

# Winston Hills Preschool Association Inc

LICID 1737

## "A Joyful Beginning"

### Our Rules



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## **Note**

The persons who from time to time are members of the Preschool are an incorporated association by the name given in rule 1 of these Rules.

Under section 46 of the Associations Incorporation Reform Act 2012, these Rules are taken to constitute the terms of a contract between the Preschool and its members.

## **PART 1 - OVERVIEW**

### **1 Name**

- (1) The name of the incorporated association is **Winston Hills Preschool Association Incorporated**.
- (2) In accordance with the legislation, the incorporated name of the Preschool (i.e Winston Hills Preschool Association Incorporated or Winston Hills Preschool Association Inc.) and the registration number must appear on all its business documents and letters.

### **2 Purposes**

The purpose of the Preschool is to:

- (1) provide an approved early childhood education program or support the provision of an early childhood education program and/or other children's services which will function in accordance with the requirements of all applicable legislations, regulations and standards;
- (2) join, affiliate or associate with any organisation having similar or related aims;
- (3) manage the funds and other assets and liabilities of the Preschool solely for the attainment of the above purposes

### **3 Registered Address**

The registered address of the Preschool is 24 Rohan Street, Viewbank, VIC 3084.

### **4 Common seal**

- (1) The Preschool may have a common seal.
- (2) If the Preschool has a common seal—
  - a) the name of the Preschool must appear in legible characters on the common seal;
  - b) a document may only be sealed with the common seal by the authority of the Committee and the sealing must be witnessed by the signatures of two committee members;
  - c) the common seal must be kept in the custody of the Secretary or in a secure location on the premises of the Preschool.

### **5 Alteration of Rules & Authorisation to trade**

- (1) These Rules may only be altered by special resolution of a general meeting of the Preschool.
- (2) The Preschool is authorised to trade in accordance with Part 4 of the *Associations Incorporation Reform Act 2012*.

## PART 2 - DEFINITIONS

In these Rules:

**absolute majority**, of the Committee, means a majority of the committee members currently holding office and entitled to vote at the time (as distinct from a majority of committee members present at a committee meeting);

**chairperson**, of a general meeting or committee meeting, means the person chairing the meeting as required under rule 46;

**child attendance fee** means the fees payable to enable a child to attend a program and set in accordance with the Fees Policy of the Preschool;

**committee** means the Committee having management of the business of the Preschool;

**committee meeting** means a meeting of the Committee held in accordance with these Rules;

**committee member** means a member of the Committee elected or appointed in accordance with these Rules;

**department** means the Department of Education and Training or such other government department of agency as from time to time monitors the provision and quality of children's services;

**disciplinary appeal meeting** means a meeting of the members of the Preschool convened under rule 64(3);

**disciplinary meeting** means a meeting of the Committee convened for the purposes of rule 63;

**disciplinary subcommittee** means the subcommittee appointed under rule 61;

**fee** means any monies payable by members of the Preschool, (not including child attendance fees) such as annual membership or joining fees/subscriptions;

**financial year** means the 12 month period specified in rule 54;

**general meeting** means a general meeting of the members of the Preschool convened in accordance with these Rules and includes an annual general meeting, a special general meeting and a disciplinary appeal meeting;

**member** means a member of the Preschool;

**member entitled to vote** means a member who under rule 14(2) is entitled to vote at a general meeting;

**Preschool** means **Winston Hills Preschool Association** Incorporated;

**relevant documents** means records or other documents, however compiled, recorded or stored, that relate to the incorporation and management of the Preschool, including membership records, accounts, accounting records and documents relating to transactions, dealings, business or property of the Preschool;

**special resolution** means a resolution that requires not less than three-quarters of the members voting at a general meeting, whether in person or by proxy, to vote in favour of the resolution;

**the Act** means the **Associations Incorporation Reform Act 2012** and includes any regulations made under that Act;

**the Registrar** means the Registrar of Incorporated Associations.

## **PART 3 - POWERS OF THE PRESCHOOL AND COMMITTEE**

### **6 Powers of the Preschool**

- (1) Subject to the Act, the Preschool has power to do all things incidental or conducive to achieve its purposes.
- (2) Without limiting subrule (1), the Preschool may—
  - a) acquire, hold and dispose of real or personal property;
  - b) open and operate accounts with financial institutions;
  - c) invest its money in any security in which trust monies may lawfully be invested;
  - d) raise and borrow money on any terms and in any manner as it thinks fit;
  - e) secure the repayment of money raised or borrowed, or the payment of a debt or liability;
  - f) appoint agents to transact business on its behalf;
  - g) enter into any other contract it considers necessary or desirable.
- (3) The Preschool may only exercise its powers and use its income and assets (including any surplus) for its purposes.

### **7 Role and powers of the Committee**

- (1) The business of the Preschool must be managed by or under the direction of a Committee elected in accordance with these Rules.
- (2) The Committee may, subject to these Rules, the Regulations and the Act, exercise all the powers and functions available to the Preschool with the exception of those powers and functions that are required by these Rules to be exercised by general meetings of the members of the Preschool.
- (3) The Committee may—
  - a) make key financial and managerial operational decisions required to efficiently operate the Preschool, including not limited to;
    - (i) setting of annual fees;
    - (ii) setting of the annual timetables;
    - (iii) setting of staff contracts and hours;
  - b) appoint, remove and manage staff; and
  - c) establish subcommittees consisting of a minimum of three members with terms of reference it considers appropriate.

### **8 Delegation**

- (1) The Committee may delegate to a member of the Committee, a subcommittee or staff, any of its powers and functions other than—
  - a) this power of delegation; or
  - b) a duty imposed on the Committee by the Act or any other law.
- (2) The delegation must be in writing and may be subject to the conditions and limitations the Committee considers appropriate.
- (3) The Committee may, in writing, revoke a delegation wholly or in part.

