



early childhood to
senior schooling

Education and Early Childhood Services
Registration and Standards Board of SA

Education and Early Childhood Services Registration and Standards Board of South Australia Charter

1. Purpose

- 1.1. The purpose of this Charter is to set out the Government's strategic objectives, operating arrangements, priorities and requirements for the Education and Early Childhood Services Registration and Standards Board ('The Board').

2. Charter's design

- 2.1. The Board has prepared this Charter (as its terms of reference) with input of the Minister.

3. Governance context

- 3.1. This Charter should be read in conjunction with the:
 - 3.1.1. *Education and Early Childhood Services (Registration and Standards) Act 2011* and Regulations
 - 3.1.2. *Education and Early Childhood Services Registration and Standards Act 2011* schedule 1 Education and Care Services National Law
 - 3.1.3. Education and Care Services National Regulations
 - 3.1.4. *Public Sector (Honesty and Accountability) Act 1995*
 - 3.1.5. *Criminal Law Consolidation Act 1935*
 - 3.1.6. *Public Finance and Audit Act 1987*
 - 3.1.7. *Public Sector Act 2009*
 - 3.1.8. *State Procurement Act 2004*
 - 3.1.9. Commissioner of Public Employment Code of Ethics
 - 3.1.10. *Education Services for Overseas Students Act 2000*
 - 3.1.11. Treasurer's Instructions
 - 3.1.12. Premier and Cabinet Circulars
 - 3.1.13. Government of South Australia Risk Management Policy Statement November 2009.
- 3.2. This Charter aims to meet the following Australian and New Zealand Standards:
 - 3.2.1. AS8000 2003 Good Governance Principles
 - 3.2.2. AS/ISO 31000 Risk Management.

4. Definitions

- 4.1. Under this Charter the following definitions apply:
 - 4.1.1. 'Act' means the *Education and Early Childhood Services (Registration and Standards) Act 2011*
 - 4.1.2. 'The Board' means the Members of Board sitting as the Education and Early Childhood Services Registration and Standards Board
 - 4.1.3. 'ESB' means the administrative body, known as the Education Standards Board, established to implement 'The Board's' decisions

- 4.1.4. 'Member' means a member of the Board
- 4.1.5. 'Minister' means the Minister for Education and Child Development
- 4.1.6. 'Performance statement' means the statement of performance targets
- 4.1.7. 'the Government' means the Government of South Australia
- 4.1.8. 'Whole of government policy' means objectives for Government approved by Cabinet from time to time relating to the functions or operations of all or various public sector agencies. This includes South Australia's Strategic Plan.

5. Fundamental governance arrangements

- 5.1. The Board
 - 5.1.1. is a body corporate; and
 - 5.1.2. has perpetual succession and a common seal; and
 - 5.1.3. can sue and be sued in its corporate name; and
 - 5.1.4. has the functions and powers assigned or conferred by or under the Act or by the Minister.
- 5.2. The Minister is the notional 'shareholder' of the ESB for and on behalf of the people of South Australia.
- 5.3. The Board may delegate a function or power under the Act other than a prescribed function or power including a power under Part 7:
 - 5.3.1. A delegation does not derogate from the ability of the Board to act in any matter
 - 5.3.2. A delegation must be in writing
 - 5.3.3. A delegation may, if the instrument so provides, be further delegated.
- 5.4. The Board, through the Presiding Member, is accountable to the Minister for:
 - 5.4.1. performance of its registration and regulatory responsibilities
 - 5.4.2. sound management of the ESB and its assets for and on behalf of its shareholders in accordance with the law
 - 5.4.3. attainment of performance objectives as established in the performance statement.
- 5.5. The Registrar of the ESB is answerable to the Board through the Presiding Member. The Registrar holds the following three statutory positions in the Act :
 - 5.5.1. the Registrar for the government school education sector
 - 5.5.2. the Registrar for the non-government school education sector
 - 5.5.3. the Registrar for the early childhood services sector
- 5.6. The Registrar is also the Chief Executive, appointed by the Board, and is accountable to the Board for day-to-day management of the ESB and the implementation of the Board's decisions, directions and policies and discharge of delegated powers or functions.

