

**Notice No.786 of 1997**  
**Gazette No. 331**

## **SCHOOL EDUCATION ACT, 1995 (ACT NO. 6 OF 1995)**

### **REGULATIONS RELATING TO GOVERNING BODIES OF PUBLIC SCHOOLS**

The Member of the Executive Council for Education has under section 31, read with sections 27(5), 28(3), 28(4) and 106, of the School Education Act, 1995 (Act No. 6 of 1995), made the regulations contained in the Schedule hereto.

#### **SCHEDULE** **CHAPTER 1**

#### **DEFINITIONS AND APPLICATION OF REGULATIONS**

##### **Definitions**

1. (1) Subject to subregulation (2) and unless the context indicates otherwise, any word or expression to which a meaning has been assigned in the Act shall have the same meaning in these regulations.

(2) In these regulations, unless the context indicates otherwise-

- (i) "**catchment area**" means the geographic area determined by the Head of Department for the purposes of the admission of learners to a school;
- (ii) "**combined school**" means a school providing education on levels falling under a primary school as well as levels falling under a secondary school;
- (iii) "**educator**" means an educator as defined in the Educators' Employment Act, 1994 (Proclamation No. 138 of 1994);
- (iv) "**educator member**" means an educator employed at a school who has been elected to the governing body in terms of these regulations;
- (v) "**learner**" means a learner who is officially enrolled at a school in a level not lower than the eighth level up to but not exceeding the twelfth level;
- (vi) "**learner member**" means a learner officially enrolled at a school who has been elected to a governing body in terms of these regulations;
- (vii) "**member**" means a member of a governing body elected in accordance

with these regulations;

- (viii) "**nomination form**" means any document which clearly records the fact that a candidate eligible to be elected as a member has been proposed and seconded by persons eligible to do so, and which is signed by the candidate, proposer and seconder;
- (ix) "**non-teaching member**" means a person other than an educator, employed at a school and who has been elected onto a governing body in terms of these regulations;
- (x) "**ordinary school**" means a public school other than a public school for learners with special education needs;
- (xi) "parent" means-
  - (a) a parent or guardian of a learner;
  - (b) a person legally entitled to custody of a learner; or
  - (c) a person who usually has the care and control of a learner; and for the purposes of this definition, learner refers to any learner officially enrolled at a school, and not only those learners who are officially enrolled at a school in a level not lower than the eighth level up to but not exceeding the twelfth level;
- (xii) "**primary school**" means a school providing education up to but not exceeding the seventh level;
- (xiii) "**resident, worker or alumnus member**" means a member who is not a minor and who either works or resides in the catchment area served by the school or is an ex-learner of the school, and who has been elected to the governing body in terms of these regulations;
- (xiv) "**school**" means a public school;
- (xv) "**secondary school**" means a school providing education from not lower than the eighth level up to but not exceeding the twelfth level;
- (xvi) "**Students' Representative Council**" (SRC) means the representative council of learners of a school, duly constituted in accordance with a constitution which satisfies the minimum requirements established by the Member of the Executive Council by notice in the Provincial Gazette;
- (xvii) "**the Act**" means the School Education Act, 1995 (Act No. 6 of 1995).

## **Application of regulations**

2. These regulations shall apply to governing bodies of public schools within the Province.

## **Principles underpinning governance of schools**

3. The following principles shall underpin the governance of schools in the province-

- (a) Every person shall have the right to basic education and to equal access to schools and centres of learning.
- (b) No learner or educator shall be unfairly discriminated against by the department or by a school on the grounds of race, colour, sex, sexual orientation, gender, class, disability, belief, conscience, religion, culture or language.
- (c) There shall be a duty on the department to foster the advancement of persons or groups or categories of persons previously disadvantaged by unfair discrimination, in order to enable their full and equal enjoyment of educational rights.
- (d) All learners and educators shall be protected from all forms of physical and mental violence at schools and centres of learning.
- (e) Every learner and educator shall have the right to freedom of conscience, religion, thought, belief, opinion, speech and expression and the education process shall promote a culture of tolerance.
- (f) The department shall respect the rights and duties of parents to provide direction to their children regarding the rights referred to in paragraph (e), in the exercise of their rights as learners, in a manner consistent with the evolving capacity of the children concerned.
- (g) Every learner and educator shall have the right to freedom of association and to assemble, demonstrate and present petitions, peacefully and unarmed without infringing on the rights of others.
- (h) Every person shall have the right to access to all information held by the department or the governing body of a school in so far as such information is required for the exercise or protection of his or her rights.
- (i) In setting up school governing structures, consideration shall be given to addressing the imbalances of the past by the election of school governing bodies whose racial and gender mix reflect that of the school

community.

- (j) State involvement in school governance should be limited to the minimum level required for legal accountability.
- (k) The powers of governing bodies should reflect their capacity to render effective service.
- (l) The professional administration of a school falls within the ambit of the principal and his or her staff.
- (m) The function of the governing body of a school shall be to enhance the quality of education for all learners, within the parameters of policy established by the national and provincial departments of education in terms of their legal responsibilities and competencies.

## **CHAPTER 2 COMPOSITION AND TERM OF OFFICE OF GOVERNING BODIES**

### **Composition of governing bodies of primary schools**

4. A governing body of a primary school shall consist of the following members-
- (a) the principal of the school;
  - (b) educators at the school;
  - (c) one non-teaching member: Provided that if there is only one non-teaching member of staff, that person shall be automatically a member of the governing body;
  - (d) one resident member, worker member or alumnus member; and
  - (e) parents of learners at the school.

### **Composition of governing bodies of secondary schools**

5. A governing body of a secondary school shall consist of the following members-
- (a) the principal of the school;
  - (b) educators at the school;
  - (c) one non-teaching member: Provided that if there is only one non-teaching member staff, that person shall be automatically a member of the governing body;

- (d) learners at the school;
- (e) one resident member, worker member or alumnus member; and
- (f) parents of learners at the school.