## **PART 4 - MEMBERS**

### **9 Who is eligible to be a member**

- (1) Up to two parents/legal guardians per child currently attending the service or of children enrolled to attend the service in the following year become members of the Preschool automatically provided all relevant fees payable by such parents/legal guardians are fully paid. Such members need not fill in a membership application form.
- (2) In addition to members as defined under Rule 9(1), the following are also eligible for membership of the Preschool;
  - a) any member elected to the committee until the end of their current term of office;
  - b) any interested member of the community who has:
    - (i) applied to become a member in writing to the Secretary; and
    - (ii) paid the annual membership fee, which has been determined by the Committee and
    - (iii) has been approved for membership by the Committee of Management.
- (3) Renewal of membership under Rule 9(2)(b) is at the discretion of the Committee and upon payment of an annual membership fee within one month of the end of the financial year.
- (4) All child attendance fees and membership fees will be determined by the committee at a committee meeting.

### **10 Application for membership**

To apply to become a member of the Preschool, a person must follow the procedure as stipulated in the Preschool's *Enrolment & Orientation Policy*.

### **11 Consideration of application**

The Committee will consider applications as per the Preschool's *Enrolment & Orientation Policy*.

### **12 New membership**

- (1) A person becomes a member of the Preschool, and is entitled to exercise his or her rights of membership, from the date:
  - a) The person returns a correctly completed Offer of Placement; or
  - b) In the case of Rule 9(2)(b) has received confirmation in writing from the Committee of their membership; and
  - c) The person pays the required fees.
- (2) Once a person becomes a member the;
  - a) relevant Enrolment Officer must inform the Secretary of the new member; and
  - b) the Secretary must, as soon as practicable, enter the name and address of the new member(s), and the date of becoming a member, in the register of members.

### **13 Child attendance fees**

- (1) All members are required to pay fees as stipulated in the Preschool's Fees Policy;
- (2) Before 30 September each year the committee will determine—
  - a) the amount of the term fees per child for the following financial year; and
  - b) the date for payment for each of the term fees.

- (3) The Preschool may determine that any new member who joins after the start of a term, may for that term, pay a child attendance fee equal to—
- (i) the full term fees; or
  - (ii) a pro rata amount based on the remaining part of the term; or
  - (iii) a fixed amount determined from time to time by the Preschool.
  - (iv) The rights of a member (including the right to vote) who has not paid the annual subscription by the due date are suspended until the subscription is paid.

#### **14 General rights of members**

- (1) Voting rights:
- a) Under Rule 9, membership of the Preschool entitles all members to one vote at general meetings, provided that all attendance fees and other applicable fees as set out under Rule 9 are paid and up-to-date.
  - b) A member may exercise her/his voting rights provided:
    - (i) the member is a member as per rule 9; and
    - (ii) more than 10 business days have passed since he or she became a member of the Preschool; and
    - (iii) the member's membership rights are not suspended for any reason.
- (2) A member of the Preschool who is entitled to vote has the right—
- a) to receive notice of general meetings and of proposed special resolutions in the manner and time prescribed by these Rules; and
  - b) to submit items of business for consideration at a general meeting; and
  - c) to attend and be heard at general meetings; and
  - d) to vote at a general meeting; and
  - e) to have access to the minutes of general meetings and other documents of the Preschool as provided under rule 72 and in accordance with the privacy policy of the Preschool; and
  - f) to inspect the register of members.
- (3) Members of the Preschool have an obligation to support the purpose of the Preschool as outlined in the purpose outlined in Rule 2 and must abide by the Rules and policies of the Preschool.
- (4) Members of the Preschool have a right to natural justice when dealing with grievances and complaints, in accordance with these Rules.

#### **15 Rights not transferable**

The rights of a member are not transferable and end when membership ceases.

#### **16 Ceasing membership**

- (1) The membership of a person ceases if:
- a) The membership fee of a member of the Preschool under Rule 9(2)(b), is more than 3 months in arrears; or
  - b) A member of the Preschool under Rule 9(1) no longer has a child/children attending the children's service or on the waiting list and who has not been granted membership under Rule 9(2)(b); or
-



- c) The member resigns; or
  - d) on expulsion; or
  - e) death.
- (2) If a person ceases to be a member of the Preschool, the Secretary must, as soon as practicable, enter the date the person ceased to be a member in the register of members.
- (3) Membership of the Preschool will be suspended for any members under Rule 9(1) and Rule 9(2)(a) who have any outstanding debts (as per the fees policy of the Preschool) to the Preschool. Such members will not have any entitlement to vote at either General or Committee meetings.

## **17 Resigning as a member**

A member may resign by notice in writing given to the Preschool either via the post or in person to a member of the committee.

## **18 Register of members**

- (1) The Secretary must keep and maintain a register of members that includes—
- a) for each current member—
    - (i) the member's name;
    - (ii) the address for notice last given by the member;
    - (iii) the date of becoming a member;
    - (iv) details of the membership type – e.g. parent/guardian or member of the community;
    - (v) any other information determined by the Committee; and
  - b) for each former member, the date of ceasing to be a member.
- (2) The Secretary must, as soon as practicable following the eligibility or approval for membership, enter the details referred to in Rule 18(1) into the register of members.
- (3) Any member may, at a reasonable time and free of charge, inspect the register of members under the supervision of the Secretary of the committee or other authorised committee member.

## **PART 5 - GENERAL MEETINGS OF THE PRESCHOOL**

### **19 Annual general meetings**

- (1) The Committee must convene an annual general meeting of the Preschool to be held within five (5) months after the end of each financial year.
- (2) The Committee may determine the date, time and place of the annual general meeting.
- (3) The ordinary business of the annual general meeting is as follows—
- a) to confirm the minutes of the previous annual general meeting and of any special general meeting held since then;
  - b) to receive and consider—
    - (i) the annual report of the Committee on the activities of the Preschool during the preceding financial year; and
    - (ii) the financial statements of the Preschool for the preceding financial year submitted by the Committee in accordance with Part 7 of the Act; and
  - c) to elect the members of the Committee.

- (4) The annual general meeting may also conduct any other business of which notice has been given in accordance with these Rules.
- (5) The President or, in the President's absence, the Vice-President is the Chairperson for any general meeting. If the President and the Vice-President are both absent, or are unable or unwilling to preside, the Chairperson for the meeting must be a member (or other appropriate person) elected by the other members present and entitled to vote on resolutions.

