



CONSTITUTION

Post 2020 AGM

Australian Psychologists and Counsellors in Schools Limited

ACN 053 392 340

CORPORATIONS ACT 2001 Form 204

Corporations Law Sub-section 121(1)

[Corporations Amendment (No. 1) Act 2010]

Australian Company Number (ACN) 053 392 340

ABN 55053392340

The Australian Psychologists and Counsellors in Schools Limited (APACS) is a registered company under Division 1 of Part 2.2 of the Corporations Law of New South Wales and because of its registration it is an incorporated company.

The company is limited by guarantee.

The company is a public company.

The day of commencement of registration is the twenty-third day of September 1991. Given under the seal of the Australian Securities Commission on this twenty-third day of September 1991, previously named the Australian Guidance and Counselling Association Limited.

CONTENTS

Page Number

Part 1 – Preliminary

1	The Company	4
2	Definitions and interpretations	4
3	Objects	5
4	Powers and Functions	6

Part 2 - Membership

5	Admission to Membership	6
6	Classes of Membership	6
7	Register of members	8
8	Subscriptions	8
9	Members' liabilities	8
10	Resolution of disputes	8
11	Resolution of complaints	8
12	Right of appeal of disciplined member	9

Part 3 - The APACS Committee

13	Powers of APACS Committee	10
14	Composition of APACS Committee	10
15	APACS Committee members roles	11
16	Election of APACS Committee members	11
17	Number of Committee members	13
18	Casual vacancies	13
19	Filling of vacancies	13
20	Removal of APACS Committee member	14
21	APACS Committee meetings and quorum	14
22	Delegation by APACS Committee to Sub-Committees	16
23	Voting and decisions	16
24	Conflict of Interest	16

Part 4 - General meetings

25	Annual general meetings - holding of	17
26	Annual general meetings - calling of and business at	17
27	Special general meetings - calling of and business at	18
28	Notice	18
29	Quorum for general meetings	19
30	Chairperson	19
31	Adjournment	19
32	Making of decisions	19
33	Changes to the constitution	20
34	Special resolutions	20
35	Voting	20
36	Proxy votes	20
37	Ballots	21

CONTENTS (*cont.*)

Page Number

Part 5 – Miscellaneous

38	Insurance	21
39	Funds – source	21
40	Funds – management	21
41	Custody of records	21
42	Inspection of records	21
43	Service of notices	22
44	Financial Records	22
45	Auditor	22
46	Indemnity	22
47	State Affiliated Associations	23
48	Dissolution	23-24

Part 1 – Preliminary

1. The Company

- 1.1 The name of the Company shall be Australian Psychologists and Counsellors in Schools Limited (in these Rules called 'APACS').
- 1.2 APACS is a not-for-profit public company limited by guarantee which is established to, and to continue to, fulfil the Objects as set out in clause 3.

2. Definitions and Interpretations:

The **Act** means the Corporations Act 2001 (Cth)

AHPRA refers to the Australian Health Practitioner Regulation Agency.

APACS refers to the Australian Psychologists and Counsellors in Schools.

APACS Committee refers to the APACS Committee whose powers are set out in clause 14.

APACS Committee Members are those persons whose roles are set out in clause 15 .

APACS Secretary means:

- the person holding office under this constitution as secretary of APACS, or
- if no such person holds that office, the public officer of APACS as listed with ASIC.

APS refers to the Australian Psychological Association Limited ACN 000 543.

Counsellor refers to professionals working in schools with work titles such as, but not limited to, school counsellor, guidance officer or student counsellor and who has post graduate qualifications in psychology or counselling from a recognized tertiary institution.

Directors for the purposes of the Corporations Act requirements, will be the persons set out in clause 14.2.

General Meetings refer to the **Annual General Meeting** (AGM) of APACS where all members of APACS are invited to participate or a **Special General Meeting** where all members of APACS are invited to participate in important decisions or urgent matters.

Member or **member of APACS** unless the context does not permit, refers to a member of an approved State Affiliated Association, such person to have voting rights appropriate to their level of membership.

Ordinary Meeting means a meeting of the APACS Committee.

Ordinary Meeting Resolutions are resolutions passed at an Ordinary Meeting or between APACS Committee meetings.

Other positions are elected positions at the APACS AGM and additional positions may be appointed by the APACS Committee. State representatives are elected or appointed by the State Affiliated Association and not the APACS Committee.

Psychologist is a person registered with the Psychology Board of Australia (PsyBA) which is part of the Australian Health Practitioner Regulation Agency (AHPRA).

Regulations is a document as determined and amended by an Ordinary Meeting Resolution

that outlines processes and standing orders relevant for the conduct of the affairs of APACS.

Resolution/Motion is not defined in the Corporations Act (2001) and is an ordinary resolution requiring a simple majority (>50% of members present at the meeting) to pass.

Special Resolution is defined in section 9 of the Corporations Act as one that is passed by at least three quarters (75%) of the votes cast by members at a General Meeting or Special General Meeting being in favour of the resolution.

State Affiliated Association is an Australian state or territory based incorporated association that is primarily concerned with school psychology or school counselling and which is formally approved by the APACS Committee as a State Affiliated Association.

State Affiliated Association Committee refers to a State Affiliated Association's Committee pursuant to the State Affiliated Association's constitution.

Sub-Committee refers to a committee or working party of the APACS Committee which reports to the APACS Committee.

