

# QUALIFICATIONS AND DISQUALIFICATIONS

## Governors and Associate Members

Schedule 6 of the Constitution Regulations covers the qualifications and disqualifications of governors.

A governor must be aged 18 or over at the time of his or her election or appointment and cannot be a registered pupil at the school. This does not relate to associate members.

A person cannot hold more than one governorship at the same school.

A person is disqualified from holding or from continuing to hold office as a governor or associate member if he or she:

- fails to attend the governing body meetings – without the consent of the governing body – for a continuous period of six months, beginning with the date of the first meeting missed (not applicable to ex officio governors);
- is subject to a bankruptcy restriction order, an interim bankruptcy restriction order, a debt relief order or an interim debt relief order;
- has had his or her estate sequestrated and the sequestration order has not been discharged, annulled or reduced;
- is subject to:
  - i) a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986
  - ii) a disqualification order under Part 2 of the Companies (Northern Ireland) Order 1989
  - iii) a disqualification undertaking accepted under the Company Directors Disqualification (Northern Ireland) Order 2002
  - iv) an order made under Section 429(2)(b) of the Insolvency Act 1986 (failure to pay under a County Court administration order);
- has been removed from the office of charity trustee or trustee for a charity by the Charity Commissioners or High Court on grounds of any misconduct or mismanagement, or under Section 34 of the Charities and Trustees Investment (Scotland) Act 2005 from participating in the management or control of any body;
- is included in the list of people considered by the Secretary of State as unsuitable to work with children;
- is disqualified from working with children or subject to a direction under Section 142 of the Education Act 2002;
- is disqualified from registration for childminding or providing day care;

- is disqualified from registration under Part 3 of the Childcare Act 2006;
- has received a sentence of imprisonment (whether suspended or not) for a period of not less than three months (without the option of a fine) in the five years before becoming a governor or since becoming a governor;
- has received a prison sentence of two-and-a-half years or more in the 20 years before becoming a governor;
- has at any time received a prison sentence of five years or more;
- has been fined for causing a nuisance or disturbance on school premises during the five years prior to or since appointment or election as a governor;
- refuses to allow an application to the Criminal Records Bureau for a criminal records certificate.

A governor must not also be a clerk to the governing body at which he or she is a governor.

### **WHAT LEGISLATION DOES THIS REFER TO?**

The Education Act 2002: Sections 19 and 20

The School Governance (Constitution) (England) Regulations 2007: SI 2007/957

The Education Act 1996: Section 576 (1), (3) and (4), read together with the Education Act 2002: Section 212(2), gives a definition of “parent” (see also the definition of parent in the Constitution Regulations)

The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2007: SI 2007/1289

The School Governance (England) (Amendment) Regulations 2012: SI 2012/421

The School Governance (Constitution) (England) Regulations 2012 (the “2012 Constitution Regulations”) and the School Governance (Federations) (England) Regulations 2012 (the “2012 Federation Regulations”) as amended by the School Governance (Constitution and Federations) (England) (Amendment) Regulations 2014

### **THE LAW**

**N.B. As legislation is often amended and new Regulations introduced, references made in ‘Governors’ Handbook’ may point to legislation that has been superseded. For an up-to-date list of legislation applying to schools refer to the Department for Education website. <https://www.gov.uk/government/publications/governors-handbook--3>**

## **DEFINITION OF A PARENT**

(The Education Act 1996: Section 576 defines "Parent" to include):

- ◆ all natural parents, whether they are married or not; and
- ◆ any person who, although not a natural parent, has parental responsibility for a child or young person; and any person who, although not a natural parent, has care of a child or young person

(The Education Act 1996: Section 576 (1), (3) and (4), read together with the Education Act 2002: Section 212(2), gives a definition of "parent" )

- ◆ "Parent" is defined for the purposes of the Constitution Regulations as including "any individual who has or has had parental responsibility for, or cares or has cared for, a child or young person under the age of 18".
- ◆ It includes a person who the child lives with and who looks after the child, irrespective of what their relationship is with the child. The reference in the definition must be to someone involved in the full-time care of the child on a settled basis.