Purpose and Strategic Direction

6. Functions of the Board

- 6.1. The functions of the Board are to:
 - 6.1.1. regulate the provision of education services and early childhood services;
 - 6.1.2. approve the requirements for endorsement of registration;
 - 6.1.3. establish and maintain the registers contemplated by the Act;
 - 6.1.4. prepare or endorse codes of conduct for registered schools in accordance with the Act;
 - 6.1.5. provide advice to the Minister as the Board considers appropriate;
 - 6.1.6. carry out other functions assigned to the Board under this or any other Act or by the Minister;
 - 6.1.7. strive to fulfill the objects of the Act; and
 - 6.1.8. give direction to the ESB.
- 6.2. The objects of the Act include providing for the regulation of the provision of education and early childhood services in a manner that maintains high standards of competence and conduct by providers and—
 - 6.2.1. recognises that all children should have access to high quality education and early childhood facilities and services that—
 - 6.2.1.1. address their developmental needs; and
 - 6.2.1.2. maximise their learning and development potential through an appropriate curriculum; and
 - 6.2.1.3. support their educational achievement; and
 - 6.2.1.4. promote enthusiasm for learning; and
 - 6.2.1.5. support, promote and contribute to their health, safety and wellbeing; and
 - 6.2.2. provides for a diverse range of services; and
 - 6.2.3. recognises the rights of parents to access a diverse range of education and early childhood services providers; and
 - 6.2.4. enhances public confidence in the operation of education and early childhood services providers.
- 6.3. And, in relation to Early Childhood Services, the Board is to exercise its functions having regard to the objectives and guiding principles of the national education and care services quality framework :
 - 6.3.1. The objective of this Law is to establish a national education and care services quality framework for the delivery of education and care services to children
 - 6.3.2. The objectives of the national education and care services quality framework are—
 - 6.3.2.1. to ensure the safety, health and wellbeing of children attending education and care services;
 - 6.3.2.2. to improve the educational and developmental outcomes for children attending education and care services;
 - 6.3.2.3. to promote continuous improvement in the provision of quality education and care services;
 - 6.3.2.4. to establish a system of national integration and shared responsibility between participating jurisdictions and the

Commonwealth in the administration of the national education and care services quality framework;

- 6.3.2.5. to improve public knowledge, and access to information, about the quality of education and care services;
- 6.3.2.6. to reduce the regulatory and administrative burden for education and care services by enabling information to be shared between participating jurisdictions and the Commonwealth.

7. Function of the ESB

7.1. The role and function of the ESB is to:

- 7.1.1. undertake any lawful function conferred on it by the:
 - 7.1.1.1. Board;
 - 7.1.1.2. Act;
 - 7.1.1.3. any other Act; or
 - 7.1.1.4. Minister;
- 7.1.2. provide administrative services to the Board; and
- 7.1.3. undertake regulatory functions as authorised by the Board.

8. The principles that guide the Board and ESB in the Administration of the Act

8.1. In the administration of the Act the Board and ESB should take the following principles into account:

- 8.1.1. parents and guardians should have the right to choose the best services for their family;
- 8.1.2. parents and guardians, and members of school communities, should have access to relevant information concerning the regulation of their child's school;
- 8.1.3. the welfare and best interests of children is the primary consideration in the performance of the Board's functions;
- 8.1.4. any person who works with children is obliged to protect them, respect their dignity and privacy and safeguard and promote their wellbeing;
- 8.1.5. cooperation between the Minister, the Board and the school education sectors contributes to achieving the effective provision of education and early childhood services;
- 8.1.6. successful learning is built on a foundation of rich, engaging environments and meaningful interactions in which children's voices are listened to and acted on.

8.2. In exercising a power or performing a function under the Act, the Board should have regard to, and seek to give effect to, the following principles:

- 8.2.1. providers of education services and early childhood services should not be burdened by regulation more than is reasonably necessary;
- 8.2.2. the actions of the Board in relation to minimising or responding to a particular risk should be proportionate to the potential harm posed by the risk;
- 8.2.3. the Board should have regard to all of the circumstances of a particular provider of education services or early childhood services (including, without limiting this paragraph, the provider's history of compliance with this or any other relevant Act and any risk that the provider may not comply with the Act

in the future).

8.3. And, in relation to Early Childhood Services, these principles of the national education and care services quality framework, that—

- 8.3.1. the rights and best interests of the child are paramount;
- 8.3.2. children are successful, competent and capable learners;
- 8.3.3. the principles of equity, inclusion and diversity underlie this Law;
- 8.3.4. Australia's Aboriginal and Torres Strait Islander cultures are valued;
- 8.3.5. the role of parents and families is respected and supported;
- 8.3.6. best practice is expected in the provision of education and care services.

9. Government policies and directions

9.1. In pursuing its statutory functions and exercising its powers, the Board and ESB shall:

- 9.1.1. comply with lawful ministerial directions
- 9.1.2. work to advance the Government's vision and direction
- 9.1.3. act in accordance with the:
 - 9.1.3.1. governance framework of the Board
 - 9.1.3.2. policies specifically applying to the ESB
- 9.1.4. work collaboratively with other Government agencies.

9.2. The Government requires the ESB to play its part to support the objectives, targets and priority actions in South Australia's Strategic Plan and other Whole of Government Policies and to work with other public sector agencies to achieve strategic objectives under the plan.

10. Functions of Minister

10.1. The functions of the Minister under the Act are—

- 10.1.1. to support the delivery of the highest possible standard of education services and early childhood services;
- 10.1.2. to work with the Board to ensure effective monitoring and evaluation of the delivery of education and early childhood services;
- 10.1.3. to support the promotion of, and public awareness on the availability and quality of, education and early childhood services;
- 10.1.4. such other functions assigned to the Minister by or under the Act or any other Act.

