

School Representative Bodies – Limits on financial powers – guidelines

Contents

1. Introduction	3
2. Scope	3
3. Guidelines	3
4. Roles and Responsibilities	4
4.1. School representative bodies	4
4.2. Principals.....	4
4.3. School Business Services and Finance Systems and Innovation	4
5. Definitions	5
6. Related legislation	6

1. Introduction

The *Education Act 2015* (the Act) allows for the establishment of school representative bodies as incorporated bodies and provides them with the ability, in their corporate name, of entering into agreements; The Act also allows for school representative bodies to acquire, hold, deal with and dispose of real and personal property – section 106(1). The Education Regulations 2015 provide some limits on these functions – section 29.

The purpose of this guideline is to provide schools with further clarification on the limit of their financial powers to support schools in managing their financial and strategic liabilities and risks.

2. Scope

These guidelines apply to school representative bodies and independent public school boards.

3. Guidelines

A school representative body must not, except with the approval of the Chief Executive of the department, for every individual instance:

- a. borrow or lend money – this includes the acquisition and use of credit cards
- b. acquire or dispose of real property
- c. enter into a contract or other arrangement for the provision of goods or services where the total annual cost of that contract or arrangement exceeds 10 per cent of the money allocated to the school representative body in the School Resourcing Model allocation for that financial year
- d. enter into a contract or other arrangement for the construction or improvement of a building or other structure on land under which the total cost is in excess of the threshold amount
- e. enter into a funding agreement with any Commonwealth government entity.

School representative bodies should consider the use of independently obtained legal advice when considering legal instruments such as contracts and agreements. All such instruments should be carefully reviewed and assessed for risk and potential Goods and Services Tax implications before being finalised.

Where the approval of the Chief Executive of the department is required for exercising any of the financial powers mentioned at items a. to e. above, school representative bodies should prepare a business case detailing the nature of the proposed arrangement, giving consideration to potential real or perceived risks, and stating the benefits to the school and educational outcomes of students. Business cases should be submitted via the Senior Director Education.

A school body must not, except with the approval of the Chief Executive of the department, with approval provided through general written directions:

- f. enter into a funding agreement other than that specified at e. above
- g. give an indemnity or guarantee, where not already covered by the categories listed at items a. to e. above
- h. dispose of personal property.

Where the Chief Executive of the department has provided express written directions, such as that provided in secretarial approvals or within policy or guideline documents, school representative bodies can exercise their financial powers accordingly.

School representative bodies may enter into funding agreements that do not contain indemnities or guarantees without seeking the approval of the Chief Executive of the department where express written directions exist. If School representative bodies enter or gain consent from the Chief Executive of the department to enter into funding and agreements with an indemnity or guarantee, it is recommended that schools maintain a register for any guarantees and/or indemnities given.

Where the approval of the Chief Executive of the department is required for exercising any of the financial powers mentioned at items f. to g. above, school representative bodies should prepare a business case detailing the nature of the proposed arrangement, giving consideration to potential real or perceived risks, and stating the benefits to the school and educational outcomes of students. Business cases should be submitted via the Senior Director Education.

4. Roles and Responsibilities

4.1. School representative bodies

School representative bodies must:

- represent the best interests of the school in financial matters and contractual relationships
- act in accordance with these guidelines and any other policy or direction of the school and the department.

4.2. Principals

Principals must:

- work collaboratively with school representative bodies in representing the best interests of the school in financial matters and contractual relationships
- ensure processes are in place in schools to monitor school representative body contractual relationships and acquiring or disposing of property
- inform the school representative body and ensure implementation of departmental policies and guidelines.

4.3. School business services

School business Services must:

- provide timely and accurate advice or direction to school finance managers and principals as per these guidelines
- ensure this guideline is regularly reviewed and updated
- ensure the implementation of departmental policies and guidelines.

5. Definitions

Term	Definition
Accountable Officer	For the purpose of this guideline means the Chief Executive of the Department of Education and Training
Conflict of interest	Refers to a situation where a conflict arises for a person between competing interests. These are often, but not always, interests of public duty versus private interests and can be reasonably perceived, potential, or actual conflicts of interest
Contract	A legally binding agreement reached between two parties, the terms of which the courts have the authority and obligation to enforce. For the purpose of this guideline a contract means a building or construction contract, or a contract relating to the provision of goods or a service
Delegate authority	For the purpose of this guideline means the delegated officer on whom a power is conferred, or function imposed by the Accountable Officer
Funding agreement	An agreement where financial assistance is provided by a funder to help achieve the recipient's own organisational goals in a document that outlines the terms, conditions, obligations and accountability of the funder and the recipient. The funder does not receive benefit from the funding agreement, but the recipient may be required to satisfy standards or outcomes and provide reports to the funder. It should be distinguished from a contract for goods or services where the funder provides payment for goods or services which benefit their own organisational goals.
Guarantee	An undertaking on the part of the school representative body to be responsible for another's debt or contractual performance if that other person does not pay or perform
Indemnity	An undertaking on the part of the school representative body to compensate, protect or insure another person or entity against future financial loss, damage or liability
Legal instrument	A document that states the terms and conditions of a contractual relationship, or a formal or legal written document such as a deed, lease, bond, contract, or will
Real property	For the purposes of this guideline is land and anything attached to the land
Personal property	For the purposes of this guideline is movable property and is anything that can be subject to ownership, except land, for example a couch or a car
Risk management	The application of judgement in combination with experience and competence, in determining the appropriate levels of assurance in a given situation
School business services	The corporate team who provide support for schools on financial governance
School representative body	An incorporated association established under the Act, with functions, responsibilities and obligations governed by the Act and Education Regulations. School representative bodies may be: <ul style="list-style-type: none"> • A school council – a body of members for a government school • Independent public school board – a body of members for a government school that is an independent public school

Term	Definition
	<ul style="list-style-type: none"> Joint school representative body – a body of members which represent two or more government schools. As joint school representative bodies do not hold any financial powers this guideline is not applicable
School Resourcing Model allocation	For the purposes of this guideline is the total funding allocated to a school in the year to provide education services.
Threshold amount	the threshold amount for minor new works set out in the Treasurer’s Directions issued under section 38 of the <i>Financial Management Act 1995</i>

6. Related legislation

Education Act 2015 – <https://legislation.nt.gov.au/Legislation/EDUCATION-ACT-2015>

Education Regulations 2015 – <https://legislation.nt.gov.au/Legislation/EDUCATION-REGULATIONS-2015>

Financial Management Act 1995 – <https://legislation.nt.gov.au/en/Legislation/FINANCIAL-MANAGEMENT-ACT-1995>

Document title	School Representative Bodies – Limits on financial powers – guidelines
Contact details	School Finance – school.finance@education.nt.gov.au
Approved by	Chief Financial Officer
Date approved	29 November 2024
TRM number	50:D24:101521

Version	Date	Author	Changes made
1	February 2017	School Finance and Governance	First version – EDOC2017/2280
1.1	June 2020	School Financial Improvement and Support	Transferred to current template – 50:D20:51904
2	September 2024	Financial Services	Minor amendments to update position titles and align to Financial Services restructure and machinery of government changes. Transferred to current template
2.1	November 2024	Financial Services	Minor amendment regarding schools entering into guarantees or indemnities are advised to keep a record of agreement.