### **Composition of governing bodies of combined schools**

6. A governing body of a combined school shall have the same composition as that of a secondary school.

### **Composition of governing bodies of schools for learners with special education needs**

7. (1) In addition to the members contemplated in regulations 4, 5 and 6, the following categories of persons shall be represented on a governing body of a school for learners with special education needs, in each case by a member or members of the respective category:

Provided that a governing body shall not be deemed to be improperly constituted if it is not reasonably practicable that any of the following categories be so represented-

- (a) representatives of sponsoring bodies of the school, if applicable;
- (b) representatives of organisations of parents of learners with special education needs, if applicable;
- (c) representatives of organisations of disabled persons, if applicable;
- (d) disabled persons, if applicable; and
- (e) experts in appropriate fields of special needs education.

(2) A governing body of a school for learners with special education needs shall not be deemed to be improperly constituted if it is not reasonably practicable that learners at the school or the parents of learners at the school be represented on such governing body.

(3) The Member of the Executive Council shall by notice in the Provincial Gazette determine the number of members in each category referred to in subregulation (1).

(4) A notice contemplated in subregulation (3) shall give interested parties an opportunity to make written submissions within a period of not less than 30 days.

(5) The Member of the Executive Council shall consider all such submissions, and

thereafter may alter the notice contemplated in subregulation (3).

### **Numbers of members of governing bodies**

8. The number of parent members, educator members and learner members of a governing body shall vary according to the type and grading of the school, as set out in Schedule E.

### **Co-opted members of governing bodies**

9. (1) A governing body may at any time during its term of office co-opt a maximum of two members of the community to assist in discharging its functions.

(2) A governing body of an ordinary school which provides education to learners with special education needs shall, where practically possible, co-opt a person or persons with expertise regarding the special education needs of such learners.

(3) A governing body of a school situated on private property may co-opt the owner of the property occupied by the school or the nominated representative of such owner.

(4) If a governing body of a school acts under subregulation (3), and if there is more than one owner of the property on which the school is situated, such owners shall nominate one of their number, or a representative, to represent them on such governing body.

(5) Members co-opted in terms of subregulations (1), (2), (3) and (4) shall not have voting rights on the governing body of an ordinary school.

### **Governing body serving two or more schools**

10. (1) The Member of the Executive Council may determine that the governance of two or more schools shall vest in a single governing body if it is in the best interests of education at the schools in question.

(2) The schools referred to in subregulation (1) shall for the purposes of these regulations be treated as one school: Provided that the principals of all the schools in question shall be members of the governing body, and such principals shall nominate from among their number one principal to perform the duties and functions of a principal which are provided for in these regulations.

(3) The Member of the Executive Council may not act under subsection (1) unless he or she has-

- (a) given notice in the Provincial Gazette of his or her intention so to act;

(b) given interested parties an opportunity to make written submissions within a period of not less than 30 days; and

(c) considered all such submissions.

### **Validity of acts of improperly constituted governing bodies**

11. (1) Subject to subregulation (3), no act of a governing body shall be invalid merely because the governing body is not properly constituted in accordance with these regulations.

(2) Where a governing body is not properly constituted in accordance with these regulations, the Member of the Executive Council shall give the governing body six months' notice to rectify the defect in its composition.

(3) If, after the expiry of the notice period contemplated in subregulation (2), the governing body is still not properly constituted in accordance with these regulations, until it is properly constituted, no acts which it performs shall be valid.

### **Terms of office of governing bodies**

12. (1) Subject to these regulations a member other than a learner member may hold office for a period not exceeding three years.

(2) A learner member may hold office for a period not exceeding one year.

(3) A member whose term of office has expired may be re-elected to the governing body.

### **Removal from office of members of governing bodies**

13. (1) A member whose conduct in relation to the governing body is prejudicial to the best interests of the school may be removed from office by the Head of Department.

(2) The Head of Department may not act under subregulation (1) unless he or she has given the member concerned the opportunity to make representations concerning his or her possible removal from the governing body.

(3) A member who is removed from a governing body under subregulation (1) may, within 30 days after receiving notice of his or her removal, appeal to the Member of the Executive Council in writing, setting out the grounds of the appeal.

(4) Pending a decision of the Member of the Executive Council of an appeal brought under subregulation (3), the member shall not be entitled to participate in any business of the governing body.

(5) The Member of the Executive Council shall consider an appeal contemplated in subregulation (3) and shall confirm or set aside the decision of the Head of Department.

(6) The Member of the Executive Council shall as soon as may be practicable-

(a) notify the appellant member of his or her decision; and

(b) provide the appellant member with written reasons for his or her decision.

### **Vacation of office**

14. Incidental vacancies shall occur whenever a member-

(a) resigns in writing;

(b) dies;

(c) is removed from office in terms of regulation 13(l);

(d) is absent from three consecutive meetings without reasonable explanations; or

(e) becomes ineligible in terms of regulation 16.

### **Filling of incidental vacancies**

15. (1) Whenever an incidental vacancy occurs-

(a) in the office of any member except a parent member, such vacancy shall be filled in accordance with an election in terms of these regulations;

(b) in the office of a parent member, such vacancy shall be filled at the discretion of the governing body, either in accordance with an election in terms of these regulations or by co-option: Provided that the total number of parent members co-opted in terms of this paragraph may not exceed 40% of the total number of parent members of the governing body.

(2) A parent member co-opted in terms of subregulation (1)(b) shall have voting rights.

(3) A member elected or co-opted in terms of subregulation (1)(b) shall remain a member for the unexpired term of office of his or her predecessor.

## **CHAPTER 3 ELECTION OF MEMBERS OF GOVERNING BODIES**



## **Eligibility**

16. (1) A parent member shall be a parent of a learner officially enrolled at the school and who is not employed at the school.

(2) A parent member who was eligible under subregulation (1) at the time of his or her election to the governing body shall not cease to be eligible to remain a member if the learner in respect of whom he or she qualifies as a parent member ceases to be officially enrolled at the school during the term of office for which the parent member was elected.

(3) An educator member shall be an educator, other than the principal, employed at the school.

(4) A learner member shall be officially enrolled as a learner at the school in a level not lower than the eighth level.

(5) A learner member may be a minor.

(6) A learner member who is a minor-

(a) may not contract on behalf of a school;

(b) may not vote on resolutions of a governing body which impose liabilities on third parties or on the school; and

(c) shall incur no liability for any consequence of his or her membership of the governing body.

(7) A learner member need not be a member of the Students' Representative Council.

(8) A non-teaching member shall be a person, other than an educator, employed at the school.