11. Ministerial directions

11.1. In accordance with section 19 of the Act, the Minister may give the Board a lawful direction about any matter relevant to the performance or exercise of a function or power of the Board. No Ministerial direction may be given in relation to registration, imposition of conditions, suspension or cancellation of a particular school or of criteria for registration.

11.2. No Ministerial direction may be given in relation to Board proceedings or complaints relevant to section 30 of the Act.

11.3. A direction given by the Minister must be in writing.

11.4. If the Minister gives a direction under this section—

- 11.4.1. the Minister must prepare a report on the matter and cause a copy of the report to be laid before each House of Parliament; and
- 11.4.2. the Board must cause details of the direction to be published in its next annual report.

Operational Matters

12. ESB's operations

- 12.1. The ESB shall operate in a sustainable manner. This includes undertaking activities in the following contexts:
 - 12.1.1. long-term
 - 12.1.2. global
 - 12.1.3. local
 - 12.1.4. economic
 - 12.1.5. financial
 - 12.1.6. social
 - 12.1.7. environmental

13. Scope of operations

- 13.1. The Board shall undertake and develop operations consistent with its strategic business plan and in regard to its strategic directions, including:
 - 13.1.1. Customer Service - to deliver quality services and be responsive to the needs of regulated entities
 - 13.1.2. Sustainable Future – to play a leading role in providing sustainable educational services to the community and minimize its impact on the environment
 - 13.1.3. People & Culture – to develop a high achieving culture with a talented and diverse workforce and aspire to a zero harm workplace
 - 13.1.4. Commercially Viable – to ensure its finances are managed in a commercially sustainable and responsible manner.

14. Service standards

- 14.1. The Board may develop service standards.
- 14.2. The Board shall maintain the service standards and revise them within five years.

15. Financial management

- 15.1. The Board must keep proper accounting records in relation to its financial affairs, and must have general purpose financial statements prepared in respect of each financial year. These must be in accordance with applicable Australian Accounting Standards (including Australian equivalents to International Financial Reporting Standards), other authoritative pronouncements of the Australian Accounting Standards Board, Interpretations and the Treasurer's Instruction and Accounting Policy Frameworks issued pursuant to the Public Finance and Audit Act 1987.
- 15.2. The accounts must be audited at least once in every year by an auditor approved by the Auditor-General and appointed by the Board.
- 15.3. The Auditor-General may at any time audit the accounts of the Board.
- 15.4. All accounts and financial records must be kept in accordance with legislative

requirements under the Public Finance and Audit Act and associated Regulations and Treasurer's Instructions.

The Board

16. The Powers of the Board

- 16.1. The Board is empowered under the Act to make binding decisions for the implementation of the Act.
- 16.2. The Board shall have authority to interpret the meaning of this Charter and any other matter relating to the affairs of the Board on which this Charter is silent.
- 16.3. The Board (through the Presiding Member) may make recommendations to the Minister about improvements or modifications to the Charter.

17. The Board's responsibilities

- 17.1. The Board is responsible to the Minister for overseeing the operations of the ESB to:
 - 17.1.1. secure continuing improvements in the ESB's performance
 - 17.1.2. ensure compliance with its legislative obligations.

18. The Board's activities

- 18.1. The Board's activities will include:
 - 18.1.1. meeting government's expectations by:
 - 18.1.1.1. setting the long term strategic direction for the ESB, mindful of expectations set by the Minister in performance statements and this Charter
 - 18.1.1.2. ensuring that it behaves as an ethical, fair and impartial regulator and a model litigant
 - 18.1.1.3. ensuring organisational and operational congruence with whole of government policy and in particular contributing to South Australia's Strategic Plan
 - 18.1.1.4. collaborating with others in the public sector to ensure congruence with government policy and activities
 - 18.1.1.5. providing advice and reports to the Minister in a frank and fearless manner in accordance with the Reporting obligations outlined in this Charter
 - 18.1.1.6. making recommendations to the Minister regarding relevant policy which is likely to have an impact on the Board
 - 18.1.2. providing good strategic management and sound stewardship of the ESB by:
 - 18.1.2.1. modeling high standards of corporate and business ethics and fostering a positive, dynamic and ethical culture by appropriate investment in the development of the ESB's human resources
 - 18.1.2.2. good clear decision making on material matters that affect the ESB and resource allocation
 - 18.1.2.3. setting:
 - 18.1.2.3.1. strategic directions and corporate strategy
 - 18.1.2.3.2. broad policy

