

ELIGIBILITY TO BE A SCHOOL GOVERNOR

The School Governance (Constitution) (England) Regulations 2012

Wallace Fields Junior School

Declaration: I certify that I am over eighteen years of age and confirm that I am eligible to stand as a governor and that none of the disqualifications from holding office apply.

Name:

Signed:

Date:

When completed this form should be returned to the Clerk to the Governing Body.

Clerk - please retain the completed form on confidential file in school.

Please read the following very carefully to ensure that none of the reasons why a person may not become a governor, or hold office as a particular type of governor, apply to you.

C.3 Qualifications and disqualifications (regulation 17 and Schedule 4 to the Regulations)

Grounds for disqualification fall into three broad categories:

- general grounds;
- grounds that apply to particular categories of governor; and
- grounds that arise because of particular failings or actions on the part of the governor.

All the grounds for disqualification apply also to associate members except that associate members can be registered pupils at the school and can be under 18.

General grounds

Registered pupils cannot be governors.

A governor must be aged 18 or over at the time of election or appointment.

A person cannot hold more than one governor post at the same school at the same time.

Grounds that apply to particular categories of governor

A person is disqualified from being a parent governor if they are an elected member of the LA or paid to work at the school for more than 500 hours (i.e. for more than one-third of the hours of a full-time equivalent) in any consecutive twelve month period at the time of election or appointment.

A person is disqualified from being a local authority governor if they are eligible to be a staff governor at the school.

A person is disqualified from being a partnership governor if they are:

- a parent of a registered pupil at the school;
- eligible to be a staff governor at the school;
- an elected member of the local authority; or
- employed by the local authority in connection with its education functions.

Grounds that arise because of particular failings or actions on the part of the governor

A person is disqualified from being a governor of a particular school if they have failed to attend the meetings of the governing body of that school for a continuous period of six months, beginning with the date of the first meeting they failed to attend, without the consent of the governing body. This does not apply to the headteacher or to foundation governors appointed by virtue of their office.

A foundation, local authority, co-opted or partnership governor at the school who is disqualified for failing to attend meetings is only disqualified from being a governor of any category at the school during the twelve month period starting on the date on which they were disqualified.

A person is disqualified from holding or continuing to hold office as a governor of a school if, in summary, that person:

- is the subject of a bankruptcy restrictions order; an interim bankruptcy restrictions order; debt relief restrictions order; an interim debt relief restrictions order; or their estate has been sequestered and the sequestration has not been discharged, annulled or reduced;
- is subject to a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986; a disqualification order under the Companies (Northern Ireland) Order 2002; a disqualification undertaking accepted under the Company Directors Disqualification (Northern Ireland) Order 2002; or an order made under section 429(2)(b) of the Insolvency Act 1986 (failure to pay under county court administration order)
- has been removed from the office of trustee for a charity by an order made by the Charity Commission or Commissioners or High Court on grounds of any misconduct or mismanagement in the administration of the charity, or under section 34 of the Charities and Trustee Investment (Scotland) Act 2005 from being concerned in the management or control of any body.
- has been removed from office as an elected governor within the last five years.
- is included in the list of people considered by the Secretary of State as unsuitable to work with children or young people
- is barred from any regulated activity relating to children
- is subject to a direction of the Secretary of State under section 142 of the Education Act 2002 or section 128 of the Education and Skills Act 2008
- is disqualified from working with children or from registering for child-minding or providing day care
- is disqualified from being an independent school proprietor, teacher or employee by the Secretary of State
- subject to certain exceptions for overseas offences that do not correlate with a UK offence, has been sentenced to three months or more in prison (without the option of a fine) in the five years ending with the date preceding the date of appointment/election as a governor or since becoming a governor
- subject to certain exceptions for overseas offences that do not correlate with a UK offence, has received a prison sentence of two and a half years or more in the 20 years ending with the date preceding the date of appointment/election as a governor
- subject to certain exceptions for overseas offences that do not correlate with a UK offence, has at any time received a prison sentence of five years or more
- has been convicted and fined for causing a nuisance or disturbance on school or educational premises during the five years ending with the date immediately preceding appointment/election or since appointment or election as a governor
- refuses a request by the clerk to make an application to the Disclosure And Barring Service for a criminal records certificate.

Anyone proposed or serving as a governor who is disqualified for one of these reasons must notify the clerk to the governing body.

C.4 Term of office and resignation (regulation 18 and 19)

The term of office for all categories of governor is a fixed period of four years, but:

- the instrument of government may specify a shorter term of office (being at least a year) for a particular category of governor;
- the instrument of government may specify that the term of office for an individual governor within a category of governor may be between one and four years;
- a headteacher or an ex officio foundation governor stops being a governor when the position which entitles them to be a governor comes to an end;
- an additional or additional foundation governor appointed under Part 4 of the Education and Inspections Act 2006 holds office for such period as the appointer determines (at the time of appointment) up to a maximum of four years; and

- a substitute governor's term of office may end earlier than four years, dependent on the return or replacement of the original governor.

