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PROVINCIAL NOTICE

[No. 237 of 2012]

MEASURES RELATING TO ELECTIONS OF SCHOOL GOVERNING BODIES OF ORDINARY PUBLIC SCHOOLS

Under sections 45 and 46 of the Free State School Education Act, 2000 (Act No. 2 of 2000), the Member of the Executive Council responsible for Education, hereby determine the following Measures as set out in the Schedule.

SCHEDULE

Definitions

1. In this Notice, any word or expression to which a meaning has been assigned in the Act, has the meaning so assigned to it, unless the context indicates otherwise, and –

“**district director**” means an educator appointed permanently or temporarily or acting as head of an education district;

“**member**” means a member of the governing body of a school, nominated, elected or co-opted in terms of this Notice and the Act and “**members**” have a corresponding meaning;

“**members of staff who are not educators**” means staff members appointed according to the Public Service Act, 1994 (Act 103 of 1994) who are not educators at the institution, including those employed by the school;

“**prescribed form**” means the relevant form(s) as provided by the Department for purposes of the election process;

“**the Act**” means the Free State School Education Act, 2000 (Act No. 2 of 2000).

2. **Duties of Provincial Elections Co-ordinator**

The duties of Provincial Elections Co-ordinator are to –

- (a) ensure that there is adequate publicity of the election date;
- (b) ensure compliance with national guidelines and provincial procedures with regard to elections;
- (c) coordinate the election and make sure that the province makes available the necessary human, material and financial resources to conduct efficient and fair School Governing Body election;

- (d) develop materials and procedures for the training of district and school electoral officers and ensure that this training takes place as planned;
- (e) develop and provide templates of all documents required for the elections in the province in line with the national guidelines;
- (f) resolve disputes related to the elections which could not be resolved at school or district levels;
- (g) monitor and evaluate the election process in the province;
- (h) adapt the templates to suit provincial monitoring objectives; and
- (i) develop a database of School Governing Bodies on taking office.

3. The District Electoral Officers

The electoral officer of the district must be a senior district official and the electoral officer of a public school must be the principal of another school in which election is going to be held.

4. Duties of the District Electoral Officer

The duties of the District Electoral Officer are to –

- (a) co-ordinate the election processes in the district;
- (b) advise the district on the proposed strategy and implementation of the election in the district and then see that the agreed process is conducted as agreed;
- (c) compile a management plan to implement the provincial measures;
- (d) ensure that each school has an electoral officer in line with provincial measures and that the school election teams are established;
- (e) ensure that each election official working at school level is adequately trained and is aware of what his or her role entails;
- (f) ensure that all electoral officers receive the provincial election measures and other documents in good time;
- (g) ensure that election advocacy is conducted as planned;
- (h) monitor the election process by visiting a number of schools during the election;
- (i) ensure that the school electoral officers have informed the district or regional office in writing of the dates of the election and of the names and addresses of the persons elected to governing bodies on the prescribed form;

- (j) ensure that the prescribed form is received from the school principal with information to at least cover aspects such as, gender, race, disability, education level of parent component and governing body portfolio held, by the relevant new governing body members and that such form is handed to the district within 14 days after the elections;
- (k) manage the completion of election of governing body members;
- (l) resolve disputes related to the decisions which could not be resolved at school level;
- (m) compile a district report on elections and submit it to the provincial co-ordinator within 14 days after completion of the elections;
- (n) appoint one or more officers as deputy electoral officers to assist an electoral officer of a public school where necessary.

5. The School Electoral Officer

The School Electoral Officer will be the Principal of another school.

6. Duties of the School Electoral Officer before the elections

The Duties of the School Electoral Officer before the elections are to –

- (a) prepare a notice giving details of the date, time and venue of the nomination meeting and election;
- (b) ensure that eligible voters receive notice of the nomination meeting and election in time;
- (c) ensure that nomination forms are available at the principal's office and during the nomination meeting;
- (d) ensure that there is a suitable venue for the nomination meeting and election;
- (e) ensure that there is a voters' roll which the school should prepare, and that it is accurate;
- (f) ensure that the election team knows what process will be followed, and that resources that will be needed, are available, such as the box for votes, a board to write names of nominees, paper for voting, etc.

