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General Notice No. 1182 - South African Schools Act (84/1996): Code of Conduct for
Members of Governing Bodies of Public Schools..... Provincial Gazette No. 152
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GENERAL NOTICE

NOTICE 1182 OF 2004

I, Ignatius Jacobs, Member of the Executive Council for Education in Gauteng, hereby determine the Code of Conduct for Members of Governing Bodies of Public Schools in terms of section 18 A of the South African Schools Act 84 of 1996, as contained in the Schedule hereto.

Ignatius Jacobs
Member of the Executive Council: Education

SCHEDULE

1. Introduction

- (1) The South African Schools Act 84 of 1996 ("the South African Schools Act") contemplates an education system in which four major stakeholders, namely the State, parents, educators and learners, co-operate to advance specified objectives relating to schooling and the provision of public education.
- (2) Members of the governing bodies are tasked with the duty of overseeing the provision of public education at public schools.

2. Status and application of Code of Conduct

- (1) This is a Code of Conduct for members of the governing body of a public school ("the Code") determined by the Member of the Executive Council in terms of section 18A of the South African Schools Act.
- (2) The Code applies to all members of the governing bodies of public schools ("governing bodies") both individually and collectively.

3. Purpose of Code

- (1) The purpose of the Code is to regulate the conduct of members of the governing body when performing their roles and functions for and on behalf of the public school.
- (2) The Code is also intended:
 - (a) to establish a disciplined and purposeful school environment dedicated to the improvement and maintenance of a quality governance structure at the public school; and

(b) to provide for the procedure for the suspension or removal of members of the governing body and to safeguard their interests in such proceedings.

4. General functions and duties of members of governing body

(1) Every member of a governing body occupies a position of trust towards his or her public school.

(2) Every member of a governing body has a fiduciary duty to the public school, which requires that the member, at all times, acts:

(a) with fidelity, honesty, integrity and in good faith; and

(b) in the best interests of the school.

(3) Members of a governing body are not responsible for the professional management of the public school and must not interfere with the professional management of the public school, which rests with the school principal.

(4) When making decisions, in his or her capacity as a member of a governing body, a member must:

(a) ensure that they are procedurally fair and supported by reasons;

(b) act honestly and rationally, and not arbitrarily or capriciously;

(c) not conduct himself or herself in a manner that would raise a reasonable suspicion of bias; and

(d) not be influenced by an ulterior motive or purpose.

(5) Every member of a governing body must govern the public school:

(a) ethically;

(b) in accordance with applicable legislation. includes: This legislation

(i) the South African Schools Act 84 of 1996;

(ij) the Gauteng Schools Education Act 6 of 1995; ("Gauteng C;l'hnnlc;; Art").

(iii) the Regulations and Rules - Governing Bodies of Public Schools published under General Notice 786 of 1997 ("the Regulations");

(iv) the Promotion of Administrative Justice Act 3 of 2000;

(v) the Promotion of Access to Information Act 2 of 2000; and

(vi) the Constitution of the Republic of South Africa Act 108 of 1996 ("the Constitution");

(c) in a manner that provides effective, transparent, and accountable school administration ensuring that decisions are justifiable and legitimate; and

(d) in a manner that facilitates effective education and learning in public schools.

(6) Every member of a governing body must:

(a) take all practical steps to ensure that the stakeholders of public schools derive as much educational benefit from public schools as is possible;

(b) uphold the rights of all learners, parents, educators and other employees and promote their acceptance of responsibility for the organisation and governance of schools;

(c) uphold the democratic values of the Republic of South Africa;

(d) seek to redress the imbalances of the past; and

(e) combat all forms of unfair discrimination and intolerance by ensuring that all learners irrespective of race, colour, ethnicity, gender and creed are provided with quality education.

(7) Members of governing bodies must advance the principles of co-operative government, entrenched in Constitution by ensuring that:

(a) they conduct their activities without impeding nor contradicting the spirit and ethos of the Constitution and national legislation; and

(b) co-operate with other spheres of government in mutual trust and good faith by

- (i) fostering friendly relations;
- (ii) assisting and supporting one another;
- (iii) informing one another of, and consulting one another on, matters of common interest; co-ordinating their actions with one another;
- (v) adhering to agreed procedures; and
- (vi) avoiding legal proceedings against one another.

5. Duty of members of governing body to avoid conflicts of interest

(1) Every member of a governing body must:

- (a) take every possible step to avoid a conflict of interest between his or her personal interests and the interests of the school;
- (b) not place himself or herself in a position where his or her personal interests could conflict with his or her duties to the public school, and in particular must not:
 - (i) use confidential information improperly;
 - (ii) accept secret profits, bribes or any other corrupt, or unconscionable benefits;
- (c) not use information which is not yet available to the public for his or her own personal benefit; and
- (d) disclose to the governing body in writing any conflict of interest that may arise.