- 18.1.2.3.3. strategic objectives, key performance indicators, targets and their respective priorities
- 18.1.2.4. monitoring:
 - 18.1.2.4.1. the ESB's ability to meet its statutory obligations and functions
 - 18.1.2.4.2. performance to ensure strategic objectives are achieved and continuous operational improvement
 - 18.1.2.4.3. governance arrangements to ensure good governance principles are applied by the ESB
 - 18.1.2.4.4. the ESB's capacity and competence to meet future anticipated requirements
- 18.1.3. setting operational management parameters by:
 - 18.1.3.1. empowering the executive to manage the ESB's operations
 - 18.1.3.2. setting annual expectations of the executive and assessing their performance against those expectations
 - 18.1.3.3. requiring the ESB to:
 - 18.1.3.3.1. adopt a customer centric approach to service delivery
 - 18.1.3.3.2. work constructively with other public sector organisations
 - 18.1.3.3.3. operate as an ethical and fair regulator and a model litigant
 - 18.1.3.3.4. operate in a sustainable manner (financially, socially and environmentally) to maximize long-term business value.
 - 18.1.3.3.5. adopt appropriate systems and practices for the management, financial planning and control of all assets and liabilities
 - 18.1.3.3.6. undertake appropriate risk management in all decision making throughout the organisation
 - 18.1.3.3.7. maintain processes and procedures to ensure staff model high levels of honesty and accountability.

19. Board's methodology in monitoring the ESB's performance

19.1. The Board will:

- 19.1.1. approve the ESB's strategic direction and priorities and ensure that they are communicated to all staff and stakeholders. It will ensure that the expectations of the Minister and commitments from the Board to achieve those expectations are incorporated into plans and implemented
- 19.1.2. approve a strategic resource allocation plan that aligns resources against strategic objectives and its nominated priorities
- 19.1.3. approve strategic key performance indicators as they link to the strategic plan and expect regular reports on the ESB's performance against those indicators

- 19.1.4. review reports by the ESB on attainment of its strategic and financial objectives and consider recommendations to adjust its strategies to ensure achievement of its objectives
- 19.1.5. review and approve the ESB's annual report, which will assess performance on a triple bottom line basis.
- 19.2. The Board may use internal audit functions to assess whether the ESB is performing in accordance with its stated directions.

20. Board members

- 20.1. The Board consists of 13 members appointed by the Governor on the nomination of the Minister, being persons who collectively have, in the opinion of the Minister, the knowledge, skills and experience necessary to enable the Board to carry out its functions effectively.
- 20.2. Of those members—
 - 20.2.1. 1 (who will be the Presiding Member) must be a person who has, in the opinion of the Minister, extensive knowledge and expertise in the education and care of children; and
 - 20.2.2. 2 must be nominated by the Director-General; and
 - 20.2.3. 2 must be nominated from the Association of Independent Schools of South Australia; and
 - 20.2.4. 2 must be nominated by the South Australian Commission for Catholic Schools Incorporated; and
 - 20.2.5. 2 must be nominated from the prescribed child care bodies; and
 - 20.2.6. 1 must be a legal practitioner
 - 20.2.7. 3 others
- 20.3. The members will be appointed through expressions of interest; and that takes into account any representations made by a prescribed designated entity.
- 20.4. In nominating the members of the Board, the Minister should, as far as is reasonably practicable, endeavour to achieve a gender balance on the Board.
- 20.5. Board members hold positions on the Board as independent members, regardless of the basis upon which they have been appointed, with the purpose of furthering the Board's statutory and lawful objectives and in the interests of South Australians. Board members are not representatives of organisations by whom they may have been nominated for appointment.
- 20.6. The Governor may, on the recommendation of the Minister, appoint a suitable person to be the Deputy Presiding Member of the Board.

21. Deputies to Board members

- 21.1. The Governor may, on the nomination of the Minister, appoint a suitable person to be the deputy of a member of the Board.
- 21.2. A deputy may act as a member of the Board during any period of absence of the member in relation to whom the deputy has been appointed and participate as full Board members when they attend meetings in this capacity.
- 21.3. The requirements of qualification and nomination (if applicable) made in relation to the appointment of a Board member will apply to the deputy to that member.
- 21.4. Deputies to Board members may also sit on sub committees established by the board and

participate as full Board members when they attend meetings in this capacity.

22. Conditions of Board membership

- 22.1. A member of the Board (or Deputy Board Member) will hold office on conditions determined by the Governor for a term, not exceeding 3 years, specified in the instrument of appointment and is, at the expiration of a term of office, eligible for reappointment.
- 22.2. A member of the Board (or Deputy Board Member) cannot hold office for consecutive terms that exceed 9 years in total.
- 22.3. The Governor may remove a member (or Deputy Member) of the Board from office—
 - 22.3.1. for breach of, or non-compliance with, a condition of appointment; or
 - 22.3.2. for mental or physical incapacity to carry out duties of office satisfactorily; or
 - 22.3.3. for neglect of duty; or
 - 22.3.4. for dishonorable conduct.
- 22.4. The office of a member of the Board (or Deputy Member) becomes vacant if the member—
 - 22.4.1. dies; or
 - 22.4.2. completes a term of office and is not reappointed; or
 - 22.4.3. resigns by written notice addressed to the Minister; or
 - 22.4.4. is found guilty of a prescribed offence; or
 - 22.4.5. is removed from office by the Governor; or
 - 22.4.6. accepts employment as a Registrar under the Act.