3. Objects

The objects of APACS are:

- 3.1 To promote evidence-based approaches to support positive educational outcomes and wellbeing for children and young people in Australian schools.
- 3.2 To provide and promote relevant professional development, training and supervision.
- 3.3 To promote the role of psychologists, counsellors and guidance officers in schools as one of significance in education.
- 3.4 To offer a forum for members to discuss matters of common concern and professional interest and practice through various medium.
- 3.5 To arrange, provide for, or join in arranging and providing for, the holding of conferences, workshops and meetings on subjects of general and special interest to persons interested in school psychology and school counselling.
- 3.6 To advocate on issues which affect the ability of APACS members to meet their responsibilities to students, school communities and the profession.
- 3.7 To promote research in school psychology and school counselling.
- 3.8 To provide and share evidence-based information, advice and opinion, to other local or international professional organisations, to government and to the general public.
- 3.9 To publish and promote journals and other publications, gratuitously or otherwise as the APACS may think expedient in connection with the objects of APACS.
- 3.10 To collaborate with other professional, educational and community organisations.
- 3.11 To establish and maintain a register of members.

- 3.12 To enact and collect subscriptions and to invite sponsorship or donations to the funds of APACS by any lawful means.
- 3.13 To affiliate with national and/or international school psychology and counselling organisations having objects in accordance with the Association.

4. Powers and Functions

- 4.1 In pursuit of the achievement of those objects, APACS shall have all powers and functions necessary or desirable to carry out its affairs, for example:
- enter into contracts;
 - acquire, hold, deal with and dispose of property; and
 - make charges for services and facilities it supplies.
- 4.2 APACS must not distribute any income or assets directly or indirectly to its members, except as provided in clauses 4.3 and 48.
- 4.3 Clause 4.2 does not stop APACS from doing the following things, provided they are done in good faith:
- 4.3.1 paying a member for goods or services they have provided or expenses they have properly incurred at fair and reasonable rates or rates more favourable to APACS; or
- 4.3.2 making a payment to a member in carrying out APACS's purpose(s).

Part 2 – Membership

5. Admission to Membership

- 5.1. Admission to Membership of APACS is through a State Affiliated Association and is subject to that State Affiliated Association's constitution and nomination and approval processes.
- 5.2 Membership of APACS follows the approval processes by the State Affiliated Association.

6. Classes of Membership

- 6.1 Categories of membership are aligned with the levels of membership in each State Affiliated Association as approved, from time to time, by the APACS Committee or general meeting.
- 6.2 In addition, the APACS Committee may confer the categories of APACS membership in clauses 6.3 and 6.4.

6.3 Life Member

- 6.3.1 A Life Member APACS is a person who is a Member of APACS who has been conferred Life Membership at an APACS Annual General Meeting in recognition of exceptional contributions over a significant amount of time to the profession and organisation at both the state and national level.
- 6.3.2 A Life Member is entitled to Members rights from the date of their election and shall be exempt from the payment of all subscriptions. The number of Life Members APACS shall be limited to five in each State Affiliated Association with a maximum of two to be conferred in any one year.
- 6.3.4 Nominations of members for Life Membership from State Affiliated Associations or the APACS Committee will be considered by an Ordinary Meeting and if supported, referred to the next Annual General Meeting.
- 6.3.5 A Life Member of a State Affiliated Association not conferred by the APACS Annual General Meeting is the financial responsibility of that State Affiliated Association.
- 6.3.6 Recipients of Life Membership APACS will be recognised through the APACS website and/or other platforms.

6.4 Post Nominals.

- 6.4.1 Members of APACS are entitled to use the post nominal 'Member APACS' or 'MAPACS' after their name while they remain members of APACS.
- 6.4.2 Life Members of APACS will be entitled to use the post nominal 'Life Member APACS' while they remain a Life Member of APACS.
- 6.4.6 Associate and Student Members are not entitled to use APACS post nominals.

6.5 Voting rights

- 6.5.1 Members and Life Members shall have full voting rights.
- 6.5.2 Associate and Student Members shall not have voting rights.

6.6 Cessation of membership

- 6.6.1 A person ceases to be a Member of APACS, if the person is no longer eligible to be a Member of a State Affiliated Association, if the person resigns membership of the State Affiliated Association of which they joined and does not within a reasonable time join another State Affiliated Association;
- 6.6.2 is expelled from their State Affiliated Association; or
- 6.6.3 otherwise ceases to be a member of the State Affiliated Association; or
- 6.6.4 dies.

6.7 Membership entitlements not transferable

- 6.7.1 A right, privilege or obligation which a person has by reason of being a member of APACS is not capable of being transferred or transmitted to another person and terminates on cessation of the person's membership under clause 5.1.

7. Register of members

- 7.1 The APACS Membership Secretary or delegate must establish and maintain the register of members of APACS specifying at least the name, postal address, e-mail address, phone numbers or other relevant forms of contact and the State Affiliated Association of each person.
- 7.2 The register of members must be kept securely in Australia on APACS's official electronic storage account and at APACS's official address.
- 7.3 A member must not use information about a person obtained from the register to contact or send material to the person, other than for the purpose of sending a:
- 7.4.1 journal
 - 7.4.2 approved research correspondence or submissions
 - 7.4.3 newsletter
 - 7.4.4 notice in respect of a meeting
 - 7.4.5 an event relating to APACS
 - 7.4.6 other material relating to APACS
 - 7.4.7 other relevant material approved by the APACS Committee.
- 7.4 Having regard to privacy and confidentiality considerations, if a member (other than for the purposes in 7.3) requests information contained on the register about another member/s other than the member's name that information must not be made available for inspection without that member's consent.

