

## Legislative Requirements Related to IMC Operation

### Key Reminders

According to the Education Ordinance (EO), all aided schools shall establish Incorporated Management Committee (IMC) in order to put in place a governance framework with participatory decision-making of school policies by the key stakeholders. The IMC shall manage the school in accordance with the relevant provisions of the EO and the Education Regulation (ER), as well as their IMC constitutions. The key provisions listed in the following table are extracted from the EO and the ER for schools' reference. If there is a need to properly quote the EO and the ER, please refer to the original text.

#### (1) Education Ordinance

Education Ordinance	Key Provisions	Points to Note During Implementation
<b>1. IMC Composition</b>		
<b>40AL</b>	<ul style="list-style-type: none"> <li>➤ An IMC should comprise the following <b>six categories of school managers</b>:               <ol style="list-style-type: none"> <li>1. <b>Sponsoring body managers</b> nominated by the school sponsoring body (SSB);</li> <li>2. The principal of the school, who shall be an <b>ex-officio manager</b>;</li> <li>3. Not less than one <b>teacher manager</b>;</li> <li>4. Not less than one <b>parent manager</b>;</li> <li>5. One or more <b>alumni managers</b>;</li> <li>6. Not less than one <b>independent manager</b>.</li> </ol> </li> <li>➤ There are <b>alternate managers</b> in <b>three categories</b>:               <ol style="list-style-type: none"> <li>1. Sponsoring body;</li> <li>2. Teacher;</li> <li>3. Parent.</li> </ol> </li> </ul>	<ul style="list-style-type: none"> <li>➤ The numbers of sponsoring body manager shall not exceed 60% of the maximum number of managers <u>as provided for in the IMC constitution</u>.</li> <li>➤ Nomination of alternate managers in the following categories:               <ol style="list-style-type: none"> <li>1. Not more than one alternate sponsoring body manager (depending on the provisions of the IMC constitution);</li> <li>2. One alternate teacher manager (where the IMC constitution allows one teacher manager);</li> <li>3. One alternate parent manager (where the IMC constitution allows one parent manager).</li> </ol> </li> </ul>

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<b>40AU</b>	➤ IMC should fill any vacancy in order to maintain full composition. <u>Within three months</u> from the date on which the failure to maintain full composition arises, the vacancy should be filled as soon as possible.	➤ The IMC has the responsibility to maintain its full composition to ensure smooth operation of the school.
<b>40AS</b>	➤ <u>Subject to this section, an alternate manager shall for all purposes be regarded as a manager.</u> There are, however, special arrangements for: <ol style="list-style-type: none"> <li>1. voting on any matter to be resolved;</li> <li>2. ascertaining the majority of the managers of a school;</li> <li>3. establishing a quorum of a meeting.</li> </ol>	➤ <b>Alternate managers</b> shall perform all functions of managers, such as attending all IMC meetings, taking part in discussion, proposing agenda items and speaking on the items. ➤ The IMC should comply with the EO when handling relevant matters / passing resolutions to ensure that <b>alternate managers</b> can perform their duties and responsibilities.
<b>2. Term / Vacation of Office of Managers</b>		
<b>40AE</b> (SSB is responsible for drafting IMC constitution) <b>40AY</b> (IMC may amend its constitution)	➤ The term of office of managers is determined by the SSB and provided for in the IMC constitution. If the IMC wishes to make amendments to the term of office of managers after the IMC is established, the IMC shall amend its constitution in accordance with the procedural requirements.	➤ Schools cannot change the term of office of parent / alumni managers by amending constitutions of the recognized parent-teacher association / recognized alumni association respectively. ➤ It is not desirable for managers to be re-nominated without limit of the number of terms; nor should the term of office be too short. If necessary, the IMC can make amendments to the term of office of managers in the IMC constitution in accordance with section 40AY of the EO and its constitution.