(9) A resident member, worker member or alumnus member may not be a parent of a learner currently enrolled at the school.

(10) A resident, worker or alumnus member shall not be a minor.

(11) A resident or worker member shall be a person who resides or works in the catchment area served by the school.

## **Franchise**

17. (1) Every parent of a learner officially enrolled at a school shall be entitled to vote for parent members of the governing body and shall have one vote in respect of each

candidate with a maximum number of votes equal to the number of parent members to be elected.

(2) A parent's vote may be exercised by a proxy voter who has the written authority of the parent: Provided that a proxy voter may not exercise more than two proxy votes.

(3) Every educator, other than the principal, employed at a school shall be entitled to vote for educator members and shall have one vote in respect of each candidate with a maximum number of votes equal to the number of educator members to be elected.

(4) Every member of a Students' Representative Council shall be entitled to vote for learner members and shall have one vote in respect of each candidate with a maximum number of votes equal to the number of learner members to be elected.

(5) Every non-teaching member of staff shall be entitled to vote for a non-teaching member and shall have one vote.

### **Students' Representative Council**

18. The Member of the Executive Council may, by notice in the Provincial Gazette, establish guidelines and minimum requirements for the establishment, election and functions of Students' Representative Councils.

### **Election officer**

19. (1) The District Director shall appoint a District Electoral Officer, who shall be an officer of the Department, to co-ordinate all electoral activities in a district.

(2) The District Director shall appoint one or more persons to act as an election officer for the electoral procedures at a particular school.

(3) An election officer shall be an officer of the Department, a parent or an educator.

(4) An election officer may not be nominated or elected as a member of a governing body of a school for which he or she is the election officer.

(5) An election officer shall draw the attention of all eligible voters to the provisions of the Act and of these regulations relevant to the election of members of a governing body.

(6) An election officer shall exercise all other powers conferred upon him or her by these regulations and any other law.

### **Nomination meeting for parent members**

20. (1) The election officer shall determine a date, time and place for a nomination

meeting to be held.

(2) The election officer shall prepare a notice of the nomination meeting in the form of Schedule A and, at least 20 days prior to the date of the nomination meeting, provide the principal with sufficient copies of such notice.

(3) The principal shall at least 14 days prior to the date of the nomination meeting-

(a) distribute a copy of the notice to every learner at the school with an instruction to hand it to his or her parents; or

(b) post a copy of the notice to the parents of every learner at the school.

### **Availability of school register**

21. The principal shall make available to the election officer a school register containing the names of all eligible parents for the purposes of exercising control at the nomination meeting.

### **Nominations of parents**

22. (1) A parent may be nominated or seconded as a parent member only by parents who are themselves eligible in terms of regulation 16.

(2) Nominations may be made-

(a) by lodging a nomination form duly completed by the proposer, seconder and candidate with the election officer not more than seven days and not less than one day before the nomination meeting; or

(b) by proposing a parent as a member during the nomination meeting: Provided that another parent present seconds the nomination and a nomination form duly completed by the proposer, seconder and candidate is lodged with the election officer within the time allotted in the nomination meeting by the election officer for this purpose.

(3) After the allotted time, the election officer shall consider all nominations and reject those which do not comply with the requirements of this regulation.

(4) If the total number of valid nominations is less than the required number of parent members, the election officer shall dissolve the nomination meeting and convene a new nomination meeting within 14 days.

(5) If the total number of valid nominations is equal to the required number of parent members, the election officer shall declare the nominated candidates to be duly elected.

(6) If the total number of valid nominations is more than the required number of parent members, the election officer shall hold a poll in accordance with regulation 23.

### **Poll for parent members**

23. (1) The poll meeting shall be held at the date, time and place indicated in the notice of the nomination meeting, and may be held on the same day as the nomination meeting.

(2) A quorum at the poll meeting shall be 15% of the total number of parents eligible to vote.

(3) The poll shall be by secret ballot.

(4) The election officer shall issue one officially marked ballot paper to each person eligible to vote plus one for every proxy vote.

(5) The election officer shall reject any spoilt ballot papers before counting the votes recorded for every candidate.

(6) Where the number of votes in favour of two or more candidates is equal and it affects the result of the poll, the election officer shall draw lots to ascertain a result.

(7) Candidates may be present while the election officer is rejecting spoilt ballot papers and counting the votes.

(8) The election officer shall decide all matters relating to the nomination of candidates and the poll, and his or her decision shall be final.

(9) If the District Director has, under regulation 19(2), appointed more than one election officer for a particular school, and if there is disagreement among such election officers on any matter relating to the nomination of candidates and the poll, the decision of the District Electoral Officer shall be final.

(10) If a quorum is not reached at the poll meeting referred to in subregulation (1)-

(a) the election officer shall determine a date, time and place for a second poll meeting and inform the principal in writing at least 20 days prior to the date of such meeting;

(b) the election officer shall provide the principal with sufficient copies of a notice which sets out the date, time and place of the second poll meeting;

(c) the principal shall at least 14 days prior to the date of the second poll meeting distribute a copy of the notice to every learner at the

school with an instruction to hand it to his or her parents;

- (d) at the second poll meeting there shall be no quorum requirement and the poll for parent members shall proceed according to the provisions of subregulations (3) to (9).

### **Procedure after election of parent members**

24. After the election of parent members-

- (a) the election officer shall place all documents, including ballot papers, used in the election in envelopes and seal such envelopes;
- (b) the election officer shall hand the sealed envelopes to the District Electoral Officer, who shall keep the sealed envelopes in safe custody for a period of at least three months from the date of the election;
- (c) the District Electoral Officer shall ensure that each elected member is notified in writing of his or her election; and
- (d) the District Electoral Officer shall ensure that the principal and the District Director are notified in writing of the names of the elected members.

### **Election of educator members**

25. (1) The election officer shall determine a date, time and place for a nomination meeting for the election of educator members, which shall be held within 14 days before or after the nomination meeting for parent, members.

(2) The Head of Department may, on good cause shown, allow deviations from the requirements of subregulation (1), to the extent that he or she considers it justified.

(3) The election officer shall prepare a notice of the nomination meeting in the form of Schedule B and, at least 10 days before the nomination meeting, shall distribute a copy of the notice to every educator at the school.

