

**CANBERRA JAPANESE SUPPLEMENTARY SCHOOL  
INCORPORATED (CJSS INC.)**

**CONSTITUTION**

**As at 26/05/2012**

Adopted on the first day of March, 2008.

Table of amendments by special resolution in accordance with section 33 of the *Associations Incorporation Act 1991* (ACT) (Alteration of rules).

Date	Sections amended
...26.../.05../.12... ...	Part 3, Clause 17(c) The Board..... has power to perform all acts and do all things that appear to the Board to be necessary or desirable for the proper management of the affairs of the Association and the school Changed the above to: has power to perform all acts and do all things that appear to the Board to be necessary or desirable for fulfilling the objects of the Association.
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**Part 1 Preliminary**

**1 Name**

The name of the Association is “Canberra Japanese Supplementary School Incorporated” and may be abbreviated as “CJSS Inc.” (hereinafter, “the Association”).

*Notes* In Japanese, the Association may be referred to as the “キャンベラ補習授業校”, which is pronounced as “Kyanbera Hoshu Jugyoko”. However, the Japanese name may only be used if used in conjunction with the English name.

The name of the Association must appear in legible characters on the common seal of the association and on every business letter, statement of account, invoice, official notice, publication, bill of exchange, promissory note, endorsement, cheque or other negotiable instrument, order, receipt and letter of credit issued or executed by or on behalf of the association (see section 41 of the Act (Name on association’s documents etc)).

**2 Registered Office**

The Association may have a Registered Office in which case it shall be in the Australian Capital Territory at a place determined by the Board from time to time.

**3 Objects of the Association**

The objects of the Association are to provide supplementary education in a Japanese educational setting to Japanese students residing in the Canberra area.

*Note* The objects may be altered by a special resolution (see section 30 of the Act (Alteration of objects) and section 38 of this Constitution).

**4 Definitions**

(1) In this Constitution, unless the contrary intention appears:

*Note* A definition applies except so far as the contrary intention appears (see section 155 of the *Legislation Act 2001* (ACT)).

**associate delegate** means an individual who has been duly appointed by a body corporate, or Japanese Government entity associate member under subsection 10(2) of this Constitution.

**associate member** means an individual, a body corporate, or a Japanese Government entity, registered as a current associate member under subsection 9(5) of this Constitution.

**committee** means a committee of the Association established in accordance with section 27 of this Constitution and is not the “committee” of the Association for the purposes of the *Associations Incorporation Act 1991* of the Australian Capital Territory.

**Constitution** means this document.

**financial year** means the year ending on 31 March.

**full member** means an individual registered as a current full member under subsection 9(5) of this Constitution.

**guardian** means a parent whose parenting rights are not subject to legal restrictions or a legally appointed guardian of a Japanese student.

**honorary adviser** means an individual either having accepted an invitation to become, or being appointed as, an honorary adviser under section 7 of this Constitution, and not having ceased in this role.

**honorary representative** means an individual either having accepted an invitation to become, or being appointed as, an honorary representative under section 7 of this Constitution, and not having ceased in this role.

**Japanese students** means Japanese nationals who are of Japanese primary or junior high school age, or will attain such an age within the Association’s following financial year, and no other person, unless otherwise approved by the Board of Directors.

**meeting** includes the Annual General Meeting or an extraordinary meeting or any meeting of the Association.

**member** means a member, however described, of the Association and includes a full member and an associate member.

**ordinary director** means a director on the Board of Directors who is neither an office-bearer of the Association nor the principal under section 18 of this Constitution.

**poll** means a vote conducted in the manner determined by the Board whereby the number of for, against, and abstaining voters present, are noted in the meeting minutes.

**Note** If this constitution does not require a poll, ballot or secret ballot to be conducted, resolutions may be considered on a show of hands and recorded as either carried or not carried in the minutes, without reflecting the number of votes for or against, or the number of members abstaining.

**public officer** means an individual elected or appointed under section 19 of this Constitution to be a public officer in accordance with section 57 of the *Associations Incorporation Act 1991* (ACT) and holding office under this Constitution as the public officer of the Association. In addition to the role of public officer, the person holds the office of vice-president of the Association. Or, if no such person holds the office of public officer, the secretary of the Association shall act in the role of the public officer and the role of vice-president remains vacant while the secretary is acting as public officer.

**president** means an individual elected or appointed under section 19 of this Constitution and holding office under this Constitution as the president of the Association.

**principal** means an individual retained by the Association to act in the role of the principal for the school as operated by the Association from time to time in accordance with the Association's objects under section 3 of this Constitution. The principal's primary role is implementing the educational policy of the Association in accordance with this Constitution and in the manner determined by the Board, of which the principal is a director.

**Note** For the purposes of sections 9, 15 and 16, the Board is deemed not to include the principal.

**resolution** means a motion, excluding a special resolution or a resolution under subsection 25(3) of this Constitution, that is moved by a full member entitled to vote, seconded by another full member entitled to vote, and passed by a simple majority of votes of those full members of the Association who being entitled to vote under section 37 of this Constitution and present in person or by proxy at the meeting.

**secretary** means an individual elected or appointed under section 19 of this Constitution and holding office under this Constitution as the secretary of the Association. Or, if no such person holds that office, the public officer of the Association.

**special resolution** means a resolution that satisfies subsection 38(1) of this Constitution.

**staff** means employees or contractors retained by the Association to provide services to the Association or at the school.

**the Act** means the *Associations Incorporation Act 1991* of the Australian Capital Territory.

**the Association** means Canberra Japanese Supplementary School Incorporated.

**the Board** means the Board of Directors of the Association and is the "committee" of the Association for the purposes of the *Associations Incorporation Act 1991* of the Australian Capital Territory.

**Note** For the purposes of sections 9, 15 and 16, the Board is deemed not to include the principal.

**the Canberra area** means the Australian Capital Territory and its immediate surrounds as defined by the Board of Directors.

**the regulation** means the *Associations Incorporation Regulation 1991* of the Australian Capital Territory.

**the school** means the school as operated from time to time by the Association in accordance with its objects under section 3 of this Constitution.

**treasurer** means an individual elected or appointed under section 19 of this Constitution and holding office under this Constitution as the treasurer of the Association.

**vice-president** means an individual elected or appointed under section 19 of this Constitution and holding office under this Constitution as the vice-president and public officer of the Association.

(2) In this Constitution:

(a) a reference to a function includes a reference to a power, authority and duty; and

- (b) a reference to the exercise of a function includes, where the function is a power, authority or duty, a reference to the exercise of the power or authority or the performance of the duty; and
- (c) a “note” is a reference only and does not form part of the text of the Constitution.

**5 Application of Legislation Act 2001**

The *Legislation Act 2001* (ACT) applies to this Constitution in the same way as it would if they were an instrument made under the Act.

**6 Powers of the Association**

Subject to this Constitution, the Association has all the powers of a natural person.

*Note* Under section 25 of the Act (Restriction of actions), the powers of an incorporated association may be expressly restricted in the constitution of the association.