7. Duties of the School Electoral Officer during the elections

The duties of the School Electoral Officer during the elections are to –

- (a) explain the procedure for nominations and elections to the voters;

- (b) subject to subparagraph (c), let the nominees introduce themselves orally or in writing by stating the following –
 - (i) their names;
 - (ii) name and grade of their children at the school;
 - (iii) their occupation, experience or skills; and
 - (iv) their vision for the school;
- (c) allow the candidate to introduce him- or herself at the nomination meeting in accordance with subparagraph (b), or if the information referred to in subparagraph (b) was submitted in writing and the candidate is not present, read such information at the nomination meeting;
- (d) manage the election process;
- (e) intervene and resolve any disputes.

8. Duties of the School Electoral Officer after the elections

The duties of the School Electoral Officer after the elections are to –

- (a) submit the governing body data to the district director within 14 days from the election in order for the district director to issue letters of acknowledgement of the outcome of the election to new governing body members within 90 days of the election;
- (b) submit election results and voters' roll to the district office within 14 days of election;
- (c) submit governing body data to the district office within 14 days after the elections.

9. The Code of Conduct of Electoral Officers

Electoral officers must –

- (a) behave with honesty and dignity;
- (b) behave in an unbiased way;
- (c) be familiar with election measures;
- (d) carry out the election in terms of the Notice and the Act;
- (e) liaise in a co-operative manner with school managers and line management;
- (f) explain the nomination and election procedures clearly to all participants;
- (g) make sure that all forms, ballot papers and registers are available;
- (h) manage the voting process in an effective manner;

- (i) deal with difficulties that may arise with tact and clear direction;
- (j) be polite and answer questions effectively; and
- (k) not exceed their powers.

10. Membership of governing body of ordinary public schools

A member contemplated in –

- (a) section 39(2)(a) of the Act must be elected by parents;
- (b) section 39(2)(b) of the Act must be elected by educators of the school;
- (c) section 39(2)(c) of the Act must be elected by members of the staff who are not educators at the school; and
- (d) section 39(2)(d) of the Act must be elected by the learners at the school.

Disqualification of members of a governing body

11. A person shall be ineligible to be a member of a governing body if he or she –

- (a) is mentally ill and has been so declared by a competent court;
- (b) is an unrehabilitated insolvent;
- (c) has been convicted of an offence and sentenced to imprisonment without an option of a fine for a period exceeding six months or has not yet served his or her full period of imprisonment; or
- (d) does no longer fall within the category of members which he or she represented at the time of the election.

Office-bearers and terms of office of governing bodies

- 12.**
- (1) A governing body must, from amongst its members, elect office-bearers, who must include at least a chairperson, a treasurer and a secretary: Provided that these office bearers are elected at the first meeting of the governing body which must be held in accordance with paragraph 37 within 14 days after the election of the governing body.
 - (2) Only a parent member of a governing body, who is not employed by the school may serve as the Chairperson of the governing body.
 - (3) A non-educator or parent member may serve as the treasurer, but not an educator or the principal.
 - (4) An educator, non-educator or parent member may serve as the secretary.

- (5) Subject to the provisions of this paragraph and sections 47 and 52 of the Act, the members of a governing body shall hold office until a new governing body is constituted.

Formulae for the calculation of the number of the members of the governing body

13. (1) At a school –

- (a) which does not enrol learners in the eighth grade or higher, there must be no learner members and the number of parent members must be reduced by the number of learner members as set out in the table in subparagraph (4) and the total number of members must be reduced accordingly;
- (b) where no non-educators are employed, the number of parent members as set out in the table in subparagraph (4) must be reduced by one and the total number of members must be reduced accordingly;
- (c) with less than three educators, the principal must also represent the educators of the school and the number of parent members as set out in the table in subparagraph (4) must be reduced by one and the total number of members must be reduced accordingly.

