms there is a record of the board having noted the school budget in meeting minutes.

[3] A board of a school that is not an Independent Public School may apply to the Director General or delegate to take part in the selection of, but not the appointment of, the school principal or any other member of the teaching staff. The Director General's delegate for a school that is not an Independent Public School is the Deputy Director General, Public Schools; and only for schools in their region the Regional Executive Director. An Independent Public School board takes part in the selection of, but not the appointment of, the school principal. An Independent Public School board may apply to the Director General or delegate to take part in the selection of, but not the appointment, of any other member of the teaching staff. Where the school is an Independent Public School, the Director General's delegate is the school Principal.

[4] Members of Parliament who are also members of a board are prevented from participating in school selection processes by the *Public Sector Management Act 1994*.

[5] The Department of Education's School Compliance Program confirms there is a record of the board having provided approval in meeting minutes.

d) of an agreement or arrangement for advertising or sponsorship in relation to a government school **(SEA s.216(5)).**[6]

4.4
To determine in consultation with students, their parents and staff a dress code for students when they are attending or representing the school **(SEA s.128(d)).**

4.5
To provide advice to the principal of the school on:

a) a general policy concerning the use in school activities of prayers, songs and material based on religious, spiritual or moral values being used in a school activity as part of religious education **(SEA s.70);** and
b) allowing time for the special religious education of students in the school, but the total number of hours so allowed in a school year is not to exceed 40 **(SEA s.69(2)).**

4.6
To promote the school in the community **(SEA s.128(b)).**

4.7
To note the school's Funding Agreement (with Schedules).

5 Limits of Functions

5.1
The Board cannot:

a) intervene in the control or management of a school **(SEA s.132(a))**;
b) intervene in the educational instruction of students **(SEA s.132(b))**;
c) exercise authority over teaching staff or other persons employed at the school **(SEA s.132(c))**; or
d) performance manage the principal or any other Department of Education employee **(SEA 132(c));**
e) intervene in the management or operation of a school fund **(SEA s.132(d))**; and
f) purchase property **(SEA 131)**;

5.2
The Board is not permitted to borrow money or obtain credit.[7]

5.3
The Director General may give directions in writing to a Board with respect to the performance of its functions, either generally or in relation to a particular matter, and the Board is to give effect to any such direction **(SEA s.135(1)(2))**.

6 Qualifications for membership of Board

6.1

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[6] The principal uses the Department's *Document for Incoming Sponsorship to a Public School* and enters into an agreement with a sponsor.
[7] Department of Education's *Boards and Boards in Public Schools policy and procedures* Section 2.

Membership of the Board will be drawn from the following categories:

a) parents of students at the school **(SEA s.127(1)(a))**;
b) members of the general community **(SEA s.127(1)(b))**;
c) staff of the school **(SEA s.127(1)(c))**;
d) the principal is automatically a member of the Board **(SEA s.127(2))**

6.2

Staff who are also parents or community members will only serve on the Board in their capacity as a Department of Education employee. Such a person will only be on the Board in the category of staff membership **(SEA s.127(3))**.

6.3

The number of members of the Board will be five.

6.4

The Board will determine its composition:

a) having regard to the nature of the student population of the school and the social, cultural, lingual, economic or geographic factors that may be relevant to the school **(SER r.107(1)(a)(i))**;
b) having regard to the functions of the Board and any changes in those functions **(SER r.107(1)(a)(ii))**; and

6.5

The composition of the board will be:

i. The school principal
ii. Two (2-year tenure) members of the general community
iii. One (1-year tenure) staff of the school
iv. One (2-year tenure) parents

6.6

Parents and members of the general community will form the majority of the members of the Board **(SEA s.127(4));** and at least one of this majority will be a parent member **(SER r.107(2)).**

6.7

The Board may co-opt a member of the local community to be a member of the Board for such period, or in relation to such matters, as determined by the Board where that person's experience, skills or qualifications would enable them to make a contribution to the Board's functions **(SER r.112).**

6.8

Students at the school who are not members may attend Board meetings and take part in discussions, but without having a right to vote or being counted in determining a quorum **(SEA s.140(b)).**

7 Roles of Office Bearers

7.1

Chairperson

The role of the chairperson is to:

a) work in partnership with the Principal;
b) ensure a wide variety of people are considered for membership and that members are representative of the school community, for example

gender, social, cultural, lingual, economic or geographic factors relevant to the school;

c) chair and convene Board meetings **(SER r.115(2))**;
d) ensure minutes of meetings are taken and reviewed;
e) provide leadership to the Board;
f) manage the business of the Board;
g) declare the result of decisions and motions;
h) uphold Board decisions;
i) works with the Principal to induct members;
j) ensure the Board stays focused on supporting the school to achieve the best outcomes for students;
k) prepare and present an annual report to members and the school community at annual public meetings **(SER r.117(c));**
l) comply with any directions of the Board in relation to the venue and time of meeting and giving notice of the meeting **(SER r.115(2));**
m) resolve disputes as required;
n) represent the school in the community and at formal functions; and
o) facilitate mediation meetings as required.