**7 Honorary advisers and honorary representatives**

- (1) The Association may, by resolution at a general meeting, invite:
  - (a) an individual who subscribes to the objects of the Association to be an honorary adviser, honorary representative, or both an honorary adviser and honorary representative of the Association; or
  - (b) an organisation that subscribes to the objects of the Association to appoint an individual from their organisation in the manner they choose, to be an honorary adviser, honorary representative, or both an honorary adviser and honorary representative of the Association.
- (2) The Association may have more than one honorary adviser and honorary representative and their roles may differ. However, the individual does not acquire any class of membership by virtue of their role unless approved as a member of the Association in their own right.
- (3) Within 14 calendar days of an individual accepting or being appointed as an honorary adviser and/or an honorary representative, they shall provide a written acknowledgement to the secretary in the way provided in section 49 of this Constitution, acknowledging that acting in their capacity as an honorary adviser and/or an honorary representative, they do not have any rights to determine or vote on the operation of the Association, or the school. Upon receipt of such a written acknowledgement, on behalf of the Association, the president shall provide the individual with a notice in the way provided in section 49 of this Constitution, acknowledging that the Association and its members acknowledge that the honorary adviser (and if applicable, the organisation that appointed them) and/or an honorary representative shall not be held financially responsible or in any way liable for:
  - (a) in the case of an honorary adviser, the accuracy of, or any perceived deficiencies in advice provided by the honorary adviser; or
  - (b) in the case of an honorary representative, any deficiencies in their actions when acting in their capacity as an honorary representative, or a failure to undertake an act.
- (4) Subject to this section, the role of an individual accepting an invitation or appointed under subsection (1) of this clause shall be as agreed between the Board and the individual. The individual shall in writing to the secretary in the way provided in section 49 of this Constitution provide any personal details separately requested by the Board within 14 calendar days of the request, and the same applies in relation to any subsequent changes to the aforementioned details.
- (5) Following acceptance or appointment under subsection (1) of this clause:
  - (a) the individual may resign the role with immediate effect by giving notice in writing to the secretary in the way provided in section 49 of this Constitution; or
  - (b) the Board may by giving a notice in writing to the individual in the way provided in section 49 of this Constitution, suspend the individual from their role pending possible removal from the role, with removal taking effect if approved by a poll at the immediate general meeting following. In the event that a motion to remove the individual is not passed at the general meeting, the suspension shall be immediately lifted and the individual notified in writing of this.

- (6) Participation by honorary advisers and honorary representatives in any meetings of the Association or activities of the school shall be by either invitation or prior agreement of the Board.
- (7) Honorary advisers and honorary representatives shall be copied in on all Association correspondence dispatched to full members, unless they request otherwise.

## **Part 2 Membership**

### **8 Membership qualifications**

- (1) There shall be two categories of members of the Association:
  - (a) full members; and
  - (b) associate members.
- (2) The following persons are eligible for to become full members of the Association:
  - (a) any guardian of a Japanese student residing in the Canberra area provided that there is not already a full member of the Association from the same household as the Japanese student. Such a guardian must subscribe to the objects of the Association under section 3 of this Constitution; and
  - (b) no other person shall be eligible for membership of the Association. However, the Board may admit such other individuals, bodies corporate and Japanese Government entities as associate members in accordance with the provisions of this Constitution.
- (3) A person who was either an associate or full member of the Association at the time of incorporation but has not maintained continuous membership, or who was not a member of the Association at the time of the incorporation of the Association shall not be admitted to membership:
  - (a) unless the person is nominated as provided in section 9 of this Constitution; and
  - (b) the person's admission as either a full member or an associate member is approved by the Board.

### **9 Nomination and approval of membership**

- (1) A nomination of a person, including a Japanese Government entity, for full membership or associate membership of the Association must be:
  - (a) made by a full member of the Association on the applicable form prescribed by the Board and note the applicable category of membership; and
  - (b) seconded on the same form by another full member of the Association; and
  - (c) accepted by the person subject to nomination; and
  - (d) lodged with the secretary of the Association.
- (2) As soon as is practicable after receiving a nomination for membership, the secretary must refer the nomination to the Board which must decide whether to approve or to reject the nomination.
- (3) If a nomination for membership is not approved at the board meeting at which it is considered, the secretary shall as soon as practicable after that meeting inform the nominee accordingly.
- (4) If the Board decides to approve a nomination for membership, the secretary must as soon as practicable after that decision notify the nominee of that approval and request the nominee to pay within 28 calendar days after receipt of the notification any sum payable under this Constitution.
- (5) The secretary must, on payment by the nominee of the amounts mentioned in subsection (4) of this clause within the period mentioned in that subsection, enter the nominee's name in the register of members and on the name being so entered, the nominee becomes either a full member or an associate member of the Association.
- (6) For the purpose of this section, the Board shall be taken as the Board excluding the principal.

**10 Rights and obligations of members**

- (1) A right, privilege or obligation that a person has because of being a member of the Association:
  - (a) cannot be transferred or transmitted to another person, except as provided under subsection (2) of this clause; and
  - (b) terminates on cessation of the person's membership.
- (2) For a body corporate or a Japanese Government entity associate member only:
  - (a) The rights, privileges, duties and obligations of the associate member, except insofar as any particular right, privilege, duty or obligation is specific to the associate member acting corporately, are exercisable by the duly appointed associate delegate of that member.
  - (b) The manner in which an associate member acts to appoint its associate delegate is a matter for that associate member, but the associate delegate must be a duly authorised representative.
  - (c) A duly authorised representative of an associate member shall inform the secretary of the Association in writing within 14 calendar days of any appointment or change in the appointment of their associate delegate.
- (3) The Board shall determine what common obligations members of the Association must meet. This includes whether full members are required to be members of a committee established by the Board or fulfil other roles as specified by the Board. The Board shall also be responsible for determining any exceptions to such common obligations. When making a determination of the common obligations, the Board shall also specify in what circumstances disciplinary processes under section 15 of this Constitution may be invoked due to a full member not meeting the obligations as determined by the Board.
- (4) A full member has the right to enrol a Japanese student that they are guardian for in the school, subject to the student meeting the academic standard for their applicable Japanese academic year level.
  - (a) The academic standard shall be as specified by the Association.
  - (b) The enrolment of any student deemed not to meet the required academic standard shall be at the sole discretion of the Board.
- (5) Associate members shall be entitled to attend and speak at general meetings of the Association. In the case of a non-individual associate member, the aforementioned entitlements are only exercisable by their associate delegate. No associate members are entitled to:
  - (a) hold an office under this Constitution; or
  - (b) vote at any meeting of the Association, unless acting as a duly appointed proxy for a full member.
- (6) All members and associate delegates are required to inform the secretary in writing in a timely manner of any changes to their registered details, in the manner prescribed by the Board.

**11 Cessation of membership**

- (1) A person ceases to be a member of the Association if the person:
  - (a) dies or, for a corporation or a body corporate, is wound up; or
  - (b) resigns from membership of the Association; or
  - (c) fails to renew membership of the Association. Renewal is undertaken by the person by confirming their registered details in writing in the manner prescribed by the Board; or
  - (d) is disqualified from membership of the Association as a result of disciplinary action; or
  - (e) in the case of a full member having been absent in person and proxy without the prior consent of the Board from two consecutive general meetings, including annual general meetings and extraordinary general meetings but excluding general meetings requisitioned under subsection 31(2) of this Constitution, the full member shall cease to a member of the Association upon the passage of 7 calendar days from the second consecutive meeting, unless otherwise determined by the Board.

