

Section 2

The School-based Management Governance Framework

2.1 Incorporation

- (a) In respect of an operating aided school, which has commenced operation before 1 January 2005, its sponsoring body shall submit to the Permanent Secretary for Education a draft of the constitution of the proposed IMC by 1 July 2009. In respect of a planned aided school, with the scheduled opening date of which falls on or after 1 January 2005, its sponsoring body shall make the submission not later than six months before the scheduled opening date.
- (b) In respect of a Direct Subsidy Scheme (DSS) school or a specified school (a school specified in Schedule 3 of the Education Ordinance), its sponsoring body may notify the Permanent Secretary for Education in writing of its intention to establish an IMC. For an operating DSS or specified school, the sponsoring body shall make a submission for the purpose of the establishment of IMC within six months from the date of notice given. For a planned DSS or specified school, the sponsoring body shall make the submission not later than six months before the scheduled opening date.

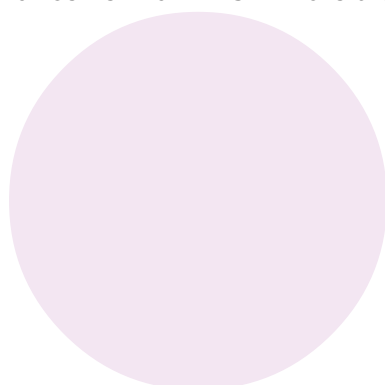
2.2 Composition of IMC

- (a) An IMC shall be constituted in accordance with its constitution. The composition of an IMC as provided for in its constitution shall be:
 - the numbers of sponsoring body manager shall not exceed 60% of the maximum of number of managers that the IMC may have under its constitution, one alternate sponsoring body manager may also be provided
 - the principal (an ex-officio manager)



- not less than one teacher manager (where the constitution allows the nomination of not more than one teacher manager, one alternate teacher manager shall be provided)
- not less than one parent manager (in case of a bi-sessional school, not less than one parent manager for each of the A.M. session and P.M. session)
- one or more alumni managers where such manager or managers is or are nominated
- not less than one independent manager

- (b) If the IMC constitution allows the nomination of not more than one parent manager, one alternate parent manager shall be provided. In case one parent manager is provided for each of the A.M. session and P.M. session for a bi-sessional school, one alternate parent manager shall be provided for each session.
- (c) An alternate manager shall have all functions and rights of a manager except voting rights. An alternate sponsoring body manager shall not vote on any matter to be resolved by the IMC by voting unless any sponsoring body manager is absent from meeting or unable to vote on the matter. An alternate teacher manager or alternate parent manager shall not vote on any matter to be resolved by the IMC by voting unless no teacher manager or parent manager is present at the meeting.
- (d) In calculating the maximum number of sponsoring body managers, all alternate managers shall not be counted. No manager shall serve in an IMC in more than one capacity.



2.2.1 Supervisor

- (a) The IMC of a school shall have a supervisor who must be a manager of the school. However, the principal or a teacher of the school shall not be the supervisor or act as the supervisor. The supervisor must be appointed by the sponsoring body or elected among the IMC managers as stipulated in the IMC constitution.
- (b) The supervisor shall hold and vacate office as such in accordance with the IMC constitution. If the 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, the sponsoring body shall appoint another manager as the acting supervisor to act in the place of the supervisor during the period in case the supervisor is appointed by the sponsoring body. In case the supervisor is elected by the managers, the other managers shall elect amongst themselves an acting supervisor to act in the place of the supervisor during the period.
- (c) The IMC shall give notice in writing of the assumption of office of the first supervisor to the Permanent Secretary for Education within 14 days after its establishment and of any subsequent supervisor to the Permanent Secretary for Education within 14 days after his/her election or appointment. The notice shall contain the English and Chinese names of the supervisor and such other information as the Permanent Secretary for Education may specify.
- (d) The supervisor shall preside over the IMC meetings, give notice in writing to the Permanent Secretary for Education that any manager, principal or teacher ceases to hold office, or any teacher is employed to teach at the school, sign the statement of accounts of the IMC, and perform such functions as may be provided for in the IMC constitution.

2.3 Nomination of School Managers

2.3.1 Sponsoring Body Manager

The sponsoring body of a school may nominate such number of persons for registration as sponsoring body manager of the school as may be provided for in the IMC constitution of the school. The sponsoring body may also nominate a person for registration as alternate sponsoring body manager of the school.

2.3.2 Teacher Manager

- (a) The principal of a school shall nominate such number of teachers of the school for registration as teacher manager or alternate teacher manager of the school as may be provided for in the IMC constitution. The teacher manager or alternate teacher manager must be elected among teachers of the school and the election must be held pursuant to the IMC constitution. In the election, all eligible teachers of the school must have equal voting right and right of candidature. The voting for the election must be conducted by secret ballot and the election system must be fair and transparent.
- (b) A person nominated for registration as teacher manager or alternate teacher manager must be a teacher (in relation to a special school, the specialist staff is included), and must not be the principal, of the school.

2.3.3 Parent Manager

- (a) The IMC of a school may recognise one body of persons as recognised parent-teacher association (PTA) for the purposes of making nomination for registration as parent manager. The IMC of a bi-sessional school may recognise one PTA in respect of the A.M. session and another PTA in respect of the P.M. session.

- (b) A recognised PTA may nominate such number of persons for registration as parent manager or alternate parent manager of the school as may be provided for in the IMC constitution. A person nominated for registration as parent manager or alternate parent manager must be a parent of a current pupil of the school, and must not be a teacher of the school.
- (c) The election for parent manager must be conducted by the recognised PTA of the school. In the election, all parents of the current pupils of the school must have equal voting right and right of candidature. The voting for the election must be conducted by secret ballot and the election system must be fair and transparent.

