

PROVINCE OF THE EASTERN CAPE
IPHONDO LEMPUMA KOLONI
PROVINSIE OOS-KAAP

**Provincial Gazette
Igazethi Yephondo
Provinsiale Koerant**

Vol. 16

BISHO/
KING WILLIAM'S TOWN, 26 MARCH 2009

No. 2096
(Extraordinary)

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PROVINCIAL NOTICE

NOTICE 19 OF 2009**DEPARTMENT OF EDUCATION****REGULATIONS ON THE EASTERN CAPE EDUCATION
ADVISORY COUNCIL IN TERMS OF THE EASTERN CAPE
EDUCATION SCHOOLS ACT, 1999 (ACT NO. 1 OF 1999)**

I **MAHLUBANDILE QWASE**, Member of the Executive Council Responsible for education in the Province of the Eastern Cape, acting in terms of section 12 of the Eastern Cape Education Schools Act, 1999(Act No. 1 of 1999) hereby make regulations on the Eastern Cape Education Advisory Council as set out in the schedule hereto.



13/03/2009

MAHLUBANDILE QWASE
MEC FOR EDUCATION

SCHEDULE

CHAPTER A : DEFINITIONS AND INTERPRETATION

1. In these regulations, any word or expression to which a meaning has been assigned in the Act has the same meaning unless the context indicates otherwise, and-

“Administrative Secretariat” means the official or officials of the Department appointed to perform the administrative functions of the Council in terms of section 12(7);

“Council” means the Eastern Cape Education Advisory Council;

“Department” means the department responsible for education in the Province;

“designated organisation” means an institution or organisation contemplated in section 12(1)(c) of the Act;

“Head of Department” means the administrative head of the Education Department in the Province;

“Member of the Executive Council” means the Member of the Executive Council responsible for education in the Province;

“Province” means the Province of the Eastern Cape; and

“the Act” means the Eastern Cape Schools Education Act, 1999 (Act No. 1 of 1999).

CHAPTER B : PURPOSE

2. The purpose of these regulations is to-

- (a) set out the procedure for the appointment of the members to the Council;
- (b) determine the functions of the Council;
- (c) determine the criteria and procedures for the appointment of members of the Council;
- (d) provide for a constitution which shall be binding on all members of the Council;
- (e) determine the term of office of members of the Council;

- (f) provide for the election of an Executive Committee with office-bearers for the Council; and
- (g) determine the administration of the Council.

CHAPTER C : FUNCTIONS OF COUNCIL

3. The Council must-

- (a) assist the Member of the Executive Council in developing education policy for the province;
- (b) consider and make recommendations to the Member of the Executive Council on proposed legislation related to education before it is introduced in the Legislature;
- (c) consider and respond to quarterly and annual reports of the Head of Department;
- (d) perform any function assigned or delegated to it by the Member of the Executive Council in terms of the Act and regulations;
- (e) submit a written report on quarterly basis and an annual report before 31 March on its activities of the previous year to the Member of the Executive Council;

4. The Council may-

- (a) on its own initiative after consultation with the Member of the Executive Council or at the request of the Member of the Executive Council, investigate and consider matters regarding education and report on its findings to the Member of the Executive Council;
- (b) on its own initiative or at the request of the Member of the Executive Council, make recommendations to the Member of the Executive Council on matters regarding education in the province;
- (c) establish subcommittees if such committees are required to carry out the functions contemplated in paragraphs (a) to (b) of this regulation and regulation 3 above.

CHAPTER D : PROCEDURE FOR THE APPOINTMENT OF MEMBERS OF THE COUNCIL

5. When the Member of the Executive Council intends to appoint members to the Council he or she may-

- (a) place an advertisement requesting nominations by institutions and organisations referred to in section 12(1) of the Act; and
- (b) consider the nominations and appoint members of the Council.

6. The advertisement contemplated in paragraph (a) of regulation 5 may specify-

- (a) the function and duties of the Council;
- (b) the categories of institutions and organisations from whom members may be appointed;

7. An institution or organisation responding to the advertisement contemplated in paragraph (a) of regulation 5 must-

- (a) indicate its identity and contact details of its proposed representative;
- (b) indicate the constituency or interest group that it represents;
- (c) provide evidence that its constitution or rules governing the admission of members to the institution or organisation do not violate the provisions of section 9 of the Constitution of the Republic of South Africa, 1996;
- (d) provide evidence of its interest and involvement in the improvement of quality and equity in the education system in the Province; and
- (e) nominate a person who has demonstrable understanding and interest in the improvement of quality and equity in the education system in the Province.

CHAPTER E : CONSTITUTION AND AMENDMENT OF CONSTITUTION

8. (a) The constitution of the Council contained in Annexure A shall be binding on all members of the Council.