7.2

Secretary[8]

Where there is such a position, the role of the secretary is to:

a) co-ordinate the correspondence of the Board;
b) ensure that full and correct minutes of the meetings and proceedings of the Board are kept in a minute book and are signed off by the chairperson after every meeting;
c) serve formal notice to Board members and the community at the direction of the chairperson, for:
    i. ordinary, special and annual public meetings; and
    ii. motions;
d) keep and maintain in an up-to-date condition a register of the members of the Board and their postal and residential addresses;
e) keep a list of nominees of members of the general community that may be appointed to the Board in the category of general community membership **(SER r.108(2)(b));**
f) keep and maintain this Terms of Reference and have copies of this Terms of Reference available to all members;
g) ensure every member has access to inspect the records and documents of the Board;
h) have custody of all books, documents, records and registers of the Board; and
i) have custody of all other records held by the Board.

7.3

A member may at any reasonable time inspect the books, documents, records and securities of the Board. Members may make a copy of or take an extract, but have no right to remove the books, documents, records or registers of the Board.

8 Elections and appointment of members

8.1

[8] Schools may provide support to the board through the school support staff who may undertake the role of the secretary. Where this occurs the school support staff member is not a member of the board.

Members of the Board are appointed for a term not exceeding three years **(SER r.110(1)(a)).**

8.2
Members may be reappointed for a further term once or more than once **(SER r.110(1)(b)).**

8.3
The Parents and Citizens' Association may nominate one of its members to be considered for membership of the Board in the membership category of parents or general community members as is relevant to the nominee **(SER r.107(3)).**

8.4
Any member appointed or elected to a casual vacancy on the Board will hold office for the residual period of the predecessor's term of office **(SER r.110(2)).**

8.5
The chairperson is elected by and from its membership **(SEA s.127(6)).**

8.6
The principal of the school will invite nominations from all persons in each category to fill vacancies in the Board membership **(SER r.108(1)).**

8.7
If there are more nominees than places available on the Board:

a) the principal will conduct an election to appoint parents, staff and students **(SER r.108(2)(a)(c)(d))**; and
b) in the category 'community members' the choice of nominee will be decided by the Board rather than by election **(SER r.108(2)(b))**.

8.8
Only those people eligible for a position are eligible to vote for representatives for that position **(SER r.109(1)(2)(3)(4)(5)).**

8.9
Parent members are to be elected from and by parents **(SER r.108(2)(a)).**
Parents eligible to vote are:

a) each parent whose name and address has been provided to the school **SEA s.16(1)(b)(ii)(I) (SER r.109(1)(a))**; or
b) if neither parent's name and address has been so provided in relation to a particular student, each person who is responsible for the student **(SER r.109(1)(b)).**

8.10
Staff members are to be elected from and by the staff of the school **(SER r.108(2)(c)).** Staff members who are eligible to vote are each person who is employed at the school under **SEA s.235(1)**, and whose usual place of work is at the school **(SER r.109(3)).**

8.11
There will not be an election to appoint community members. The Board may appoint suitably qualified persons from the list of nominees by vote in a meeting **(SER r.108(2)(b)).**

8.12
There will not be an election to appoint co-opted members. The Board will appoint a person of the local community having such skills, experience, or qualifications as would enable the person to make a contribution to the Board's functions for a specified time period **(SER r.112).**

8.13
A person will not vote in respect of more than one category of membership of the Board **(SER r.109(5)).**

8.14
Voting in Board elections will be conducted in written form (as opposed to a show of hands).

8.15
The school principal is responsible for the proper conduct of all elections **(SER r.108(2)).**

8.16
A person who wishes to nominate to serve on the Board will notify the school principal in writing using the prescribed nomination form by the due date in order to be considered. The principal will keep a record of nominations received.