A governor may be elected or appointed for a further term.

Associate members are appointed for a period of between one and four years, as determined by the governing body on appointment, and may be reappointed.

Any governor may at any time resign by giving written notice to the clerk.

C.5 Removal of governors (regulations 20 - 24A)

Foundation governors may be removed from office by the person who appointed them. The appointing body must give written notice of the removal to the clerk to the governing body and to the governor concerned.

Governing bodies may suspend¹³ but not remove any foundation governor. Where a governing body has any concerns over the effectiveness or behaviour of a governor appointed by another body, they should bring their concerns to the attention of that body. It would then be for the appointing body to consider whether the information brought to light is sufficient to change their opinion of whether the individual concerned has the skills to contribute to effective governance, which was the basis of their original appointment decision, and if not to remove the individual and appoint someone else who does.

The governing body may remove any ex-officio foundation governor if requested by the person named in the instrument of government as the person entitled to make such a request (for details see C.6 below). That person must give the clerk and the governor concerned written reasons for the request.

Local authority governors may be removed from office by the local authority that nominated them. The local authority must give written notice of the removal to the clerk to the governing body and to the governor concerned.

The governing body may remove co-opted governors and partnership governors (for details see section C.6). A partnership governor may also be removed by the governing body at the request of the nominating body (for details see section C.6 below).

The governing body may also remove an appointed or an elected, parent or staff governor.

It is advised that every effort be made to avoid potential difficulties later by informing prospective election candidates, or appointees, of the nature of the role. It is advised that their agreement is secured to a clear set of expectations for behaviour and conduct – as set out in a code of conduct. A code of conduct is expected to detail (within the parameters of relevant regulations and this guidance) the circumstances in which the governing body may suspend or remove a governor. Good training, a thorough induction and effective chairing are also vital in helping to prevent situations occurring in the first place. It is advised that induction includes a clear setting out of the expectations of the governor role.

Governing bodies are expected only to exercise the power to remove an elected governor in exceptional circumstances where the actions or behaviour of the elected governor warrants removal rather than suspension. The power should not be used simply to remove dissenting or challenging voices. Good governance involves asking courageous questions and offering appropriate professional challenge. A diverse range of viewpoints contributes to healthy debate and good decision making; and avoids governing boards becoming inappropriately dominated by a single narrow perspective.

The five year disqualification term for removal reflects the expectation that the power to remove an elected governor will only be used in exceptional and serious circumstances (and such seriousness will depend on the facts of the case). Examples which could give rise to removal are where:

- (a) there have been repeated grounds for suspension¹⁴;
- (b) there has been serious misconduct. Governing bodies should decide what constitutes serious misconduct based on the facts of the case. However, it is expected that any actions that compromise the Nolan principles, if sufficiently serious, would be considered in scope of this reason for removal.
- (c) a governor displays repeated and serious incompetence; for example where an elected governor is unwilling or unable, despite all appropriate support, to develop the skills to contribute to effective governance; or where attendance is so irregular that the governor is unable to make any meaningful contribution to the work of the board.
- (d) the governor has engaged in conduct aimed at undermining fundamental British values of democracy, the rule of law, individual liberty, mutual respect, and tolerance of those with different faiths and beliefs; and/or;

(e) the actions of the governor are significantly detrimental to the effective operation of the governing body, distracting it from its core strategic functions; and/or the actions of a governor interferes with the operational efficiency of the school thereby wasting a significant amount of headteacher and /or senior leadership time.

C.6 Procedure for removal of governors by the governing body (regulation 25)

Removal by a governing body of a co-opted governor, partnership governor, ex-officio foundation governor, appointed parent governor or elected parent or staff governor is effected by resolution of the governing body but only if:

- the removal is confirmed by a resolution passed at a second meeting of the governing body not less than 14 days after the first meeting;
- the removal of the governor has been specified as an item on the agenda of both meetings; and
- the following additional conditions are satisfied.

Where the governor concerned is an ex-officio foundation governor, or is a partnership governor whose removal has been requested by the nominating body, the additional condition is that the governing body considers the reasons for removal and gives the governor concerned the chance to make a statement in response.

Where the governor concerned is a co-opted governor, a partnership governor, elected parent or staff governor, or an appointed parent governor, the governor proposing the removal must at the meeting give reasons for the proposal and the governor concerned must have the chance to make a statement in response.

Governing bodies are expected to provide an appeals procedure to enable any removed governor to test the reasonableness of the governing body's decision to remove them. It is advised that an independent panel conducts the appeal, which could include a governor from another school, and/or a suitable official from the local authority, or a suitable diocesan representative.

It is advised that any governor subject to removal is provided with written details of the case against them ahead of any meeting, and it is advised this includes details of how their case is being handled, and the timeframes involved. They must then be given sufficient time and support to respond.