(4) The provisions of regulations 21 to 24 of these regulations shall apply mutatis mutandis to the election of educator members, and in such application a reference to a parent shall be construed as a reference to an educator, and a reference to a parent member shall be construed as a reference to an educator member.

### **Election of learner members**

26. (1) The District Director shall appoint a Teacher Liaison Officer to act as the election officer for all electoral procedures relating to the election of learner members at a

particular school.

(2) The Teacher Liaison Officer shall be an educator.

(3) The Teacher Liaison Officer shall determine a date, time and place for a nomination meeting for the election of learner members, which shall be held within 14 days before or after the nomination meeting for parent members.

(4) The Teacher Liaison Officer shall prepare a notice of the nomination meeting in the form of Schedule C and, at least 10 days before the nomination meeting, shall cause a copy of the notice to be prominently displayed at the school.

(5) The provisions of regulations 21 to 24 of these regulations shall apply mutatis mutandis to the election of learner members, and in such application a reference to a parent shall be construed as a reference to a learner who is entitled to vote in terms of regulation 17(4), and a reference to a parent member shall be construed as a reference to a learner member: Provided that a learner member may be any learner, and may be nominated or seconded by any learner.

(6) Any learner may attend and participate in the nomination meeting referred to in subregulation (3).

(7) Any learner may attend the poll meeting at which learner members are elected, but only those learners who are entitled to vote in terms of regulation 17(4) may participate.

(8) The Head of Department may, on good cause shown, allow deviations from the requirements of subregulations (1) to (7), to the extent that he or she considers it justified.

### **Election of non-teaching members**

27. (1) The election officer shall determine a date, time and place for a nomination meeting for the election of non-teaching members, which shall be held within 14 days before or after the nomination meeting for parent members.

(2) The Head of Department may, on good cause shown, allow deviations from the requirements of subregulation (1), to the extent that he or she considers it justified.

(3) The election officer shall prepare a notice of the nomination meeting in the form of Schedule D and, at least 10 days before the nomination meeting, shall distribute a copy of the notice to every non-teaching member of staff at the school.

(4) The provisions of regulations 21 to 24 of these regulations shall apply mutatis mutandis to the election of non-teaching members, and in such application a reference to a parent shall be construed as a reference to a non-teaching member of staff, and a reference to a parent member shall be construed as a reference to a non-teaching

member.

### **Nomination of resident member, worker member or alumnus member**

28. (1) Any member of the governing body may nominate a resident, worker or alumnus for election as a resident, worker or alumnus member of the governing body by-

(a) lodging a nomination form with the principal not more than seven days and not less than one day before the first meeting of the governing body, which form shall be duly completed by the proposer and candidate;  
or

(b) proposing a resident, worker or alumnus as a member during the first meeting of the governing body, and lodging with the Acting Chairperson a nomination form duly completed by the proposer and candidate.

(2) Any organisation of alumni may nominate an alumnus for election as a resident, worker or alumnus member of the governing body by lodging a nomination form with the principal not more than seven days and not less than one day before the first meeting of the governing body, which form shall be duly completed by two office-bearers of the organisation of alumni.

### **Election of resident member, worker member or alumnus member**

29. (1) The principal shall convene the first meeting of the governing body not less than 14 days and not more than 21 days after the election of the parent members.

(2) At the first meeting, the members of the governing body shall, by secret ballot, elect the resident member, worker member or alumnus member from the validly nominated candidates.

(3) After the election of the member referred to in subregulation (2)-

(a) the principal shall notify the elected member in writing of his or her election; and

(b) the principal shall notify the District Electoral Officer in writing of the name of the elected member.

### **Election of disabled community members**

30. (1) The Member of the Executive Council shall by notice in the Provincial Gazette determine the manner of election or appointment of members of a governing body of a school for learners with special education needs referred to in regulation 7.

(2) A notice contemplated in subregulation (1) shall give interested parties an

opportunity to make written submissions within a period of not less than 30 days.

(3) The Member of the Executive Council shall consider all such submissions, and thereafter may alter the notice contemplated in subregulation (1).

## **CHAPTER 4 OFFICE-BEARERS AND COMMITTEES OF GOVERNING BODIES**

### **Election of acting office-bearers of governing bodies**

31. (1) At the first meeting of the governing body, convened as contemplated in regulation 29(l), the members of the governing body with voting rights shall, from among its members with voting rights, elect at least the following acting office-bearers of the governing body-

- (a) an Acting Chairperson;
- (b) an Acting Treasurer; and
- (c) an Acting Secretary.

(2) The acting office-bearers elected in terms of subregulation (1) shall perform such duties and functions of office-bearers as are contemplated in these regulations and any other law until the election contemplated in regulation 32(l) takes place, upon which their term of office shall end.

### **Election of office-bearers of governing bodies**

32. At the second meeting of the governing body, which the Acting Chairperson shall convene not less than 14 days and not more than 28 days after the first meeting, the members of the governing body with voting rights shall, from among its members with voting rights, elect at least the following office-bearers of the governing body-

- (a) a Chairperson;
- (b) a Treasurer; and
- (c) a Secretary.

### **Provisions relating to office-bearers**

33. (1) There may not be more than two educator members serving as office-bearers of the governing body.

(2) No member of the governing body of a school may hold more than one office in the governing body.



(3) Only a parent member of a governing body who is not employed at the school may serve as the Chairperson of the governing body.

(4) An office bearer of a governing body ceases to hold office as such if he or she ceases to be a member of the governing body.

(5) The Chairperson of a governing body shall convene and chair the meetings of the governing body, and in his or her absence the members of the governing body shall appoint a member to chair the meeting.

(6) The Secretary of a governing body shall perform the duties contemplated in these regulations, and in his or her absence the members of the governing body shall appoint a member to perform such duties.

### **Terms of office of office-bearers and vacancies**

34. An office-bearer shall remain in office for a term not exceeding 12 months from the date of his or her election and may, after the expiry of his or her term of office, be re-elected.

### **Vacation of office by office-bearers**

35. Where, in terms of these regulations or for whatever other reason, the office of a member of the governing body becomes vacant, the members of the governing body with voting rights shall, at the next meeting of the governing body, elect one of its members with voting rights other than the principal to fill the vacancy in that office.