(b) The Council may, by a majority of two-thirds of its members present at a meeting, amend the constitution.

CHAPTER F : TERM OF OFFICE OF MEMBERS OF COUNCIL

9. (a) The term of office of a member of the Council shall be two (2) years and shall be renewable, subject to paragraph (e) of this regulation.

(b) A decision by an institution or organisation to cease or suspend its participation in the Council must be communicated in writing to the Member of the Executive Council and to the Chairperson of the Council, and a member who represents such an institution or organisation ceases to be a member of the Council from the date of such communication, permanently or temporarily, as the case may be.

(c) A decision by an institution or organisation to replace its representative on the Council must be communicated in writing to the Member of the Executive Council and to the Chairperson of the Council.

(d) If an institution or organisation replaces its representative on the Council as contemplated in paragraph (c) of this regulation, the duration of the term of office of the new member shall be the remainder of the term of office of the member replaced.

(e) A member of the Council appointed by the Member of the Executive Council in terms of section 12(1) of the Act may be reappointed by the Member of the Executive Council.

(f) The resignation of a member of the Council contemplated in paragraph (e) of this regulation must be communicated in writing to the Member of the Executive Council and to the Chairperson of the Council.

(g) Two (2) months before the expiry of the term of office of a member of the Council who represents an institution or organisation, the Member of the Executive Council must notify the member of such expiry.

10. The Member of the Executive Council may, after consultation with the Council, remove a member of the Council from office if-

(a) the member fails to attend three consecutive meetings of the Council without leave or good cause; or

(b) the member is incapacitated as a result of ill health; or

(c) the performance or conduct of the member is found, after a fair hearing has been given to such member by the Executive Committee and after the Member of the Executive Council has given due consideration to the outcomes of such hearing, to be prejudicial to the interests of the Council.

CHAPTER G : OFFICE BEARERS AND EXECUTIVE COMMITTEE

11. As soon as is possible after the commencement of its operations and on or before the same date every succeeding year, the Council must elect from amongst its representatives an Executive Committee which shall be made up of-

- (a) a Chairperson, who shall be the Chairperson of the Council;
- (b) a Vice Chairperson, who shall be the Vice Chairperson of the Council;
- (c) a Secretary, who shall be the Secretary of the Council; and
- (d) any other person the Council considers appropriate, except that the number of members of the Executive Committee may not exceed six (6) persons.
- (e) The term of office of a member of the Executive Committee shall be for a period of one year and may be renewable.

12. The Chairperson of the Council must-

- (a) preside over meetings of the Council;
- (b) sign the minutes of meetings of the Council after they have been confirmed; and
- (c) perform any other functions and duties assigned to the Chairperson of the Council in terms of these regulations.

13. The Vice Chairperson of the Council must perform the duties and functions of the Chairperson contemplated in regulation 12 whenever the Chairperson is absent or for any reason unable to perform those functions and duties.

14. If both the Chairperson of the Council and the Vice Chairperson of the Council are absent or unable to perform the functions and duties contemplated in regulations 12 and 13, the Council must, by show of hands, choose from the members present, a person to preside over the meeting.

15. The Secretary of the Council must ensure that the administrative and secretarial work arising from the functioning of the Council is performed by the Administrative Secretariat, including-

- (a) maintaining a record of members of the Council;
- (b) recording the minutes of all meetings of the Council and its Executive Committee and subcommittees and retaining such minutes and other Council documentation;
- (c) ensuring that minutes and other relevant documentation are sent timeously to participants in the meetings contemplated in paragraph (b) of this regulation;
- (d) managing the correspondence of the Council and keeping originals of letters received and of letters sent;
- (e) making significant correspondence that has taken place since the previous meeting available at each meeting contemplated in paragraph (b) of this regulation; and
- (f) producing the report contemplated in paragraph (e) of regulation 3.

16. The Executive Committee may, subject to the approval of a majority of members of the Council, remove a member of the Executive Committee from office if-

- (a) the member fails to attend three consecutive meetings of the Executive Committee without leave or good cause; or
- (b) the member is incapacitated as a result of ill health; or
- (c) the performance or conduct of the member is found, after a fair hearing has been given to such member by the Executive Committee and after the Executive Committee has given due consideration to the outcomes of such a hearing, to be prejudicial to the interests of the Council.

17. If for any reason a vacancy arises in the Executive Committee before the end of the one-year period contemplated in regulation 10, the Council may fill the vacancy for the remaining period of office.

CHAPTER G : MEETINGS OF COUNCIL

18. The Council and its Executive Committee must meet at least four times a year.

19. If consensus on any substantive matter for discussion by the Council is not attainable, the range of divergent views, together with a clear indication of which members of the Council hold the respective divergent views, must be recorded in

writing in the minutes of the meeting and submitted to the Member of the Executive Council.