*Note* Under paragraph 1(e) of this clause, the prior consent of the Board shall be sought in the manner prescribed by the Board from time to time.

- (2) If a person ceases to be a member, the secretary must make an appropriate entry in the register of members recording the date the member ceased to be a member.
- (3) If the event of a full member ceasing to be a member under either paragraph 1(d) or 1(e) of this clause, the secretary shall:
  - (a) notify the former member that their membership has ceased and that they are no longer entitled to have any Japanese student for which they are the guardian enrolled in the school and that if there are such Japanese students, they are deemed to have being voluntarily withdrawn from the school; and
  - (b) notify the principal that any Japanese student for which the former member is a guardian for is deemed to have being voluntarily withdrawn from the school and is not permitted to participate in any activities of the school unless the principal is advised otherwise by the president.
- (4) If the event of a full member ceasing to be a member under either paragraph 1(d) or 1(e) of this clause, the former member is taken to have forfeited the right to receive the school services for which monies have already been paid but the service not received.

## **12 Resignation of membership**

- (1) A member is not entitled to resign from membership of the Association except in accordance with this section.
- (2) A member who has paid all amounts payable by the member to the Association, including any amounts levied against a member in relation to the school, may resign from membership of the Association by first giving notice (of not less than 1 month or, if the Board has determined a shorter period, that shorter period) in writing to the secretary, in the way provided in section 49 of this Constitution, of the member's intention to resign and, at the end of the period of notice, the member ceases to be a member.
- (3) If a person ceases to be a member, the secretary must make an appropriate entry in the register of members recording the date the member ceased to be a member.

## **13 Fees**

- (1) The fee structure applicable to each category of membership of the Association shall be determined by the Board from time to time and payable within the period determined by the Board. However, Associate members shall not be subject to fees.
- (2) While the Board may determine different entrance and membership fees for different classes of membership, it may not differentiate fees on an individual basis within a membership class.
- (3) Any resolution adopted by the Board on the entrance fee and monthly tuition fees payable by full members in relation to attendance by Japanese students at the school shall not take effect until ratified at a general meeting in accordance with section 29 of this Constitution.
- (4) In this Constitution, unless otherwise determined by the Board, 'monthly tuition fees' shall not be read as including any additional fees that the Board may separately impose in relation to:
  - (a) extra curricular or non-classroom based school events; or
  - (b) predominantly cost recovery based fees for activities undertaken by students or the provision to students of learning materials such as texts and workbooks.

*Note* Monthly tuition fees may also be used to fund items under paragraph (4)(a) of this clause or incorporate an amount in relation to items under paragraph (4)(b) of this clause.

## **14 Members' liabilities**

Members of the Association have limited liability. The liability of a member to contribute towards the payment of the debts and liabilities of the Association or the costs, charges and expenses of the winding up of the Association is limited to the amount (if any) unpaid by the member in relation to membership of the Association as required by section 13. In this section, "amount" includes any monies levied against a full member in relation to the school.

**15 Disciplining of members**

- (1) If the Board is of the opinion that a member:
- (a) has persistently refused or neglected to comply with a provision of this Constitution or obligations stipulated in accordance with a provision of this Constitution; or
  - (b) has persistently and wilfully acted in a manner prejudicial to the interests of the Association;
- the Board may, by resolution:
- (c) disqualify the member from membership of the Association; or
  - (d) suspend the member from the rights and privileges of membership of the Association that the Board may decide for a specified period.
- Note* The exact disciplinary action must be specified in the resolution made under subsection (1) of this clause.
- (2) A resolution of the Board under subsection (1) of this clause is of no effect unless the Board, at a meeting held not earlier than 14 calendar days and not later than 28 calendar days after service on the member of a notice under subsection (3) of this clause, confirms the resolution in accordance with this section.
- (3) If the Board passes a resolution under subsection (1) of this clause, the secretary must, as soon as practicable, serve a written notice on the member in the way provided in section 49 of this Constitution:
- (a) setting out the resolution of the Board and the grounds on which it is based; and
  - (b) stating that the member may address the Board at a meeting to be held not earlier than 14 calendar days and not later than 28 calendar days after service of the notice; and
  - (c) stating the date, place and time of that meeting; and
  - (d) informing the member that they may do either or both of the following:
    - (i) attend and speak at that meeting; and/or
    - (ii) submit to the Board at or before the date of that meeting written representations relating to the resolution.
- (4) Subject to section 50 of the Act (Rules of natural justice), at a meeting of the Board mentioned in subsection (2) of this clause, the Board must:
- (a) give to the member mentioned in subsection (1) of this clause an opportunity to make oral representations; and
  - (b) give due consideration to any written representations submitted to the Board by that member at or before the meeting; and
  - (c) by resolution decide whether to confirm or to revoke the resolution of the Board made under subsection (1) of this clause.
- Note* Section 50 of the Act (Rules of natural justice) requires that all proceedings in relation to a dispute between the association and a member or members must comply with the rules of natural justice.
- (5) If the Board confirms a resolution under subsection (4) of this clause, the secretary must, within 7 calendar days after that confirmation, by written notice in the way provided in section 49 of this Constitution inform the member of that confirmation and of the member's right of appeal under section 16 of this Constitution.
- (6) A resolution confirmed by the Board under subsection (4) of this clause does not take effect:
- (a) until the end of the period within which the member is entitled to appeal against the resolution if the member does not exercise the right of appeal within that period; or
  - (b) if within that period the member exercises the right of appeal, unless and until the Association confirms the resolution in accordance with subsection 16(4) of this Constitution.
- (7) For the purpose of this section, the Board shall be taken as the Board excluding the principal.

**16 Right of appeal of disciplined member**

- (1) A member may appeal to the Association at a general meeting against a resolution of the Board that is confirmed under subsection 15(4) of this Constitution, within 7 calendar days

after notice of the resolution is served on the member, by lodging with the secretary a notice to that effect in the way provided in section 49 of this Constitution.

- (2) On receipt of a notice under subsection (1) of this clause, the secretary must notify the Board which must call a general meeting of the Association to be held within 21 calendar days after the date when the secretary received the notice or as soon as possible after that date.
- (3) Subject to section 50 of the Act (Rules of natural justice), at a general meeting of the Association called under subsection (2) of this clause:
  - (a) no business other than the question of the appeal may be transacted; and
  - (b) the Board and the member must be given the opportunity to make representations in relation to the appeal orally or in writing, or both; and
  - (c) the members present must vote by secret ballot on the question of whether the resolution made under subsection 15(4) of this Constitution should be confirmed or revoked.

*Note* Section 50 of the Act (Rules of natural justice) requires that all proceedings in relation to a dispute between the association and a member or members must comply with the rules of natural justice.

- (4) If the meeting passes a special resolution in favour of the confirmation of the resolution made under subsection 15(4) of this Constitution, that resolution is confirmed.
- (5) For the purpose of this section, the Board shall be taken as the Board excluding the principal.

