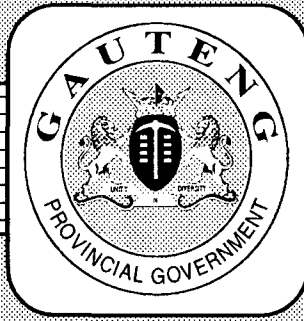


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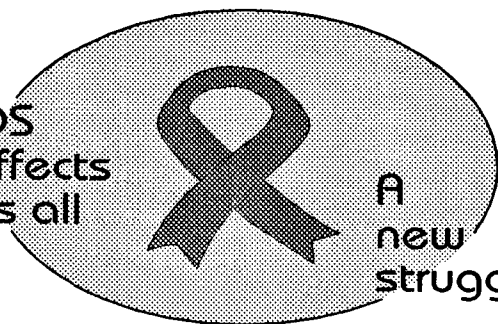
Vol. 9

PRETORIA, 7 JULY 2003
JULIE 2003

No. 262

We all have the power to prevent AIDS

AIDS
affects
us all



A
new
struggle

Prevention is the cure

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DEPARTMENT OF HEALTH



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GENERAL NOTICES

NOTICE 2136 OF 2003

GAUTENG DEPARTMENT OF EDUCATION

NOTICE REGARDING THE REGISTRATION AND WITHDRAWAL OF REGISTRATION OF INDEPENDENT SCHOOLS

4 JULY 2003

I, Ignatius Jacobs, Member of the Executive Council for Education in Gauteng, hereby publish this Notice for public comment, in terms of section 18 (1) of the Gauteng Education Policy Act (Act 12 of 1998), to give effect to sections 46 (2) and 47 of the South African Schools Act 1996 (Act 84 of 1996), as amended, and to section 66 (8) of the School Education Act (Act 6 of 1995).

Comments must reach Ms Tidimalo Nkotoe, Senior Manager of the General Education and Training Directorate of the Gauteng Department of Education, by no later than 16:00 on Friday 22 August 2003.

Ms Nkotoe's contact details are:

Office of the Senior Manager – General Education and Training

13th Floor

**Gauteng Department of Education
111 Commissioner Street, Johannesburg, 2001
PO Box 7710, Johannesburg, 2000
Telephone (011) 355-0812
Facsimile (011) 355-0640**

E-mail Tidimalon@gpg.gov.za or mmulem@gpg.gov.za.

Ignatius Jacobs

Member of the Executive Council for Education: Gauteng

4 July 2003

NOTICE 2137 OF 2003**GAUTENG DEPARTMENT OF EDUCATION****DRAFT NOTICE REGARDING THE REGISTRATION AND
WITHDRAWAL OF REGISTRATION OF INDEPENDENT SCHOOLS****4 JULY 2003**

I, Ignatius Jacobs, Member of the Executive Council for Education in Gauteng, hereby publish this Notice to give effect to sections 46(2) and 47 of the South African Schools Act 1996 (Act 84 of 1996), as amended, and to section 66(8) of the School Education Act (Act 6 of 1995).

SCHEDULE**1. Definitions**

(1) Subject to sub-section (2) and unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Acts shall have the same meaning in this Notice.

(2) In this Notice, unless the context indicates otherwise, -

“Act” means the South African Schools Act No.84 of 1996, as amended;

“application” means an application to the Head of Department for the registration of an independent school in the prescribed manner;

“Department” means the Gauteng Department of Education;

“Gauteng Act” means the School Education Act (Act 6 of 1995) (Gauteng);

“Head of Department” means the Head of the Gauteng Department of Education;

“independent school” means an independent school as contemplated by the Act or a private school as contemplated by the Gauteng Act;

“person” means a natural and a juristic person;

“Province” means the Province of Gauteng; and

“published” means published in the Gauteng Provincial Gazette or the Government Gazette.

2. Purpose

The purpose of this Notice is to

- (1) determine the grounds on which the registration of independent schools may be granted;
- (2) determine the requirements for the registration of independent schools;
- (3) provide an applicant with the right to appeal to the Member of the Executive Council against the refusal of registration of an independent school;
- (4) determine any further obligations to be placed on independent schools;
- (5) determine the grounds on which the registration of independent schools may be withdrawn by the Head of Department and procedures to be followed;
- (6) provide the owner of an independent school with the right to appeal to the Member of the Executive Council against the withdrawal of the registration of an independent school; and
- (7) determine the procedures for the application for re-registration after registration has been withdrawn.

3. Registration of independent schools

- (1) Any person or persons may apply to register an independent school with the Department.
- (2) On receipt of an application to register an independent school with the department, the Head of Department must
 - (a) register the school, and issue a registration certificate to the applicant, if he or she is of the opinion that the school complies with the requirements for registration as specified in sections 4 (1) and (2); or
 - (b) decline to register the school, if he or she is of the opinion that the school does not comply with the requirements for registration as specified in sections 4 (1) and (2), and inform the applicant in writing within 30 days of the decision.