8. Subscriptions

- 8.1 A member of APACS will, on admission to membership and on each renewal of membership pay to APACS, through their State Affiliated Association, an annual affiliation fee, the amount of which will be determined from time to time, by a General Meeting following the recommendation of an Ordinary Meeting.
- 8.2 The Treasurer will request affiliation fees from State Affiliated Associations based on their membership numbers as at the Affiliate's AGM each year.

9. Members' liabilities

- 9.1 In the event of a winding up of the Association, the liability of each Member to contribute towards payment of the debts and liabilities of the Association or the costs, charges and

expenses of winding up the Association is limited to all outstanding affiliation fees owed by that Member in accordance with clause 8.

10. Resolution of disputes

- 10.1 A dispute between a member and another member (in their capacity as members of APACS) may be referred to the APACS Committee to manage according to the provisions set out in clauses 11 and 12.
- 10.2 If a dispute is not resolved by mediation within 3 months of the referral to the APACS Committee, the dispute is to be referred to arbitration.

11. Resolution of complaints

- 11.1 A complaint may be made to the APACS Committee by any member when a member of APACS has refused or neglected to comply with a provision or provisions of this Constitution or they have been deemed to willfully act in a manner detrimental to the interests of APACS. The matter should initially be referred immediately to the member's State Affiliated Association.
- 11.2 The APACS Committee may refuse to deal with a complaint if it considers the complaint to be trivial or vexatious in nature and will communicate the reason/s for this decision.
- 11.3 If the APACS Committee decides to deal with the complaint, the APACS Committee:
 - 11.3.1 must cause notice of the complaint to be served on the member
 - 11.3.2 must give the member at least 14 days from the time the notice is served within which to make submissions to the APACS Committee in connection with the complaint, and
 - 11.3.3 must take into consideration any submissions made by the member in connection with the complaint.
- 11.4 The APACS Committee may, by resolution, expel the member from APACS or suspend the member from membership of APACS if, after considering the complaint and any submissions made in connection with the complaint, it is satisfied that the facts alleged in the complaint have been proved and the expulsion or suspension is warranted in the circumstances. This includes but is not restricted to suspension from APACS whilst a member is being investigated for misconduct through their workplace, APS, AHPRA or any other body associated with their work as a psychologist or counsellor in schools.
- 11.5 If the APACS Committee expels or suspends a member, APACS Secretary must, within 7 days after the action is taken, cause written notice to be given to the member of the action taken, of the reasons given by the APACS Committee for having taken that action and of the member's right of appeal under clause 12.
- 11.6 The expulsion or suspension does not take effect:
 - 11.6.1 until the expiration of the period within which the member is entitled to appeal against the resolution concerned; or
 - 11.6.2 if within that period the member exercises the right of appeal, unless and until APACS confirms the resolution under clause 12, whichever is the later.

12. Right of appeal of disciplined member

- 12.1 A member may appeal to APACS in General Meeting against a resolution of the APACS Committee under clause 11, within 7 days after notice of the resolution is served on the member, by lodging with APACS Secretary a notice to that effect.
- 12.2 The notice may, but need not, be accompanied by a statement of the grounds on which the member intends to rely for the purposes of the appeal.
- 12.3 On receipt of a notice from a member under subclause 12.1, APACS Secretary must notify the APACS Committee which is to convene a General Meeting of APACS to be held within 28 days after the date on which the Secretary received the notice.
- 12.4 At a General Meeting of APACS convened under subclause 12.3:
 - 12.4.1 no business other than the question of the appeal is to be transacted; and
 - 12.4.2 the APACS Committee and the member must be given the opportunity to state their respective cases orally or in writing, or both; and
 - 12.4.3 the members present are to vote by secret ballot on the question of whether the resolution should be confirmed or revoked.
- 12.5 The appeal is to be determined by a simple majority of votes cast by members of APACS.

Part 3 – The APACS Committee

13. Powers of APACS Committee

- 13.1 Subject to the Act and this Constitution and to any resolution passed by APACS in a General Meeting, the APACS Committee:
 - 13.1.1 is to control and manage the affairs of APACS in accordance with the objects; and
 - 13.1.2 may exercise all such functions, other than those functions that are required by this Constitution to be exercised at a General Meeting of members of APACS; and
 - 13.1.3 has power to perform all such acts that appear to the APACS Committee to be necessary or desirable for APACS.

14. Composition of APACS Committee

- 14.1 The APACS Committee is to consist of:
 - 14.1.1 the President, Treasurer, Secretary and Membership Secretary;
 - 14.1.2 the Immediate Past President or President Elect, but not both;
 - 14.1.3 additional APACS Committee roles, such as Journal Editor and Newsletter Editor; and
 - 14.1.4 representatives elected by each State Affiliated Association.
- 14.2 The APACS Directors registered with ASIC by APACS are as follows:

14.2.1 the President

14.2.2 the Treasurer

14.2.3 the Secretary

14.2.4 the Membership Secretary

14.3 An APACS Director may only hold one APACS elected Committee position.

14.4 Each member of the APACS Committee is, subject to this Constitution, to hold office for a term of one year until the conclusion of the Annual General Meeting following the date of the member's election.

14.5 Re-election is not automatic.

14.6 All members of the APACS Committee must be financial members of APACS.

15. APACS Committee Roles

15.1 President

It is the duty of the President to:

15.1.1 chair all Ordinary and General Meetings;

15.1.2 ensure compliance with provisions of this Constitution;

15.1.3 champion the strategic direction of APACS; and

15.1.4 represent APACS when and as required.

15.2 Secretary

It is the duty of the Secretary to:

15.2.1 keep records of appointments of Directors and Members of the APACS Committee;

15.2.2 maintain the names of Members of the APACS Committee present at Ordinary, General or Special General Meetings;

15.2.3 keep minutes of all proceedings at Ordinary and General Meetings; and

15.2.4 maintain the Regulations, a record of APACS Committee resolutions, and Standing Orders.

15.3 Treasurer

It is the duty of the Treasurer to:

15.3.1 ensure that all money due to APACS is collected and received and that all payments authorised by APACS are made; and

15.3.2 that correct records and accounts are kept showing the financial affairs of APACS, including full details of all receipts and expenditure connected with the activities of APACS.

15.4 Membership Secretary

It is the duty of the Membership Secretary to:

- 15.4.1 maintain a register of APACS members;
- 15.4.2 request membership lists from State Affiliated Associations; and
- 15.4.3 ensure that the membership register is kept securely and that access to the register is for APACS approved activities and in line with privacy and confidentiality requirements.

15.5 Additional APACS Committee roles to be outlined in the Regulations.

16. Election/Appointment to the APACS Committee

- 16.1 All directors and additional Members of the APACS Committee shall retire at each Annual General Meeting but shall all be eligible for re-election except those persons holding limited tenure positions on the APACS Committee and representatives of State Affiliated Associations. The APACS Secretary manages the nomination process according to the Regulations. The President and Secretary will both be eligible for election for two consecutive one-year terms after which they will be eligible for election to other positions on the APACS Committee.
- 16.2 The retiring President is eligible for election as Immediate Past President for one term.
- 16.3 When a President has been elected for a second one-year term, nominations for the position of President Elect may be accepted and a ballot conducted.
- 16.4 APACS Secretary must by notice in writing to members call for nominations from amongst all members eligible to vote for positions vacant from the next Annual General Meeting:
 - 16.4.1 using any technology that gives the members as a whole a reasonable opportunity to participate.
 - 16.4.2 not more than six months or less than four weeks before each Annual General Meeting.
- 16.5 Each nomination must be signed:
 - 16.5.1 by not less than two members eligible to vote, and
 - 16.5.2 on the prescribed form provided for that purpose, and
 - 16.5.3 certified by the nominee, and
 - 16.5.4 received electronically by close of business on the date specified.
- 16.6 If the number of nominations received for each position or category of position (such as general APACS Committee positions) is equal to the number of vacancies for each of those positions or category of position then those nominations for those positions will be automatically elected.
- 16.7 Further nominations shall be called for at the Annual General Meeting from the floor for those positions for which no nominations have been received.
- 16.8 If the number of nominations received for each position or category of position exceeds the

number of vacancies to be filled for that position or category of position, a secret ballot is to be held, for those positions or category of positions, managed by APACS Secretary.

- 16.9 A person nominated as a candidate for election as an APACS Committee member must be a Member of APACS eligible to vote.
- 16.10 APACS Committee membership is ratified at the AGM and the new APACS Committee takes effect as from the conclusion of the AGM. The nomination of a candidate for election under these rules is not valid if that candidate has already been elected to another office at the same election.
- 16.11 Each member of the APACS Committee shall, subject to these rules, hold office until the conclusion of the Annual General Meeting following the date of the member's election.

17. Number of Committee Members

- 17.1 APACS may, from time to time, by Resolution passed at an Ordinary Meeting increase or reduce the number of officers or other members of the APACS Committee.
- 17.2 The APACS Committee shall have power at any time and from time to time, to appoint any person to the APACS Committee, either to fill a casual vacancy or other vacancy on the APACS Committee but the total number of officers or other members of the APACS Committee shall not at any time exceed the number fixed in accordance with 17.1. Any officer or other member of the APACS Committee so appointed shall hold office only until the next Annual General Meeting.

18. Casual Vacancies on APACS Committee

- 18.1 The position held by a member of the APACS Committee shall become vacant if the member:
 - 18.1.1 ceases to be a member of APACS; or
 - 18.1.2 becomes an insolvent under administration within the meaning of the Corporations Act 2001 of the Commonwealth; or
 - 18.1.3 becomes prohibited from being a Director of a Company by reason of any order made under the Law; or
 - 18.1.4 becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health or dies; or
 - 18.1.5 is convicted of an offence involving fraud or dishonesty for which the maximum penalty on conviction is imprisonment for more than 3 months; or
 - 18.1.5 resigns from the position or APACS by notice in writing to APACS; or
 - 18.1.6 is absent without the consent of the APACS Committee from two consecutive meetings of the APACS Committee; or
 - 18.1.7 holds any office of profit under APACS; or
 - 18.1.8 has been suspended from work duties or is under investigation from AHPRA, APS or their State Affiliated Association; or

- 18.1.9 is prohibited from being a director of a Company under Part 2D.6 (Disqualification from managing corporations) of the Corporations Act 2001 of the Commonwealth.

19. Filling of Vacancies on APACS Committee

- 19.1 In the event of not more than two members of the APACS Committee having ceased to be members, the remaining APACS Committee:
- 19.1.1 may continue to act notwithstanding up to two casual vacancies; but
 - 19.1.2 shall have power to appoint any member of APACS to fill a casual vacancy on the APACS Committee until the next Annual General Meeting.
- 19.2 In the event of more than two APACS Committee members ceasing to be members, the remaining APACS Committee shall immediately arrange for a Special General Meeting to fill the vacancies by election. In the event of the entire APACS Committee resigning, the outgoing APACS Secretary shall arrange for such election.
- 19.3 In the event of more than two APACS Committee members but less than the entire APACS Committee ceasing to be APACS Committee members and APACS Secretary is one of those ceasing to be a APACS Committee member, the remaining APACS Committee members shall appoint an APACS Committee member to arrange a Special General Meeting to fill the vacancies and arrange such election.

20. Removal of APACS Committee member

- 20.1 APACS in General Meeting may, by resolution, remove any member of the APACS Committee from the office before the expiration of the APACS Committee Member's term of office and may, by resolution, appoint another person to hold office until the expiration of the term of office of the committee member so removed (refer to clauses 11.1 and 18.1).
- 20.2 APACS Committee members to whom a proposed resolution referred to in 20.1 relates must be given twenty-one days' notice in writing of such resolution.
- 20.3 If a member of the APACS Committee to whom a proposed resolution referred to in 20.1 makes representations in writing to APACS Secretary or President (not exceeding a reasonable length) and requests that the representations be notified to the members of APACS, APACS Secretary or the President may send a copy of the representations to each member of APACS or, if the representations are not so sent, the member is entitled to require that the representations be read out at the meeting at which the resolution is considered.

21. APACS Committee meetings and quorum

- 21.1 The APACS Committee must meet at least 3 times in each period of 12 months between Annual General meetings at such place and time as the APACS Committee may determine.
- 21.2 Additional meetings of the APACS Committee may be convened by the President or by any member of the APACS Committee office-bearers.
- 21.3 Oral or written notice of a meeting of the APACS Committee must be given by APACS Secretary to each member of the APACS Committee at least 5 days (or such other period as may be unanimously agreed on by the members of the APACS Committee) before the time appointed for the holding of the meeting.

- 21.4 Notice of a meeting must specify the general nature of the business to be transacted at the meeting and no business other than that business is to be transacted at the meeting, except business which the APACS Committee members present at the meeting and unanimously agree to treat as urgent business.
- 21.5 Half the members of the APACS Committee plus one constitutes a quorum for the transaction of the business of a meeting of the APACS Committee.
- 21.6 No business is to be transacted by the APACS Committee unless a quorum is present and if, within 15 minutes of the time appointed for the meeting, a quorum is not present, the meeting is to stand adjourned to the same place and at the same hour of the same day in the following week.
- 21.7 If at the adjourned meeting a quorum is not present within 15 minutes of the time appointed for the meeting, the meeting is to be dissolved.
- 21.8 At a meeting of the APACS Committee:
- 21.8.1 the President or, in the President's absence, an APACS Director (as per clause 14.2) is to Chair the meeting, or
- 21.8.2 if all of the APACS Directors are absent or unwilling to act, one of the remaining members of the APACS Committee as may be chosen by the members present at the meeting is to Chair the meeting.
- 21.9.1 A resolution in writing signed or assented to by facsimile or other form of electronic communication by all the voting APACS Committee, shall be as valid and effectual as if it had been passed at a meeting of the APACS Committee duly convened and held. Any such resolution may consist of several documents in like form each signed by one or more of the APACS Committee.
- 21.9.2 A resolution which is not assented by all APACS Committee shall be valid so long as a majority of voting APACS Committee Members are in favour and indicate their assent, and all APACS Committee Members eligible to vote receive a notice of the proposed resolution in a timely fashion in the same manner as all other APACS Committee.
- 21.9.3 Without limiting the power of the APACS Committee to regulate its meetings as it thinks fit, a meeting of the APACS Committee may be held where one or more of the APACS Committee is not physically present at the meeting, provided that:
- 21.9.3.1 all persons participating in the meeting are able to communicate audibly with each other effectively, simultaneously and instantaneously whether by means of telephone or other form of communication.
- 21.9.3.2 notice of the meeting is given to all the APACS Committee Members entitled to notice in accordance with the usual procedures agreed upon or laid down from time to time by the APACS Committee; and
- 21.9.3.3 any meeting held where one or more of the APACS Committee Members is not physically present shall be deemed to be held at the place specified in the notice of meeting. Provided a APACS Committee is there present, the meeting shall be deemed to be held at the place where Chair of the meeting is located.
- 21.9.4 The APACS Committee may by Regulations approve any other form of decision making which uses technology or other means provided no person eligible to exercise a vote is

disadvantaged or reasonably rendered unable to vote.

- 21.9.5 An APACS Committee Member may not leave a meeting conducted pursuant to this rule by disconnecting his telephone, radio, conference television or other form of communication unless that person has previously obtained the express consent of the Chair of the meeting.
- 21.9.6 An APACS Committee Member shall be conclusively presumed to have been present and to have formed part of the quorum at all times during the meeting by telephone, radio, conference television or other form of instantaneous audio or audio and visual communication unless that person has previously obtained the express consent of the Chair of the meeting to leave the meeting.
- 21.9.7 A minute of the proceedings at a meeting held by telephone, radio, conference television or instantaneous audio or audio and visual communication shall be sufficient evidence of the proceedings and of the observance of all necessary formalities if certified as a correct minute by the Chair of the meeting or by the Secretary if present at the meeting.

22. Delegation by APACS Committee to committees

- 22.1 The APACS Committee may by resolution at an Ordinary Meeting, delegate to one or more committees (consisting of members of APACS) to carry out activities in line with the objects of APACS as specified by the APACS Committee, other than:
 - 23.1.1 this power of delegation; and
 - 23.1.2 a function which is a duty imposed on the APACS Committee by the Act or by any other law.
- 22.2 Despite any delegation under this clause, the APACS Committee may continue to exercise any function delegated.
- 22.3 Any act or thing done or suffered by a committee acting in the exercise of a delegation under this clause has the same force and effect as it would have if it had been done or suffered by the APACS Committee.
- 22.4 The APACS Committee may by resolution revoke wholly or in part any delegation under this clause.
- 22.5 A committee may meet and adjourn as it thinks proper, and report to the APACS Committee at least quarterly.
- 22.6 Such committees shall hold in trust for APACS and manage any funds allocated to or accrued by them. Such funds shall be properly accounted for and transferred (as directed by the APACS Committee) to APACS at the cessation of the committee's activities.

23. Voting and decisions

- 23.1 Questions arising at a meeting of the APACS Committee or of any committee appointed by the APACS Committee are to be determined by a majority of the votes of members of the APACS Committee or committee present at the meeting.
- 23.2 Each member present at a meeting of the APACS Committee or of any committee appointed by the APACS Committee (including the person chairing at the meeting) is entitled to one vote but, in the event of an equality of votes on any question, the person chairing may exercise a second or casting vote.

- 23.3 Any act or thing done or suffered, or purporting to have been done or suffered, by the APACS Committee or by a committee appointed by the APACS Committee, is valid and effectual despite any defect that may afterwards be discovered in the appointment or qualification of any member of the APACS Committee or committee.

24. Conflict of interest

- 24.1. An APACS Committee Member who has a material personal interest in a matter that is being considered at an Ordinary Meeting:
- 24.1.1 must not vote on the matter;
 - 24.1.2 must not be present while the matter is being considered at the meeting; and
 - 24.1.3 must not be counted in a quorum except in the circumstances set out in the Corporations Act.
- 24.2 An APACS Committee Member must not be taken to be interested or to have been at any time interested in a contract or proposed contract merely because:
- 24.2.1 where the contract or proposed contract relates to a loan to APACS, the APACS Committee Member has guaranteed or joined in guaranteeing the repayment of the loan or any part of the loan; or
 - 24.2.2 where the contract or proposed contract has been or will be made with or for the benefit of, or on behalf of a body corporate that is related to APACS and the APACS Committee Member is on that body corporate.

Part 4 - General Meetings

25. Annual General Meetings - holding of

- 25.1 APACS must hold its Annual General Meeting within 6 months after the close of APACS's financial year.

26. APACS Annual General Meetings - calling of and business at

- 26.1 Subject to clause 25.1 the APACS Annual General Meeting is to be convened on such date and at such place and time as the APACS Committee thinks fit.
- 26.2 The business of the APACS Annual General Meeting shall be:
- 26.2.1 to confirm the minutes of the last preceding Annual General Meeting and of any Special General Meeting held since that meeting;
 - 26.2.2 to consider the annual financial reports, auditor's report, APACS Committee Members' reports;
 - 26.2.3 to consider any proposed alteration of this Constitution;
 - 26.2.4 in accordance with this Constitution, to declare the result of elections and appointments under this Constitution;
 - 26.2.5 to appoint an auditor, if necessary;
 - 26.2.6 to confirm the APACS Secretary; and

26.2.7 to transact any other business which ought to be transacted at an Annual General Meeting of which notice has been given in the notice of meeting.

26.3 An APACS Annual General Meeting must be specified as such in the notice convening it.

26.4 Attendance and participation in a General Meeting:

26.4.1 A Member not physically present at a General Meeting may participate in the General Meeting by use of technology that allows the Member and the Members present at the Meeting to communicate clearly and simultaneously with each other. Visual communication is not necessary.

26.4.2 The APACS Committee must authorize the use of any technology to be used for the purposes of this clause.

26.4.3 A Member participating in a General Meeting under clause 26.4 is taken to be present at the Meeting and, if the Member votes at the Meeting, is taken to have voted in person.

27. Special General Meetings - calling of and business at

27.1 The APACS Committee may, whenever it thinks fit, convene a Special General Meeting of APACS.

27.2 The APACS Committee must, at the request (in writing) of a minimum of 5 % of APACS members, convene a Special General Meeting of APACS.

27.3 A request from members for a Special General Meeting:

27.3.1 must state the purpose or purposes of the meeting, and

27.3.2 must be signed by the members making the request, and

27.3.3 must be lodged with APACS Secretary, and

27.3.4 may consist of several documents in a similar form, each signed by one or more of the members making the request.

27.4 If the APACS Committee fails to convene a Special General Meeting to be held within 1 month after that date on which a request is lodged with APACS Secretary, any one or more of the members who made the request may convene a Special General Meeting to be held not later than 3 months after that date.

27.5 A Special General Meeting convened by a member or members as referred to in subclause 27.4 must be convened in the same manner as General Meetings are convened by the APACS Committee.

28. Notice

28.1 Except if the nature of the business proposed to be dealt with at a General Meeting requires a Special Resolution of APACS, APACS Secretary must, at least 14 days before the date fixed for the holding of the General Meeting, give a notice to each member specifying the place, date and time of the meeting and the nature of the business proposed to be transacted at the meeting.

28.2 If the nature of the business proposed to be dealt with at a General Meeting requires a special resolution of APACS, APACS Secretary must, at least 21 days before the date fixed for the

holding of the General Meeting, cause notice to be given to each member specifying, in addition to the matter required under subclause 26.1, the intention to propose the resolution as a special resolution.

- 28.3 No business other than that specified in the notice convening a General Meeting is to be transacted at the meeting except, in the case of an annual General Meeting, business which may be transacted under clause 28.2.
- 28.4 A member desiring to bring any business before a General Meeting must give notice in writing to APACS Secretary who must include that business in the next notice calling a General Meeting after receipt of the notice.

29. Quorum for General Meetings

- 29.1 No item of business is to be transacted at a General Meeting unless a quorum of members entitled under this Constitution to vote is present during the time the meeting is considering that item. Members are regarded as present if they are attending at the meeting's venue or attending through electronic communication.
- 29.2 15 members present including those attending through electronic means (being members entitled under this Constitution to vote at a General Meeting) constitute a quorum for the transaction of the business of a General Meeting.
- 29.3 If within 15 minutes after the appointed time for the commencement of a General Meeting a quorum is not present, the meeting:
- 29.3.1 if convened at the request of members, is to be dissolved, and
 - 29.3.2 in any other case, is to stand adjourned to the same day in the following week at the same time and (unless another place is specified at the time of the adjournment by the person chairing at the meeting or communicated by written notice to members given before the day to which the meeting is adjourned) at the same place.
- 29.4 If at the adjourned meeting a quorum is not present within 15 minutes after the time appointed for the commencement of the meeting, the members present (being at least 15) are to constitute a quorum.

30. Chairperson

- 30.1 The President or, in the President's absence, another Director (as per clause 14.2) or a member of the APACS Committee, is to act as chairperson at each General Meeting of APACS.

31. Adjournment

- 31.1 The chairperson of a General Meeting at which a quorum is present may, with the consent of the majority of members present at the meeting, adjourn the meeting from time to time and place to place, but no business is to be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.
- 31.2 If a General Meeting is adjourned for 14 days or more, APACS Secretary must give written or oral notice of the adjourned meeting to each member of APACS stating the place, date and time of the meeting and the nature of the business to be transacted at the meeting.
- 31.3 Except as provided in subclauses 31.1 and 31.2, 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.

32. Making of decisions

- 32.1 A question arising at a General Meeting of APACS is to be determined by either:
- 36.1.1 a show of hands or voice identification; or
 - 32.1.1 by a ballot if on the motion of the chairperson or by 5 or more members present at the meeting it is decided that the question should be determined by a ballot of members attending the meeting either in person or by electronic means.
- 32.2 If the question is to be determined by a show of hands or voice identification, a declaration by the chairperson 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 record of minutes of APACS, is evidence of the fact without proof of the number or proportion of the votes recorded in favor of or against that resolution.
- 32.3 If the question is to be determined by a ballot, the ballot is to be conducted in accordance with the directions of the Chairperson.
- 32.4.1 Motions may be determined by electronic voting or by postal voting or other appropriate use of technology.
- 32.4.2 The APACS Committee will determine at its absolute discretion when and how a motion will be determined by postal vote, electronic voting, or using other technology.
- 32.4.3 If postal and electronic voting is used the procedures shall be consistent with the Act, or where the Act is silent, according to procedures set by the APACS Committee from time to time.
- 32.5 Evidence of resolutions:
- 32.5.1 Unless a poll is demanded, a declaration by the Chair that a Resolution has on a show of hands or voice identification been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the record of the minutes of the proceedings of the company, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the Resolution.

33. Changes to the constitution

- 33.1 Changes to the APACS constitution can only be done by special resolution at an APACS Annual General Meeting or a Special General Meeting.

34. Special resolutions

A special resolution must be passed by at least three quarters (75%) of the votes cast by members (either on a show of hands at a meeting and/or by inclusion of proxies (if on a poll) being in favor of the resolution.

35. Voting

- 35.1 At a General Meeting of APACS, a member has one vote only.
- 35.2 In the case of an equality of votes on a question at a General Meeting, the Chairperson of the

meeting is entitled to exercise a second or casting vote.

- 35.3 A member is not entitled to vote at any General Meeting of APACS unless all money due and payable by the member to APACS has been paid.

36. Proxy votes

Proxy voting must not be undertaken at an Ordinary Meeting. Proxy voting is an option for Special General Meetings or Annual General Meetings (as per APACS Regulations).

37. Ballots

APACS may hold an electronic ballot to determine any issue or proposal (other than an appeal under clause 12).

Part 5 – Miscellaneous

38. Insurance

APACS must effect and maintain insurance for the APACS Committee, APACS activities, State Affiliated Association Committees and State Affiliated Association activities.

39. Funds - source

- 39.1 The funds of APACS are to be derived from annual subscriptions of members and entrance fees, donations and other sources determined by the APACS Committee subject to any resolution passed by APACS.
- 39.2 All money received by APACS must be deposited as soon as practicable and without deduction to the credit of APACS's bank or other authorised deposit-taking institution account.
- 39.3 APACS must, as soon as practicable after receiving any money, issue an appropriate receipt.

40. Funds - management

- 40.1 Subject to any resolution passed by APACS at a General Meeting, the funds of APACS are to be used in pursuance of the objects of APACS in such manner as the APACS Committee determines.
- 40.2 All cheques, drafts, bills of exchange, promissory notes, funds transfers and other negotiable instruments must be signed physically or electronically by any 2 members of the APACS Committee or employees of APACS, being members or employees authorised to do so by the APACS Committee.