### **Part 3 Board of Directors (the Board)**

#### **17 Powers of the Board**

- (1) The Board, subject to the Act, the regulation, this Constitution, and to any resolution passed by the Association at a general meeting:
  - (a) controls and manages the affairs of the Association and the school; and
  - (b) may exercise all functions that may be exercised by the Association other than those functions that are required by this Constitution to be exercised by the Association at a general meeting; and
  - (c) has power to perform all acts and do all things that appear to the Board to be necessary or desirable for fulfilling the objects of the Association.

*Note* Refer to section 29 of this Constitution for matters decided by the Board that do not take effect until ratified by a resolution at a general meeting.

#### **18 Board structure and membership**

- (1) The Board consists of the following directors.
  - (a) The office-bearers of the Association; and
  - (b) 2 ordinary directors;each of whom must be elected under section 19 of this Constitution or appointed in accordance with subsection (4) of this clause; and
  - (c) the principal of the school.

The principal is a non-elected position that will be filled by a merit based selection process determined by the Board.

- (2) The office-bearers of the Association are:
  - (a) the president; and
  - (b) the public officer and vice-president; and
  - (c) the treasurer; and
  - (d) the secretary.

*Note* An individual is not eligible to be the public officer unless they reside in the ACT and are at least 18 years of age.

- (3) Each director holds office, subject to this Constitution, until the conclusion of the annual general meeting following the date of their election, but is eligible for re-election.

- (4) If there is a vacancy on the Board, the Board may appoint a full member that satisfies the eligibility criteria under subsection 19(1) of this Constitution to fill the vacancy and the full member so appointed holds office, subject to this Constitution, until the conclusion of the next general meeting after the date of the appointment.
- (5) In addition to any role stipulated for a director under the Act or this Constitution, the roles of office-bearers, the ordinary directors and the principal shall be as determined from time to time by the Board.

## **19 Election of office-bearers and ordinary directors**

- (1) A full member is eligible to be to be nominated for election to a role under section 18 of this Constitution if the normal rights of their membership class under this Constitution are not subject to any restrictions at the time of nomination and election. For example, their voting rights are not subject to restriction under section 37. The provision by a full member of services to the school as staff of the Association does not preclude such a full member from being nominated.

*Note* Under section 63 of the Act (Disqualification from office), persons who have been convicted of specified offences can only be elected as a director if leave has been granted by the ACT Supreme Court.

- (2) Nominations of candidates for election as office-bearers of the Association or as ordinary directors must be:
  - (a) made by a full member of the Association on the applicable form prescribed by the Board and specify the full member nominated and the position they are nominated for; and
  - (b) seconded on the same form by another full member of the Association; and
  - (c) accepted by the full member subject to nomination; and
  - (d) lodged with the secretary of the Association not less than 7 calendar days before the date fixed for the annual general meeting at which the election is to take place.
- (3) If and only if a nomination has not been received in accordance with subsection (2) of this clause in relation to a position, shall further nominations be accepted for a position. Such further nominations may be made up until the time that the poll is called at the annual general meeting to fill other positions where more than one valid nomination has been received.
- (4) Where only one valid nomination has been received for a position in accordance with subsection (1) of this clause or before the poll is called at the annual general meeting to fill other positions where more than one valid nomination has been received, the full member nominated shall be deemed to have been elected to that position without a poll being conducted. For any positions where more than one valid nomination has been received, a poll shall be conducted to fill the position and the outcomes shall be recorded in the meeting minutes.
- (5) For positions where the nominees have not been deemed to be elected under subsection (4) of this clause, the poll for the election of office-bearers and ordinary directors must be conducted at the annual general meeting in the way the Board may direct.
- (6) A full member is not eligible to simultaneously hold more than 1 position on the Board. However, under this Constitution, vice-president and public officer are deemed to be 1 position and the secretary when acting as public officer, is also deemed to be 1 position.
- (7) A vacancy under section 24 of this Constitution in an elected position of the Board shall be filled in accordance with the procedures in this section, but substituting immediate following general meeting for annual general meeting. Positions becoming vacant under section 24 of this Constitution may be filled on an interim basis under subsection 18(4) of this Constitution.
- (8) Directors must notify the secretary in writing of their address and any other details as prescribed by the Board from time to time, as soon as practicable after being elected as a director, or a change in their name or address during a their term of office.

*Note* Under section 62 of the Act (Notice of changes in committee), changes in directors, a position becoming vacant, and changes in directors' addresses, must be notified to the applicable Australian Capital Territory regulatory authority within one month.

**20 President**

- (1) The president's duties include:
  - (a) presiding over board meetings and general meetings, as well as any other meeting of the Association as determined by the Board; and
  - (b) acting as the spokesperson for the Association; and
  - (c) representing the Board and/or the Association at events of the school; and
  - (d) representing the Board and/or the Association at events, where the Board on behalf of the Association, has accepted an invitation to attend; and
  - (e) organising independent mediation, or acting as a mediator, in the event of conflict between or amongst Association staff; and
  - (f) organising independent mediation, or acting as a mediator, in the event of conflict between or amongst members of the Association, excluding when the conflict arises from disciplinary action instituted by the Board under section 15 of this Constitution; and
  - (g) undertaking any other duties as required by the Board from time to time.
- (2) Where the president is unavailable, unless otherwise determined by the Board, the vice-president shall assume primary responsibility for carrying out the duties of the president. In the event that both the president and vice-president are unavailable, 1 of the remaining directors (excluding the principal) may be chosen by the remaining directors (including the principal) to undertake any urgent duties of the president.

**21 Vice-president and public officer**

- (1) The vice-president's duties include:
  - (a) performing the role of the public officer of the Association; and
  - (b) assisting the president as required; and
  - (c) presiding over board meetings and general meetings when the president is otherwise unavailable; and
  - (d) acting in the role of the president if the position is vacant at any time; and
  - (e) undertaking any other duties as required by the Board from time to time.
- (2) The public officer's duties include:
  - (a) advising on the requirements under this Constitution and the Act; and
  - (b) advising on the conduct and procedure of board and general meetings; and
  - (c) organising and lodging in a timely manner any documentation required by the applicable Australian Capital Territory regulatory authority.

*Note* Under section 79 of the Act (Annual returns), the Association's annual return must be lodged within six months of the end of the financial year.

- (3) A full member either elected or appointed as the public officer of the Association must lodge with the applicable Australian Capital Territory regulatory authority a notice of their appointment in the approved form not later than one month after being either elected or appointed.
- (4) If the public officer changes their address they must lodge with the applicable Australian Capital Territory regulatory authority a notice of the change within one month after the change.

**22 Secretary**

- (1) The secretary, or in their absence, a delegate(s) of the secretary as appointed by the Board, must keep minutes of:
  - (a) all elections and appointments of directors; and
  - (b) the names of directors present at a board meeting or a general meeting; and
  - (c) all proceedings at board meetings and general meetings.
- (2) Minutes of proceedings at a meeting must be signed by the person presiding over the meeting or by the person presiding over the next succeeding meeting.
- (3) The secretary's duties include:

- (a) arranging board meetings and general meetings as directed by the Board; and
- (b) assisting the person presiding over the above meetings; and
- (c) performing duties as required under other sections of this Constitution, including maintaining the register of members; and
- (d) undertaking any other duties as required by the Board from time to time.