CHAPTER H : ADMINISTRATION

20. The Head of Department must designate at least one (1) person in the employ of the Department with appropriate competencies to assist the Council in the performance of its functions and duties. This official will be the Administrative Secretary of the Council.

21. The Head of Department will perform all financial functions relating to the Council.

CHAPTER I : ALLOWANCES FOR MEMBERS OF COUNCIL

22. A member of the Council who is not in the full time employment of the State may be paid, out of monies appropriated for this purpose by the Legislature, such allowances as the Member of the Executive Council may determine, with the concurrence of the Member of the Executive Council responsible for finance in the Province.

CHAPTER J : TRANSITIONAL ARRANGEMENTS

23. The Head of Department must take the necessary steps to convene the first meeting of the Council.

CHAPTER K : REPEAL OF LAWS

24. Regulations in relation to the qualification, appointment and term of office of members of the Eastern Cape Education and Training Council published under Provincial Notice No. 45 in the Provincial Gazette of 5 September 2002, are hereby repealed.

ANNEXURE A

CONSTITUTION OF THE EASTERN CAPE EDUCATION ADVISORY COUNCIL

1. OBJECTIVE OF THE COUNCIL

The Council shall strive to co-ordinate the contribution of education stakeholders in order to arrive at, and establish agreements on, the resolution of crises in education, to provide a platform for stakeholders to contribute toward the effectiveness and efficiency of the Eastern Cape Department of Education ('the Department'), and to contribute towards broad policy frameworks for the democratic transformation of education which address the human, social and economic needs of the Province.

To achieve its mission the Council shall endeavour to bring government and civil society formations into constructive relationships for the reconstruction and development of the education sector.

The Council shall strive to establish itself as a conduit through which the Member of the Executive Council for Education ('the MEC') is able to access public opinion and through which organisations in civil society can lobby the MEC on policy issues, and civil society formations are able to debate proposals and initiatives and formulate proposals for submission to the MEC.

2. VISION OF THE COUNCIL

The Council, as a consultative structure, shall strive to build constructive relationships among stakeholders through whom the Member of the Executive Council is able to access public opinion on policy and the state of education in the Province.

3. MISSION OF THE COUNCIL

The mission of the Council, as a broad-based structure consisting of stakeholders in education, is to advise the Member of the Executive Council on the improvement of quality and equity in the education system in the province.

4. DEFINITIONS

In this Constitution, the following terms shall have the meanings hereby assigned to them unless the context indicates otherwise:

- 4.1 **“Administrative Secretariat”** means the person(s) designated by the Head of Department to provide administrative support to the Council.
- 4.2 **“Constitution”** means the Constitution of the Council.
- 4.3 **“Council”** means the Eastern Cape Education Advisory Council.
- 4.4 **“Consensus”** means, in respect of any matter to be decided by Executive Committee and the Council, agreement on the matter by all who are present at a meeting of the Council or of the Executive Committee. If consensus is not attained at a meeting of the Council, all divergent views together with a clear indication of which representatives hold the respective divergent views must be recorded in writing and submitted to the MEC.
- 4.5 **“Executive Committee”** means the group of members elected by the Council into one of the portfolios of the Executive Committee specified in 5 hereunder (Council Structure).
- 4.6 **“Member”** means a member of the Council or of the Executive Committee, as the context dictates and may include a Representative or an Appointee.
- 4.8 **“Quorate Executive Committee Meeting”** means a meeting of the Executive Committee attended by 50% plus one of its members.
- 4.9 **“Representative”** means a person who represents an institution or organisation on the council.
- 4.10 **“Sub-Committee”** means a subcommittee established by the Council.

5. COUNCIL STRUCTURE

- 5.1. The Council shall be a two-tiered organisation comprising:
 - a Council; and
 - a Executive Committee.

- 5.2 The Council shall comprise Representatives.
- 5.3 The Executive Committee shall consist of Members elected by the Council from within the ranks of the Council. The Executive Committee shall consist of a Chairperson, who shall additionally be the Chairperson of the Council by virtue of her or his election as Chairperson of the Executive Committee, a Vice-Chairperson, a Secretary and additional members, but may not exceed six (6) members in total.
- 5.4 Executive Committee, in consultation with the Council, shall prioritise, organise and co-ordinate the activities of the Council, set the agenda for each meeting of the Council and draft additional rules for the conduct of meetings for approval by the Council.
- 5.5 The Council may establish Sub-Committees to improve its effectiveness and efficiency and to investigate matters that are in the domain of the Council. The Council may co-opt persons with the necessary expertise from outside the Council to such Sub-Committees. All Sub-Committees of the Council shall be convened and chaired by a member of the Council.
- 5.7 The Council may delegate any power, function or duty to its Sub-Committees or to the Executive Committee, and may amend or rescind any decision of a Sub-Committee or the Executive Committee.
- 5.8 The Administrative Secretariat of the Department shall attend meetings of the Council, the Executive Committee and Sub-Committees.
- 5.9 The Administrative Secretariat shall prepare the draft annual report of the Council which, upon adoption by the Council, shall be presented by the Chairperson to the MEC.
- 5.10 The Administrative Secretariat shall prepare the draft annual budget of the Council which, upon adoption by the Council, shall be presented by the Chairperson to the MEC.