### **Composition of Executive Committees of governing bodies**

36. (1) The office-bearers elected in accordance with regulation 32 shall be members of the Executive Committee of the governing body.

(2) The principal shall be a member of the Executive Committee but shall not be an office-bearer of the governing body.

### **Duties and functions of Executive Committees of governing bodies**

37. (1) The Executive Committee shall carry out the mandates of the governing body and shall be accountable to the governing body for all its actions.

(2) The Executive Committee of a governing body shall meet at least once per month, unless authorised to meet less frequently over any given 12-month period by the governing body.

(3) A quorum of the Executive Committee shall be a majority of the members of the Executive Committee.

(4) The District Director shall have the right to request and to be furnished with information regarding the time and venue of any meeting of the Executive Committee, and to attend but not to vote at such meeting.

(5) Subject to these regulations, an Executive Committee shall determine its own rules in relation to meetings and procedures at its meetings.

### **Other committees of governing bodies**

38. (1) A governing body may appoint one or more committees other than the Executive Committee to advise it and, subject to the instructions of the governing body, to perform such of its functions as the governing body may determine.

(2) A governing body of an ordinary school which provides education to learners with special education needs shall establish a committee on special education needs.

(3) A governing body of a school at which part-time courses are offered for adult learners shall establish a committee on adult education, and shall invite the principal of the centre of learning responsible for such courses, representatives of adult learners and representatives of the educators of such learners to be members of such committee.

(4) Every committee shall be chaired by a member of the governing body.

(5) A governing body may appoint to a committee persons who are not members of the governing body.

(6) A governing body may alter or invalidate any decision of a committee.

## **CHAPTER 5 MEETINGS OF GOVERNING BODIES**

### **Meetings of governing bodies**

39. (1) A governing body shall meet at least once per school term.

(2) A quorum of the governing body shall be 50% of the members eligible to vote on the relevant business of the governing body plus one.

(3) At least one week's notice of any ordinary meeting shall be given by a governing body to the District Director, who shall have the right to attend any meeting of a governing body but not to vote at such meeting.

(4) Subject to these regulations, a governing body shall determine its own rules relating to meetings referred to in this Chapter and procedures at such meetings.

## **Minutes of meetings**

40. (1) The Secretary of a governing body shall keep minutes of the proceedings of every meeting of the governing body and its Executive Committee, and shall submit such minutes for approval at the next meeting of the governing body or its Executive Committee, as the case may be.

(2) The Secretary of a governing body shall ensure that minutes of the proceedings of every meeting of a committee of the governing body are kept and submitted for approval at the next meeting of such committee.

(3) The Secretary of a governing body shall ensure that minutes of the proceedings of a committee of a governing body, once approved, are submitted to the next meeting of the governing body.

(4) The Secretary of a governing body shall keep minutes of the proceedings of every meeting of parents referred to in regulations 41 and 42, and submit such minutes for approval at the next meeting of parents.

(5) The Secretary of a governing body shall ensure that at an Annual General Meeting the minutes of all meetings referred to in regulations 41 and 42 held since and including the previous Annual General Meeting shall be available.

(6) Notwithstanding the provisions of regulation 54(b), the Secretary of a governing body shall, on request, provide the District Director with a copy of any minutes referred to in subregulations (1), (2), (3), and (4).

(7) Upon the expiry of the term of office of members, all minutes referred to in subregulations (1), (2), (3) and (4) and other documents of the governing body shall be handed over to the principal.

## **Annual General Meeting of parents**

41. (1) A governing body shall, between July and November of each year, convene in accordance with the provisions of this regulation an Annual General Meeting of parents at the school at which-

(a) the principal and the Chairperson of the governing body shall submit a joint written report or separate written reports on the school for the previous year;

(b) the latest audited financial statements as have been produced in terms of regulation 53 shall be made available;

(c) the budget referred to in regulation 50 shall be presented;

(d) any matter relating to fees referred to in regulation 51 may be discussed; and

(e) any other matters relating to the school may be discussed.

(2) The principal shall at least 30 days prior to the date of the Annual General meeting-

(a) distribute a copy of the notice for such meeting to every learner at the school with an instruction to hand it to his or her parents; or

(b) post a copy of the notice for such meeting to the parents of every learner at the school.

### **Special General Meeting of parents**

42. (1) A governing body may convene a Special General Meeting of parents at the school in accordance with the provisions of this regulation.

(2) A governing body shall convene a Special General Meeting of parents at the school within 30 days of receipt of a petition signed by at least 20% of parents of learners at the school calling for a special meeting.

(3) The principal shall at least 10 days prior to the date of the Special General Meeting-

(a) distribute a copy of the notice for such meeting to every learner at the school with an instruction to hand it to his or her parents; or

(b) post a copy of the notice for such meeting to the parents of every learner at the school.

(4) A Special General Meeting of parents may deal with any of the matters contemplated in regulation 41.

## **CHAPTER 6 DUTIES AND FUNCTIONS OF GOVERNING BODIES**

### **General**

43. (1) In addition to such duties and functions as are conferred on it by any other law, a governing body shall have the duties and functions conferred on it by this Chapter.

(2) Where the Department decides not to implement a recommendation made by a governing body in terms of a duty or function conferred on it by this Chapter, it shall provide the governing body with written reasons for its decision.

(3) Subject to the provisions of any other law, the governance of every school is vested

in its governing body.

(4) A governing body stands in a position of trust towards the school.

(5) The professional management of the school shall be undertaken by the principal under the authority of the Head of Department.

(6) A governing body, or a member of a governing body in his or her capacity as a member of a governing body, may not interfere with the professional work of an educator in the performance of his or her duties.

(7) A governing body may join a voluntary association representing governing bodies of schools.

### **Duties and functions of all governing bodies**

44. (1) Subject to the provisions of any Act of Parliament or Act of the Provincial Legislature, the governing body of a school shall have the duties and functions set out in regulations 45 to 56.

(2) A governing body of a school shall perform all of its duties and functions within the framework of the principles set out in regulation 3.

### **Duties of governing bodies relating to constitution and standing orders**

45. (1) A governing body shall draw up its own constitution and standing orders which shall not be contrary to the Act, these regulations, or any other applicable law, and which shall comply with the minimum requirements established by the Member of the Executive Council by notice in the Provincial Gazette.

