

THE CORPORATION OF THE SIXTH FORM COLLEGE COLCHESTER

PARENT GOVERNOR ELIGIBILITY INFORMATION FOR PROSPECTIVE NOMINEES

To qualify to be a governor you must not:

- be disqualified from acting as a charity trustee or company director and must not be disqualified under the automatic disqualification regulations i.e. you must not have any unspent convictions relating to any offence involving deception or dishonestyⁱ or unspent convictions for:
 - specified terrorism, money laundering or bribery offencesⁱⁱ
 - the offence of contravening a Charity Commission order or directionⁱⁱⁱ
 - offences of misconduct in public office, perjury or perverting the course of justice
 - aiding attempting or abetting the above offences^{iv}
- be on the sex offenders register^v
- have an unspent sanction for contempt of Court^{vi}
- have disobeyed a Commission Order^{vii}
- be a designated person (under specific antiterrorist legislation)^{viii}
- have been removed from the office of charity trustee or trustee for a charity by an Order made by the Charity Commissioners or the High Court on the grounds of any misconduct or mismanagement or be subject to an Order under section 7 of the Law Reform (Miscellaneous provisions) (Scotland) Act 1990, preventing you from being considered in the management or control of any relevant organisation or body^{ix}
- be subject to a disqualification order under the Company Directors Disqualification Act 1986 or to an Order made under section 429(b) of the Insolvency Act 1986^x
- be an undischarged bankrupt
- have made a composition or arrangement with, or granted a trust deed for any creditors including an IVA (Individual Voluntary Arrangement);^{xi}
- have been sentenced to three months or more in prison. whether suspended or not (without the option of a fine) in the five years before applying to become a member or since becoming a member;
- have received a prison sentence of two years or more, whether suspended or not in the 20 years before applying to become a or since becoming a member;
- at any time been convicted and received a prison sentence of five years or more, whether suspended or not.
- been fined for causing a nuisance or disturbance on school premises during the five years prior to or since appointment or election as a member;
- be subject to a disqualification Order under the Criminal Justice and Court Services Act 2000 (*Working with Children*);
- be disqualified or barred from acting as a trustee under the safeguarding vulnerable groups act 2006;
- be barred from any regulated activity relating to children or subject to a direction of the Secretary of State under section 128 of the Education and Skills Act 2008.

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- be disqualified from being an independent school proprietor, teacher or employee by the Secretary of State;
- be disqualified from working with children or from registering for child-minding or providing day care

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ⁱ These are offences that by definition must include an element of dishonesty or deception. The legal definition for these offences, indicates that a person who commits them can only be found guilty if they are found to have acted dishonestly or by deception, such as in proven cases of theft. Many offences can be committed by using dishonesty or deception, but that is not the same as an offence which must include an element of dishonesty or deception for it to be committed. For example, a person committing murder may employ deception to lure a victim to a particular place, but deception is not required to prove the offence of murder. Some examples of offences involving dishonesty or deception are:

- theft
- fraud by false representation
- fraud by failing to disclose information
- obtaining services dishonestly
- obtaining property or services by deception
- evading liability by deception

Some examples of offences which do not involve dishonesty or deception include:

- television licence evasion
- most motoring offences
- benefit fraud
- assault
- possession of classified drugs
- murder

ⁱⁱ Terrorism: offences to which Part 4 of the Counter-Terrorism Act 2008 applies; or under sections 13 or 19 of the Terrorism Act 2000 under Part 2 of the Serious Crime Act 2007 (encouraging or assisting) in relation to the offence

Money Laundering: a money laundering offence within the meaning of section 415 of the Proceeds of Crime Act 2002

Bribery: an offence under sections 1,2,6 or 7 of the Bribery Act 2010

ⁱⁱⁱ An offence under section 77 of the Charities Act 2011 - contravening a Commission Order or Direction

^{iv} In relation to offences at 1-5 above, an offence of: attempt, conspiracy, or incitement to commit the offence, aiding, or abetting, counselling or procuring the commission of the offence under Part 2 of the Serious Crime Act 2007 (encouraging or assisting) in relation to the offence

^v Where a person is subject to notification requirements of Part 2 of the Sexual Offences Act 2003, commonly referred to as 'being on the sex offenders register'. If these notification requirements apply to a person, they are disqualified by the automatic disqualification rules even if their offence is spent.

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^{vi} Where a person has been found to be in contempt of court for making, or causing to be made, a false statement or making (or causing to be made) a false statement in a document verified by a statement of truth

^{vii} Where a person has been found guilty of disobedience to an order or direction of the Commission under section 336(1) of the Charities Act 2011

^{viii} Where a person is a designated person for the purposes of: Part 1 of the Terrorist Asset-Freezing etc. Act 2010; or The Al Qaida (Asset Freezing) Regulations 2011

^{ix} Where a person has been removed: from the office of charity trustee, officer, agent or employee of a charity by an Order of the Commission under s79 of the Charities Act 2011, or earlier relevant legislation, or by a High Court Order, on the grounds of any misconduct or mismanagement in the administration of the charity or

under s34(5)(e) of the Charities and Trustee Investment (Scotland) Act 2005, or earlier relevant legislation, from being concerned in the management or control of any body

^x Where a person is subject to: a disqualification order under the Company Directors Disqualification Act 1986 or The Company Directors Disqualification (Northern Ireland) Order 2002 (SI 2002/3150; (N.I.4)); or an order made under s429(2) of the Insolvency Act 1986 (failure to pay under a County Court administration order) NB: There is no disqualification if the court has granted leave for a person to act as director of the charity (as described in section 180 of the Charities Act 2011)

^{xi} An undischarged bankrupt subject to any of the following:

- an undischarged sequestration Order
- a bankruptcy restrictions Order
- an interim Order
- a moratorium period under a debt relief Order under Part 7A of the Insolvency Act 1986
- a debt relief restrictions Order or an interim Order under Schedule 4ZB to the Insolvency Act 1986

Where a person has made a composition or arrangement with, or granted a trust deed for, their creditors and has not been discharged in respect of it

NB: The above applies unless leave has been granted under s11 of the Company Directors Disqualification Act 1986 (undischarged bankrupts) for a person to act as director of the charity (s180 Charities act 2011).