PERTH MODERN SCHOOL
Exceptional schooling. Exceptional students.

PERTH MODERN SCHOOL BOARD
TERMS OF REFERENCE (CONSTITUTION)

1. NAME

The name of the Board is the **Perth Modern School Board**.

2. DEFINITIONS

In these terms of reference:

"Annual Public Meeting" is the annual meeting in which the Board presents to the School community an annual report based on the Board's functions *(SER r.117)*.

"Board" means "Council" as defined in the *School Education Act* *(SEA s.125)*

"Director General" means the chief executive officer of the Department of Education as defined in SEA s.229.

"Educational Program" means an organised set of learning activities designed to enable a student to develop knowledge, understanding, skills and attitudes relevant to the student's individual needs as defined in Section 4 of the *School Education Act.*

"Ordinary Meeting" means a meeting held by determination of the Board *(SER r.115(1))*.

"Minister" means a body corporate with the name "Minister for Education" *(SEA s.214(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)*.

"Principal" means a person who is appointed under section 236(2) to be in charge of the School *(SEA s.62).*

"School" means Perth Modern School.

"School Education Act" and **"SEA"** means the *School Education Act 1999*.

"SER" means *School Education Regulations 2000*.

"Special Meeting" means a meeting of the Board called for by written notice to the Chair 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 Board and its members.

3. PURPOSE

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:

a. To take part in:

i. establishing and reviewing from time to time, the School's objectives, priorities and general policy directions *(SEA s.128(a)(i))*;

ii. the planning of financial arrangements necessary to fund those objectives, priorities and directions *(SEA s.128(a)(ii))*;[1]

iii. evaluating the School's performance in achieving them *(SEA s.128(a)(iii))*; and

iv. formulating codes of conduct for students at the School *(SEA s.128(c))*.

b. To determine in consultation with students, their parents and staff an appropriate dress code for students when they are attending or representing the School *(SEA s.128(d))*;

c. To promote the School in the community *(SEA s.128(b))*.

d. To approve:

i. a charge or contribution determined by the Principal for the provision of certain materials, services and facilities *(SEA s.99(4))*;

ii. 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))*;

iii. 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

iv. an agreement or arrangement for advertising or sponsorship in relation to a government School *(SEA s.216(5))*.

e. To provide advice to the Principal of the School on:

i. 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

ii. 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))*.

f. With the approval of the Director General to:

i. take part in the selection of, but not the appointment of, the School Principal or any other member of the teaching staff under Section 129(2) of the *School Education Act*.

g. To note the School's Funding Agreement (with Schedules).

4.2. The Board **has the following limits** of function and **cannot**:

a. intervene in the control or management of the School *(SEA s.132(a))*;

b. intervene in the educational instruction of students *(SEA s.132(b))*;

[1] The Principal submits the School's budget to the Board for consideration, endorsement and inclusion in the School development plan. Endorsement from the School Board must be obtained for any major revision to the budget, which has an impact on the original programs and priorities (Section 5.1.4 Department of Education's *Financial Management in Schools Finance and Accounting* policy)

c. exercise authority over teaching staff or other persons employed at the School *(SEA s.132(c))*;

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))*; or

f. purchase property *(SEA 131)*.

4.3. The Board is not permitted to borrow money, nor obtain funds for the School.

4.4. 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))*.

5. MEMBERSHIP OF THE BOARD

5.1. 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. students 15 years and over *(SEA s.127(1)(d)* and *SER r.105(1)(2))*; and

e. the Principal is automatically a member of the Board *(SEA s.127(2))*.

5.2. The number of members of the Board shall be fifteen (15).

5.3. Membership of the Board shall include:

a. the Principal of the School;

b. three (3) elected staff representatives of the School, not including the Principal;

c. five (5) elected parents;

d. one (1) community representative nominated by the Parents & Citizens' Association;

e. one (1) community representative nominated by the Perth Modernian Society Inc;

f. two (2) general community representatives, and

g. two (2) elected student representatives, 15 years and over.

5.4. Parents and members of the general community must form the majority of the members of the Board.

5.5. 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 him or her to make a contribution to the Board's functions *(SER r.112)*.