23. Casual vacancies

- 23.1. The following rules govern the appointment of a person to fill a casual vacancy that occurs in the office of a member nominated by the
 - 23.1.1. Director General
 - 23.1.2. Association of Independent Schools of South Australia
 - 23.1.3. South Australian Commission of Catholic Schools Incorporated.
- 23.2. If the vacancy occurs within 12 months after the member's appointment, the Governor must appoint on the nomination of the Minister in accordance with the Act, for the balance of the term that person's predecessor.
- 23.3. A current list of members of the Board and their contact particulars will be kept by the ESB and on a register kept by the Department of Premier and Cabinet.

24. Validity of acts

- 24.1. An act or proceeding of the Board is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

25. Allowances and expenses

- 25.1. A member of the Board (other than a member who is a member of the Public Service) is entitled to fees, allowances and expenses approved by the Governor in accordance with Premier and Cabinet Circular 16.

26. Duties of Board Members

- 26.1. Board members are required to:
 - 26.1.1. follow written directions of the Minister
 - 26.1.2. comply with all statutory and legal obligations
 - 26.1.3. continuously improve their skills and knowledge relevant to their Board membership
 - 26.1.4. be accountable for their actions
 - 26.1.5. act in good faith
 - 26.1.6. abstain from any involvement in any decision where there may be a conflict of interest
 - 26.1.7. act and make decisions in an objective and independent manner in the pursuit of furthering the Board's successful fulfilment of its statutory objectives
 - 26.1.8. support and implement decisions of the Board
 - 26.1.9. exercise a reasonable degree of care and diligence in the performance of their functions, and (without limiting the effect of the foregoing) for that purpose—
 - 26.1.9.1. must take reasonable steps to inform themselves about the ESB and its business and activities and the circumstances in which it operates and
 - 26.1.9.2. must take reasonable steps through the processes of the Board to obtain sufficient information and advice about all matters to be decided by the Board or pursuant to a delegation to enable themselves to make conscientious and informed decisions and
 - 26.1.9.3. must exercise an active discretion with respect to all matters to be decided by the Board or pursuant to a delegation
 - 26.1.10. exercise reasonable diligence in attendance at and preparation for Board meetings but are not bound to give continuous attention to the affairs of the ESB
 - 26.1.11. act honestly at all times in the performance of the functions of their office, whether within or outside the State
 - 26.1.12. model high levels of corporate ethics and values of a public sector agency.

27. Board member training

- 27.1. It is incumbent on each Board member to undertake:
 - 27.1.1. induction and training on appointment to the Board
 - 27.1.2. ongoing training and development to ensure continuous improvement in their skills and knowledge.
- 27.2. The executive must ensure that induction and training is available to all Board members.

Board Decision Making

28. Submissions to the Board

- 28.1. Whilst not in any way limiting the capacity of the Board to make decisions on behalf of the ESB, generally, submissions to the Board should concern material strategic matters that affect the ESB and by their nature and gravity should be placed before the Board. The executive will be appropriately empowered by the Board to implement the Board's decisions.
- 28.2. Submissions must be lodged with the Board at least five business days prior to the meeting and must be circulated at least three business days prior to the meeting unless the Presiding Member approves the late distribution.
- 28.3. Submissions must be in a format set by the Board and clearly indicate the type and purpose of the submission and be signed by the executive placing the submission before the Board.
- 28.4. Submissions may have any of the following purposes:
 - 28.4.1. to seek direction
 - 28.4.2. to seek endorsement for action to be taken
 - 28.4.3. to seek approval for the implementation of strategy
 - 28.4.4. to provide information.
- 28.5. The Board will set standards for the preparation and content of submissions. This may include:
 - 28.5.1. how the submission contributes to achieving the ESB's strategic plan and objectives
 - 28.5.2. whether the submission contributes to implementing whole of government or State policies such as South Australia's Strategic Plan
 - 28.5.3. the use of risk management strategies to ensure success of any proposal and the minimization of the negative consequences of any foreseen risks which include consequences of the following nature:
 - 28.5.3.1. financial and economic
 - 28.5.3.2. environmental
 - 28.5.3.3. social and community
 - 28.5.3.4. human resource management (including WHS)
 - 28.5.3.5. legal and compliance.
- 28.6. The resolution that is being put to the Board for decision must be clearly stated in the submission.

29. Setting the agenda for meetings

- 29.1. Only agenda items authorised by the Presiding Member may be tabled.
- 29.2. Agenda items are to be agreed by the Presiding Member and late items may only proceed with the permission of the Presiding Member.
- 29.3. The Presiding Member must ensure that adequate time is assigned for consideration of all matters on the agenda. Matters can be adjourned for further hearing at subsequent times.
- 29.4. The business at the meeting will include:
 - 29.4.1. confirmation of the minutes of the previous meeting
 - 29.4.2. consideration of strategic issues affecting the organisation

- 29.4.3. consideration of Key Performance Indicators
- 29.4.4. issues for decision, information, direction
- 29.4.5. budgetary update
- 29.4.6. non-operational Human Resource Management
- 29.4.7. Occupational Health Safety and Welfare
- 29.4.8. any other business requiring consideration by the Board
- 29.4.9. date of the next meeting.