*Note* Under section 67 of the Act (Register of members), the Association must maintain a register of members.

- (4) The secretary may be assisted in their duties under this Constitution by secretary's delegates as appointed by the Board.
- (5) For periods where the public officer is absent from Australia or the office is vacant, the secretary shall also perform any duties that the public officer would otherwise perform, unless otherwise determined by the Board.

## **23 Treasurer**

- (1) The treasurer, or their delegate(s) as appointed by the Board, must:
  - (a) collect and receive all amounts owing to the Association and make all payments authorised by the Association; and
  - (b) keep correct accounts and books showing the financial affairs of the Association with full details of all receipts and expenditure connected with the activities of the Association.
- (2) The treasurer may be assisted in their duties under this Constitution by treasurer's delegates as appointed by the Board.

## **24 Vacancies**

- (1) For this Constitution, a vacancy in the office of a director of the Board happens if the director:
  - (a) dies; or
  - (b) ceases to be a full member of the Association; or
  - (c) resigns the office; or
  - (d) is removed from office under section 25 of this Constitution (Removal of directors); or
  - (e) becomes an insolvent under administration within the meaning of the *Corporations Act 2001* (Cth); or
  - (f) suffers from mental or physical incapacity; or
  - (g) is disqualified from office under subsection 63(1) of the Act (Disqualification from office); or
  - (h) is absent without the prior consent of the Board from all board meetings held during a period of 2 months.

*Notes* Under paragraph 1(h) of this clause, the prior consent of the Board shall be sought in the manner prescribed by the Board from time to time.

If a vacancy occurs in the office of the public officer, the Board must fill the position within 14 calendar days.

## **25 Removal of directors**

- (1) The Association at a general meeting may by resolution, subject to section 50 the Act (Rules of natural justice), remove any director on the Board excluding the principal, from the office of director on the Board before the end of the director's term of office.
- (2) In relation to the president, a resolution under subsection (1) of this clause must be a special resolution. The removal of other directors other than the president and the principal only requires the passage of a resolution as defined under this Constitution.
- (3) Any director on the Board may move or second a no-confidence motion against the principal and such a resolution shall be carried if four or more directors vote in favour of the resolution.

*Notes* As per usual practice, the mover and seconder of the motion are entitled to vote on their motion.

- (4) If a no-confidence motion against the principal is carried under subsection (3) of this clause:
  - (a) the principal's voting and Board participation rights shall be suspended pending the termination of their services as the principal (this does not preclude them from continuing as a teacher at the school); and
  - (b) the Board shall as soon as practicable undertake to recruit a new principal; and
  - (c) the Board shall select another teacher employed by the Association or providing services to the Association to sit on the Board with the same rights given to the principal under this Constitution, until a new principal is appointed.
- (5) A vote on any resolution, including special resolutions, under this section must be conducted by secret ballot.

## **26 Board meetings and quorum**

- (1) The Board must meet at least 6 times in each financial year in the manner that the Board may decide. However, the time shall not overlap with a time that the principal is scheduled to teach or perform other duties at the school, unless alternative arrangements are made to ensure the principal can attend or participate.
- (2) Additional meetings of the Board may be called by any two directors jointly, including the principal.
- (3) Written notice in the way provided in section 49 of this Constitution, or oral notice, of a meeting of the Board must be given by the secretary to each director at least 48 hours (or any other period that may be unanimously agreed on by the directors) before the time appointed for the holding of the meeting.
- (4) Any 4 directors constitute a quorum for the transaction of the business of a board meeting.
- (5) Continuing directors may act notwithstanding any vacancy on the Board. If and so long as their number is reduced below 4, the continuing directors may act for the purpose of summoning a general meeting of Association, or for obtaining an instrument in writing from full members who are entitled to vote, appointing a new director, but for no other purpose.
- (6) Subject to subsection (5) of this clause, no business may be transacted by the Board unless a quorum is present and, if within half an hour after the time appointed for the meeting a quorum is not present, the meeting stands adjourned to the same place and at the same hour of the same day in the following week.
- (7) Subject to subsection (5) of this clause, if at the adjourned meeting a quorum is not present within half an hour after the time appointed for the meeting, the meeting is dissolved.
- (8) At meetings of the Board:
  - (a) the president or, in the absence of the president, the vice-president presides; or
  - (b) if the president and the vice-president are absent, excluding the principal, 1 of the remaining directors on the Board may be chosen by all the directors present to preside, unless they are not entitled to vote under section 37 of this Constitution when the poll is taken.
- (9) For the purposes of this Constitution, a meeting of the Board shall mean:
  - (a) a meeting of directors assembled in person on the same day at the same time and place; and/or
  - (b) directors communicating with each other by any technological means by which they are able simultaneously to hear each other and to participate in discussion notwithstanding they (or one or more of them) are not physically present in the same place, and a director participating in the meeting under this subsection shall be deemed to be present (including for the purposes of constituting a quorum) and entitled to vote at the meeting subject to them being entitled to vote under section 37 of this Constitution.

## **27 Delegation by the Board to committee**

- (1) The Board may, in writing, delegate to 1 or more committees (consisting of members of the Association that the Board considers appropriate) the exercise of the functions of the Board that are specified in the instrument, other than:
  - (a) this power of delegation; and

- (b) a function that is a function imposed on the Board by the Act, by any other Territory law, or by resolution of the Association at a general meeting.
- (2) A function, the exercise of which has been delegated to a committee under this section may, while the delegation remains unrevoked, be exercised from time to time by the committee in accordance with the terms of the delegation.
- (3) A delegation under this section may be made subject to any conditions or limitations about the exercise of any function, or about time or circumstances that may be specified in the instrument of delegation.
- (4) Despite any delegation under this section, the Board may continue to exercise any function delegated.
- (5) Any act or thing done or suffered by a committee acting in the exercise of a delegation under this section has the same force and effect as it would have if it had been done or suffered by the Board.
- (6) The Board may, in writing, revoke wholly or in part any delegation under this section. Delegations under this section survive changes to directors and the Board until explicitly revoked by the Board.
- (7) A committee may meet and adjourn as it considers appropriate, unless otherwise directed in writing by the Board.