6. OFFICE BEARERS

6.1. Chair

a. The Chair of the Board is to be elected by, and from, its members annually at the commencement of each year.

b. The role of the Chair is to:

i. work in partnership with the Principal;
ii. 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;
iii. convene and chair Board meetings *(SER r.115(2))*;
iv. ensure minutes of meetings are taken and reviewed;
v. provide leadership to the Board;
vi. manage the business of the Board;
vii. declare the result of decisions and motions;
viii. uphold Board decisions;
ix. work with the Principal to induct members;
x. ensure the Board stays focused on supporting the School to achieve the best outcomes for students;
xi. prepare and present an annual report to members and the School community at Annual Public Meetings *(SER r.117(c))*;
xii. 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))*;
xiii. resolve disputes as required;
xiv. represent the School in the community and at formal functions; and
xv. facilitate mediation meetings as required.

6.2. Deputy Chair

a. The Deputy Chair of the Board is to be elected by, and from, its members annually at the commencement of each year.

b. The role of the Deputy Chair is to assist the Chair and, in the event of temporary absence or incapacity of the Chair, to assume the role of Chair.

6.3. Secretary

a. The Secretary will be elected from members by the Board.

b. The Associate Principal may attend Board meetings as executive officer, to support Board function and take part in discussions, but without having a right to vote or being counted in determining a quorum.

c. The School may provide additional support staff, including but not limited to the Financial Manager.

d. The role of the Secretary is to:

i. co-ordinate the correspondence of the Board;
ii. 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 Chair after every meeting;
iii. serve formal notice to Board members and the community at the direction of the Chair, for:
1. Ordinary, Special and Annual Public Meetings; and

2. motions;

iv. keep and maintain in an up-to-date condition a register of the members of the Board and their telephone numbers and contact address (either email, postal or residential);

v. 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))*;

vi. keep and maintain this Terms of Reference and have copies of this Terms of Reference available to all members;

vii. ensure every member has access to inspect the records and documents of the Board;

viii. have custody of all books, documents, records and registers of the Board; and

ix. have custody of all other records held by the Board.

e. 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.

7. APPOINTMENT AND ELECTION OF MEMBERS

7.1. The Principal of the School will invite nominations from suitably qualified persons to fill vacancies occurring and, except in the case of the community membership category, will conduct elections where the number of nominees is greater than the vacancies available.

7.2. Eligible to vote in the category of parent membership positions is each parent whose name and address has been provided to the School under Section 16(1)(b)(ii)(I) of the School Education Act, or if neither parent's name and address has been so provided, each person who is responsible for the student.

7.3. Eligible to vote in the category of staff membership positions is each person to whom Section 235(1) of the *School Education Act* applies and whose usual place of work is the School.

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

7.5. In the category of Modernian community membership positions, the Perth Modernian Society may invite individuals to nominate, and the Board may appoint a suitably qualified Modernian from the list of nominees.

7.6. In the category of general community membership positions, the Principal may invite individuals (who have been agreed in advance with the Chair) to nominate and the Board may appoint suitably qualified members of the general community from the list of nominees.

7.7. With the exception of the student representatives whose terms will normally be 12 months, members of the Board (other than the Principal) are appointed for a term not exceeding three years *(SER r.110(1)(a))*.

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

7.9. Any member appointed or elected to a casual vacancy on the Board shall hold office for the balance of the term of the member of the Board whose seat on the Board has become vacant.

7.10. The School Principal is responsible for the proper conduct of all elections *(SER r.108(2))*.

7.11. 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).[2]

8. CESSATION OR TERMINATION OF MEMBERSHIP OF THE BOARD

8.1. 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))*.

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

a. has neglected his or her 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 his or her function as a member *(SER r.111(3)(c))*; or

d. has been absent, without leave or reasonable excuse, from three consecutive meetings of which the member has had notice *(SER r.111(3)(d)).*

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

8.4. 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))*.

9. MEETINGS AND PROCEEDINGS OF THE BOARD

9.1. The Board will determine the number of meetings for each year, but as a minimum shall have at least four (4) meetings.

9.2. The Chair of the Board is to convene Board meetings in accordance with the directions of the Board in relation to the venue and time of meeting and giving notice of the meeting using School email communication.

9.3. The Chair will give the School community not less than 7 days' formal notice of an ordinary meeting using School email communication.

9.4. The Board is to hold each calendar year at least one meeting that is open to the public, 14 days' notice of which has been given to parents and the Perth Modernian Society Council, and in which a report is presented on the performance of the Board's functions.

9.5. The Board may decide to close to members of the public a meeting or part of the meeting on the grounds set out in rule 9.6 below unless the meeting is the annual public meeting or a special meeting called under Regulation 118 of the *School Education Regulations 2000*.