4. Requirements for the registration of independent schools

- (1) The following requirements apply to an application to register an independent school with the Department in terms of section 3 (1):

- (a) application for the registration of a school must be made in writing to the Head of Department; and
 - (b) the application must be lodged with the district office in which the proposed school is to be established by not later than 31 August of the year preceding the year of the proposed opening of the school and forwarded by the district office to the Head of Department within 14 days.
- (2) The application must be accompanied by:
- (a) a constitution for the school covering all matters relating to the control of the school including its ownership, character, aims, governance, funding and admission policy;
 - (b) a floor and site plan, which shall in the case of a multi-storeyed building include a floor plan for each floor to be occupied, and which confirms that the proposed school building and grounds comply with departmental guidelines;
 - (c) details of the facilities which will be made available for the implementation of the curriculum and for co-curricular and extra-curricular activities;
 - (d) details of the facilities which will be made available to serve the needs of learners with disabilities;
 - (e) proof of security of tenure over the proposed school buildings and grounds for a minimum of one year from the date of registration of the school;
 - (f) a certified copy of certificate from the relevant health authorities confirming that the facilities at the school meet the minimum health requirements;
 - (g) proof that the school will be financially viable for a minimum period of 12 months after registration, which must include
 - (i) a register of fixed and moveable assets of the owner, board of trustees or other funders who will be used for the establishment of the school and as surety for the initial funding of the school; and
 - (ii) a situational analysis of the community the school intends to serve and an analysis of public ordinary schools within a 5km radius of the proposed independent school as an indication of the need for such independent school;

- (h) details of the type of curriculum that will be offered, as well as the curriculum and capacity of the schools within the 5km radius contemplated in sub-section (2) (g) (ii);
 - (i) in the case of a school owned by a natural person -
 - (i) a certified copy of the owner's identity document, or
 - (ii) if the owner is not a South African citizen or permanent resident, certified copies of his or her passport and work permit; and
 - (j) in the case of a school owned by a juristic person, certified copies of the constitutive instruments of the relevant juristic person.
- (3) The Head of Department may refuse to consider an application, which does not comply with the requirements of sections 4 (1) (b) and 4 (2).
- (4) The Head of Department may grant registration to an independent school if he or she is satisfied that:
- (a) a professionally qualified educator, registered with the South African Council of Educators (SACE), will be employed in a full-time capacity as the principal of the independent school, and will be responsible for the management, organisation, supervision and control of conduct at such school;
 - (b) the school will employ educators who are in possession of professional teaching qualifications and are registered with the South African Council of Educators;
 - (c) there is reason to believe that the standards to be maintained by such school will not be inferior to the standards in comparable public schools;
 - (d) the admission policy of the school
 - (i) does not-unfairly discriminate directly or indirectly on the grounds of race, and
 - (ii) complies with all published national and provincial admission policies relating to unfair discrimination at independent schools;
 - (e) there is reason to believe that the school will comply with all relevant national and provincial legislation;

- (f) the buildings and grounds which will be occupied by the school are, in the opinion of the Head of Department, of a suitable design and offers facilities that will be sufficient for the operations of the school;
 - (g) the buildings and grounds which will be occupied by the school meet the requirements of the Department of Health and municipal by-laws;
 - (h) the applicant has proven security of tenure of the school buildings and grounds for a minimum period of one year from the date of registration of the independent school; and
 - (i) the Head of Department is satisfied that the school will meet the management standards required of independent schools by the Gauteng Department of Education, which standards shall be based on the latest management checklist published by the Gauteng Department of Education.
- (5) Where the Head of the Department is satisfied that an application complies with most, but not all, of the requirements set out in subsection (4), he or she may grant provisional registration to an independent school subject to conditions determined by him or her, provided that no provisional registration to a school which fails to comply with the requirements of sub-section (4) (d).
- (6) An independent school which has been provisionally registered by the Head of Department in terms of subsection (5), may apply to the Head of Department to change its registration from provisional to ordinary registration and the Head of Department shall grant such an application if he or she is satisfied that the school in question has shown compliance with all of the requirements of sub-sections (1), (2) and (4) with which the school did not comply at the time of its original application for registration.
- 5. Right to appeal to the Member of the Executive Council against the refusal of registration of an independent school**
- (1) If the Head of Department refuses an application for the registration of an independent school, he or she must notify the applicant of his or decision and of the reasons for this decision.
 - (2) An applicant who is aggrieved by the decision of the Head of the Department to refuse the registration of an independent school may, within 30 days of receiving notice of such refusal, appeal to the Member of the Executive Council in writing, setting out the grounds of the appeal.

- (3) The Member of the Executive Council must consider the appeal and must confirm or set aside the decision of the Head of the Department within 30 days of receiving the appeal and must:
 - (a) notify the appellant of his or her decision; and
 - (b) provide the appellant with written reasons for his or her decision.
- (4) The decision of the Member of the Executive Council shall be final.