30. Schedule of meetings

- 30.1. The scheduling of meetings will be at the direction of the Presiding Member and at the convenience of all members where possible. The Board shall meet together for the dispatch of business from February to December each year.

31. Special meetings

- 31.1. Special meetings of the Board may be requested by any member of the Board, or the Minister.
- 31.2. A special meeting will only be held with the permission of the Presiding Member.
- 31.3. Notice for the special meeting can be sent by email, phone, facsimile or by mail but the method must take into account the duration of the notice. Every effort will be given to ensure that the Board members are given as much notice as possible for the meeting but it can be as little as one day's notice.

32. Meeting protocols

- 32.1. A quorum of the Board consists of one half the total number of its members (ignoring any fraction resulting from the division) plus 1
- 32.2. In forming this quorum, at least 1 member of the Board who was:
 - 32.2.1. nominated by the Association of Independent Schools of South Australia; and
 - 32.2.2. nominated by the South Australian Commission for Catholic Schools Incorporated; and
 - 32.2.3. nominated by the prescribed child care bodies;
 must be present at any meeting of the Board.
- 32.3. A meeting of the Board will be chaired by the Presiding Member or, in his or her absence, by the Deputy Presiding Member and, in the absence of both the Presiding Member and the Deputy Presiding Member, the members present at a meeting of the Board must choose 1 of their number to preside at the meeting.
- 32.4. If within 15 minutes after the time appointed for the meeting a quorum of members is not present, those assembled will confer with the Presiding Member and refer to the items on the agenda. In regards to each of the items they will decide which should be managed by:
 - 32.4.1. notice of the resolution circulated in accordance with paragraph 33.8
 - 32.4.2. deferred to the next scheduled Board meeting
 - 32.4.3. call of a special meeting in accordance with paragraph 31.
- 32.5. If the Presiding Member is not present within five minutes after the time appointed for holding the meeting, or he or she is present but declines to take or retires from the chair, the Deputy Presiding Member may chair the meeting. Failing the presence of the Presiding Member and the Deputy Presiding Member, a Member may be chosen by the

Members to chair the meeting.

- 32.6. A decision carried by a majority of the votes cast by members of the Board at a meeting is a decision of the Board.
- 32.7. Each member present at a meeting of the Board has 1 vote on any question arising for decision.
- 32.8. Meetings may occur by telephone conference provided a notice of the conference is given to all members in a manner determined by the Board and each participating member is capable of communicating with each of the other participating members.
- 32.9. Members are present if—
 - 32.9.1. notice of the conference is given to all members in the manner determined by the Board for the purpose; and
 - 32.9.2. each participating member is capable of communicating with every other participating member during the conference.
- 32.10. A proposed resolution of the Board becomes a valid decision of the Board despite the fact that it is not voted on at a meeting of the Board if—
 - 32.10.1. notice of the proposed resolution is given to all members of the Board by email in accordance with procedures determined by the Board; and
 - 32.10.2. a majority of the members express concurrence in the proposed resolution by letter, email or other written communication setting out the terms of the resolution.
- 32.11. Other parties including Deputy Board Members may be invited to address the Board and provide information.
- 32.12. Parties lodging submissions for consideration may make presentations with the permission of the Presiding Member. Advisers in attendance should only speak when called upon for information or advice by a member of the Board.
- 32.13. Subject to the Act, the Board may determine its own procedures.

33. Decision making

- 33.1. Questions arising at any meeting of the Board shall be decided by a majority of votes. In the event of equality of votes the Presiding Member shall have a casting vote in addition to a deliberative vote.
- 33.2. Board members are expected to make all decisions for the benefit of the Board and its responsibilities. The decisions will also look to minimise the negative possible consequences of identified risks and maximise the possible positive consequences of opportunities in the long run.
- 33.3. Resolutions will be put to a formal vote at the meeting at the conclusion of any discussion regarding the resolution and associated submission. The Board may move an alternative resolution regarding a topic based on the discussion at the Board meeting.
- 33.4. The right to vote at the meeting is vested in the Board member personally. In the event of a Board member not being able to attend a meeting and a Deputy Board Member is in attendance in their absence the Deputy Board Member has full voting rights.
- 33.5. Unless a poll is demanded by at least five members, a question for decision at a meeting may be determined by a show of hands or oral statement.
- 33.6. If a poll is demanded by at least five members, it must be conducted in a manner specified by the Chair and the result of the poll is the resolution of the meeting on that question.
- 33.7. Subject to these rules, a question for decision at a meeting must be determined by a majority of members who vote in person. Where the vote is equal the Presiding Member

may exercise a casting vote.

