

EXPLANATORY MEMORANDUM

The School Governance (Federations) (England) Regulations 2004 No.2042

1. This explanatory memorandum has been prepared by the Department for Education and Skills and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

2.1 These Regulations set out the arrangements for the federation of more than one school under a single governing body. They apply to all maintained schools, and supersede previous Regulations which applied to community, voluntary controlled, community special and nursery schools, but did not apply to voluntary aided and foundation schools.

3. **Matters of special interest to the Joint Committee on Statutory Instruments.**

3.1 None

4. **Legislative Background**

4.1 These Regulations give effect to provisions in the Education Act 2002 allowing there to be one governing body for more than one school (specifically, sections 19(2), (3) and (8), 20(2), (3) and (4), 24, 25, 34(5), 35(4) and (5), 36(4) and (5), 210(7) and 214). The Regulations are subject to the negative amendment procedure.

4.2 The Federation of Schools (Community Schools, Community Special Schools, Voluntary Controlled Schools and Maintained Nursery Schools) (England) Regulations 2003 and The Federation of Schools (Community Schools, Community Special Schools, Voluntary Controlled Schools and Maintained Nursery Schools) (England) (Amendment) Regulations 2003 are revoked.

5. **Extent**

5.1 This instrument applies to England.

6. **Policy background**

6.1 The policy objective is to allow up to five maintained schools to federate under one governing body if they wish to do so. A range of collaborative working is possible between schools, and these provisions remove an impediment to very close collaboration short of amalgamation into one school. It also makes easier economies of scale in human and other resources.

6.2 The superseded Regulations have been in force since September 2003. It was originally intended to introduce separate Regulations for voluntary aided and

foundation schools, because many have a religious character and have charitable foundations requiring particular provisions, but it was decided that it would be clearer for users to withdraw the original Regulations and replace them with new ones covering all maintained schools.

6.3 The constitution of federated governing bodies is based upon the same principles of stake-holder representation as that of individual governing bodies, and parents, staff and other groups that would have been represented on an individual governing body are represented on a federation governing body.

6.4 The decision on federation is for the governing bodies themselves. Any combination of maintained schools may federate with each other – ie community, voluntary controlled, voluntary aided, foundation, nursery and special schools - but they may not federate with non-maintained institutions such as further education colleges or independent schools, which have very different governance arrangements (although less formal collaborations may take place with such institutions).

6.5 Schools in federations remain separate schools, and retain their individual admission arrangements and delegated budgets (although these may be pooled by the schools if they wish).

6.6 Schools wishing to federate must consult parents, staff, and other interested parties, including other schools and the local education authority. The consultation document must give the prescribed information, including the names of the schools involved, the date on which it is intended to federate, the proposed size of the governing body, and the number of governors in each category.

6.7 If the governing bodies decide to proceed, they must prepare a draft instrument of government giving details of the size and constitution of the federated governing body, and the LEA must make the instrument unless it is technically flawed. On the federation date, the individual governing bodies are dissolved, and the federation governing body is incorporated.

7. Impact

A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies, or the public sector.

8. Contact

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