## **20 Special general meetings**

- (1) Any general meeting of the Preschool, other than an annual general meeting or a disciplinary appeal meeting, is a special general meeting.
- (2) The Committee may convene a special general meeting whenever required.
- (3) No business other than that set out in the notice under rule 22 may be conducted at the meeting.

## **21 Special general meeting held at request of members**

- (1) The Committee must convene a special general meeting if a request to do so is made in accordance with Rule 21(2) by at least 10% of the total number of members.
- (2) A request for a special general meeting must—
  - a) be in writing; and
  - b) state the business to be considered at the meeting and any resolutions to be proposed; and
  - c) include the names and signatures of the members requesting the meeting; and
  - d) be given to the Secretary.
- (3) If the Committee does not convene a special general meeting within one month after the date on which the request is made, the members making the request (or any of them) may convene the special general meeting.
- (4) A special general meeting convened by members under Rule 21(3)—
  - a) must be held within 3 months after the date on which the original request was made; and
  - b) may only consider the business stated in that request.
- (5) The Preschool must reimburse all reasonable expenses incurred by the members convening a special general meeting under Rule 21(3).

## **22 Notice of general meetings**

- (1) The Secretary (or, in the case of a special general meeting convened under rule 21(3), the members convening the meeting) must give to each member of the Preschool—
  - a) at least 21 days' notice of a general meeting if a special resolution is to be proposed at the meeting; or
  - b) at least 14 days' notice of a general meeting in any other case.
- (2) The notice must—
  - a) specify the date, time and place of the meeting; and
  - b) identify if the meeting is to be an Annual General Meeting or Special General Meeting; and
  - c) indicate the general nature of each item of business to be considered at the meeting; and
  - d) if a special resolution is to be proposed—
    - (i) state in full the proposed resolution; and

- (ii) state the intention to propose the resolution as a special resolution.
- (3) Notice of all annual general, disciplinary appeal and special general meetings of the Preschool shall be delivered to all members and advertised by any means deemed appropriate by the committee (including electronic and written).
- (4) No business other than that set out in the notice convening the meeting shall be transacted at the meeting.
- (5) The non-receipt of notice of the meeting does not invalidate any resolution passed at any such meeting.
- (6) A member desiring to bring any business before a general meeting may give notice of that business in writing to the Secretary, who shall include that business in the notice calling the next general meeting after the receipt of the notice.
- (7) Rule 22(5) does not apply to a disciplinary appeal meeting.
- (8) All business that is transacted at either a special general meeting or the annual general meeting, with the exception of business specifically referred to in these Rules as being the ordinary business of the annual general meeting, shall be deemed to be special business. This business shall be made known to members as such, in accordance with Rule 22(2) and Rule 21.

### **23 Proxies**

A member may not appoint another member as his or her proxy to vote and speak on his or her behalf at a general meeting.

### **24 Use of technology**

- (1) A member not physically present at a general meeting may be permitted to participate in the meeting by the use of technology that allows that member and the members present at the meeting to clearly and simultaneously communicate with each other.
- (2) For the purposes of this Part, a member participating in a general meeting as permitted under subrule (1) is taken to be present at the meeting and, if the member votes at the meeting, is taken to have voted in person.

### **25 Quorum at general meetings**

- (1) No business may be conducted at a general meeting unless a quorum of members entitled under these rules to vote is present.
- (2) The quorum for a general meeting is the presence (physically) of 10 members entitled to vote.
- (3) If a quorum is not present within 30 minutes after the notified commencement time of a general meeting—
  - a) in the case of a meeting convened by, or at the request of, members under rule 21— the meeting must be dissolved and the business will be assumed to have been dealt with;
  - b) in any other case—
    - (i) the meeting must be adjourned to a date not more than 21 days after the adjournment; and
    - (ii) notice of the date, time and place to which the meeting is adjourned must be given at the meeting and confirmed by written notice given to all members as soon as practicable after the meeting.
- (4) Where a meeting is held as a result of Rule 25(3)(b), and a quorum is not present within 30 minutes after the time to which a general meeting was scheduled to commence, the members

present at the meeting (if not fewer than 3) may proceed with the business of the meeting as if a quorum were present.

## **26 Adjournment of general meeting**

- (1) The Chairperson of a general meeting at which a quorum is present may, with the consent of a majority of members present at the meeting, adjourn the meeting to another time at the same place or at another place.
- (2) Without limiting subrule (1), a meeting may be adjourned—
  - a) if there is insufficient time to deal with the business at hand; or
  - b) to give the members more time to consider an item of business.
- (3) No business may be conducted on the resumption of an adjourned meeting other than the business that remained unfinished when the meeting was adjourned.
- (4) Notice of the adjournment of a meeting under this rule is not required unless the meeting is adjourned for 14 days or more, in which case notice of the meeting must be given in accordance with rule 22.

## **27 Voting at general meeting**

- (1) On any question arising at a general meeting—
  - a) subject to Rule 27(5), each member who is entitled to vote has one vote; and
  - b) members may vote personally; and
  - c) except in the case of a special resolution, the question must be decided on a majority of votes.
- (2) A question arising at a general meeting of the Preschool shall be determined on a show of hands, unless a poll (where votes are cast in writing) is demanded either before or on the declaration of the show of hands.
- (3) If at a meeting a poll on any question is demanded by not less than three members, it shall be taken at that meeting in such manner as the Chairperson may direct. The Chairperson must determine the method of voting by members who are participating under Rule 24, through the use of technology. The resolution of the poll shall be deemed to be a resolution of the meeting on that question.
- (4) If votes are divided equally on a question, the Chairperson of the meeting has a second or casting vote.
- (5) If the question is whether or not to confirm the minutes of a previous meeting, only members who were present at that meeting may vote.
- (6) A poll demanded on the election of the Chairperson or on a question of an adjournment must be taken immediately.
- (7) A poll demanded on any other question must be taken before the close of the meeting at a time determined by the Chairperson.
- (8) A member is not entitled to vote at any general meeting unless all monies due and payable (in accordance with these rules and the fees policy of the Preschool) by that person to the Preschool have been paid.
- (9) Rule 27(1) to 27(7) does not apply to a vote at a disciplinary appeal meeting conducted under rule 65.

