

Section 10(2)(b) of the *Education and Children's Services Act 2019* provides that the constitution of a council must require that the members of the council comply with a code of practice approved by the Minister. The code is a public document, and together with the constitution of a council, is available for public inspection. Thus, the community is aware of the obligation to comply with the code, and the actions of a council are transparent and accountable.

When members are elected, nominated or appointed to a council they undertake a duty of trust and loyalty to act honestly and in good faith, to consider the needs of every child and student at the school, and to act in the best interests of the school. Although a council member may have been nominated by a group as specified in the legislation or in the constitution, that person is elected or nominated *to the council*, to provide a perspective in the course of making decisions in the best interests of the school regardless of other loyalties or allegiances.

A council member must not take improper advantage of the position of council member to gain, directly or indirectly, a personal advantage or an advantage for any associated person, which might cause detriment to the school.

The personal interests of a council member, and those of the council member's family, must not be allowed to prevail over those of the students, children and parents of the school generally. A council member must seek to avoid conflicts of interest wherever possible. Full disclosure of any conflict, or potential conflict, must be made to the council. In considering these issues, account should be taken of the significance of the potential conflict and the possible consequences if it is not handled properly. Section 37 of the *Education and Children's Services Act 2019* directs the action of council members in the case of a conflict of interest, and a failure to comply with the requirements of this section is an offence.

A council member must not make improper use of information acquired by virtue of being a council member. A council member nominated to the council by other groups should recognise the particular sensitivity of the position and should be especially careful not to disclose matters that are confidential unless prior agreement of the council has been obtained.

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A staff member nominated to the council by the staff of the school should recognise that the position occupied is particularly sensitive. In exceptional circumstances it may be necessary for the council member to express disagreement with colleagues on the staff of the school. In any event, the council member should be prepared to implement the decisions of the council and the instructions of the principal as a loyal member of the council.

If there is any doubt whether a proposed course of action is inconsistent with a council member's honest duty then the course of action should not be supported. Independent advice should be sought as soon as possible to clarify the issue. Contact the Department for Education's site governance team via email at education.sitegovernance@sa.gov.au.

When a council member feels so strongly as to be unable to abide by a decision of the council, some or all of the following steps should be considered:

- making the extent of the dissent and its possible consequences clear to the council as a means of seeking to influence the decision
- asking for additional legal, accounting or other professional advice
- asking that the decision be postponed to the next meeting to allow time for further consideration and informal discussion
- tabling a statement of dissent and asking that it be minuted
- writing to the chairperson, or all members of the council, and asking that the letter be filed with the minutes
- if necessary resign and consider advising the Minister.