(2) A governing body of a school shall submit a copy of its constitution and standing orders to the Head of Department within 90 days of its election.

(3) Until the Head of Department has certified that the constitution and standing orders referred to in subregulation (2) are consistent with the provisions of the Act and these regulations, such constitution and standing orders shall be of no force and effect.

### **Duties of governing bodies relating to school policy**

46. Subject to the Act and the Constitution, a governing body of a school shall-

(a) determine the language policy of the school;

(b) issue rules according to which religious observances may be conducted at the school;

- (c) decide upon school rules, which may include the dress code for learners at the school;
- (d) develop and adopt a code of conduct for learners; and
- (e) develop and adopt a code of rights and responsibilities for all sectors within the school.

### **Duties and functions of governing bodies relating to school development**

47. A governing body of a school-

- (a) shall promote the best interests of the school and strive to ensure its development through the provision of quality education for learners at the school;
- (b) shall decide upon the school's mission, goals and objectives, and develop the mission statement of the school;
- (c) shall support the principal, educators and other staff of the school in the performance of their professional functions;
- (d) shall draw up and amend a school development plan;
- (e) shall encourage parents, learners, educators and other staff at the school to render voluntary services to the school; and
- (f) may establish services and community partnerships related to social, health, recreational, nutritional and transport programmes and other matters which further the objectives of the Act.

### **Duties and functions of governing bodies relating to school administration**

48. A governing body of a school-

- (a) shall bring to the notice of the Head of Department any matters which concern the school and make recommendations to the Head of Department concerning such matters;
- (b) shall administer and control the school's property, and buildings and grounds occupied by the school, including school hostels, if applicable;
- (c) shall determine times of the school day consistent with any applicable conditions of employment of staff at the school;
- (d) shall, at the request of the Head of Department, allow the reasonable

use under fair conditions of the facilities of the school; and

- (e) may allow the reasonable use of facilities of the school for community, social and school fund raising purposes, subject to such reasonable conditions as the governing body may determine, which may include the charging of a fee or tariff which accrues to the school.

### **Duties and functions of governing bodies relating to school funds and assets**

49. A governing body of a school-

- (a) shall strive to raise funds including voluntary contributions to the school in cash or kind for the improvement of the quality of education at the school;
- (b) shall establish a school fund and administer it in accordance with directions issued by the Head of Department;
- (c) shall pay, subject to paragraph (d), all money received by a school, including school fees and voluntary contributions, into the school fund;
- (d) shall open and maintain a banking account;
- (e) shall apply all money or other goods donated or bequeathed to or received in trust by a school in accordance with the conditions of such donation, bequest or trust; and
- (f) may only permit the use of the school fund, all proceeds thereof and any assets of the school for-
  - (i) educational purposes, at or in connection with the school;
  - (ii) educational purposes, at or in connection with another school, by agreement with such other school and with the consent of the Head of Department;
  - (iii) the performance of the duties and functions of the governing body-,  
or
  - (iv) another educational purpose agreed between the governing body and the Head of Department.

### **Duties of governing bodies relating to school budget**

50. A governing body of a school shall-

- (a) establish budget priorities and prepare a budget each year, according to guidelines determined by the Member of the Executive Council, which shows the estimated income and expenditure of the school for the following financial year; and
- (b) present the budget referred to in paragraph (a), before it is approved by the governing body, to a meeting of parents convened in accordance with regulation 41 or 42 for consideration and approval by a majority of parents present and voting.

### **Duties and functions of governing bodies relating to school fees**

51. A governing body of a school-

- (a) may, subject to section 39 of the South African Schools Act, 1996 (Act No. 84 of 1996), charge fees at a school in accordance with a resolution adopted by a majority of the parents present at a meeting contemplated in regulation 50(b), if such resolution provides for-
  - (i) the amount of fees to be charged; and
  - (ii) equitable criteria and procedures for the total, partial or conditional exemption of parents who are unable to pay school fees; and
- (b) may, subject to section 40 of the South African Schools Act, 1996 (Act No. 84 of 1996), enforce by process of law the payment of school fees by parents who are liable to pay such fees.

### **Duties of governing bodies relating to financial records and statements**

52. A governing body of a school shall-

- (a) keep records of funds received and spent by the school and of its assets, liabilities and financial transactions; and
- (b) as soon as practicable, but not later than three months after the end of each financial year, draw up annual financial statements which indicate, with suitable particulars, money received and expenditure incurred by the school during, and its assets and liabilities at the end of, the financial year concerned.

### **Duties of governing bodies relating to audit or examination of financial records and statements**

53. A governing body of a school shall-



- (a) ensure that the records and financial statements referred to in regulation 52 are audited or examined in terms of the Act;
- (b) submit to the Head of Department, within six months after the end of each financial year, a copy of the annual financial statements, audited or examined in terms of paragraph (a); and
- (c) at the request of an interested person, make available for inspection the records referred to in regulation 52(a), and the audited or examined financial statements referred to in this regulation.

### **Duties of governing bodies relating to meetings**

54. A governing body of a school shall-

- (a) convene meetings and keep minutes of its meetings in accordance with regulations 29, 31 and 37(2) and the regulations set out in Chapter 5;
- (b) on request, make information contained in the minutes referred to in paragraph (a) available for inspection by any learner, parent, educator, or other member of staff or by any interested party, unless-
  - (i) disclosure of the information requested would constitute an invasion of the privacy of an identifiable individual (including an individual who died less than ten years before the request is received) and that individual has not consented to the disclosure of the information;
  - (ii) the information requested was supplied to the governing body or to the school in confidence by a third party and that third party has not consented to the disclosure of the information; or
  - (iii) the information requested cannot be found after a diligent search.
- (c) report to learners, educators and other staff at the school respectively at least once a year.

### **Functions of governing bodies relating to the appointment of educators at the school**

55. A governing body of a school may recommend to the Head of Department the appointment of educators at the school, subject to the Educators' Employment Act, 1994 (Proclamation No. 138 of 1994), and the Labour Relations Act, 1995 (Act No. 66 of 1995).