(2) Under all circumstances, the number of parent members must comprise one more than the combined total of the other members of a governing body who have voting rights.

(3) Whenever a category which did not exist at the time when a governing body was constituted becomes relevant, a by-election must be held to fill such vacancy and to increase the number of parent representatives in accordance to subparagraph (2).

(4)

| Categories of members | Number of learners at the school | | |
|-------------------------|----------------------------------|-----------|---------------|
| | Less than 300 | 300 – 900 | More than 900 |
| Parents | 5 | 7 | 9 |
| Learners | 1 | 2 | 3 |
| Educators | 1 | 2 | 3 |
| Non-educators | 1 | 1 | 1 |
| Principal | 1 | 1 | 1 |
| Total number of members | 9 | 13 | 17 |

The registration of voters

14. (1) A voters’ roll for each of the categories must be available containing the names of all eligible parents, educators, non-educators and learners as follows:

- (a) The voters’ roll for parents must be based on the school admission register.
- (b) The voters’ roll for educators must consist of all educators employed at the school.

- (c) The voters' roll for non-educators must consist of all non-educators employed at the school.
 - (d) The voters' roll for learners must be based on information contained in the school admission register.
- (2) The principal must at least 14 days prior to the date of the election for parent members place the register containing the names and addresses of the parents of learners of the school concerned, at the disposal of such parents as well as the electoral officer.
 - (3) If the names of parents do not appear on the admission register or if the information is incorrect, parents must complete the relevant prescribed form in order to update the admission register for purposes of the election.
 - (4) The voters' roll must be available for public scrutiny 14 days prior to the date of election.
 - (5) All nominators, seconders and candidates must be people who are listed on the voters' roll.

Franchise

- 15. Any person who belongs to a specific category of members of a governing body contemplated in section 39 of the Act shall have one vote in respect of each candidature in such category with a maximum number of votes equal to the number of members to be elected for that category under paragraph 13.

Scheduling of Election for Parent Component of the Governing Body

- 16. The election of the parent component of the governing body is preceded by the election of the other components (i.e. educators, non-educators and learners) and the elections of the parent component can run over a whole day or part of a day.

Notifications for Parent Component

- 17. The electoral officer of the school must prepare notices in the prescribed form, in which the date, time and place of the nomination and election meeting(s) must be stated.
- 18. The electoral officer of the school must ensure that the notices regarding the nominations and elections are distributed and displayed in prominent places at the school and in the community at least 21 days prior to date of the nominations and elections and hand the notice prior thereto to the principal.
- 19. The principal must –
 - (a) at least 14 days prior to the date of the nomination and election meeting(s) for parent members hand a copy of the notice contemplated in paragraph 17 to every learner of the school concerned with the oral instruction to hand it to his or her parents;

- (b) alternatively, at least 21 days prior to the date of the nomination and election meeting(s) for parent members send a copy of a notice contemplated in paragraph 17 to the parents of every learner of the school by post, if he or she deems it expedient; or
- (c) use a combination of the two notification methods above, supplemented with any other method that works for the school community, as long as it in no way disadvantages any members of the school community.

20. Whatever method is used as mentioned in paragraph 19, the notices must be in the language of the school's instruction, and where necessary, in the home language of learners.