9.6. The Board may decide to close to members of the public a meeting or part of the meeting if it deals with any of the following:

[2] *Criminal History Screening policy and procedures* and *School Councils and Boards policy and procedures*

a. a matter affecting a person who is employed at the School;

b. the personal affairs of any person;

c. a contract entered into, or which may be entered into, by the School and which relates to a matter to be discussed at the meeting;

d. legal advice obtained, or which may be obtained, by the Board and which relates to a matter to be discussed at the meeting;

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; 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;

f. information which is the subject of a direction given under Section 23(1a) of the *Parliamentary Commissioner Act 1971*.

9.7. A decision to close a meeting or part of the meeting and the reason for the decision are to be recorded in the minutes of the meeting.

9.8. Meetings of the Board are generally to be open to the public.

9.9. 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))*; and

ii. a formal notice to the Chair, 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.

9.10. The Chair 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))***.**

9.11. A Special Meeting is to deal only with matters relevant to the purposes set out in the notice received by the Chair *(SER r.118(4)). 9.109.11*

9.12. The Chair will convene the Special Meeting within 30 days of receiving the request in writing.

9.13. The Chair will give to all members and the School community not less than 10 days' formal notice of a special meeting.

9.14. Each Board member, including the Chair, is entitled to one (1) vote only.

9.15. A decision of the Board does not have effect unless it has been made by an absolute majority.

9.16. An absolute majority means a majority comprising enough of the members of the Board for their number to be more than 50 per cent of the number of offices whether vacant or not.

9.17. Subject to these rules, the procedure and order of business to be followed at a meeting shall be determined by the Board.

10. MOTIONS AT BOARD MEETINGS

10.1. 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.

10.2. The Chair will be given at least seven (7) days' notice of a motion to be proposed at a meeting.

10.3. The Chair will give at least five (5) days' formal notice to members that a motion will be proposed at a meeting.

10.4. The Board will agree on the manner by which the Secretary will communicate notice of motions to members and, if relevant, to the School community.

11. RESOLUTIONS AT BOARD MEETINGS

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

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

11.3. Procedures for counting of votes will be decided by the Board (e.g., secret ballot or show of hands).

11.4. Voting on issues will be recorded in the minutes.

11.5. A decision of the Board will not take effect unless it has been made by an absolute majority as defined in rule 11.6. (SER r.119(2)).

11.6. An absolute majority 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)).

11.7. 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.

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

12. FAILURE TO ACT PROPERLY

12.1. In the event that the Board breaches the *School Education Act*, or the conduct of the Board is incompetent, inadequate or improper, the Minister may give written notice to the Board requiring that the situation be remedied.

12.2. If the Minister is of the opinion that a Board has not complied with such a notice, the Minister may dismiss the Board.

13. COMMITTEES OF THE BOARD

13.1. The Board is empowered to appoint such committees as it deems necessary.

13.2. Membership of committees is not confined to members of the Board but at least one (1) Board member is required to serve on each committee.

13.3. The duties of any committee shall be clearly defined by the Board and, where appropriate, a specific date shall be set for the completion of the tasks assigned to the committee.

13.4. In all cases a committee makes its recommendations to the Board.

13.5. Each committee of the Board shall ensure that minutes of its meetings are prepared and are provided if required in a timely fashion to the Board.

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 Chair; 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 Chair 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 person 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. QUORUM

15.1. A quorum will be more than fifty (50) per cent of the number of offices of members of the Board, whether vacant or not.

16. CODE OF CONDUCT

16.1. School Board members are required to exercise judgement and make decisions, and this can at times present ethical dilemmas. The code of conduct provides a framework of values and behaviours in support of this role.

16.2. Members of the School Board undertake:

a. to perform roles and responsibilities to the best of their abilities, within the framework of the law, the limits of authority and available resources.

b. to respect the uniqueness and dignity of individuals and act in a fair, courteous and sensitive manner.

c. to accept the responsibilities arising from the trust placed in members of the Board by staff, students and the community.

d. to perform all duties with integrity, honesty and impartiality.

e. to declare real or potential conflicts of interest which may result or could be perceived to result in personal benefit or potential discrimination to others.

f. to maintain appropriate confidentiality of personal and official information.

g. to be accountable for efficient and effective use of resources with which Board members are provided.

h. not to hinder the implementation of Board decisions.

i. to express concerns and personal views using available Board governance mechanisms.

j. to commit to conflict resolution and approach differences of opinion with kindness and compassion.

k. to present their personal views as a member of the Board but not present their views as the view of the Board publicly unless agreed to by the Board.

17. REVIEW

17.1. The Board is to review the Terms of Reference every three (3) years and may review as necessary in the interim.

17.2. The Board should conduct an annual anonymous survey of members as to Board Effectiveness, in a form and at a time to be determined by the Board.