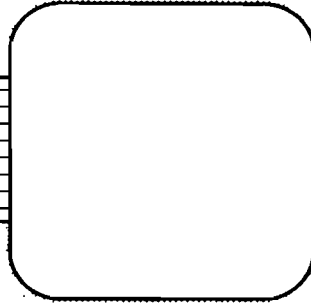


**THE PROVINCE OF
GAUTENG**



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GENERAL NOTICE

CORRECTION NOTICE

Notice is hereby given for general information that *Provincial Gazette Extraordinary* No. 51 of 23 February 2012 is hereby replaced with the following:

NOTICE 592 OF 2012 DEPARTMENT OF EDUCATION

GOVERNING BODY AMENDMENT REGULATIONS FOR PUBLIC SCHOOLS, 2012

The Member of the Executive Council for Education has under section 28 of the South African Schools Act, 1996 (Act No. 84 of 1996), read with sections 27(5), 28(3), 31, and 106 of the Schools Education Act, 1995 (Act No. 6 of 1995), made the regulations contained in the Schedule.

GENERAL EXPLANATORY NOTE

[] Words in bold type in square brackets indicate omissions from existing enactments

_____ Words underlined with a solid line indicate insertions in existing enactments

SCHEDULE

CHAPTER 1

DEFINITIONS AND APPLICATION OF REGULATIONS (regulations 1-3)

Definitions

1. In these regulations "the Regulations" means the regulations published by the General Notice No. 786 of 1997 (PG 332 of 28 February 1997), as amended by General Notice No. 1457 of 1997 (PG 354 of 6 May 1997).

Amendment of Regulation 1 of the Regulations

2. Regulation 1 of the Regulations is hereby amended by the:

(a) deletion of the definitions of **“educator”; ‘level’; ‘parent’; ‘ordinary school’ and ‘Student Representative Council’;**”;

(b) substitution for the definition of **‘co-opted community member’** of the following definition:

“co-opted [community] member’ means a parent [member of the community who is parent] of a learner at the school [and] or a member of the community co-opted onto the governing body in terms of regulation 9(1);”;

(c) substitution for the definition of **‘the Act’** of the following definition:

“the Act’ means the Gauteng School Education Act, 1995 (Act No. 6 of 1995);”;

(d) insertion after the definition of **‘primary school’** of the following definition:

“Representative Council of Learners (RCL)’ means the representative body of learners of a school, as envisaged by section 11 of the South African Schools Act, 1996 (Act No. 84 of 1996), duly constituted which satisfies the minimum requirements established by the Member of the Executive Council by notice in the Provincial Gazette;”;

(e) addition after the definition of **“the Act”** of the following definition:

“voters roll’ means a register of all parents of learners enrolled at a school, that are eligible to vote at a governing body election.”.

CHAPTER 2

Amendment of Regulation 7 of the Regulations

3. Regulation 7 of the Regulations is hereby amended by the substitution for subregulation (2) of the following subregulation:

“(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.”.

Amendment of Regulation 9 of the Regulations

4. Regulation 9 of the Regulations is hereby amended by the substitution for subregulation (1) of the following subregulation:

“(1) A governing body may at any time during its term of office, in accordance with the procedure set out in regulations 28 and 29, co-opt a member [**of the community**] to assist in discharging its functions: Provided that the number of co-opted [**community**] members of a governing body at any time may not exceed [**two**] three.”.

Amendment of Regulation 12 of the Regulations

5. Regulation 12 of the Regulations is hereby amended by the substitution for subregulation (3) of the following subregulation:

“(3) [**A**] Subject to regulation 16(2), a member whose term of office has expired may be re-elected to the governing body.”.

Amendment of Regulation 13 of the Regulations

6. Regulation 13 of the Regulations is hereby amended by the substitution for subregulations (2) and (6) of the following subregulations:

“(2) (a) The Head of Department may not take action under subregulation 13 (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]**

(i) informed the governing body and the member concerned of his or her intention so to act and the reasons within seven working days;

(ii) granted the governing body and the member concerned seven working days within which to make representations to him or her relating to such intention; and

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

(b) In cases of urgency, the Head of Department may act in terms of subsection (1) without prior communication to such governing body and the member concerned, if the Head of Department thereafter-

(i) furnishes the governing body and the member concerned with reasons for his or her actions;

(ii) gives the governing body and the member concerned a reasonable opportunity to make representations relating to such actions; and

(iii) duly considers any representations within seven working days from receipt of such representations.

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

- (a) notify the governing body and the appellant member of his or her decision within seven working days of receiving the appeal; and
- (b) provide the governing body and the appellant member with reasons for his or her decision.”.