## **28 Special resolutions**

- (1) A special resolution is passed if not less than three quarters of the members present in person at a general meeting, vote in favour of the resolution.
- (2) In addition to certain matters specified in the Act, a special resolution is required—
  - a) to remove a committee member from office;
  - b) to alter these Rules, including changing the name or any of the purposes of the Preschool.

## **29 Determining whether resolution carried**

- (1) Subject to Rule 29(2), the Chairperson of a general meeting may, on the basis of a show of hands, declare that a resolution has been—
  - a) carried; or
  - b) carried unanimously; or
  - c) carried by a particular majority; or
  - d) lost—and an entry to that effect in the minutes of the meeting is conclusive proof of that fact. Proof of the number or proportion of the votes recorded in favour or against the resolution is not needed.

## **30 Minutes of general meeting**

- (1) The Committee must ensure that minutes are taken and kept of each general meeting.
- (2) The minutes must record:
  - a) the names of the members attending the meeting; and
  - b) the business considered at the meeting, and
  - c) any resolution on which a vote is taken; and
  - d) the result of the vote.
- (3) In addition, the minutes of each annual general meeting must include—
  - a) the financial statements submitted to the members in accordance with rule 19(4)(b)(ii); and
  - b) a certificate signed by two committee members certifying that the financial statements give a true and fair view of the financial position and performance of the Preschool; and
  - c) any audited accounts and auditor's report or report of a review accompanying the financial statements that are required under the Act.

## **PART 6 - COMPOSITION OF COMMITTEE**

### **31 Composition of Committee**

- (1) The Committee of Management shall consist of a:
  - a) President; and
  - b) Vice-President; and
  - c) Secretary; and
  - d) Treasurer; and
  - e) between six (6) and eleven (11) ordinary members.

### **32 Composition of Sub-committees**

- (1) The Executive Sub-committee consists of the following committee member roles –
  - a) President
  - b) Vice-President
  - c) Secretary
  - d) Treasurer

### **33 General Duties**

- (1) As soon as practicable after being elected or appointed to the Committee, each committee member must become familiar with these Rules and the Act.
- (2) The Committee is collectively responsible for ensuring that the Preschool complies with the Act and that individual members of the Committee comply with these Rules.
- (3) Committee members must exercise their powers and discharge their duties:
  - a) with reasonable care and diligence; and
  - b) in good faith in the best interests of the Preschool; and
  - c) for a proper purpose.
- (4) Committee members and former committee members must not knowingly or recklessly make improper use of:
  - a) their position; or
  - b) information acquired by virtue of holding their position, so as to gain directly or indirectly, an advantage for themselves or any other person or to cause detriment to the Preschool.
- (5) In addition to any duties imposed by these Rules, a committee member must perform any other duties imposed from time to time by resolution at a general meeting.

### **34 Committee Roles and Responsibilities**

- (1) President
  - (a) The role of the President is to:
    - (i) chair Committee and general meetings;
    - (ii) act as official spokesperson for the Preschool;
    - (iii) co-ordinate Committee activities;
    - (iv) ensure that Committee members fulfil their roles;
    - (v) present the annual report of the Committee on the activities of the Preschool during the last financial year to the members at the Annual General Meeting and
    - (vi) perform any other task deemed by the Committee.
- (2) Vice President
  - (a) The role of the Vice President is to:
    - (i) assume the role of the President in the absence of the President,
    - (ii) perform any other task deemed by the Committee.
- (3) Secretary
  - (a) The Secretary must perform any duty or function required under the Act to be performed by the Secretary of the Preschool.

- (b) The Secretary must perform any duty or function required under the Act to be performed by the Secretary of an incorporated association, including:
    - (i) notifying the Registrar of Incorporated Associations of:
      - (a) her or his appointment within 14 days after the appointment;
      - (b) a change of address of the Secretary, within 14 days of such change;
      - (c) any amendments to the Rules or purposes outlined in Rule 2 of the Preschool, within 28 days of the ratification of the proposed amendments by the Preschool in a general meeting;
      - (d) the passing of a special resolution by the Preschool regarding the disposal of surplus assets after winding up in accordance with the Act, within one (1) month of the passing of the resolution.
    - (ii) applying to the Registrar for approval of any desired change of name, in accordance with the Regulations;
    - (iii) lodging with the Registrar:
      - (a) the documents required in respect of the annual general meeting, within one month of the date of the meeting (unless further time is granted by the Registrar);
      - (b) details about any trust and a copy of any deed or other instrument creating or embodying that trust, upon the Preschool becoming a trustee of that trust, within fourteen days;
    - (iv) producing any book for the Registrar or her/his authorised officer on being required to do so, and telling the Registrar or her/his authorised officer where a book is at the time a request is made;
    - (v) ensuring that the Registrar or her/his authorised officer is not hindered or obstructed in any way while that person is making an inspection of any part of the Preschool, in accordance with the Act.
  - (c) The Secretary must-
    - (i) maintain the register of members in accordance with Rule 18;
    - (ii) keep custody of the common seal (if any) of the Preschool and, except for the financial records referred to in Rule 58, maintain all books, documents and securities of the Preschool in accordance with Rule 72;
    - (iii) subject to the Act and these Rules, provide members (upon reasonable request) with access to the rules of the Preschool, the register of members (with information appropriately suppressed where validly requested by a member), the minutes of general meetings and other books and documents; and where disclosure does not breach a law;
    - (iv) organise meetings including notifying members in accordance with the rules;
    - (v) ensure accurate minutes of the resolutions and proceedings of each general meeting and each committee meeting are recorded and kept in books provided for that purpose;
    - (vi) record the names of persons present at committee meetings and general meetings;
    - (vii) ensure motions are dealt with as directed;
    - (viii) return all documents to the committee, when they are no longer the secretary, within 28 days.
  - (4) Treasurer
    - (a) The role of the Treasurer is to:
-

- (i) Ensure that the finances of the Preschool are controlled and managed in accordance with Rules 54, 55, 56, 57, 58, and 59; and
- (ii) Oversee any other person appointed by the committee to be responsible for the management of the finances of the Preschool; and
- (iii) Keep in her or his custody, or under her or his control-
  - (a) The financial records for the current financial year; and
  - (b) Any other financial records as authorised by the Committee.