Nomination procedure for Parent Component

21. (1) A candidate may be nominated and seconded only by a person belonging to the same category of members of a governing body to which the candidate belongs, by -
- (a) lodging with the electoral officer of a school, not more than seven days and not less than 24 hours prior to the commencement of the nomination meeting, a nomination form duly completed by the proposer, seconder and candidate; or
 - (b) proposing a person as a member of the governing body during the nomination part of the meeting, provided that another person from the category concerned seconds the proposal and a nomination form duly completed by the proposer, the seconder and the candidate, is lodged with the electoral officer of the school.
- (2) The electoral officer of the school must determine the time to be allowed for the nomination of candidates during the nomination meeting, and must inform the meeting thereof.
- (3) After expiry of the time for nomination referred to in subparagraph (2), the electoral officer must -
- (a) consider the nominations and reject the nomination of any candidate who -
 - (i) has not been nominated in accordance with subparagraph (1);
 - (ii) is incompetent as disqualified in paragraph 11; or
 - (iii) in the case of a nomination referred to in subparagraph (1)(b), has not completed the said nomination form, unless written proof to the satisfaction of the electoral officer of the school is submitted before the expiry of the time referred to in subparagraph (2), that such candidate will be willing to serve as a member of the governing body;
 - (b) announce the names of the candidates whose nominations have been accepted.
- (4) If the total number of candidates whose nominations have been accepted -
- (a) is less than the number of members determined in terms of paragraph 13 in respect of the category concerned, a new meeting at which new candidates must be nominated shall be convened within 21 days;

- (b) is equal to the number of members determined in terms of paragraph 13 in respect of the category concerned, the electoral officer must declare every accepted candidate to be an elected member of the governing body; or
- (c) is more than the number of members determined in terms of paragraph 13 in respect of the category concerned, an election must be held in accordance with paragraph 23.

Quorum Parent Component

22. For purposes of the election 15 % of the parents of the total number of learners in the school must vote and if the required percentage is not met, the election must be re-scheduled for another day and the same process described in paragraphs 17 to 31 must be repeated.

Election of Parent Component

23. (1) The election contemplated in paragraph 10 (a) must be held on the date, time and place as determined, which date, time and place may be on the same day as the nomination meeting, but not later than 14 days after the nomination meeting.
- (2) The Electoral Officer must explain the proceedings to be followed and must stipulate that every nominated candidate will have the opportunity to state at least:
- (a) His or her name;
 - (b) The names and grades of his or her children in the school;
 - (c) Occupation and experience or skills; and
 - (d) Vision for the school (this should be brief and not include promises).
24. Before the ballot papers are distributed, the Electoral Officer must:
- (a) Ensure that every ballot paper has the school stamp on it, or some other distinguishing feature which prevents the ballot papers from being tampered with; and
 - (b) Explain the voting process, the minimum and maximum number of candidates to be voted for, as well as how to record the voting either by using numbers or by writing names or both, as indicated below.
25. Every person with the right to vote must be assisted to record his or her vote. Before the election meeting, the Electoral Officer must determine what is written on the ballot paper by:
- (a) Preparing papers with numbers on them and making sure that, once nominated, each nominee has a number corresponding to a number on the ballot paper; and
 - (b) Preparing papers with the names of all known nominees (those who were nominated before the meeting) in alphabetical order based on surnames, and allowing voters to add the names of extra nominees (those coming from the floor during the meeting);
 - (c) Distributing blank paper and the voters' list with the names or numbers of nominations in order of choice.

26. Whichever method is chosen, the guiding principle must be allowing for maximum participation and easy management.
27. A person with a right to vote must record his or her vote on the ballot paper in secrecy and deposit the folded ballot paper in a box or other closed container provided for the purpose, such as a ballot box.
28. An illiterate person or a person not able to vote because of a physical disability may, at his or her own request, be assisted by the Electoral Officer and a witness identified by the person.
29. The Electoral Officer will reject a ballot paper:
 - (a) Which is without the official mark or Provincial Education/School stamp;
 - (b) With more votes recorded than the number of members to be elected; and
 - (c) Which is completed in such a way that it is uncertain as to which candidate or candidates a vote was recorded for?.
30. After the rejection of any spoilt ballot papers, the Electoral Officer must:
 - (a) Count the votes in the presence of every candidate who wishes to be present;
 - (b) State to the whole meeting the name of each candidate and the number of votes cast for each;
 - (c) Complete the counted ballot papers form in order of the most votes to the least votes; and
 - (d) Declare who has been duly elected, the person with the most votes is named or listed first and the one with least votes is named or listed last.
31. Where the number of votes recorded for two or more candidates is equal and it affects the result of the poll, the Electoral Officer must ascertain the result with regard to the said candidates by drawing lots or by using some other method that allows for a random selection between the tied candidates: Provided that it is done openly and by agreement of the candidates.