**28**

**Making of decisions and voting**

- (1) Questions arising at a meeting of the Board or of any committee appointed by the Board are decided by a majority of the votes of directors of the Board present in person or full members of the committee present in person or by proxy at the meeting. The number of votes for and against, the number of directors or committee members abstaining due to a potential conflict of interest, and the number of directors or committee members abstaining for any other reason, shall be recorded in the meeting minutes. The name of the director or full member abstaining and reason for abstention must be noted in the meeting minutes if requested by the abstaining party. For the purpose of determining a majority of the votes of directors or committee members present at the meeting, the total number of votes excludes those abstaining due to a potential conflict of interest, and directors and full members who are not entitled to vote under section 37 of this Constitution when the poll is taken.
- (2) Each director present at a meeting of the Board in person or full member of any committee appointed by the Board (including the person presiding over the meeting) present in person or by proxy is entitled to 1 vote unless they are not entitled to vote under section 37 of this Constitution when the poll is taken. However, if the votes on any question are equal, the person presiding may exercise a second or casting vote. A director or member of a committee present at a meeting may choose to abstain from a vote.
- (3) A director or full member of a committee must abstain from a vote if they have a potential conflict of interest. If required, the person presiding shall make the final determination as to whether there is a potential conflict of interest in relation to any director or full member of a committee other than themselves. If the person presiding has a potential conflict of interest then, if required, another attending director or full member as appointed by those present shall make the final determination as to whether there is a potential conflict of interest in relation to the person presiding.
- (4) Subject to subsection 26(5) of this Constitution, the Board may act despite any vacancy on the Board.
- (5) Any act or thing done or suffered, or purporting to have been done or suffered, by the Board or by a committee appointed by the Board, is valid and effectual despite any defect that may afterwards be discovered in the appointment or qualification of any director, or any full member of the committee.
- (6) Directors may vote on any proposed resolution or any question of meeting procedure, by telephone, fax, e-mail, or any other communications equipment. Resolutions considered in this manner must be passed by not less than a simple majority of the directors entitled to vote at the time the vote is taken. Under this subsection, there is no casting vote.
- (7) A resolution in writing signed by not less than a simple majority of the directors entitled to vote shall be equally effective as if passed at a board meeting duly called and held. Such a resolution may consist of several documents in identical terms each signed by one or more director and shall operate from the date of the signature of the last director required to constitute a simple majority. Such documents may be transmitted by facsimile or any other communications equipment. Under this subsection, there is no casting vote.



annual general meeting of the Association must, subject to the Act, be called on the date and at the place and time that the Board considers appropriate.

- (2) The Association must hold its first annual general meeting:
  - (a) within 18 months after its incorporation under the Act; and
  - (b) within 5 months after the end of the first financial year of the Association.
- (3) Subsections (1) and (2) of this clause have effect subject to the powers of the registrar-general under section 120 of the Act (Extensions of time for applications etc).
- (4) In addition to any other business that may be transacted at an annual general meeting, the business of an annual general meeting is:
  - (a) to confirm the minutes of the last annual general meeting and of any general meeting held since that meeting; and
  - (b) to receive from the Board reports on the activities of the Association during the last financial year; and
  - (c) to elect directors, including office-bearers, but excluding the principal; and
  - (d) to receive and consider the statement of accounts and the reports that are required to be submitted to members under subsection 73(1) of the Act (Presentation of statement to members); and
  - (e) to appoint an auditor in accordance with section 42 of this Constitution.

*Note* Subsection 72(2) of the Act (Annual statement of accounts) specifies the requirements for an annual statement of accounts and section 74 (Audit of accounts) specifies who is able to audit the accounts, which depends on the size of the Association. The audit report must be completed at least 14 calendar days prior to the annual general meeting.

- (5) An annual general meeting must be specified as such in the notice calling it in accordance with section 32 of this Constitution (Notice).
- (6) An annual general meeting must be conducted in accordance with the provisions of this part.

### **31 General meetings—calling of**

- (1) The Board may, whenever it considers appropriate, call a general meeting of the Association. However, excluding the annual general meeting, a minimum of 4 general meetings must be called by Board in each financial year.
- (2) The Board must, on the requisition in writing of not less than twenty per cent (20%) of the total number of full members, call a general meeting of the Association.
- (3) A requisition of members for a general meeting:
  - (a) must state the purpose or purposes of the meeting; and
  - (b) must be signed by the full members making the requisition; and
  - (c) must be lodged with the secretary; and
  - (d) may consist of several documents in a similar form, each signed by 1 or more of the members making the requisition.
- (4) If the Board fails to call a general meeting within 1 month after the date when a requisition of members for the meeting is lodged with the secretary, any 1 or more of the full members who made the requisition may call a general meeting to be held not later than 3 months after that date.
- (5) A general meeting called by a full member or members mentioned in subsection (4) of this clause must be called as nearly as is practicable in the same way as general meetings are called by the Board and any such full member who thereby incurs expense is entitled to be reimbursed by the Association for any reasonable expense so incurred.
- (6) Under this section, "full member" shall be read as not including full members who are not entitled to vote at the time when action is taken.

### **32 Notice**

- (1) Except if the nature of the business proposed to be dealt with at general meetings requires a special resolution of the Association, the secretary must, at least 14 calendar days before the date fixed for the holding of the general meeting, send notice to each member in the

way provided in section 49 of this Constitution, specifying the place, date and time of the meeting and the nature of the business proposed to be transacted at the meeting.

- (2) If the nature of the business proposed to be dealt with at a general meeting requires a special resolution of the Association, the secretary must, at least 21 calendar days before the date fixed for the holding of the general meeting, send notice to each member in the way provided in section 49 of this Constitution specifying, in addition to the matter required under subsection (1) of this clause, the intention to propose the resolution as a special resolution.
- (3) No business other than that specified in the notice calling a general meeting may be transacted at the meeting except, for an annual general meeting, business that may be transacted under subsection 30(4) of this Constitution.
- (4) A member desiring to bring any business before a general meeting may give written notice of that business to the secretary in the way provided in section 49 of this Constitution. The secretary must include that business in the next notice calling a general meeting given after receipt of the notice from the member.
- (5) Under this section, "member" shall be read as including an associate member only where the associate member has indicated that they would like to receive such notices.

### **33 General meetings—procedure and quorum**

- (1) No item of business may be transacted at a general meeting unless a quorum of full members who being entitled to vote under section 37 of this Constitution and present in person or by proxy during the time the meeting is considering that item.
- (2) Sixty per cent (60%) of full members present in person or by proxy who being entitled to vote under section 37 of this Constitution and present in person or by proxy constitute a quorum for the transaction of the business of a general meeting.
- (3) If within 30 minutes after the appointed time for the start of a general meeting a quorum is not present, the meeting if called on the requisition of full members is dissolved and in any other case stands adjourned to the same day in the following week at the same time and (unless another place is specified at the time of adjournment by the person presiding over the meeting or communicated by written notice to full members given before the day to which the meeting is adjourned) at the same place.
- (4) If at the adjourned meeting a quorum is not present within 30 minutes after the time appointed for the start of the meeting, the full members present in person or by proxy (being not less than fifty per cent (50%) of full members who being entitled to vote under section 37 of this Constitution and present in person or by proxy) constitute a quorum.

### **34 Presiding member**

- (1) The president, or in the absence of the president, the vice-president, presides over each general meeting of the Association.
- (2) If the president and the vice-president are absent from a general meeting, the full members who being entitled to vote under section 37 of this Constitution and present in person or by proxy must elect 1 of their number to preside over the meeting.

### **35 Adjournment**

- (1) The person presiding over a general meeting at which a quorum is present may, with the consent of the majority of full members who are entitled under section 37 of this Constitution to vote and present in person or proxy at the meeting, adjourn the meeting from time to time and place to place, but no business may be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.
- (2) If a general meeting is adjourned for 14 calendar days or more, the secretary must give written notice to each full member in the way provided in subsection 32(1) of this Constitution of the adjourned meeting to each full member of the Association stating the place, date and time of the meeting and the nature of the business to be transacted at the meeting.
- (3) Except as provided in subsections (1) and (2) of this clause, notice of an adjournment of a general meeting or of the business to be transacted at an adjourned meeting is not required to be given.