## **PART 7 - ELECTION OF COMMITTEE MEMBERS**

### **35 Who is eligible to be a Committee member**

- (1) A member is eligible to be elected or appointed as a committee member if the member—
  - a) is 18 years or over; and
  - b) is entitled to vote at a general meeting of the Preschool.

### **36 Positions to be declared vacant**

- (1) This rule applies to—
  - a) the first annual general meeting of the Preschool after its incorporation; or
  - b) any subsequent annual general meeting of the Preschool, after the annual report and financial statements of the Preschool have been received.
- (2) The Chairperson of the meeting must declare all positions on the Committee vacant and hold elections for those positions in accordance with Rules 37 to 39.

### **37 Nominations**

- (1) Prior to the election of each position, the Chairperson of the meeting must call for nominations to fill that position.
- (2) An eligible member of the Preschool may—
  - a) nominate herself or himself; or
  - b) with the member's consent, be nominated by another member.
- (3) A member who is nominated for a position and fails to be elected to that position may be nominated for any other position for which an election is yet to be held.

### **38 Election of Committee members**

- (1) At the annual general meeting, separate elections must be held for each of the positions on the committee.
- (2) If only one member is nominated for the position, the Chairperson of the meeting must declare the member elected to the position.
- (3) If more than one member is nominated, a ballot must be held in accordance with rule 39.
- (4) All vacancies that exist on the committee may be filled up as casual vacancies under Rule 42, and committee members so appointed shall hold office until the next AGM.

### **39 Ballot**



- (1) If a ballot is required for the election for a position, the Chairperson of the meeting must appoint a member to act as returning officer to conduct the ballot.
- (2) The returning officer must not be a member nominated for the position.
- (3) Before the ballot is taken, each candidate may make a short speech in support of his or her election.
- (4) The election must be by secret ballot.
- (5) The returning officer must give a blank piece of paper to each member present in person.
- (6) If the ballot is for a single position, the voter must write on the ballot paper the name of the candidate for whom they wish to vote.
- (7) If the ballot is for more than one position—
  - a) the voter must write on the ballot paper the name of each candidate for whom they wish to vote;
  - b) the voter must not write the names of more candidates than the number to be elected.
- (8) Ballot papers that do not comply with Rule 39(7)(b) are not to be counted.
- (9) Each ballot paper on which the name of a candidate has been written counts as one vote for that candidate.
- (10) The returning officer must declare elected the candidate or, in the case of an election for more than one position, the candidates who received the most votes.
- (11) If the returning officer is unable to declare the result of an election under Rule 39(10) because 2 or more candidates received the same number of votes, the returning officer must—
  - a) conduct a further election for the position in accordance with Rule 39(4) to (10) to decide which of those candidates is to be elected; or
  - b) with the agreement of those candidates, decide by lot which of them is to be elected.

**Examples**

The choice of candidate may be decided by the toss of a coin, drawing straws or drawing a name out of a hat.

**40 Term of office**

- (1) Subject to Rule 40(3) and rule 41, a committee member holds office from the 1<sup>st</sup> of January until the 31<sup>st</sup> December in the year following their election at the annual general meeting.
- (2) A committee member may be re-elected.
- (3) A general meeting of the Preschool may—
  - a) by special resolution remove a committee member from office before the expiration of the member's term of office; and
  - b) elect an eligible member of the Preschool to fill the vacant position in accordance with this Division.
- (4) A member who is the subject of a proposed special resolution under Rule 40(3)(a) may make representations in writing to the Secretary or President of the Preschool (not exceeding a reasonable length) and may request that the representations be provided to the members of the Preschool.
- (5) The Secretary or the President may give a copy of the representations to each member of the Preschool or, if they are not so given, the member may require that they be read out at the meeting at which the special resolution is to be proposed.

#### **41 Vacation of office**

- (1) A committee member may resign from the Committee by written notice addressed to the Committee.
- (2) A person ceases to be a committee member if he or she—
  - a) ceases to be a member of the Preschool under rule 17; or
  - b) fails to attend 3 consecutive committee meetings (other than special or urgent committee meetings) without leave of absence under rule 67; or
  - c) otherwise ceases to be a committee member by operation of section 78 of the Act;and every such vacancy will be deemed a casual vacancy.

**Note**

A Committee member may not hold the office of secretary if they do not reside in Australia.

#### **42 Filling casual vacancies**

- (1) The Committee may appoint an eligible member of the Preschool to fill a position on the Committee that—
  - a) has become vacant under rule 41; or
  - b) was not filled by election at the last annual general meeting.
- (2) If the position of Secretary becomes vacant, the Committee must appoint a member to the position within 14 days after the vacancy arises.
- (3) Rule 40 applies to any committee member appointed by the Committee under Rule 42(1) or (2).
- (4) The Committee may continue to act despite any vacancy in its membership.

### **PART 8 - COMMITTEE MEETINGS**

#### **43 Meetings of Committee**

- (1) The Committee must meet at least 4 times in each year at the dates, times and places determined by the Committee.
- (2) The date, time and place of the first committee meeting must be determined by the members of the Committee as soon as practicable after the annual general meeting of the Preschool at which the members of the Committee were elected.
- (3) Special committee meetings may be convened by the President or by any four (4) members of the Committee. If deemed necessary these meetings may occur with 24 hours' notice if a quorum is present.

#### **44 Notice of committee meetings**

- (1) Notice of each committee meeting must be given to each committee member no later than 7 days before the date of the meeting. Notice of each committee meeting must be given to each member of the Committee, verbally, electronically or in written form.
- (2) Notice may be given of more than one committee meeting at the same time.
- (3) The notice must state the date, time and place of the meeting.
- (4) If a special committee meeting is convened, the notice must include the general nature of the business to be conducted.