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<b>40AX</b>	<p>➤ The office of a manager shall be vacated in accordance with the standing procedures. The bodies responsible for nominating the respective manager(s) for registration have to make a written request to the IMC. Such request should be authorized by a resolution passed by the relevant bodies. The resolution should be passed in a manner similar to the manner in which the manager concerned is elected or nominated.</p>	<p>➤ The vacation of office of managers requires</p> <ol style="list-style-type: none"> <li>1. a written request made by the bodies responsible for nomination for registration as managers to the IMC;</li> <li>2. a written notice issued to the Permanent Secretary for Education by the IMC as regards the cancellation of the registration of the manager concerned.</li> </ol>
<b>3. Election / Nomination of Different Categories of Managers</b>		
<b>40AN</b>	<p>➤ The principal of a school shall nominate such number of <b>teacher manager</b> or <b>alternate teacher manager</b> as provided for in the constitution of the IMC of the school. The teacher manager must be elected for this purpose.</p>	<p>➤ The teacher manager must be a teacher, but not the principal of the school. According to the interpretation in section 40AB of the EO, “teacher” means a registered teacher or a permitted teacher employed (a) to occupy a teacher post <u>in the establishment of staff</u> provided for in the code of aid for primary schools, code of aid for secondary schools, code of aid for special schools, or code of aid for aided schools; <b>or</b> (b) for a term for not less than 12 months to perform teaching duties or other duties directly related to teaching.</p> <p>➤ In relation to a special school, “teacher” includes the specialist staff.</p>

Education Ordinance	Key Provisions	Points to Note During Implementation
<b>40AO</b>	<p>➤ For the purposes of making nomination and election of <b>parent manager</b> or <b>alternate parent manager</b>, the IMC shall recognize one body of persons as “recognized parent-teacher association” so that the body of persons can conduct parent manager election and make the relevant nomination.</p>	<p>➤ The parent manager and alternate parent manager must be <u>a parent of a current pupil</u> of the school.</p> <p>➤ The parent-teacher association must meet the conditions under section 40AO(3) of the EO in order to be recognized as the “recognized parent-teacher association” by the IMC.</p> <p>➤ The election is not conducted on a family basis. Every parent of each family has equal voting right and right of candidature (<u>one person, one vote</u>) (Section 40AO(5)(c) of the EO)</p>
<b>40AP</b>	<p>➤ For the purposes of making nomination and election of <b>alumni manager</b>, the IMC <u>or</u> SSB (as provided for in the IMC constitution) shall recognize one body of persons as “recognized alumni association” so that the body of persons can conduct alumni manager election and make the relevant nomination.</p>	<p>➤ According to section 40AB of the EO, the definition of “alumnus” is a person who has been a pupil of the school but is no longer such a pupil (i.e. not only graduates).</p> <p>➤ The constitution of an alumni association must include the provisions of section 40AP(3) of the EO so that the association can be recognized as the "recognized alumni association" (RAA). It is particularly important to note that section 40AP(3)(a) of the EO stipulates that the membership of RAA must be open to <u>all alumni</u> of the school.</p>

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<b>40AQ</b> <b>40AV</b>	<p>➤ The IMC shall nominate such number of persons as independent manager as provided for in the IMC constitution of the school. The <b>independent manager</b> <u>shall not</u> be:</p> <ol style="list-style-type: none"> <li>1. a teacher or specialist staff of the school;</li> <li>2. a parent of a current pupil of the school;</li> <li>3. an alumnus of the school; or</li> <li>4. a member; the spouse or a grand-parent, parent, brother, sister, child or grand-child of a member; or an employee, of the governing body of the sponsoring body of the school.</li> </ol>	<p>➤ If a person belongs to any one type in the left column, such person shall not be nominated as the independent manager.</p> <p>➤ If a serving independent manager becomes any one type in the left column, he/she cannot continue to serve as the independent manager. However, his/her term of office as a manager shall continue until its expiry or the end of the school year, whichever is the earlier.</p>
<b>4. House Rules for Meetings</b>		
<b>31(1)(g)</b>	<p>➤ If the Permanent Secretary for Education receives a notice in writing from the IMC of the school that a manager, including alternate manager, has been absent without the consent of the IMC from <u>all meetings</u> in a school year, the registration of the manager may be cancelled.</p>	<p>➤ If a manager / alternate manager has been absent from most or all of the IMC meetings in a school year, the IMC should take appropriate measures to improve the situation.</p>