**36 Making of decisions**

- (1) A question arising at a general meeting of the Association is to be decided on a show of hands unless before or on the declaration of the show of hands a poll is demanded, or the provisions of this Constitution require a poll to be conducted. A declaration by the person presiding that a resolution has, on a show of hands, been carried or carried unanimously or carried by a particular majority or lost, or an entry to that effect in the minute book of the Association, is evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against that resolution.
- (2) At a general meeting of the Association, a poll may be demanded by the person presiding or by not less than 3 full members who are entitled under section 37 of this Constitution to vote and present in person or by proxy at the meeting.
- (3) If the poll is demanded at a general meeting, or the provisions of this Constitution require a poll to be conducted, the poll must be taken:
  - (a) immediately if the poll relates to the election of the person to preside at the meeting or to the question of an adjournment; or
  - (b) in any other case, in the way and at the time before the close of the meeting that the person presiding directs, and the resolution of the poll on the matter is taken to be the resolution of the meeting on that matter.
- (4) In the event of a poll, a full member who is entitled under section 37 of this Constitution to vote and present in person or by proxy at a meeting may choose to abstain from participating in the poll. The number of such members abstaining shall be recorded in the meeting minutes and the name of such member(s) abstaining must be noted in the meeting minutes if requested by the abstaining party.

**37 Voting**

- (1) Subject to subsection (3) of this clause, on any question arising at a general meeting of the Association a full member has 1 vote only. However, this is subject to subsection (4) of this clause.
- (2) All votes must be given personally or by proxy, but no associate member may hold more than 1 proxy.
- (3) If the votes on a question at a general meeting are equal, the person presiding is entitled to exercise a second or casting vote.
- (4) A full member is not entitled to vote at any general meeting, annual general meeting, board or committee meeting unless:
  - (a) all monies invoiced to the full member are not yet due, any unpaid invoice has been disputed in writing, or less than 7 calendar days has passed since the deadline for payment of any unpaid invoice. This includes money invoiced for services at the school in relation a Japanese student that is a dependent of the full member; and
  - (b) the full member has a minimum of one Japanese student for which they are a guardian currently enrolled in the school; and  
Currently enrolled includes when a student is under suspension from the school. However, it only includes when a student is on a leave of absence from the school, if the full member who is the student's guardian has not sought exemption from the Board from any obligations imposed upon them under section 10 of this Constitution.
  - (c) the full member's voting rights are not under suspension for disciplinary reasons.
- (5) In this Constitution, "vote" includes the right to move or second a resolution.

**38 Special resolutions**

- (1) A resolution of the Association shall be taken to be a special resolution if:
  - (a) it is passed at a general meeting of the Association, being a meeting of which at least 21 calendar days notice was given in accordance with subsection 32(2) of this Constitution; and
  - (b) it is passed by at least seventy-five per cent (75%) of the votes of those full members of the Association who being entitled to vote under section 37 of this Constitution and present in person or by proxy at the meeting.

- (2) The public officer must within 1 month after the passing of a special resolution altering the Constitution, lodge with the registrar-general notice in writing of the special resolution setting out particulars of the alteration, together with the declaration signed by at least 2 directors to the effect that the special resolution was passed in accordance with the Act, together with the prescribed fee.

*Note* Under sections 30 and 33 of the Act ((Alteration of objects) and (Alteration of rules) respectively), special resolutions to alter either the objects or constitution of an association have no effect until the applicable notice has been lodged with the applicable Australian Capital Territory regulatory authority.

### **39 Appointment of proxies**

- (1) Each full member is entitled to appoint an associate member as proxy by notice given to the secretary in the way provided in section 49 of this Constitution, no later than 24 hours before the time of the meeting for which the proxy is appointed. The notice must include any particulars as prescribed by the Board from time to time.
- (2) The notice appointing the proxy must be in the manner prescribed by the Board.
- (3) A proxy can be nominated for any meeting of the Association, excluding Board meetings.
- (4) The attendance at a meeting by a proxy appointed in accordance with subsection (1) of this clause, is counted as attendance by the full member for the purposes of this Constitution, including when ascertaining whether a meeting quorum is satisfied.
- (5) A proxy is only entitled to vote when the full member nominating the proxy is at the point in time entitled to vote under section 37 of this Constitution.

## **Part 5 Miscellaneous**

### **40 Funds—source**

- (1) The funds of the Association must be derived from entrance fees and annual subscriptions of full members, donations and, subject to any resolution passed by the Association at a general meeting and subject to section 114 of the Act (Investments with associations), any other sources that the Board decides.

*Note* Section 114 of the Act prohibits investments in an association by a non-member except where the ACT registrar-general has given prior written consent.

- (2) All money received by the Association must be deposited as soon as practicable and without deduction to the credit of the Association's bank account.
- (3) The Association must, as soon as practicable after receiving any money, issue an appropriate receipt.

### **41 Funds—management**

- (1) Subject to any resolution passed by the Association at a general meeting, the funds of the Association must be used for the objects of the Association in the way that the Board decides.
- (2) The assets and income of the Association shall be applied solely in the furtherance of the objects of the Association and no portion shall be distributed directly or indirectly to the members of the Association, except as bona fide compensation for services rendered or expenses incurred on behalf of the Association.

*Note* Section 52 of this Constitution deals with surplus property.

- (3) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed by any 2 directors or staff of the Association, being directors or staff authorised to do so by the Board.
- (4) Donations (including of goods or services), loans or debt waivers by the Association may be made only pursuant to a special resolution of the Association.
- (5) In order to comply with section 74 of the Act (Audit of accounts), and for any other auditing purposes, in accordance with section 42 of this Constitution, the Association shall appoint a suitably qualified person and may, if necessary or at its discretion, rescind or change that appointment.

- (6) An audit of the accounts of the Association shall occur, and the certified auditor's report presented to the members of the Association, when required by the Act, and when directed by the Board, and if ordered by a special resolution of the Association.

*Note* Under section 71 of the Act (Accounting records), accounting records must be retained for at least 7 years after the transactions to which they relate were completed.

#### **42 Auditor**

- (1) At each annual general meeting of the Association, a person who is not a director, treasurer's delegate, or secretary's delegate of the Association shall be appointed by resolution as the auditor of the Association.
- (2) A person so appointed shall hold office until the next succeeding annual general meeting after that at which they are appointed and are eligible for re-appointment.
- (3) If an appointment is not made at the annual general meeting, the Board shall appoint an auditor of the Association for the then current financial year of the Association.
- (4) If a casual vacancy occurs in the office of auditor during the course of a financial year of the Association, the Board may appoint a person as the auditor and the person so appointed shall hold office until the next succeeding annual general meeting.

