

Legislative Requirements Related to the Operation of Incorporated Management Committees

Key Reminders

According to the Education Ordinance, all aided schools shall establish an incorporated management committee (IMC) in order to put in place a governance framework with participatory decision-making of school policies by the key stakeholders. The IMC shall manage the school in accordance with the relevant provisions of the Education Ordinance and the Education Regulations, as well as the IMC constitutions. The key provisions of the Education Ordinance and the Education Regulations are listed in the following table for reference purposes. Please refer to the original text of such ordinances for citing quotations.

(1) Education Ordinance

Education Ordinance	Key Provisions	Points to Note for Implementation
1. IMC Composition		
40AL	<ul style="list-style-type: none"> ➤ An IMC shall comprise the following six categories of school managers: <ol style="list-style-type: none"> 1. Sponsoring body managers nominated by the school sponsoring body (SSB); 2. The principal of the school, who shall be an ex-officio manager; 3. Not less than one teacher manager; 4. Not less than one parent manager; 5. One or more alumni managers; 6. Not less than one independent manager. ➤ There are alternate managers for three categories of school managers: <ol style="list-style-type: none"> 1. Sponsoring body manager; 2. Teacher manager; 3. Parent manager. 	<ul style="list-style-type: none"> ➤ The number of sponsoring body managers shall not exceed 60% of the maximum number of managers <u>as provided for in the IMC constitution</u>. ➤ Nomination of alternate managers in the following categories: <ol style="list-style-type: none"> 1. Not more than one alternate sponsoring body manager (subject to the provisions of the IMC constitution); 2. One alternate teacher manager (where the IMC constitution allows only one teacher manager); 3. One alternate parent manager (where the IMC constitution allows only one parent manager).

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40AU	<ul style="list-style-type: none"> ➤ An IMC shall, <u>within three months</u> from the date on which the failure to maintain full composition arises, fill any vacancy as soon as possible in order to maintain its full composition. 	<ul style="list-style-type: none"> ➤ An IMC has the responsibility to maintain its full composition to ensure smooth operation of the school.
40AS	<ul style="list-style-type: none"> ➤ <u>Subject to this section, an alternate manager shall for all purposes be regarded as a manager.</u> There are, however, special arrangements for: <ol style="list-style-type: none"> 1. voting on any matter to be resolved; 2. ascertaining the majority of the managers of a school; 3. establishing a quorum of a meeting. 	<ul style="list-style-type: none"> ➤ Alternate managers shall perform all functions of managers, such as attending all IMC meetings, taking part in discussions, proposing agenda items, speaking on items, etc. ➤ An IMC shall comply with the Education Ordinance when handling relevant matters / passing resolutions to ensure that alternate managers can perform their duties and responsibilities.
2. Term / Vacation of Office of Managers		
<p>40AE (An SSB is responsible for drafting the IMC constitution.)</p> <p>40AY (An IMC may amend its constitution.)</p>	<ul style="list-style-type: none"> ➤ The term of office of managers is determined by the SSB and provided for in the IMC constitution. If the IMC wishes to make amendments to the term of office of managers after the IMC is established, the IMC shall amend its constitution in accordance with the procedural requirements. 	<ul style="list-style-type: none"> ➤ To vary the term of office of parent / alumni managers, a school should amend not only the constitution of the recognized parent-teacher association / recognized alumni association, but also the IMC constitution. ➤ It is not desirable for managers to be re-nominated without limit of the number of terms; nor should the term of office be too short. The IMC shall make amendments to the term of office of managers in the IMC constitution in accordance with section 40AY of the Education Ordinance and its constitution.
40AX	<ul style="list-style-type: none"> ➤ The vacation of office of a manager shall be handled in accordance with the established 	<ul style="list-style-type: none"> ➤ The vacation of office of a manager requires: <ol style="list-style-type: none"> 1. a written request made by the body