Nomination and Election Procedure for the Educator Component of the Governing Body

32. The nomination and election of the educator component of the governing body must take place as follows:
 - (a) The electoral officer of the school will decide a date, time and place for the election meeting for educator members, which meeting must be held at least 7 days before the election of the parent members;
 - (b) The principal must give the electoral officer of the school a list of all educators in the school, which will serve as the voter's roll;

- (c) The electoral officer of the school must give every educator at the school a copy of the prescribed form setting out the notice of the election meeting at least 14 days before the day of the meeting;
- (d) An educator can only be nominated and seconded on a prescribed form by another educator employed at the school;
- (e) Educators can be nominated by handing in a completed nomination form to the electoral officer of the school directly or through the school's principal before the election day;
- (f) Educators being nominated at the meeting will need another educator present to second the nomination, and the nomination form will have to be properly completed and handed in to the electoral officer within the time that the electoral officer of the school has allowed for this purpose;
- (g) If the total number of valid nominations is equal to the required number of educator members, the nominated candidates are declared to be duly elected, and the electoral officer of the school must sign a declaration indicating that members were not elected by secret ballot, and that he or she allowed an opportunity for more nominations;
- (h) If nominations are less than the number required for the educator component of the school governing body, the electoral officer of the school must convene another meeting before the parent's election meeting;
- (i) If the nominated candidates are more than the required number of educators, elections must be conducted by secret ballot on the prescribed form setting out the ballot paper in accordance with the process as described for the election of parent members.

Nomination and Election Procedure for Members of Staff at the School who are Not Educators

33. The procedure for the election of the non-educator school staff members of the governing body is as follows:
- (a) The procedure as set out in paragraph 32 for the nomination and election of the educator component applies, with the necessary changes, to this category of the governing body;
 - (b) In cases where there is no non-educator at the school, the position will be left unfilled;
 - (c) Where there is one non-educator, that person is regarded as duly elected to the governing body;
 - (d) Where there are two non-educators at a school, the electoral officer of a school may draw lots to determine who must be appointed as a member of the governing body.

Nomination and Election Procedure for Learner Members

34. The procedure for the election of learner members of the governing body is as follows:
- (a) Seven days notice must be given to members of the representative council of learners before the nominating and election meeting.
 - (b) Candidates who must be members of the representative council of learners of the school or nominated by the Council may be nominated by submitting to the Electoral Officer a nomination form, duly completed by the candidate, the proposer and the seconder, more than one day before the date of the nomination and election meeting.
 - (c) Both the proposer and seconder must be members of the Representative Council of Learners of the school.
 - (d) Nominations will also be accepted at the nomination and election meeting.
 - (e) If candidates cannot be present at the nomination meeting, written proof must be submitted at the meeting that the candidate is willing to serve as a member of the governing body.
 - (f) An election meeting will be held on the same day as the nomination meeting mentioned above.
 - (g) The Teacher Liaison Officer will conduct the nominations and elections.
 - (h) The number of learners elected to the governing body should be in line with the Formulae for the calculation of members of the Governing Body as per category indicated.
 - (i) The learners must be made aware of section 53 of the Act, which outlines the status of minors on the governing body.

Decision of Electoral Officer of the school

35. (1) The electoral officer of the school must decide all matters connected with the nomination of candidates and the election referred to in paragraphs 17 to 31, 32 and 33 and his or her decision is final.
- (2) An appeal against the decision of the electoral officer of the school may be lodged with the electoral officer of the district within 7 days of the election day.
- (3) An appeal against the decision of the electoral officer of the district may be lodged within 30 days from receiving the decision of the electoral officer of the district to the responsible Executive Member.