#### **43 Audit**

- (1) As soon as practicable after the end of March each year, the Board shall cause to be prepared a report of the operations for the Association in that year together with financial statements in respect of that year and submit them to an auditor who shall report to the Association:
- (a) on whether the statements are based on proper accounts and records; and
  - (b) on whether the statements are in agreement with the accounts and records of the Association and show fairly the financial transactions and the state of affairs of the Association; and
  - (c) on whether the receipt, expenditure and investment of monies and the acquisition and disposal of assets by the Association during the year have been in accordance with this Constitution; and
  - (d) as to such other matters arising out of the statements as the auditor considers should be reported to the Association.
- (2) The auditor shall inspect and audit the accounts and records of financial transactions of the Association and records relating to assets of, or in the custody of the Association and shall forthwith draw the attention of the Association to any irregularity disclosed by the inspection that in the opinion of the auditor is of sufficient importance to justify them doing so.
- (3) The auditor is entitled at all reasonable times to full and free access to all accounts, records, documents and papers of the Association relating directly or indirectly to the receipt or payment of monies by the Association or to the acquisition, receipt, custody or disposal of assets by the Association.
- (4) The auditor:
- (a) has a right of access to the accounts, books, vouchers and documents of the Association; and
  - (b) may require from:
    - (i) any director, treasurer's delegate or secretary's delegate, including position holders at the time of the audit and any individual that held such positions during the financial year which is the subject of the audit; and/or
    - (ii) any staff of the Association,  
such information and explanations as may be necessary for the performance of their duties as auditor.

#### **44 Insurance and indemnity**

- (1) Subject to availability, the Association shall ensure that adequate insurance coverage is maintained at all times in relation to operation of the Association and where appropriate the

school, including directors and officers insurance and public liability insurance, and professional indemnity insurance, as determined by the Board.

- (2) Every individual who is or has been a director or a full member of the Association, shall be indemnified out of the property of the Association including property held by the Association on trust against any liability (including a liability for legal costs) incurred in that person's capacity as a director of the Association, or as a full member of the Association acting in accordance with directives from either the Board or general meetings in defending any proceedings, whether civil or criminal, to the full extent permitted by the Act.
- (3) The Board may pay or agree to pay a premium for a contract of insurance insuring a person who is or has been either a member of staff of the Association, against liability incurred by the person in that capacity, including a liability for legal costs.

**45 Common seal**

- (1) The common seal of the Association must be kept in the custody of the secretary or another director as determined by the Board.
- (2) The common seal must not be attached to any instrument except by the authority of the Board and the attaching of the common seal must be attested by the signatures either of 2 directors or the secretary and another director.

**46 Staff**

- (1) Subject to abiding by the financial year budget, the Board may approve contractual arrangements between the Association and third parties to act as staff, as it determines to be necessary. However, any such contractual arrangement approved by the Board to be signed on behalf of the Association shall be:
  - (a) in accordance with model agreements ratified under section 29 of this Constitution; and
  - (b) signed by any 2 directors or staff of the Association, being directors or staff authorised to do so by the Board.Directors or staff with a conflict of interest in relation a contractual arrangement shall abstain from signing such an arrangement on behalf of the Association.
- (2) Any permanent filling of staff positions that are newly created, expected to become vacant, or are already vacant, shall be based on merit. The selection process for such positions shall be conducted:
  - (a) by a selection panel of at least three directors as determined by the Board, which may be assisted or advised by members and/or staff of the Association as determined by the Board; and
  - (b) in accordance with Australian Capital Territory and Commonwealth of Australia legislation; and
  - (c) in accordance with any requirements separately stipulated by the Board.

*Note* For the purpose of this subsection, permanent shall be taken as referring to a period of 3 months or greater.

- (3) A committee undertaking a selection process under subsection (2) of this clause shall prepare and submit its selection report for formal ratification by the Board.
- (4) Staff shall be paid such remuneration as is determined by the Board, in line with any legislated requirements.
- (5) The position title, role and regularity of performance reviews of staff, including the principal, shall be as determined by the Board.
- (6) The Board is responsible for ensuring that all staff of the Association are informed of their responsibilities when performing their duties in relation to the handling of personal information of other staff of the Association, members of the Association and Japanese students of the school.

**47 Custody of books**

Subject to the Act, the regulation and this Constitution, the secretary, or a delegate(s) of the secretary as determined by the Board, must keep in their custody or under their control all records, books, and other documents relating to the Association.

**48 Inspection of books**

- (1) Subject to this section, the records, books and other documents of the Association must be open to inspection at a place in the ACT, free of charge, by a member of the Association at any reasonable hour.
- (2) Where items are available via an internet site operated by the Association and a person seeking to inspect these has internet access and has been given any necessary passwords to do so, the items shall be taken as being available for inspection without the Association undertaking any additional action.
- (3) Any member accessing the register of members or any other documents of the Association that contain members' personal details acknowledges that the details contained within are personal in nature and shall not be disclosed to any third party unless:
  - (a) required to be disclosed under Australian law or in accordance with an Australian court order; or
  - (b) the president, on behalf of the Board, has consented to the disclosure in writing; or
  - (c) the member(s) concerned have agreed in writing to the release of their registered details in such circumstances; or
  - (d) an emergency situation necessitates the release of such details.
- (4) For documents of the Association that include members' personal details or details pertaining to Japanese students at the school, other than the register of members, these shall only be accessed by members or staff of the Association whose performance of a duty for the Association or at the school necessitates such access.
- (5) Any person accessing documents under subsection (4) of this clause shall not disclose any details included in such documents to another person unless one or more of paragraphs (3)(a) through (3)(d) of this clause apply.
- (6) Any person accessing documents or releasing information in breach of this section may be subject to in the case of:
  - (a) a member, disciplinary action under this Constitution, including disqualification from membership; or
  - (b) a staff member of the Association, disciplinary action under an agreement relating to their provision of services, including termination of their services.

**49 Notices and their service**

- (1) Any notice or other document under this Constitution may be made or given by the person wishing to serve the notice or document and will be sufficiently served or delivered:
  - (a) if served or delivered personally on the recipient or recipients; or
  - (b) if posted by pre-paid post addressed to the recipient or recipients at their address as set out in the register of members; or
  - (c) if faxed by fax to the fax number last provided to the Association by the recipient; or
  - (d) if sent by email, to the email address last provided to the Association by the recipient.
- (2) Service or delivery by post of any notice or document under this Constitution will be deemed to have been made or given at 12:00 noon on the second business day following posting. Service by fax or by email will be deemed to have been made upon transmission having been completed.

**50 Alteration of objects and this Constitution**

Neither the objects of the Association mentioned in section 29 of the Act (Objects), nor section 3 of this Constitution may be altered except in accordance with the Act. That is, by approval of a special resolution under section 38 of this Constitution.

**51 Dissolution**

- (1) The Association may decide it will voluntarily wind up through the adoption of a special resolution under section 38 of this Constitution.
- (2) In the event of the Association being dissolved, the amount that remains after such dissolution and the satisfaction of all debts and liabilities shall be transferred to another Association with similar purposes, or a fund, authority or institution under paragraph 52(1)(b) of this Constitution, which is not carried on for the profit or gain of its individual members.

**52 Surplus property**

- (1) Within 12 months of incorporation, the Association must pass a special resolution nominating:
  - (a) another association for paragraph 92(1)(a) of the Act (Property of defunct association); or
  - (b) a fund, authority or institution for paragraph 92(1)(b) of the Act;  
in which it is to vest its surplus property in the event of the dissolution or winding up of the Association.
- (2) An association nominated under paragraph (1)(a) of this clause must fulfil the requirements specified in subsection 92(2) of the Act.