- 33.8. A proposed resolution of the Board becomes a valid decision of the Board despite the fact that it is not voted on at a meeting if notice of the resolution is given to all members and a majority of the members express concurrence by letter, email, facsimile or other written communication.
- 33.9. A decision related to varying the Board's standards for registration and review of registration of schools in South Australia will be referred by the Board to an ad hoc committee, comprised of Board Members representing the three school sectors, to reach a unanimous agreement on the amendment. In making the final decision, the Board will act on the advice of its committee.

34. Conflict of interest

- 34.1. In accord with the Board's Conflict of Interest Policy members who believe that they may have any conflict of interest in a submission that is being proposed must declare the nature and extent of their conflict as soon as it is apparent.
- 34.2. *The Public Sector (Honesty and Accountability) Act 1995* imposes duties of honesty and accountability on public sector office holders, and members of the Board.
- 34.3. A member of the Board will not be taken to have a direct or indirect interest in a matter for the purposes of the *Public Sector (Honesty and Accountability) Act 1995* by reason only of the fact that the member has an interest in the matter that is shared in common with persons involved in the provision of education services or early childhood services generally, or a substantial section of persons involved in the provision of education services or early childhood services.
- 34.4. The Board member must:
- 34.4.1. as soon as practicable after the relevant facts have come to his or her knowledge, fully declare the fact and the nature, character and extent of that interest to the Board
 - 34.4.2. avoid any informal discussions that might influence fellow Board members on the matter
 - 34.4.3. when the matter is raised formally during a Board meeting, declare his or her interest and leave the room and not wait to be asked
 - 34.4.4. not take part in any consideration of, or the making of a decision in relation to, that matter.
- 34.5. Any disclosure of a conflict of interest and the steps taken regarding the conflict must be recorded in the minutes of the meeting.

35. Minutes

- 35.1. The Board must have accurate minutes kept of its meetings.
- 35.2. The minutes will be kept by a member of ESB.
- 35.3. All resolutions considered and associated decisions made must be clearly minuted with details of whether the proposal was passed or not.
- 35.4. Draft minutes of the Meeting will be confidential within the Board until settled.
- 35.5. Minutes must be confirmed by the Presiding Member of the meeting prior to circulation to other Board members.
- 35.6. Minutes shall be signed by the Presiding Member of the meeting at which the proceedings took place or by the Presiding Member of the next succeeding meeting at

which the minutes are confirmed.

- 35.7. Where minutes are entered and signed they shall, until the contrary is proved, be evidence that the meeting was convened and duly held, that all proceedings held at the meeting shall be deemed to have been duly held, and that all resolutions and decisions made at a meeting shall be deemed to be valid.

36. Formation of committee/s (standing or irregular)

- 36.1. The Board may form committees to consider specific matters to:
- 36.1.1. advise the Board or the Registrar on any matter; or
 - 36.1.2. carry out functions on behalf of the Board.
- 36.2. Any committee formed must have terms of reference approved by the Board.
- 36.3. The procedures to be observed in relation to the conduct of the business of a committee will be determined by the Board and recorded in the terms of reference and insofar as a procedure is not determined by the terms of reference, it will be as determined by the committee.
- 36.4. Membership of a committee will be drawn from the Board, the deputy members, the ESB and elsewhere. Membership of standing committees (if any) must be approved by the Board.
- 36.5. The committee will determine who will be the Presiding Member of a committee.
- 36.6. Members of committee/s must have appropriate relevant specialty skills. Members may need to acquire and maintain additional skills such as financial literacy, human resource management, occupational health safety and welfare or risk management.
- 36.7. Minutes of committee meetings should be authorised as accurate records of the meetings and retained by the ESB.
- 36.8. A current register of members of any committee of the Board and their contact particulars will be kept by the ESB executive officer.
- 36.9. Members of committees are expected to make all decisions for the benefit of the people of South Australia and the Board and not for the benefit of any individual or agency. The decisions will also look to minimise the negative possible consequences of identified risks and maximise the possible positive consequences of opportunities in the long run.
- 36.10. Committees will be able to refer any matters of concern to the Board and vice versa.

37. Power of delegation

- 37.1. The Board may in accordance with the Act delegate a function or power under the Act:
 - 37.1.1. to a member of the Board, a Registrar or an employee of the Board; or
 - 37.1.2. to a committee established by the Board; or
 - 37.1.3. to a specified body or person (including a person for the time being holding or acting in a specified office or position).
- 37.2. A delegation:
 - 37.2.1. must be in writing; and
 - 37.2.2. may be absolute or conditional; and
 - 37.2.3. does not derogate from the ability of the Board to act in any matter; and
 - 37.2.4. is revocable at will.
- 37.3. A function or power delegated may, if the instrument of delegation so provides, be further delegated.
- 37.4. A person to whom a function has been delegated must not have a direct or indirect personal or pecuniary interest in any matter in relation to which the person proposes to perform the functions.
- 37.5. The ESB shall keep a register of delegations which will be the delegations.
- 37.6. The delegations will be reviewed periodically by the Board and kept current.