Procedure after election of governing body

36. After the election of a governing body the electoral officer of the school must –

- (a) place all documents, including ballot papers, used at such election in envelopes and seal the envelopes;
- (b) keep those envelopes in safe custody for a period of at least three months from the date of the election of the governing body concerned;
- (c) notify each member in writing of his or her election;
- (d) notify the principal forthwith in writing of the date of the election and of the names and addresses of the persons elected as members including the names and addresses of the persons declared elected and request the principal to inform the parents of the election results within 14 days;
- (e) inform the district director in writing of the date of the election and of the names and addresses of the persons elected as members; and
- (f) submit an undisputed election declaration where it was the case, or a declaration detailing any disputes to the relevant district director.

37. The first meeting after the elections

- (1) The School Principal must convene the first meeting of the governing body within 14 days after notification of the results of the election;
- (2) At the first meeting of the governing body, such body must, from among its members, elect office-bearers including at least a Chairperson, a Treasurer and a Secretary. The Chairperson must be a parent member of the governing body;
- (3) Where for any reason the position of any office-bearer becomes vacant, the governing body must, subject to the above provisions, at the first meeting after that vacancy has occurred elect one of its members to fill that vacancy for the remaining period of office of his or her predecessor;
- (4) The Principal must preside over the meetings referred to above if both the positions of Chairperson and Vice-chairperson are vacant. Otherwise the Chairperson, or if he or she is not available, the Vice-chairperson should preside;
- (5) The Principal should inform the governing body, before choosing office-bearers, of their responsibilities and need to ensure that office-bearers are representative, where possible, of the gender and racial diversity of the school.
- (6) The Principal must, after a meeting at which new office-bearers have been elected in accordance with this measure, notify within 14 days, the District Director in writing of the date of the meeting and of the name, address and positions of the persons elected by completing the data form. The Principal is required to inform the Department of any changes in membership of the governing body within 14 days of those changes being effected, to ensure that the database is up to date.

- (7) The Principal, as a member of the old and new governing body, should manage the handing-over process by:
- (a) Officially handing over all governing body files to the new governing body;
 - (b) Conducting an induction session for the new members; and
 - (c) Answering any questions that the new governing body may have.
 - (d) Compiling a list of handover documents indicating the minimum documents that are handed over to the incoming governing body

By-elections

38. (1) The chairperson of the governing body must inform the District Director of any vacancies, and request him or her to arrange for a by-election.
- (2) An electoral officer of a school must be appointed for each by-election.
- (3) A by-election in accordance with this Notice to fill the vacancies, must be held whenever –
- (a) the number of parent members of a governing body falls to a number equal to or less than the total of the other members of the governing body;
 - (b) the number of members who, at the constitution of a governing body, were elected, or declared elected, falls to a number equal to or less than the quorum referred to in the constitution of a fully constituted governing body; or
 - (c) a category of members of a governing body referred to in section 39 of the Act is no longer represented on a governing body.
- (4) A vacancy shall occur in a governing body if a member -
- (a) resigns;
 - (b) dies;
 - (c) becomes disqualified as contemplated in paragraph 11 or section 18A(5) of the National Act;
 - (d) absents himself or herself from three or more consecutive meetings of the governing body without the authorisation of the governing body to do so; or
 - (e) does no longer fall under the category contemplated in section 39 of the Act.
- (5) Whenever a vacancy occurs as envisaged in subparagraph (3), a by-election must be held within 90 days of the occurrence of such vacancy.
- (6) A member elected in accordance with this paragraph remains in office for the unexpired term of office of his or her predecessor.

Repeal notice

39. Provincial Notice number 106 of 2006 is hereby repealed.

Short title

40. This notice is called Measures relating to Elections of Governing Bodies of Public Schools (Excluding Special Public Schools), 2012.