6. PRINCIPLES

- 6.1 The Council shall, through a process of open dialogue and consultation, strive to reach consensus on all issues placed before it.
- 6.2 If consensus is not reached, minority reports can be submitted to the MEC by the Council.
- 6.3 The Council shall use all appropriate means to ensure that it functions in a transparent and publicly accountable manner.

7. BASIS FOR RULES OF THE COUNCIL

- 7.1 The Council shall at all times operate in accordance with this Constitution.
- 7.2 The Council shall formulate standing orders and rules to regulate its operation and the operations of its Sub-Committees and Executive Committee, including rules governing meetings.

8. ELECTION OF THE EXECUTIVE COMMITTEE

- 8.1 Nominations for membership of the Executive Committee shall be called for thirty (30) days in advance of the election by the Administrative Secretariat, which shall set a date for the election meeting and a deadline for nominations.
- 8.2 All nominations shall be presented in writing by a Member and seconded in writing by a Member. Designated alternates may not stand for election, or nominate or second Members.
- 8.3 A candidate shall accept his or her nomination in writing.
- 8.4 At the election meeting, candidates may make a verbal presentation in support of their candidacy, or present a written motivation for the same purpose, or both.
- 8.5 The Electoral Officer for the election of the Executive Committee shall be the Head of Department or his or her nominee.
- 8.6 The election shall be conducted by secret ballot.
- 8.7 Each Member shall write the names of up to six (6) candidates on as many separate ballot papers as the Member has decided to vote for.
- 8.8 Once ballots have been cast and counted, the Electoral Officer shall immediately announce the names of the candidates most frequently voted for, and these candidates shall be the Members of the Executive Committee. All ballot papers must be kept by the Electoral Officer for thirty (30) days after the election and then destroyed.
- 8.9 The Member of the Executive Committee who receives the most votes shall be the Chairperson of the Executive Committee and of the Council. The Member of the Executive Committee who receives the second most votes shall be the Vice-Chairperson of the Executive Committee and of the Council. The Member of the Executive Committee who receives the third most votes shall be the Secretary of the Executive Committee and of the Council. Other positions on

the Executive Committee shall be decided at the first meeting of the Executive Committee by consensus, or by secret ballot organised by the Chairperson if consensus cannot be reached.

9. DOCUMENTATION FOR MEETINGS

The Administrative Secretariat must send all relevant documentation to participants at least 10 days prior to any meeting of the Council and its Executive Committee and Sub-Committees.

10. MEETINGS AND MEETING PROCEDURES

- 10.1 Ordinary meeting agenda items must be requested by the Administrative Secretariat in writing fifteen (15) days before an ordinary meeting of the Council and received within five (5) days thereafter, except for urgent matters, which may be included on the agenda at the meeting, provided that a majority of members present support such inclusion.
- 10.2 The Administrative Secretariat must circulate copies of minutes and other relevant documentation to each participant within fourteen (14) days after any meeting of the Council and its Executive Committee and Sub-Committees.
- 10.3
 - (a) A special meeting of the Council with a single agenda item must be convened if a majority of Members of the Council sign a petition requesting such a meeting and submit such petition to the Chairperson of the Council, provided that the petition indicates the agenda item in question and contains a motivation for the request.
 - (b) The Administrative Secretariat must prepare a written notice of a special meeting of the Council stating the date, time and venue of the meeting and the agenda item to be discussed, and must send the notice to each member of the Council at least 10 days before the date of the meeting.
 - (c) The date of a special meeting must be within 20 days of the Chairperson of the Council receiving the petition contemplated in paragraph (a).
- 10.4 If a participant cannot attend a meeting any meeting of the Council or its Executive Committee and Sub-Committees, his or her comments and views on issues to be deliberated may be made known in advance and in writing to the Administrative Secretariat. Apologies for such absence must reach the Administrative Secretariat at least 5 (5) working days week before the date a meeting is scheduled to take place.
- 10.5 All comments at a meeting of the Council shall be directed through the Chair.
- 10.6 A motion proposed at a meeting of the Council may not be considered unless it has been seconded. The Chairperson may require that a motion be submitted in writing, in which case the Chairperson must read the motion to the meeting.