8.17
Appointments to the Board will not be made until after a Screening Clearance Number has been issued by the Department of Education's Screening Unit (as is applicable to the membership category).[9]

9 Board meetings and proceedings

9.1
The Board must meet together to undertake Board functions for not less than two ordinary meetings in each year. The MHESC Board will each term (four meetings per year).

9.2
Ordinary Meetings
a) "ordinary meeting" means a meeting held by determination of the Board **(SER r.115(1)); and**
b) a Board must hold at least two (2) ordinary meetings per year.[10]

9.3
The chairperson will give to the school community not less than 14 days formal notice of an ordinary meeting.

9.4
The Board will determine that medium for formal notice as in writing via email.

[9] *Criminal History Screening for Department of Education Sites policy and procedures* and *Boards and Boards in Public Schools policy and procedures*
[10] School Compliance Program, Financial Services, Department of Education

9.5

Annual public meeting

a) "Annual public meeting" is the meeting held once in every calendar year that is open to the public **(SER r.117(a)).**
b) An annual report will be presented at the meeting to advise the school community of the performance of the Board in relation to its functions since the previous annual public meeting **(SER r.117(c)).**

9.6

The chairperson will give to all members and parents not less than 14 days formal notice of an annual public meeting **(SER r.117(b)).**

9.7

A special meeting:

a) is a meeting called for by families of students at the school for a particular purpose **(SER r.118).**
b) will be held by determination of the Board **(SER r.115(1));** or
c) will be called for by:
    i. at least 20 families of students at the school **(SER r.118(1(b)(i));** or
    ii. at least half the number of families of students at the school, whichever is the lesser number of families, **(SER r.118(1)(b)(ii);** and
    iii. a formal notice to the chairperson, which will state the purpose for which the special meeting concerned is required; and be signed by the families who called for the special meeting.

9.8

The chairperson is not to convene a special meeting if the purposes of the proposed meeting are not relevant to the Board's functions **(SER r.118(3)).**

9.9

A special meeting is to deal only with matters relevant to the purposes set out in the notice received by the chairperson **(SER r.118(4)).**

9.10

The chairperson will give to all members and the school community not less than 14 days formal notice of a special meeting.

9.11

The chairperson will convene the special meeting within 30 days of receiving the request in writing.

9.12

The chairperson may, with the consent of a meeting at which a quorum is present, and must, if so directed by such a meeting, adjourn that meeting from time to time and from place to place.

9.13

No business will be transacted at an adjourned meeting other than business left unfinished or on the agenda at the time when the meeting was adjourned.

9.14

When a meeting is adjourned for a period of 30 days or more, the chairperson will give formal notice of the adjourned meeting as if that meeting were a fresh meeting.

9.15
The Board will agree on the manner that the secretary will communicate notice of ordinary, special and annual public meetings to members and the school community.

9.16
Meetings for the Board and the Parents and Citizens' Association are to be held separately.

9.17
Subject to this Terms of Reference, the Board will determine its own procedures **(SEA s.136).**

10 Quorum at Board meetings

10.1
At a meeting 60 per cent of members present in person at a Board meeting constitute a quorum.

10.2
If within 30 minutes after the time specified for the holding of a meeting of which formal notice has been given:

a) a quorum is not present, the meeting lapses and will be rescheduled; or
b) otherwise than as a result of a request, notice or action, the meeting stands adjourned until such time as the Board agrees to reconvene the meeting.

10.3
If within 30 minutes of the time for the resumption of adjourned meeting a quorum is not present, the members who are present in person may nevertheless proceed with the business of the meeting as if a quorum were present.

11 Motions at Board meetings

11.1
A motion may be moved by a member with full voting rights, and voted on by a member with full voting rights, at an ordinary meeting, special meeting, or annual public meeting.

11.2
The chairperson will be given 7 days notice of a motion to be proposed at a meeting.

11.3
The chairperson will give 5 days formal notice to members that a motion will be proposed at a meeting.

11.4

The Board will agree on the manner that the secretary will communicate notice of motions to members and the school community.

12 Resolutions at Board meetings

12.1
Each Board member is entitled to one vote only **(SER r.119(3)).**

12.2
A co-opted Board member is not entitled to a vote **(SEA s.140(a)).**

12.3
Students attending Board meetings that are not members do not have a right to vote or be counted in determining a quorum **(SEA s.140(b)).**

12.4
Procedures for counting of votes will be a show of hands.

12.5
Voting on issues will be recorded in the minute book.

12.6
A decision of the Board will not take effect unless it has been made by an absolute majority **(SER r.119(2)).**

12.7
An absolute majority, in relation to a Board for a school, means a majority comprising enough of the current members of the Board for their number to be more than 50 per cent of the number of offices (whether vacant or not) of members of the Board **(SER r.119(1)).**

12.8
A motion put to the vote:

a) may be moved and voted on at an ordinary, special or annual public meeting; and
b) will be decided by an absolute majority of votes.