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<b>40BG</b>	<p>➤ In principle, managers of all categories shall attend the IMC meetings and take part in the discussion of all items (including those related to personnel management such as staff promotion). Unless the discussion item of the IMC involves personal interest of a manager, managers may take part in the discussion in accordance with the code of ethics without having to withdraw from the IMC meeting.</p>	<p>➤ Managers shall attend the IMC meetings / withdraw from discussion of the relevant agenda items in accordance with the relevant provisions of the EO and the IMC constitution.</p> <p>➤ The school shall request managers of a category not to take part in the discussion of an agenda item according to the personal interest set out in section 40BG of the EO.</p>
<b>5. Amendment of Constitution</b>		
<b>40AY</b>	<p>➤ If EDB (the Permanent Secretary for Education) does not object, by notice in writing, to the amendment to the IMC constitution lodged by the IMC, such amendment to constitution may take effect <u>upon the expiry of one month after it is so lodged.</u></p>	<p>➤ The IMC shall amend its constitution in accordance with the procedures set out in the IMC constitution (including the quorum requirement), and ensure that the proposed amendment to constitution shall be in line with the content and spirit of the EO.</p>
<b>6. Principal Selection Committee</b>		
<b>57A</b>	<p>➤ The principal selection committee shall be formed <u>in accordance with the relevant provision of the EO and the IMC constitution.</u> Such committee shall be composed of representatives of the SSB and the IMC.</p>	<p>➤ The school shall form a principal selection committee and conduct the relevant selection in accordance with the IMC constitution and section 57A of the EO.</p> <p>➤ <u>No</u> member of the principal selection committee shall serve as representative of both the SSB and the IMC at the same time.</p>

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<b>7. Functions of Supervisor</b>		
<b>39, 40AJ, 40AK</b>	<p>➤ The Supervisor shall perform his/her functions in accordance with the EO and cannot delegate such specified functions of section 40AK of the EO to others. If the Supervisor is unable to perform his functions during a period of not less than 28 days due to absence from Hong Kong or illness, an acting Supervisor shall act in the place of the Supervisor during the period.</p>	<p>➤ Section 39 and section 40AK of the EO stipulate “Duties of supervisor” and “Functions of supervisor” respectively. It is important to ensure that such matters shall be handled by the Supervisor in accordance with the EO.</p>

(2) Education Regulation

Education Ordinance	Key Provisions	Points to Note During Implementation
<b>1. Office Bearers of IMC</b>		
<b>75A</b>	<p>➤ Apart from the Supervisor, the office bearers of the IMC shall also include the Secretary and the Treasurer. The IMC may change the composition of office bearers in its constitution where necessary. Functions, election / appointment, term of office and vacation of office of the office bearers should be detailed in the IMC constitution.</p>	<p>➤ Schools shall timely fill the vacancy in accordance with the composition, and election / appointment of the office bearers as provided for in the IMC constitution.</p>
<b>2. House Rules for Meetings</b>		
<b>75A</b>	<p>➤ The number of meetings, the arrangement of meetings, the issuance of agenda, the requirements for quorum, etc. have been specified in the IMC constitution. Managers shall attend the meetings in accordance with the IMC constitution. The IMC shall conduct the meetings in accordance with the proceedings of meetings as provided for in its constitution.</p>	<p>➤ Managers shall participant in the meetings <u>in person</u> in order to be “present” at the meetings; it is <u>not</u> acceptable for a manager to participate in the meetings by telephone, video or other electronic means.</p> <p>➤ The IMC may establish their house rules for the meetings. Such house rules of the meetings shall be established and implemented on a fair basis, and are applicable to all managers.</p>

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