EXECUTIVE MEMORANDUM NO. 651

MEMORANDUM TO: Deputy Chief General Manager
                             Assistant Chief General Manager
                             General Managers (Schools)
                             Principals of all Schools
                             Chairpersons of School Councils
                             Chairperson, Institute of Educational Administration
                             Chairperson, Registered Schools Board
                             Chairperson, State Board of Education
                             Chairperson, Teachers Registration Board
                             Chairperson, Teaching Service Appeals Board
                             Chairperson, Teaching Service Disciplinary Board
                             Chairperson, Victorian Curriculum and Assessment Board
                             Chairpersons and Members of Taskforces

FROM: Geoff Spring, Director of School Education

SUBJECT: Appointment of nominees and representatives to Statutory Bodies

DATE: 27 October 1992

I wish to ensure that all officers are aware of the protocol and procedures necessary for the efficient appointment of members to the various Statutory Bodies constituted within the Directorate of School Education.

Nominee or Representative

In his judgement on the case of Bennetts v. the Board of Fire Commissioners of NSW and others, Chief Justice Street of the NSW Supreme Court made a clear distinction between the responsibilities of a person nominated or elected to a position on such a body and a person serving on a body as a representative of another body or organisation.

As a nominee, or elected by an interest group, a members prime responsibility is to the interests of the body on which that member is serving and not to the body or organisation from which the nomination arose.

Conversely, a representative retains a responsibility to represent the interests of the 'parent body whilst serving as a member of the body to which he or she has been appointed.

A relevant extract from the judgement on these matters is attached to this Memorandum.

Departmental Nominee or Representative

Where the membership of a body includes a nominee or a representative of the Director of School Education the relevant unit of the Directorate should provide the Director with a briefing providing the curriculum vitae of at least three suitable persons available for appointment and
clearly justifying a recommendation on whom should be appointed. The Director will approve the appointment of one of these persons and recommend to the Minister that the appointment be made by whatever statutory requirements apply.

This process is to be followed at the end of a member's term of office, or where a member resigns during his or her term of office, and where a deputy or replacement for the member is appropriate for a short term absence.

Non-Departmental Nominee or Representative

The legislation covering most Statutory Bodies within the Portfolio requires that the membership of the body be appointed by the Governor in Council upon the recommendation of the Minister. This requirement includes those members nominated by or representing non-Government bodies or organisations. When an appointment is necessary the relevant body should be requested to provide the Minister with a panel of names of suitable persons with sufficient information to enable an informed choice of member to be made.

School Councils

Even though the appointment of the members of a School Council does not involve Ministerial recommendations to the Governor in Council the conventions applying to nominees or representatives given above are equally important and should be brought to the attention of the relevant members and organisations.

Confidentiality

Throughout the appointment process it is vital that the confidentiality of all matters is maintained until the choice of appointee has been made. As well as the important aspect of the privacy of individuals, especially those not to be appointed, confidentiality will ensure that a decision by the Director or the Minister will be based on choosing the most appropriate person with regard to a balance of factors including personal skills, gender balance and current specific needs of the body.

The appointment of members to Statutory Bodies is a sensitive matter which I understand has been well handled in past years. I ask for your continued co-operation in ensuring that these appointments continue to occur discreetly and efficiently thus avoiding embarrassment to the nominees, the Directorate and the Minister.

The responsible officer within the Directorate is Keith Sandford, Co-ordinator, Legislation, Legal Services Unit, whose advice can be sought by telephoning (03) 628 3535.

Geoff Spring
Director of School Education