38. Constitution of Board for purpose of proceedings, including disciplinary or legal matters relating to schools or schools sector

- 38.1. The Governor may appoint a person as a special member of the Board.
- 38.2. The Board will, for the purpose of hearing and determining proceedings, be constituted of not less than 3 members selected by the Presiding Member (or, in the absence of the Presiding Member, the Deputy Presiding Member).
- 38.3. At least 1 of the members of the Board must be a legal practitioner.
- 38.4. At least 1 of the members of the Board, as constituted for the purposes of proceedings under this Part relating to a particular registered school or person, must be—
 - 38.4.1. if the registered school, or the registered school or school education sector to which the alleged conduct of the person relates, is a Government school or the Government sector—a member of the Board appointed from those nominated by the Director-General; or
 - 38.4.2. if the registered school, or the registered school or school education sector to which the alleged conduct of the person relates, is a member of the Association of Independent Schools of South Australia or such part of the school education sector as may be relevant to that association—a member of the Board appointed from those nominated from the Association of Independent Schools of South Australia; or
 - 38.4.3. if the registered school, or the registered school or school education sector to which the alleged conduct of the person relates, is a Catholic school or the Catholic sector—a member of the Board appointed from those nominated by the South Australian Commission for Catholic Schools Incorporated.
- 38.5. Proceedings of the Board as constituted for the purposes of particular proceedings under this Part will be presided over by—
 - 38.5.1. if a member of the Board as constituted under this section is appointed by the Presiding Member or Deputy Presiding Member (as the case requires) to

- preside over the proceedings—that member; or
- 38.5.2. in any other case—a member of the Board as constituted under this section who is a legal practitioner.
- 38.6. If a member of the Board as constituted for the purposes of particular proceedings dies or is for any other reason unable to continue with the proceedings, the Board constituted of the remaining members may, if the member presiding over the proceedings so determines, continue and complete the proceedings.
- 38.7. Any questions of law or procedure arising before the Board will be determined by the member presiding over the proceedings and any other questions by majority decision of the members.
- 38.8. The Board constituted of the member presiding over the proceedings may, sitting alone—
 - 38.8.1. deal with—
 - 38.8.1.1. preliminary, interlocutory or procedural matters; or
 - 38.8.1.2. questions of costs; or
 - 38.8.1.3. questions of law; or
 - 38.8.1.4. enter consent orders,
 and may, for that purpose or as a consequence, while sitting alone, make any determination or order (including a final order) that the member considers appropriate.
- 38.9. A member of the Board who is dealing with a question of law may refer the question for the opinion of the Supreme Court.

39. Accounting and internal auditing systems and practices

- 39.1. The ESB must establish and maintain:
 - 39.1.1. effective internal auditing of its operations in accordance with appropriate standards of practice
 - 39.1.2. a register of governance arrangements for all committees.

Reporting

40. Reporting on financial matters

- 40.1. The Board is obliged to:
 - 40.1.1. advise the Minister, as soon as practicable, of any material development that affects the financial or operating capacity of the ESB which may result in it not being able to meet its debts as and when they fall due
 - 40.1.2. ensure that all information furnished to the Minister by the ESB is accurate and comprehensive.

41. Annual report

- 41.1. The Board must, on or before 31 October in each year, deliver to the Minister a report on the administration of the Act and the work of the Board during the financial year ending on the preceding 30 June.
- 41.2. The report must—
 - 41.2.1. include the information prescribed by the regulations in relation to the relevant financial year; and
 - 41.2.2. incorporate the audited accounts of the Board for the relevant financial year.

- 41.3. The report should include the Board's progress on:
 - 41.3.1. achieving its statutory obligations, functions and expectations of the Minister
 - 41.3.2. achievements in implementing whole of government policy
 - 41.3.3. comparisons between strategic plan targets and actual results
 - 41.3.4. why targets were not achieved or exceeded and lessons from the process
 - 41.3.5. compliance with legislative obligations
 - 41.3.6. activities of the ESB in implementing policies.
- 41.4. The Minister must, within 12 sitting days after receiving a report under this section, have copies of the report laid before both Houses of Parliament.

42. Immunity of persons engaged in administration of Act

- 42.1. No personal liability attaches to a person engaged in the administration of the EECSRS Act for an act or omission in good faith in the exercise or discharge, or purported exercise or discharge, of official powers or functions.
- 42.2. A liability that would, but for subsection (1), lie against a person, lies instead against the Crown.

43. Date of operation

- 43.1. This Charter comes into operation upon signing by the Minister, and is binding on the Board and the ESB.
- 43.2. This Charter will be reviewed by the Board as required but in any event within 5 years of the date of signing by the Minister.

Signed:

Minister for Education and Child Development

Date: