
STATUTORY INSTRUMENTS

2004 No. 2042

**The School Governance (Federations)
(England) Regulations 2004**

PART 7

FEDERATED SCHOOLS LEAVING FEDERATIONS

Procedure for a school to leave a federation

35.—(1) This regulation applies to a request made to a governing body of a federation for a federated school (“the relevant school”) to leave the federation.

(2) The request must be made in writing and signed by—

- (a) two or more governors;
- (b) one fifth of the parents of registered pupils at the relevant school;
- (c) two fifths of staff who are paid to work at the relevant school;
- (d) the authority;
- (e) the trustees of the relevant school; or
- (f) a body entitled to appoint foundation governors to the governing body of the federation.

(3) The governing body of the federation shall give notice of the request to—

- (a) all relevant authorities,
- (b) the head teacher of the federation and the head teacher of each federated school,
- (c) where the relevant school is a foundation or voluntary school with a religious foundation, any trustees of a trust relating to the relevant school and, in the case of a Church of England or Roman Catholic Church school, the appropriate diocesan authority, or the appropriate religious body in the case of all other such schools,
- (d) all staff paid to work at the relevant school,
- (e) every person known by them to be a parent of a registered pupil at the relevant school, and
- (f) such other persons as the governing body of the federation consider appropriate.

(4) Notice under paragraph (3)(a) and (b) must be given within the period of 5 days beginning with the date on which the request was received.

(5) A request under paragraph (1) shall be taken to have been received by a governing body of a federation if given or sent to the chair or to the clerk of the governing body of a federation.

(6) Not less than 14 days after the governing body of a federation have given notice of the request in accordance with paragraph (3), the governing body shall consider the request and all responses received from the persons to whom notification of the request was sent and shall decide whether—

- (a) the relevant school should leave the federation and, if so, on what date it should do so (“the de-federation date”);
- (b) the federation should be dissolved, and if so, on what date; or

(c) the relevant school should not leave the federation.

(7) Such a decision shall not have effect unless the matter is specified as an item of business on the agenda for the meeting of which notice has been given in accordance with regulation 11(4) of the Procedures Regulations.

(8) The governing body of a federation shall give notice in writing of their decision under paragraph (6) within 5 days to those persons referred to in paragraph (3).

Referral to the Secretary of State

36.—(1) Not more than 15 days after the day on which a notice of the governing body of the federation's decision under regulation 35(6)(c) was given, any of the persons referred to in regulation 35(3) may refer the matter to the Secretary of State and, if they do so, shall inform the governing body of the federation.

(2) On a reference under this regulation the Secretary of State shall determine that—

- (a) the federated school shall leave the federation; or
- (b) the federated school shall not leave the federation.

(3) Upon receiving the Secretary of State's determination the governing body of a federation shall within 5 school days inform those referred to in regulation 35(3) of the Secretary of State's determination and its effect.

Decision to permit federated school to leave a federation

37.—(1) Upon notification that either—

- (a) a governing body of a federation have resolved that a federated school should leave a federation, or
- (b) the Secretary of State has determined that a federated school should leave a federation,

paragraphs (2) or (3) shall apply.

(2) Where one of only two federated schools is to leave a federation, the federation shall be dissolved in accordance with Part 8.

(3) Where paragraph (2) does not apply,

- (a) the authority shall—
 - (i) establish a temporary governing body in respect of the school leaving the federation in accordance with Parts 3 and 4 of the New Schools Regulations; and
 - (ii) issue a new instrument of government for that school in accordance with Part 5 of the Constitution Regulations⁽¹⁾;
- (b) the governing body of the federation shall review the instrument of government of the federation in accordance with regulation 31 of the Constitution Regulations.

Availability of amounts representing budget share

38. Subject to any provision made by or under a scheme made under section 48(1) of the 1998 Act, the temporary governing body of a school leaving a federation may spend any sum made available by the authority under section 50(1) of that Act⁽²⁾ to the governing body of the federation in respect of the school leaving the federation, as they think fit for any purposes of that school.

(1) As modified by Schedule 7 to these Regulations.

(2) As modified by regulation 34 of these Regulations.

Incorporation of governing body of a school leaving a federation

39. On the de-federation date the temporary governing body of the de-federated school shall be incorporated as the governing body of that school under the name given in the school's instrument of government.

Transfer of property

40.—(1) On the de-federation date—

- (a) all land or property, which, immediately before the de-federation date, was held by the governing body of the federation for the purposes of the de-federated school shall be transferred to, and by virtue of these Regulations vest in, the governing body incorporated under regulation 39; and
- (b) all rights and liabilities subsisting immediately before the de-federation date which were acquired or incurred by the governing body of the federation for the purposes of the de-federated school shall be transferred to the governing body incorporated under regulation 39.

(2) Section 198 of and Schedule 10 to the Education Reform Act 1988⁽³⁾ (which make provision in relation to transfers of property, rights and liabilities) shall apply in relation to transfers effected by this regulation as they apply in relation to transfers to which that section and Schedule apply.

(3) 1988 c. 40.