## **Functions of governing bodies relating to the appointment of non-teaching staff at the school**

56. A governing body of a school may recommend to the Head of Department the appointment of non-teaching staff at the school, subject to the Public Service Act, 1994 (Proclamation No. 103 of 1994), and the Labour Relations Act, 1995 (Act No. 66 of 1995).

### **Allocated functions of governing bodies**

57. (1) A governing body may apply to the Head of Department in writing to be allocated any of the following functions-

- (a) to determine the admission policy of the school, subject to the Act and to the Constitution;
- (b) to maintain and improve the school's property, and buildings and grounds occupied by the school, including school hostels, if applicable;
- (c) to determine the extra-mural curriculum of the school and the choice of subject options in terms of provincial curriculum policy;
- (d) to purchase textbooks, educational materials or equipment for the school;
- (e) to pay for services to the school;
- (f) to inquire into written complaints about any member of staff employed at the school, to refer the complaint, together with its findings, to the Head of Department, and to recommend that the Department institute inefficiency or misconduct procedures relating to persons employed at the school; and
- (g) to inquire into written complaints about any learner officially enrolled at the school, to refer the complaint, together with its findings, to the Head of Department and to recommend that the Department institute misconduct procedures relating to learners officially enrolled at the school.

(2) The Head of Department may refuse an application contemplated in subregulation (1) only if the governing body concerned does not have the capacity to perform such function effectively.

(3) The Head of Department may approve such application unconditionally or subject to conditions.

(4) The decision of the Head of Department on such application shall be conveyed in writing to the governing body concerned, giving reasons.

(5) Any person aggrieved by a decision of the Head of Department in terms of this regulation may appeal to the Member of the Executive Council.

(6) The Member of the Executive Council may, by notice in the Provincial Gazette, determine that some governing bodies may exercise one or more functions without making an application contemplated in subregulation (1), if-

(a) he or she is satisfied that the governing bodies concerned have the capacity to perform such functions effectively; and

(b) there is a reasonable and equitable basis for doing so.

(7) Save as is provided in subregulation (6), no governing body may exercise any of the functions listed in subregulation (1) unless the function has been allocated to it in terms of subregulation (3).

### **Withdrawal of functions from governing bodies**

58. (1) The Head of Department may, on reasonable grounds, withdraw a function from a governing body.

(2) The Head of Department may not take action under subregulation (1) unless he or she has-

(a) informed the governing body of his or her intention to act and the reasons therefor;

(b) granted the governing body 30 days to make representations to him or her relating to such intentions; and

(c) given due consideration to any such representations received.

(3) In cases of urgency, the Head of Department may act in terms of subregulation (1) without prior communication to such governing body, if the Head of Department thereafter-

(a) furnishes the governing body with reasons for his or her actions;

(b) gives the governing body 30 days to make representations relating to such actions; and

(c) duly considers any such representations received.

(4) The Head of Department may, for sufficient reasons, reverse or suspend his or her action in terms of subregulations (1) and (3).

(5) Any person aggrieved by a decision of the Head of Department in terms of this regulation may appeal against the decision to the Member of the Executive Council.

## **CHAPTER 7 GENERAL AND TRANSITIONAL PROVISIONS**

### **Liability, reimbursement and financial benefit**

59. (1) A member of a governing body shall not be liable for any debt, damage or loss incurred by the school as a result of his or her actions in his or her capacity as a member of the governing body unless he or she acted without authorisation or with malicious intent, in which case he or she may be held responsible for such debt, damage or loss.

(2) Necessary expenses incurred by a member of a governing body in the performance of his or her duties may be reimbursed by the governing body.

(3) No member of a governing body or any relative of such member may derive financial benefit by virtue of his or her being a member of such governing body.

(4) A member of a governing body shall withdraw from a meeting of the governing body for the duration of the discussion and decision-making on any issue in which the member or any relative of that member has a financial interest.

### **Transitional provision relating to existing governing bodies**

60. (1) Where a governing body of a school was in existence immediately prior to the commencement of these regulations, its term of office shall be deemed to have ended on the day before the date on which a governing body for that school is elected in accordance with these regulations.

(2) Until the end of its term of office, a governing body of a school which was in existence immediately prior to the commencement of these regulations, shall continue in existence and shall perform all the functions it performed prior to the commencement of these regulations which it can lawfully perform.

(3) The Head of Department shall appoint a person or persons to perform, in the period between the end of the term of office of a governing body contemplated in subregulation (2) and the first meeting of the governing body elected in accordance with these regulations, all the functions and duties which a governing body can lawfully perform.

### **Interim provision relating to constitution of governing bodies**

61. (1) Until such time as a governing body has drawn up a constitution and standing orders in accordance with regulation 45, the Treasurer and two other members of the governing body selected for that purpose by majority vote of the governing body shall give their written approval for any payment made out of the school fund.

(2) Until such time as a governing body has drawn up a constitution and standing orders in accordance with regulation 45-

- (a) an extraordinary meeting of the governing body may be convened by the Chairperson of the governing body when he or she deems it necessary or when at least four members submit to the Chairperson a written request for such a meeting containing their reasons for this request;
- (b) ordinary and extraordinary meetings of the governing body shall take place after written notice of the meeting has been issued to all members at least seven days prior to the meeting;
- (c) the notice of a meeting of the governing body shall include a list of the matters to be discussed at the meeting;
- (d) a meeting of the governing body shall deal with matters of which prior notice has been given, and may deal with other matters provided that approval of the meeting is obtained;
- (e) any person may attend and speak at a meeting of the governing body provided that approval of the meeting is obtained;
- (f) each member of the governing body has one vote, and, at the conclusion of voting, the Chairperson of the governing body shall exercise a casting, vote if necessary;
- (g) the minutes of any meeting shall be read or taken as read at the opening of the next meeting, and if approved shall be signed by the Chairperson and the Secretary;
- (h) matters of standing orders and procedures at meetings which are not covered in the Act, in these regulations or in any other law shall be decided by the Chairperson; and
- (i) if any member questions a decision referred to in paragraph (h), the matter shall be submitted to a vote.

### **Repeal of regulations**

62. (1) The regulations listed in column one of Schedule F are hereby repealed to the extent set out in column two of Schedule F.

(2) All other regulations which are inconsistent with the Act and these regulations are hereby repealed.