(2) When a member of a governing body becomes aware that the governing body will be taking a decision in which a member, a member's close family, or associates have an interest, the member must:

- (a) declare his or her interest in writing to the Chairperson of the governing body;
- (b) ensure that the interest is declared and minuted at the next meeting of the governing body, and any other relevant sub-committee of the governing body; and

(c) recuse himself or herself from any meeting of the governing body or sub-committee of the governing body where the issue is considered.

6. Duty of members of governing body relating to confidential information

(1) While executing their duties and functions, members of the governing body may have access to private and confidential information relating to learners, parents, and employees of the public school.

(2) A member of the governing body:

(a) must only use such information for the purpose for which it is disclosed;

(b) must respect privacy and maintain confidentiality in respect of any such information; and

(c) may not divulge such information except to the extent necessary to enable himself or herself to perform the duties or functions or required by law.

7. Duty of members of governing school body relating to property of public school

(1) Every member *of* the governing body must:

(a) exercise utmost care to ensure the reasonable protection of property of the public school; and

(b) act with fidelity, honesty, integrity and in the best interest of the public school when administering, controlling and managing the property of the school.

8. Duty of members of governing body relating to finances of public school

(1) Members of the governing body must:

(a) adopt a budget annually;

(b) approve the annual financial statements, upon the recommendation of the Financial Committee;

(c) open and maintain books of account and establish and administer a school fund;

(d) act with fidelity, honesty, integrity and in the best interest of the public school when administering, controlling and managing the finances of the school;

(e) seek to prevent any prejudice to the financial interests of the public school;

(f) take steps to solicit sponsorships, donations or voluntary contributions from individuals and businesses in the community served by the school for the benefit of the public school in order to improve the quality of education provided by the public school to all learners, but subject to the conditions set out in applicable laws;

(g) take effective and appropriate steps to:

(i) prevent irregular, fruitless, and wasteful expenditure, and losses resulting from any criminal conduct, and any expenditure not complying with the policies of the public school; and

(ij) manage the funds of the public school efficiently and economically;

(h) keep proper records of:

(i) funds received and spent by the school;

(ij) assets and liabilities of the school; and

(iij) the school's financial transactions.

9. Duty to attend meetings of governing body

(1) Members of governing bodies must:

(a) meet at least once every school term;

(b) hold a meeting with each of the following constituencies at least once a year:

(i) parents;

(ij) learners;

(iij) educators; and

(iv) other staff;

(c) report to parents, learners and educators at least once a year;

(d) keep minutes of governing body meetings and make them available for inspection by the provincial Head of Department and any interested person;

(e) attend all meetings held by the governing body or subcommittees of the governing body of which they are members;

(f) apply their mind to matters to be addressed at the meetings of the governing body.

(2) Members of the governing body of a public school who are not able to attend a meeting must seek leave in writing from the Chairperson of the governing body as soon as possible but before the meeting is held. Where a member of a governing body is unable to seek leave before the meeting, he or she must inform the Chairperson of the governing body as soon as it is reasonably practicable to do so.

10. Duty of members of governing body to adopt policy documents

(1) Members of the governing body must adopt:

(a) a constitution;

(b) a mission statement of the public school, setting out the values and beliefs of the school; and

(c) other policies that they are lawfully required to adopt.

(2) Members of the governing body must ensure that any policy that they issue and determine complies with applicable laws and are not discriminatory in any way.

11. Failure to comply with Code

(1) If a member of the governing body fails to comply with the Code, the Head of Department may suspend or remove him or her from office as a member of a governing body in accordance with section 18A of the South African Schools Act.

12. Procedure to be followed before member of governing body is suspended or removed

(1) Before suspending or removing a member of the governing body from office, the Head of the Department must:

- (a) in writing give the member of the governing body notice of his or her intention to suspend or remove the member from the governing body;
- (b) state the reasons for his or her intention;
- (c) give the member 30 days to make written representations concerning the matter;
- (d) consider any representations received.

(2) If the Head of Department thereafter decides to suspend or remove a member from the governing body, the Head of Department must:

- (a) inform the member as soon as practicable of his or her decision in writing;
- (b) provide written reasons for the decision; and
- (c) inform the member that he or she may appeal against the decision to the Member of the Executive Council.

(3) A member who is aggrieved by the decision of the Head of Department may appeal to the Member of the Executive Council in writing, setting out the grounds of the appeal, within 30 days after receiving notice of the Head of Department's decision.

(4) Pending finalisation of the appeal the member may not participate in any business of the governing body.

(5) The Member of the Executive Council must consider the appeal and either confirm or set aside the decision of the Head of Department.

(6) The Member of the Executive Council must as soon as practicable:

- (a) notify the member of the school governing body of his or her decision in writing; and
- (b) provide the member of the school governing body with written reasons for his or her decision.