- (5) The only business that may be conducted at the meeting is the business for which the meeting is convened.
- (6) A member of the Preschool desiring to have any business raised with the Committee (other than that provided for in Rule 22(5)), may give notice of that business in writing to the Secretary 14 days before the scheduled meeting for inclusion on the agenda of that meeting.

#### **45 Urgent meetings**

- (1) In cases of urgency, a meeting can be held without notice being given in accordance with rule 44 provided that as much notice as practicable is given to each committee member by the quickest means practicable.
- (2) Any resolution made at the meeting must be passed by a majority of the Committee.
- (3) The only business that may be conducted at an urgent meeting is the business for which the meeting is convened.

#### **46 Presiding at committee meetings**

- (1) Subject to subrule (2), the President or, in the President's absence, the Vice-President shall preside, or
- (2) If the President and the Vice-President are both absent, or are unable to preside, the Chairperson of the meeting must be a committee member elected by the other committee members present.

#### **47 Procedure and order of business**

- (1) The procedure to be followed at a meeting of a Committee must be determined from time to time by the Committee.
- (2) The order of business may be determined by the members present at the meeting.

#### **48 Use of technology**

- (1) A committee member who is not physically present at a committee meeting may participate in the meeting by the use of technology that allows that committee member and the committee members present at the meeting to clearly and simultaneously communicate with each other.
- (2) For the purposes of this Part, a committee member participating in a committee meeting as permitted under subrule (1) is taken to be present at the meeting and, if the member votes at the meeting, is taken to have voted in person.

#### **49 Quorum**

- (1) No business may be conducted at a Committee meeting unless a quorum is present.
- (2) The quorum for a committee meeting is the presence (in person or as allowed under rule 48) of a majority of the committee members holding office at that time.
- (3) If a quorum is not present within 30 minutes after the notified commencement time of a committee meeting:
  - a) in the case of a special meeting—the meeting lapses;
  - b) in any other case—the meeting must be adjourned to a date no later than 14 days after the adjournment and the notice of the time, date and place to which the meeting is adjourned must be given in accordance with rule 44.

## 50 Voting

- (1) Each member present at a meeting of the Committee or of any subcommittee appointed by the Committee (including the person presiding at the meeting) is entitled to one vote.
- (2) A motion is carried if a majority of committee members present at the meeting vote in favour of the motion.
- (3) Rule 50(2) does not apply to any motion or question which is required by these Rules to be passed by an absolute majority of the Committee.
- (4) Questions arising at a meeting of the Committee or of any subcommittee appointed by the Committee shall be determined on a show of hands, unless a member demands a poll.
- (5) If a poll is demanded, it shall be taken in a manner determined by the person presiding at the meeting.
- (6) If votes are divided equally on a question, the Chairperson of the meeting has a second or casting vote.
- (7) Voting by proxy is not permitted.

## 51 Conflict of interest

- (1) No member of the Committee shall be appointed to or retain any paid office of the Preschool while that person is a member of the Committee. This rule shall not apply in respect of a situation where the services of a relief staff member cannot be immediately obtained and a suitably qualified and working with children checked member of the Committee is appointed to that position for temporary relief purposes.
- (2) For the purposes of Rule 51(1) “temporary relief” shall mean an appointment not exceeding a maximum of six (6) consecutive sessions. Appointment of a member of the Committee beyond six (6) consecutive sessions will require that member to resign from the Committee.
- (3) No member of the Committee shall directly or indirectly supply goods or services to the Preschool if such goods or services can be satisfactorily obtained elsewhere locally.
- (4) Any member of the Committee who has a financial interest in any contract or arrangement made or proposed to be made with the Preschool shall disclose their interest to the Committee and in the financial statements submitted to the next annual general meeting. This shall be done at the first meeting of the Committee at which the contract or arrangement is first taken into consideration, if that member’s interest then exists. In any other case, the member shall disclose the interest at the first meeting of the Committee after the acquisition of that member’s interest. If the member becomes interested in a contract or arrangement after it is made or entered into, the member shall disclose their interest at the first meeting after the member becomes interested.
- (5) A committee member who has a material personal interest in a matter being considered at a committee meeting must disclose the nature and extent of that interest to the Committee.
- (6) The member—
  - a) must not be present while the matter is being considered at the meeting; and
  - b) must not vote on the matter.

### **Note**

Under section 81(3) of the Act, if there are insufficient committee members to form a quorum because a member who has a material personal interest is disqualified from voting on a matter, a general meeting may be called to deal with the matter.

- (7) Failure of a member to reveal a financial interest in any contract or arrangement with the Preschool may result in the implementation of Rule 40(3)a) by the Committee.
  - (8) This rule does not apply to a material personal interest—
-

- a) that exists only because the member belongs to a class of persons for whose benefit the Preschool is established; or
- b) that the member has in common with all, or a substantial proportion of, the members of the Preschool.

## **52 Minutes of meeting**

- (1) The Committee must ensure that minutes are taken and kept of each committee meeting.
- (2) The minutes must record the following—
  - a) the names of the members in attendance at the meeting; and
  - b) the business considered at the meeting; and
  - c) any resolution on which a vote is taken and the result of the vote; and
  - d) any material personal interest disclosed under rule 51.

## **53 Leave of absence**

- (1) The Committee may grant a committee member leave of absence from committee meetings for a period not exceeding 3 months.
- (2) The Committee must not grant leave of absence retrospectively unless it is satisfied that it was not feasible for the committee member to seek the leave in advance.

## **PART 9 - FINANCIAL MATTERS**

### **54 Financial year**

The financial year of the Preschool is each period of 12 months ending on 31 October.

### **55 Source of funds**

The funds of the Preschool may be derived from joining fees, annual subscriptions, donations, fund-raising activities, grants, interest and any other sources approved by the Committee.