**Short title**

63. These regulations shall be called Governing Body Regulations for Public Schools, 1997.

**SCHEDULE A: Standard Notice of Nomination Meeting and Poll for the Election of Parent Members**

Name of school.....

Notice is hereby given that a meeting for the nomination of candidates for the election of parent members of the governing body for the above-mentioned school will be held

on..... (date)

at..... (time)

at..... (place)

A candidate may be nominated in two ways:

(a) by lodging a nomination form duly completed by the proposer, seconder and candidate with the election officer not more than seven days and not less than one day before the nomination meeting; or

(b) by proposing a parent as a member during the nomination meeting provided that another parent present seconds the nomination and a nomination form duly completed by the proposer, seconder and candidate is lodged with the election officer within the time allotted in the nomination meeting by the election officer for this purpose.

If more candidates are nominated than the number of parent members to be elected, a poll will be held

on..... (date)

at..... (time)

at..... (place)

Date.....

Signature of Election Officer.....

Address of Election Office.....

.....

.....

**SCHEDULE B: Standard Notice of Nomination Meeting and Poll for the Election of Educator Members**

Name of school.....

Notice is hereby given that a meeting for the nomination of candidates for the election of educator member(s) of the governing body for the above-mentioned school will be held

on..... (date)

at..... (time)

at..... (place)

A candidate may be nominated in two ways:

(a) by lodging a nomination form duly completed by the proposer, seconder and candidate with the election officer not more than seven days and not less than one day before the nomination meeting; or

(b) by proposing an educator as a member during the nomination meeting nomination form duly completed by the proposer, seconder and candidate is lodged with the election office within the time allotted in the nomination meeting by the election officer for this purpose.

If more candidates are nominated than the number of educator members to be elected, a poll will be held

on..... (date)

at..... (time)

at..... (place)

Date.....

Signature of Election Officer.....

Address of Election Officer.....

.....

.....

**SCHEDULE C: Standard Notice of Nomination Meeting and Poll for the Election of Learner Members**

Name of school.....

Notice is hereby given that a meeting for the nomination of candidates for the election of learner member(s) of the governing body for the above-mentioned school will be held

on..... (date)

at..... (time)

at..... (place)

In terms of regulation 26(5), a candidate may be nominated by any learner officially enrolled at the school in a level not lower than the eighth level up to but not exceeding the twelfth level.

Nominations may be made in two ways:

(a) by lodging a nomination form duly completed by the proposer, seconder and candidate with the election officer not more than seven days and not less than one day before the nomination meeting; or

(b) by proposing a learner as a member during the nomination meeting provided that another learner present seconds the nomination and a nomination form duly completed by the proposer, seconder and candidate is lodged with the election officer within the time allotted in the nomination meeting by the election officer for this purpose.

If more candidates are nominated than the number of learner members to be elected, a poll will be held, at which members of the Students' Representative Council will be entitled to vote in terms of regulation 17(4). The poll will be held

on..... (date)

at..... (time)



at..... (place)

Date.....

Signature of Election Officer.....

Address of Election Officer.....

.....

.....

#### SCHEDULE D: Standard Notice of Nomination Meeting and Poll for the Election of Nonteaching Members

Name of school.....

Notice is hereby given that a meeting for the nomination of candidates for the election of non-teaching member(s) of the governing body for the above-mentioned school will be held

on..... (date)

at..... (time)

at..... (place)

A candidate may be nominated in two ways:

- (a) by lodging a nomination form duly completed by the proposer, seconder and candidate with the election officer not more than seven days and not less than one day before the nomination meeting; or
- (b) by proposing a non-teaching member of staff as a member during the nomination meeting provided that another non-teaching member of staff present seconds the nomination and a nomination form duly completed by the proposer, seconder and candidate is lodged with the election officer within the time allotted in the nomination meeting by the election officer for this purpose.

If more candidates are nominated than the number of non-teaching members to be elected, a poll will be held

on..... (date)

at..... (time)

at..... (place)

Date.....

Signature of Election Officer.....

Address of Election Officer.....

.....

.....

#### SCHEDULE E: Composition of Governing Bodies by Type and Grading of School

1. The numbers of members of a governing body of a school are set out for each category of membership in the table below.
2. The number of members in each category will vary, in terms of regulation 8, according to the type of school and its grading as set out in columns 1 and 2.
3. In a school which does not have non-teaching staff, the number of parents set out in column 4 shall be reduced by one and the total number of members set out in column 10 shall be reduced by two.
4. The governing body of a Combined Ordinary School will have the same composition as a Secondary Ordinary School.

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1	2	3	4	5	6	7	8	9	10
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Type of school	Grading of school	Number of enrolled learners	Number of parent members	Number of educator members	Number of learner members	Number of non-teaching members	Number of principal number resident, worker or members	Prin- of mem-	Total
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Primary	P1	<80	5	1	0	1	1	1	9
Ordinary	P2	80-159	5	1	0	1	1	1	9
Schools	P3	160-7196	2	0	1	1	1	1	1
	P4	720+	7	3	0	1	1	1	13

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Secondary	S3	<630	8	2	2	1	1	1	15
Ordinary	S4	630+	10	3	3	1	1	1	19

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Compre- hensive	S3	<500	8	2	2	1	1	1	15
Schools	S4	500+	10	3	3	1	1	1	19

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#### SCHEDULE F: REPEAL OF REGULATIONS

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Title, No. and Year of Regulation	Extent of Repeal
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Coloured Persons Education Act, 1963 (Act No. 47 of 1963)

Regulations No. 1898 of 4 December 1963                      Chapter F

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Indians Education Act, 1965 (Act No. 61 of 1965)

Regulations No. 459 of 25 March 1977                      The whole

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Education and Training Act, 1979 (Act No. 90 of 1979)

Regulations No. 828 of 30 April 1982 (as amended by  
Regulations No.                      The whole

672 of 31 March 1983, Regulations No. 2365/2366 of 25  
November 1988 and Regulations No. 331 of 3 March 1989)

Regulations No. 2366 of 25 November 1988                      The whole

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Education Affairs Act (House of Assembly), 1988 (Act No.  
70 of 1988)

Regulations No. 700 of 30 March 1990                      The whole

Regulations No. 701 of 30 March 1990                      The whole

Regulations No. 2932 of 6 December 1991                      The whole\$

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