41. Custody of records

- 41.1 Except as otherwise provided by this constitution, APACS Secretary must keep in his or her custody or under his or her control all records, books and other documents relating to APACS.
- 41.2 Records, books and other documents will be retained according to relevant legislation, and where there is no legislative requirement, for at least seven (7) years.

42. Inspection of records

- 42.1 The following documents must be open to inspection, free of charge, by a Member of APACS at any reasonable hour:

42.1.1 the constitution,

42.1.2 annual reports,

42.1.3 audited financial records,

42.1.4 minutes of all general or special meetings of APACS.

42.2 Subject to sections 253N and 251B of the Act, the APACS Committee will determine from time to time whether and to what extent, and at what time and place and under what conditions, the accounting and other records of APACS, other than those in clause 42.1, will be open to inspection by members other than APACS Committee Members. No Member other than an APACS Committee Member has the right to inspect any accounting or other records of APACS except as provided by law or under clause 42.1 or authorized by the APACS Committee or by a resolution passed at a General Meeting.

43. Service of notices

43.1 For the purpose of this Constitution, a notice may be served on or given to a person:

43.1.1 by delivering it to the person personally, or

43.1.2 by sending it by pre-paid post to the address of the person, or

43.1.3 by sending it by electronic transmission to an address specified by the member.

44. Financial Records

44.1 The financial year of APACS commences on 1 July and end on the following 30 June.

44.2 The APACS Committee must publish for the last financial year ended before the Annual General Meeting copies of every:

44.2.1 Report of the APACS Committee for the year;

44.2.2 Annual financial report for the last financial year ended before the Annual General Meeting; and

44.2.3 Report of the auditor or auditors on the financial report as required by the Act.

45. Auditor

If a qualified auditor must be appointed, their duties are regulated in accordance with the Act.

46. Indemnity

46.1 Except to the extent that it is prohibited from doing so by the Act, APACS indemnifies every person who is or has been an APACS Committee member, auditor or employee against any liability incurred by him or her in defending any proceedings, whether civil or criminal, in which judgment is given in their favour or in which they are acquitted or in connection with any application under the Act in which relief is granted to them by the court in respect of any negligence, default, breach of duty or breach of trust (other than willful default or negligence) in carrying out the duties of their office:

- 46.1.1 Arising out of the conduct of the business of APACS or incurred in that capacity; and
- 46.1.2 For legal costs incurred in connection with proceedings relating to, or in defending an action for a liability incurred in, that capacity; and unless the liability arises out of conduct on the part of the Director or employee which involves a lack of good faith, or a liability for a pecuniary penalty or compensation order under the Act.

47. State Affiliated Associations

- 47.1 The APACS Committee has the power to establish and maintain a relationship with State Affiliate Associations, through Regulations, a Memorandum of Understanding or other instrument, for the purpose, directly or indirectly, of furthering the Objects of APACS as set forth in this Constitution.
- 47.2 The APACS Committee may consider applications from, or initiate an approach to, relevant associations which are incorporated associations primarily concerned with school psychology or school counselling with at least 10 members and share the objectives of the APACS.
- 47.3 The APACS Committee, after due diligence, has the power to formally approve an association as a State Affiliated Association by a simple majority at a meeting where 21 days' notice of motion has been given.
- 47.4 Each State Affiliated Association shall be entitled to have a representative on the APACS Committee in addition to any members of the State Affiliated Associations who are elected to the APACS Committee or Committee positions.
- 47.5 Subject to clause 16, members of State Affiliated Associations are eligible to nominate for election to positions on the APACS Committee.
- 47.6 Each State Affiliated Association will agree to pay APACS an affiliation fee for each member as set from time to time by the APACS Annual General Meeting.
- 47.7 An association will cease to be a State Affiliated Association if it: ceases to operate, fails to pay affiliation fees for more than 2 years, or either or both parties formally decide to terminate the affiliation agreement.
- 47.8 All members of the State Affiliated Associations shall automatically become members of APACS.
- 47.9 State Affiliated Associations are to act in good faith and with loyalty to ensure the maintenance and enhancement of APACS, its standards, quality and reputation for the collective and mutual benefit of the Members.
- 47.10 State Affiliated Associations are to comply at all times with all requirements that may be imposed on it by applicable State or Commonwealth law.

48. Dissolution

- 48.1 If, upon the winding up or dissolution of APACS, there remains after the satisfaction all debts and liabilities of any property or funds whatsoever, such property will not be paid to or distributed among the Members of APACS but will be given or transferred to each active State Affiliated Association on a prorata basis based on that State Affiliated Association's current membership numbers.

- 48.2 If, upon the winding up or dissolution of a State Affiliated Association, then the debts and liabilities of any property or funds and distribution will be according to that State Affiliated Association's constitution.
- 48.3 In the event that no State Affiliated Associations are operating, other institution or institutions having objects similar to the objects of APACS, and which prohibit the distribution of its or their income and property amongst its or their members to an extent at least as great as is imposed on APACS under or by virtue of clause 48, such institution or institutions to be determined by the Members of APACS at or before the time of dissolution, or, in default thereof, by the Chief Judge in Equity of the Supreme Court of New South Wales or such other Judge of that Court as may have or acquire jurisdiction in the matter, and if and so far as effect cannot be given to the foregoing provision, then to some charitable object.