2.3.4 Alumni Manager

- (a) The IMC or sponsoring body of a school, as may be provided for in the IMC constitution may recognise one body of persons as recognised alumni association for the purposes of making nomination for registration as alumni manager. The IMC or sponsoring body of a bi-sessional school may recognise one alumni association in respect of the A.M. session and another alumni association in respect of the P.M. session.
- (b) A recognised alumni association may nominate such number of persons for registration as alumni manager of the school as may be provided for in the IMC constitution. A person nominated for registration as alumni manager must be an alumnus, and must not be a teacher of the school.
- (c) If no person is nominated by the recognised alumni association in respect of a school, the IMC may nominate such number of persons for registration as alumni manager of the school as may be provided for in its constitution.

2.3.5 Independent Manager

The IMC of a school may nominate such number of persons for registration as independent manager of the school as may be provided for in the IMC constitution. However, the following persons shall not be nominated for registration as independent manager:

- a teacher or specialist staff of the school;
- a parent of a current pupil of the school;
- an alumnus of the school; or
- a person who is –
 - (i) a member;
 - (ii) the spouse or a grand-parent, parent, brother, sister, child or grand-child of a member; or
 - (iii) an employee,of the governing body of the sponsoring body of the school.

2.3.6 Exemption from Composition Requirements

- (a) The first independent manager of a school may be registered as such at any time within one year from the establishment of the IMC of the school. In relation to a planned school, the first teacher manager shall be nominated for registration as such at any time within one year from the establishment of the IMC, whilst the first parent manager shall be nominated for registration within three years. In relation to an operating school, the first parent manager shall be nominated for registration as such at any time within three months from the establishment of the IMC.

- (b) However, an IMC may apply to the Permanent Secretary for Education for exemption from any requirement of the Education Ordinance on its composition if it is unable to nominate such number of persons as stipulated in the IMC constitution for registration as the manager of the school after the IMC has taken all reasonable steps to secure compliance with the requirement.

2.4 Resignation, Cancellation of Registration of Managers

- (a) If a parent manager ceases to be a parent of a current pupil of the school in a school year, his/her term of office as a manager shall continue until its expiry or the end of the school year, whichever is the earlier.
- (b) If in a school year an independent manager becomes a person mentioned in paragraph 2.3.5, his/her term of office as a manager shall continue until its expiry or the end of the school year, whichever is the earlier.
- (c) If a manager resigns from his/her office as a manager in accordance with the IMC constitution or passes away, the IMC shall give a written notice of the event to the Permanent Secretary for Education.
- (d) If a teacher manager or alternate teacher manager of a school ceases to be employed in the school, he/she shall be deemed to have resigned from his/her office as a manager in accordance with the IMC constitution.



- (e) The Permanent Secretary for Education may cancel the registration of a manager of a school –
- if the Permanent Secretary for Education receives a notice in writing from the IMC of the school that the manager has been absent without the consent of the committee from all meetings of the committee in a school year and the manager has been given due notice to attend those meetings
 - if the manager fails to produce, upon request by the Permanent Secretary for Education, a medical certificate issued by a registered medical practitioner after the date of such request certifying that the manager is physically fit to perform the functions of a manager
 - if the manager fails to make declaration of pecuniary or other personal interest under section 40BF of the Education Ordinance
 - if the Permanent Secretary for Education receives a notice issued by the IMC under section 40AX of the Education Ordinance as regards the cancellation of the registration of the manager

2.5 Liability of School Managers

2.5.1 Civil Liability

A manager shall not incur any civil liability in respect of anything done or omitted to be done by him/her in good faith in the performance or purported performance of any function of his/her office as the manager. No civil proceedings shall be brought against a manager of a school for anything done or omitted to be done by or on behalf of the IMC unless he/she has not acted in good faith.

2.5.2 Criminal Liability

A manager shall be guilty of an offence only when the IMC contravenes the concerned provisions of the Education Ordinance with his/her consent or connivance.

2.6 Amendment to the Constitution

- (a) An IMC may by resolution amend its constitution in the manner provided for in the constitution. The amendment shall be lodged with the Permanent Secretary for Education and shall not take effect before the expiry of one month after it is lodged.
- (b) The Permanent Secretary for Education may, by notice in writing to the IMC, object to an amendment lodged with him before the amendment takes effect. Within 21 days after the service of the notice, the IMC may appeal to an Appeal Board against the decision of the Permanent Secretary for Education referred to in the notice by delivering in duplicate to the secretary of the Appeal Boards Panel a notice of appeal. Every notice of appeal shall be in writing and shall specify the decision of the Permanent Secretary for Education in respect of which the appeal is brought and the grounds on which the appeal is brought.
- (c) If the decision of the Permanent Secretary for Education is reversed by the Appeal Board, the amendment shall, where the Permanent Secretary for Education does not appeal against the reversal within the period of 14 days after he is being served with a notice of decision, take effect at the expiry of that period or on the original effective date, whichever is the later.

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- (d) If the Permanent Secretary for Education appeals against the reversal and the reversal is upheld, the amendment shall take effect on the date on which the reversal is upheld or the original effective date, whichever is the later.
- (e) The IMC shall, as soon as practicable after any amendment to its constitution takes effect, lodge a copy of its constitution as amended with the Permanent Secretary for Education.

Key Points

The main provisions in relation to establishment and operation of an IMC are provided for in Part IIIB of the Education Ordinance. A manager interested in a particular topic may refer to the relevant sections for details.