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	<p>procedures, under which the body responsible for nominating the manager for registration should make a written request to the IMC, and such a written request should be authorized by a resolution passed by the body in a manner similar to that in which the manager is elected or nominated.</p>	<p>responsible for nominating the manager for registration to the IMC;</p> <p>2. a written notice issued by the IMC to the Permanent Secretary for Education as regards the cancellation of registration of the manager.</p>
<p>3. Election / Nomination of Different Categories of Managers</p>		
<p>40AN</p>	<p>➤ The principal of a school shall nominate such number of teacher manager(s) or alternate teacher manager as provided for in the constitution of the IMC of the school. Teacher managers must be elected for this purpose.</p>	<p>➤ A teacher manager must be a teacher of the school, and must not be the principal of the school. According to the interpretation in section 40AB of the Education Ordinance, “teacher” means a permitted teacher or registered teacher employed (a) to occupy a teacher post <u>in the establishment of staff</u> provided for in the code of aid for primary schools, code of aid for secondary schools, code of aid for special schools, or code of aid for aided schools; or (b) for a term for not less than 12 months to perform teaching duties or other duties directly related to teaching.</p> <p>➤ In relation to a special school, “teacher” includes the specialist staff of the school.</p>

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40AO	<ul style="list-style-type: none"> ➤ For the purposes of making nomination and election of parent manager(s) or alternate parent manager, IMC shall recognize one body of persons as “recognized parent-teacher association” so that the body of persons can conduct an election and make nomination of parent managers. 	<ul style="list-style-type: none"> ➤ A parent manager or an alternate parent manager must be <u>a parent of a current pupil</u> of the school. ➤ A parent-teacher association shall not be recognized by an IMC as “recognized parent-teacher association” unless it complies with section 40AO(3) of the Education Ordinance. ➤ The election is not conducted on a family basis. Every parent of a family has equal voting right and right of candidature (<u>one person, one vote</u>) (section 40AO(5)(c) of the Education Ordinance).
40AP	<ul style="list-style-type: none"> ➤ For the purposes of making nomination of alumni manager(s), an IMC <u>or</u> SSB (as provided for in the IMC constitution) shall recognize one body of persons as “recognized alumni association” for that body of persons to conduct an election and make nomination of alumni manager(s). 	<ul style="list-style-type: none"> ➤ According to section 40AB of the Education Ordinance, an “alumnus” means a person who has been a pupil of the school but is no longer such a pupil (i.e. <u>not confined to graduates</u>). ➤ An alumni association shall not be recognized as “recognized alumni association” unless its constitution complies with section 40AP(3) of the Education Ordinance. It should be particularly noted that under section 40AP(3)(a) of the Education Ordinance, the membership of a recognized alumni association is open to <u>all alumni</u> of the school.

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<p>40AQ 40AV</p>	<p>➤ An IMC shall nominate such number of persons as independent manager as provided for in the IMC constitution of the school. An independent manager shall <u>not</u> be:</p> <ol style="list-style-type: none"> 1. a teacher or specialist staff of the school; 2. a parent of a current pupil of the school; 3. an alumnus of the school; or 4. a member; the spouse or a grand-parent, parent, brother, sister, child or grand-child of a member; or an employee of the governing body of the sponsoring body of the school. 	<p>➤ A person who belongs to any type of person mentioned in the left column shall not be nominated as an independent manager.</p> <p>➤ A serving independent manager who becomes a person mentioned in the left column in a school year cannot continue to serve as an independent manager. However, his / her term of office as a manager shall continue until its expiry or the end of the school year, whichever is the earlier.</p>
<p>4. House Rules for Meetings</p>		
<p>31(1)(g)</p>	<p>➤ If the Permanent Secretary for Education receives a notice in writing from the IMC of a school that a manager, including an alternate manager, has been absent without the consent of the IMC from <u>all IMC meetings</u> in a school year, the registration of the manager may be cancelled.</p>	<p>➤ If a manager / an alternate manager has been absent from most or all of the IMC meetings in a school year, the IMC should take appropriate measures to improve the situation.</p>