12.9
A motion which is passed will be declared by the Chairperson as a resolution. A declaration by the Chairperson is evidence of the fact.

13 Closing an ordinary Board meeting to the public

13.1
Meetings of the Board are generally to be open to the public **(SER r.115(3)).**

13.2
The Board will not close to members of the public an annual public meeting or special meeting **(SER r.115(3)).**

13.3

The Board may decide to close an ordinary meeting or part of an ordinary meeting if it deals with any of the following:

a) a matter affecting a person who is employed at the school **(SER r.116(a));**
b) the personal affairs of any person **(SER r.116(b));**
c) a contract entered into, or which may be entered into, by the Board and which relates to a matter to be discussed at the meeting **(SER r.116(c));**
d) legal advice obtained, or which may be obtained, by the Board and which relates to a matter to be discussed at the meeting **(SER r.116(d));**
e) a matter that if disclosed, would reveal:
    i. information that has a commercial value to a person and that is held by, or is about, a person other than the Board **(SER r.116(e)(i));** or
    ii. information about the business, professional, commercial or financial affairs of a person and that is held by, or is about, a person other than the Board **(SER r.116(e)(ii));** and
f) information which is the subject of a direction given **PCA s.23(1)(a) (SER r.116(f)).**

13.4

A decision to close an ordinary meeting or part of an ordinary meeting and the reason for the decision are to be recorded in the minutes of the meeting **(SER r.116(2)).**

14 Disputes and Mediation

14.1

The grievance procedure set out in this rule applies to disputes under these rules between:

a) a Board member and another member;
b) a Board member and the principal of the school;
c) a Board member and the chairperson; or
d) a Board member and co-opted members.

14.2

The parties to the dispute should meet and discuss the matter in dispute, and, if possible, resolve the dispute within 14 days after the dispute comes to the attention of all parties.

14.3

If the parties are unable to resolve the dispute at the meeting, a meeting may be held in the presence of a mediator.

14.4

The mediator will be-

a) a person chosen by agreement between the parties; or
b) in the absence of agreement-
    i. in the case of a dispute between a member and another member, a person appointed by the chairperson of the Board;

ii. in the case of a dispute between a member or relevant non-member and the Board, a person who is a mediator appointed to, or employed with, a not for profit organisation.

14.5
A member of the Board can be a mediator.

14.6
The mediator cannot be a member who is a party to the dispute.

14.7
The mediator, in conducting the mediation, will-

a) give the parties to the mediation process every opportunity to be heard;
b) allow due consideration by all parties of any written statement submitted by any party; and
c) ensure that natural justice is accorded to the parties to the dispute throughout the mediation process.

14.8
The mediator will not determine the dispute.

14.9
The mediation will be confidential and without prejudice.

14.10
If the mediation process does not result in the dispute being resolved, the parties may seek advice from the Regional Executive Director.

15 Cessation or termination of membership of the Board

15.1
The office of a member of the Board becomes a casual vacancy if the member:

a) becomes ineligible to hold office as a member **(SER r.111(1)(a));**
b) resigns by written notice delivered to the Board **(SER r.111(1)(b));** or
c) is removed from office by the Director General **(SER r.111(1)(c)).**

15.2
The Board may remove a person as a member of the Board on the grounds that the person:

a) has neglected their duty as a member **(SER r.111(3)(a));**
b) has misbehaved or is incompetent **(SER r.111(3)(b));**
c) is suffering from mental or physical incapacity, other than temporary illness, impairing the performance of their function as a member **(SER r.111(3)(c));** or
has been absent, without leave or reasonable excuse, from three consecutive meetings of which the member has had notice **(SER r.111(3)(d)).**

15.3
The Board will not remove a person as a member unless the person has been given a reasonable opportunity to show that they should not be removed from office **(SER r.111(4)(a)).**

15.4

A decision of the Board to remove a person from office is to be made by resolution of a majority comprising enough of the members for their number to be at least two thirds of the number of offices, whether vacant or not, of members of the Board **(SER r.111(4)(b)).**

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