### **56 Management of funds**

- (1) The Preschool must open an account/s with a financial institution from which all expenditure of the Preschool is made and into which all of the Preschool's revenue is deposited as soon as it is received, but no later than 5 working days after receipt.
- (2) Receipts, in the name of the Preschool, will be issued for all monies paid to or received by the Preschool upon request.
- (3) Subject to any restrictions imposed by a general meeting of the Preschool, the Committee may approve expenditure on behalf of the Preschool.
- (4) The Committee may authorise committee members or staff and the Treasurer to expend funds on behalf of the Preschool (including by electronic funds transfer) up to a specified limit without requiring approval from the Committee for each item on which the funds are expended. All other payments shall only be made with the authority of the Committee.
- (5) All payments must:
  - a) be made by cheques, electronic funds transfer, periodic debit, drafts, bills of exchange, promissory notes or other negotiable instruments; and

- b) cheques and/or other negotiable instruments must be signed by any two of the following four (4) positions: President, Treasurer, Secretary, and Vice President all of whom will be registered with the financial institutions; and
  - c) include the designation of the payee of all cheques before the cheque is signed.
  - d) Electronic funds transfer must be authorised by any two people authorised by the Committee, one of whom must hold a position as set out in Rule 56(5)b).
- (6) With the approval of the Committee, the Treasurer may maintain a cash float provided that all money paid from or paid into the float is accurately recorded at the time of the transaction.

### **57 Not for profit organisation**

- (1) The assets and income of the Preschool shall be used solely for the objectives and purposes of the Preschool.
- (2) The Preschool must not distribute any surplus, income or assets directly or indirectly to its members.
- (3) Rule 57(2) does not prevent the Preschool from paying a member—
  - a) reimbursement for expenses properly incurred by the member; or
  - b) for goods or services provided by the member—
  - c) if this is done in good faith on terms no more favourable than if the member was not a member.

### **58 Financial records**

- (1) The Preschool must keep financial records that—
  - a) correctly record and explain its transactions, financial position and performance; and
  - b) enable financial statements to be prepared as required by the Act.
- (2) The Preschool must retain the financial records for 7 years after the transactions covered by the records are completed.
- (3) A financial report must be submitted at each Committee meeting.
- (4) At least one committee member other than the Treasurer must have access to the accounts and financials records of the Preschool.
- (5) The accounts and books referred to in Rules 58 and 59 shall be available for inspection by members of the Preschool in accordance with Rule 72.
- (6) The Treasurer must keep in his or her custody, or under his or her control—
  - a) the financial records for the current financial year; and
  - b) any other financial records as authorised by the Committee.

### **59 Financial statements**

- (1) For each financial year, the Committee must ensure that the requirements under the Act relating to the financial statements of the Preschool are met.
- (2) Without limiting Rule 59(1), those requirements include—
  - a) the preparation of the financial statements;
  - b) if required, the review or auditing of the financial statements;
  - c) the certification of the financial statements by the Committee;

- d) the submission of the financial statements to the annual general meeting of the Preschool;
- e) the lodgement with the Registrar of the financial statements and accompanying reports, certificates, statements and fee.

## **PART 10 - DISCIPLINARY PROCEDURE**

### **60 Grounds for taking disciplinary action**

- (1) The Preschool may take disciplinary action against a member in accordance with this Division if it is determined that the member—
  - a) has failed to comply with these Rules; or
  - b) refuses to support the purposes of the Preschool; or
  - c) has engaged in conduct prejudicial to the Preschool.

### **61 Disciplinary subcommittee**

- (1) If the Committee is satisfied that there are sufficient grounds for taking disciplinary action against a member, the Committee must appoint a disciplinary subcommittee to hear the matter and determine what action, if any, to take against the member.
- (2) The members of the disciplinary subcommittee must comprise of at least three members, who will conduct the proceedings in an impartial and unbiased manner
- (3) One of the three subcommittee members shall be members of the Committee.

### **62 Notice to member**

- (1) Before disciplinary action is taken against a member, the Secretary must give written notice to the member—
  - a) stating that the Preschool proposes to take disciplinary action against the member; and
  - b) stating the grounds for the proposed disciplinary action; and
  - c) specifying the date, place and time of the meeting at which the disciplinary subcommittee intends to consider the disciplinary action (the ***disciplinary meeting***); and
  - d) advising the member that he or she may do one or both of the following—
    - (i) attend the disciplinary meeting and address the disciplinary subcommittee at that meeting;
    - (ii) give a written statement to the disciplinary subcommittee at any time before the disciplinary meeting; and
  - e) setting out the member's appeal rights under rule 64.
- (2) The notice must be given no earlier than 28 days, and no later than 14 days, before the disciplinary meeting is held.

### **63 Disciplinary procedure**

- (1) At the disciplinary meeting, the disciplinary subcommittee must:
  - a) give the member an opportunity to be heard; and
  - b) consider any written statement submitted by the member.
- (2) After complying with Rule 63(1), the disciplinary subcommittee may recommend to the Committee to—

- a) take no further action against the member; or
- b) subject to Rule 63(3)—
  - (i) reprimand the member; or
  - (ii) suspend the membership rights of the member for a specified period; or
  - (iii) expel the member from the Preschool.
- (3) The disciplinary subcommittee may not fine the member. The Committee must not take action under Rule 63(2) b) unless an absolute majority of the Committee vote at the disciplinary meeting in favour of taking the action.
- (4) The suspension of membership rights or the expulsion of a member by the disciplinary subcommittee under this rule takes effect immediately after the vote is passed.
- (5) The member must be notified as as possible and not later than 24 hours, of the decision of the Committee.

#### **64 Appeal rights**

- (1) A person whose membership rights have been suspended or who has been expelled from the Preschool under rule 63 may give notice to the effect that he or she wishes to appeal against the suspension or expulsion.
- (2) The notice must be in writing and given—
  - a) to the disciplinary subcommittee immediately after the vote to suspend or expel the person is taken; or
  - b) to the Secretary not later than 48 hours after the vote.
- (3) If a person has given notice under Rule 64(2), a disciplinary appeal meeting must be convened by the Committee as soon as practicable, but in any event not later than 21 days, after the notice is received.
- (4) A member who has appealed the decision of the Committee will have their membership rights suspended until the disciplinary appeal meeting has been held.
- (5) Notice of the disciplinary appeal meeting must be given to each member of the Preschool who is entitled to vote as soon as practicable and must—
  - a) specify the date, time and place of the meeting; and
  - b) state—
    - (i) the name of the person against whom the disciplinary action has been taken; and
    - (ii) the grounds for taking that action; and
    - (iii) that at the disciplinary appeal meeting the members present must vote on whether the decision to suspend or expel the person should be upheld or revoked.