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40BG	<ul style="list-style-type: none"> ➤ In principle, managers of all categories shall attend the IMC meetings and take part in the discussion of all items (including those related to personnel management, such as staff promotion). Unless the discussion items of the IMC involve the personal interest of a manager, that manager may take part in the discussion in accordance with the code of ethics without having to withdraw from the meeting. 	<ul style="list-style-type: none"> ➤ Managers shall attend the IMC meetings / withdraw from discussion of the relevant agenda items in accordance with the provisions of the Education Ordinance and the IMC constitution. ➤ A school shall request managers of a certain category not to take part in the discussion of a certain agenda item according to the provisions related to personal interest in section 40BG of the Education Ordinance.
5. Amendment of Constitution		
40AY	<ul style="list-style-type: none"> ➤ If the Education Bureau (Permanent Secretary for Education) does not object, by notice in writing, to an amendment to the constitution lodged by an IMC, such an amendment to the constitution shall take effect <u>upon the expiry of one month after it is so lodged.</u> 	<ul style="list-style-type: none"> ➤ An IMC shall amend its constitution in accordance with the procedures set out in its constitution (including the quorum requirement), and ensure that the proposed amendment to the constitution is in line with the content and spirit of the Education Ordinance.
6. Principal Selection Committee		
57A	<ul style="list-style-type: none"> ➤ A principal selection committee shall be formed in accordance with the provisions of the Education Ordinance and the IMC constitution. It shall be composed of representatives of SSB and IMC. 	<ul style="list-style-type: none"> ➤ A school shall form a principal selection committee and conduct the selection procedures in accordance with the IMC constitution and section 57A of the Education Ordinance. ➤ A member of the principal selection committee shall <u>not</u> concurrently act as a representative of SSB and IMC.

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7. Functions of Supervisor		
39, 40AJ and 40AK	<ul style="list-style-type: none"> ➤ A supervisor shall perform his / her functions in accordance with the Education Ordinance, and shall not delegate such functions as specified in section 40AK of the Education Ordinance to others. If a supervisor is unable to perform his / her functions during a period of not less than 28 days due to absence from Hong Kong or illness, an acting supervisor shall act in the place of the supervisor during the period. 	<ul style="list-style-type: none"> ➤ “Duties of supervisor” and “functions of supervisor” are respectively set out in sections 39 and 40AK of the Education Ordinance. It should be noted that relevant matters shall be handled by the supervisor in accordance with the Education Ordinance.

(2) Education Regulations

Education Regulations	Key Provisions	Points to Note for Implementation
1. Office Bearers of IMC		
75A	<p>➤ In addition to a supervisor, office bearers of an IMC shall include a secretary and a treasurer. The IMC may amend, on a need basis, its constitution in respect of the composition of office bearers. The functions, election / appointment, term of office, vacation of office, etc. of the office bearers are detailed in the IMC constitution.</p>	<p>➤ A school shall, in a timely manner, fill vacancies in accordance with the provisions regarding the composition and election / appointment of office bearers contained in the IMC constitution.</p>
2. House Rules for Meetings		
75A	<p>➤ Managers shall attend meetings in accordance with the IMC constitution, in which the number of meetings, meeting arrangements, issuance of agendas, quorum, etc. are laid down. The IMC shall conduct the meetings in accordance with the proceedings as provided for in its constitution.</p>	<p>➤ In general, IMCs convene meetings at least three times in a school year in accordance with its constitution and school managers should also attend the IMC meetings in person. In exceptional circumstances such as being affected by an epidemic (e.g. during the period when the EDB announces school closure or suspension of all face-to-face classes and all on-campus activities, etc.), IMCs may hold online meetings by video conferencing after reviewing the overall school-based situation. Such online meetings can be counted as regular IMC meetings and a manager will be deemed to be present at the meeting if he/she participates in it by visual means.</p> <p>➤ An IMC may lay down house rules for meetings on its own. Such rules should be established and observed on a fair basis, and be applicable to all managers.</p>

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