6. Further obligations placed on independent schools

- (1) An independent school must, within 21 days of any change of ownership of the independent school, provide written notification to the Head of the Department of such change of ownership.
- (2) An independent school must provide at least three calendar months' written notice to parents, staff, learners and the Head of Department of any intention to close or suspend the operation of a school, and any such notice must reach the Department not later than 30 September of the preceding year.
- (3) An independent school may not, without the approval of the Head of Department, change the premises of the school. Any application to the Head of Department for approval of a proposed change of premises must include
 - (a) the address of the proposed new location for the school; and
 - (b) all documentation contemplated in section 4 (2) reflecting any new circumstances caused by the change of address.
- (4) The provisions on compulsory school attendance in section 3 of the South African Schools Act of 84 of 1996 shall apply to learners attending an independent school.
- (5) An independent school must:
 - (a) follow the approved curriculum of the Department or its own curriculum that has been approved by the Head of Department;
 - (b) ensure that the average duration of its school day and the number of its school days per annum are as approved by the Head of Department;
 - (c) apply for new registration should it wish to add or remove grades with the effect that it changes from one type of school contemplated by the Act to another type of school contemplated by the Act;

- (d) comply with the admission requirements as stated in section 45 of the South African Schools Act (Act 84 of 1996), as amended by the insertion of section 45A; and
- (e) provide the Head of Department with a list of the educators employed at the school and certified copies of the qualifications of these educators and their SACE registration certificates.

7. Grounds on which the registration of independent schools may be withdrawn by the Head of Department and procedures to be followed

- (1) The Head of Department may withdraw the registration of an independent school at any time if he or she is satisfied, after a full and proper investigation, that
 - (a) the school has employed a person as principal who is not a professionally qualified educator;
 - (b) the school has employed a person as principal who is not registered with the South African Council of Educators;
 - (c) the school has employed a person as principal who is not employed by the school in a full-time capacity;
 - (d) the school has employed educators who are not in possession of professional teaching qualifications;
 - (e) the school has employed persons who are not registered with the South African Council of Educators and the Head of the Department is not satisfied that the services of these persons are essential for the school concerned;
 - (f) the standards maintained by such school are inferior to the standards in comparable to public schools;
 - (g) the admission policy of the school
 - (i) unfairly discriminates directly or indirectly on the grounds of race, or
 - (ii) contravenes any of the published national and provincial admission policies relating to unfair discrimination at independent school;
 - (h) the school does not comply with all relevant national and provincial legislation;

- (i) the buildings and grounds of the school are unsuitable in design and are insufficient for the needs of the school, its learners and educators;
 - (j) the buildings and grounds do not meet the requirements of the Department of Health and municipal by-laws;
 - (k) the tenure of the school buildings and grounds is not secure;
 - (l) the school fails to comply with any of the requirements of sub-sections (1) (2) and (4) of section 4;
 - (m) the school has failed to comply with unannounced inspection visits by the Department as outlined in the Norms and Standards for Education, section 146 (f); or
 - (n) the school has failed to comply with its lawful obligations to the South African Revenue Services (SARS).
- (2) The Head of Department may not withdraw the registration of an independent school, unless he or she has first
- (a) furnished the owner of such independent school with a notice of intention to withdraw the registration of the school, stating the reasons why such withdrawal is contemplated; and
 - (b) granted the owner of such independent school an opportunity to make written representations as to why the registration of the independent school should not be withdrawn.
- (3) The written representations referred in section 7 (2) (b) must reach the Head of the Department within 30 days of the receipt of the notice contemplated in section 7 (2) (a).
- (4) The Head of the Department must duly consider any such representations received; and must inform the owner of the school of his or her decision within 30 days of receiving the written representations contemplated in section 7 (2) (b).
- (5) If the Head of Department decides to withdraw the registration of an independent school, when he or she informs the owner of the school of his or her decision in terms of sub-section (4), he or she shall furnish the owner with full reasons for his or her decision.

8. Right to appeal to the Member of the Executive Council against the withdrawal of the registration of an independent school.

- (1) The owner of an independent school has the right to appeal to the Member of the Executive Council against the decision of the Head of Department to withdraw the registration of an independent school.
- (2) An owner of a school who is aggrieved by the decision of the Head of the Department to withdraw the registration of an independent school may, within 30 days of receiving notice of such a decision, appeal to the Member of the Executive Council in writing, setting out the grounds of the appeal.
- (3) The Member of the Executive Council must consider the appeal and must confirm or set aside the decision of the Head of the Department within 30 days of receiving the appeal and must
 - (a) notify the appellant of his or her decision; and
 - (b) provide the appellant with written reasons for his or her decision.
- (4) While the Member of the Executive Council is adjudicating the appeal the school will continue to function until the Member of the Executive Council announces his/her decision.
- (5) The decision of the Member of the Executive Council shall be final.

9. Application for re-registration after registration has been withdrawn

- (1) If the registration of an independent school has been withdrawn as contemplated in section 7 (1) and the decision confirmed by the Member of the Executive Council as contemplated in section 8(3), the owner of the school may apply for re-registration after having taken the necessary steps to insure that the relevant registration requirements have been complied with as specified in section 4 (1), (2) and (4).