#### **65 Conduct of disciplinary appeal meeting**

- (1) At a disciplinary appeal meeting—
  - a) no business other than the question of the appeal may be conducted; and
  - b) the Committee must state the grounds for suspending or expelling the member and the reasons for taking that action; and
  - c) the person whose membership has been suspended or who has been expelled must be given an opportunity to be heard.



- (2) After complying with Rule 65(1), the members present and entitled to vote at the meeting must vote by secret ballot on the question of whether the decision to suspend or expel the person should be upheld or revoked.
- (3) A member may not vote by proxy at the meeting.
- (4) The decision is upheld if not less than three quarters of the members voting at the meeting vote in favour of the decision.

## **PART 11 - GRIEVANCE PROCEDURE**

### **66 Application**

- (1) The grievance procedure set out in this section applies to disputes under these Rules between—
  - a) a member and another member; or
  - b) a member and the Committee; or
  - c) a member and the Preschool.
- (2) A member must not initiate a grievance procedure in relation to a matter that is the subject of a disciplinary procedure until the disciplinary procedure has been completed.

### **67 Parties must attempt to resolve the dispute**

The parties to a dispute must attempt to resolve the dispute between themselves within 14 days of the dispute coming to the attention of each party.

### **68 Appointment of mediator**

- (1) If the parties to a dispute are unable to resolve the dispute between themselves within the time required by rule 67, the parties must within 10 days—
  - a) notify the Committee of the dispute; and
  - b) agree to or request the appointment of a mediator; and
  - c) attempt in good faith to settle the dispute by mediation.
- (2) The mediator must be—
  - a) a person chosen by agreement between the parties; or
  - b) in the absence of agreement—
    - (i) if the dispute is between a member and another member—a person appointed by the Committee; or
    - (ii) if the dispute is between a member and the Committee or the Preschool—a person appointed or employed by the Dispute Settlement Centre of Victoria.
- (3) A mediator appointed by the Committee may be a member or former member of the Preschool but in any case must not be a person who—
  - a) has a personal interest in the dispute; or
  - b) is biased in favour of or against any party.

### **69 Mediation process**

- (1) The mediator to the dispute, in conducting the mediation, must—
  - a) give each party every opportunity to be heard; and

- b) allow due consideration by all parties of any written statement submitted by any party; and
  - c) ensure that natural justice is accorded to the parties throughout the mediation process.
- (2) The mediator must not determine the dispute.

## **70 Failure to resolve dispute by mediation**

- (1) If the mediation process does not resolve the dispute, the parties may seek to resolve the dispute in accordance with the Act or otherwise at law.
- (2) Any costs associated with this process will be shared by the parties involved.

### **Proviso:**

This Procedure is not intended to alter a member's rights arising out of any other rules under the Constitution.

## **PART 12 - GENERAL MATTERS**

### **71 Notice requirements**

- (1) Any notice required to be given to a member or a committee member under these Rules may be given—
  - a) by handing the notice to the member personally; or
  - b) utilising the internal notice arrangements such as 'notice pockets or pigeon holes'; or
  - c) by sending it by post to the member at the address recorded for the member on the register of members; or
  - d) by email, text or facsimile transmission.
- (2) Rule 71(1) does not apply to notice given under rule 45 (urgent meetings).
- (3) Any notice required to be given to the Preschool or the Committee may be given—
  - a) by handing the notice to a member of the Committee; or
  - b) by sending the notice by post to the registered address; or
  - c) by leaving the notice at the registered address; or
  - d) if the Committee determines that it is appropriate in the circumstances—
    - (i) by email to the email address of the Preschool or the Secretary; or
    - (ii) by facsimile transmission to the facsimile number of the Preschool.

### **72 Custody and inspection of books and records**

- (1) All accounts, books, securities and any other relevant documents (including accounting records and financial statements) of the Preschool, shall be available for inspection free of charge, at the service by any member upon request to the Secretary, with the exception of confidential documents relating to staff, families and children of the service.
- (2) Preschool members are able to access minutes of committee meetings upon request to the secretary and at the discretion of the committee. Minutes of closed meetings, confidential discussions, commercially sensitive documents will not be available to members of the Preschool, other than committee members.
- (3) The Committee must on request make copies of these rules available to members and applicants for membership free of charge.
- (4) Minutes of general meetings will be freely available to all Preschool members.

- (5) Subject to the exception referred to in Rule 72(1), a member may make a copy of any of the other records of the Preschool referred to in this rule and the Preschool may charge a reasonable fee for provision of a copy of such a record.
- (6) All documents belonging to the Preschool, being held by a member, must be returned to the Preschool within 28 days of that member ceasing to hold office or ceasing to be a member of the Preschool.
- (7) If such documents are not returned within 28 days, the Secretary or Statutory Manager of the Preschool shall send a written request, by registered mail to the person (or the person's estate).
- (8) If the documents are still not returned within 28 days of the request being sent, an application shall be made to the Magistrates Court regarding the matter.

For the purposes of this rule—

**Relevant documents** means the records and other documents, however compiled, recorded or stored, that relate to the incorporation and management of the Preschool and includes the following—

- (i) its membership records;
- (ii) its financial statements;
- (iii) its financial records;
- (iv) records and documents relating to transactions, dealings, business or property of the Preschool.

### **73 Winding up and cancellation**

- (1) The Preschool may be wound up voluntarily by special resolution in accordance with the Act.
- (2) In the event of the winding up or the cancellation of the incorporation of the Preschool, the surplus assets of the Preschool must not be distributed to any members or former members of the Preschool.
- (3) Subject to the Act and any court order made under section 133 of the Act, the surplus assets must be given to a body that has similar purposes to the Preschool and which is not carried on for the profit or gain of its individual members.
- (4) The body to which the surplus assets are to be given must be decided by special resolution.