CHAPTER 3

ELECTION OF MEMBERS OF GOVERNING BODIES (regulations 16-30)

Amendment of Regulation 16 of the Regulations

7. Regulation 16 of the Regulations is hereby amended by the-

- (a) substitution for subregulation (1) of the following subregulation:

“(1) A parent member shall be a parent of a learner officially enrolled at the school; and **[who is not]** shall not be:

- (a) employed at the school;
- (b) an unrehabilitated insolvent;
- (c) of unsound mind, and is subject to an order of a competent court declaring the person to be mentally ill or disordered; and
- (d) convicted of any offence involving dishonesty.”.

- (b) substitution for subregulation (2) of the following subregulation:

“(2) A parent member who was eligible under sub-regulation (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.”;

(c) substitution for subregulation (7) of the following subregulation:

“(7) A learner member **[need not]** shall be a member of the **[Students’ Representative Council]** Representative Council of Learners, and the learner members of the governing body shall include the chairperson of the Representative Council of Learners.”; and

(d) insertion of subregulation (8A) after subregulation (8):

“(8A) A co-opted member may only serve two consecutive terms as a co-opted member.”.

Amendment of Regulation 17 of the Regulations

8. Regulation 17 of the Regulations is hereby amended by the substitution for subregulation (3) of the following subregulation:

“(3) Every educator, **[other than]** including 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.”;

Insertion of Regulation 19A and 19B in the Regulations

9. The following regulations are hereby inserted in the Regulations after regulation 19:

19A Monitoring of Electoral Process

The election process may be monitored by election officials nominated by the Head of Department or an official delegated by the Head of Department.

19B Electoral Disputes

(1) If there is a dispute about the election of governing body members, the election officer must determine the dispute.

(2) If any interested party is aggrieved by the decision of the election officer, that party may refer the dispute in writing to the Member of the Executive Council within 14 days of the determination of the electoral officer. The Member of the Executive Council may condone, on good cause, the late referral of a dispute.

(3) The Member of the Executive Council shall appoint a person to determine the dispute within 14 days of receiving the dispute and shall determine that person's terms of reference.

(4) The person appointed in terms of sub-regulation (3) may conduct the process of determining the dispute in a manner that he or she considers appropriate in order to determine the dispute fairly and quickly, but shall deal with the substantial merits of the dispute with the minimum of legal formalities.

(5) In cases where a dispute referred to in (1) and (2) above is not finalised the outcome of the elections will remain undecided until a determination has been made.

(6) In cases where the person referred to in subregulation (3) determines that a material irregularity exists, the MEC may call for a re-election at a date and time determined by the relevant election officer .".

Amendment of Regulation 21 of the Regulations

10. Regulation 21 of the Regulations is hereby amended by the substitution for regulation 21 of the following regulation:

Availability of [School Register] Voters Roll

(1) "The Principal shall make available to the election officer a **[school register containing the names of all]** voters roll for the purposes of exercising control at the nomination meeting.

(2) The election officer shall ensure that the voters roll is closed 24 hours prior to the nomination meeting."

Insertion of Regulation 22 in the Regulations

11. Regulation 22 of the Regulations is hereby amended by the insertion of subregulation (1A) after subregulation (1):

"(1A) When nominating a parent to be a member of the governing body of the school, the parents must consider the parent who shall add value in the functionality of the school governing body."

Insertion of Regulation 22A in the Regulations

12. Regulation 22 of the Regulations is hereby amended by the insertion of regulation 22A after regulation 22:

"22A Campaigning and Campaign Material

(1) No campaigning shall be allowed or no campaign material shall be displayed in the voting centre during the entire election process.

(2) The election officer shall allow each candidate an opportunity to address the voters.

(3) The election officer shall determine the time allowed for the address after considering the impact on logistics and ensuring timeous election."

Amendment of Regulation 23 of the Regulations

13. Regulation 23 of the Regulations is hereby amended by the substitution for subregulation (2) of the following subregulation:

"(2) A quorum at the poll meeting shall be 15% of the total number of parents who are: **[eligible to vote]**

(a) eligible to vote; and

(b) in possession of a valid South African identity document, passport or such other legal identity documents."

Amendment of Regulation 29 of the Regulations

14. Regulation 29 of the Regulations is hereby amended by the:

(a) insertion of the following subregulation after subregulation (1):

"(1A) When nominating a community member to be a member of the governing body, the governing body must take into account the skills and experience of the members of the governing body and the prospective community member, including but not limited to, his or her legal, financial and human resource skills and experience."

(b) substitution for subregulation (3) of the following subregulation:

"(3) If a member elected in terms of subregulation (2) is the only co-opted community member of the governing body, immediately after his or her election, the governing body shall vote on whether it should elect **[a second]** further co-

opted community members and, if it so decides, shall proceed to elect [a **second**] further co-opted community members in terms of subregulation (2).”.

CHAPTER 4

OFFICE-BEARERS AND COMMITTEES OF GOVERNING BODIES (regulations 31-33)

Amendment of Regulation 31 of the Regulations

15. Regulation 31 of the Regulations is hereby amended by the substitution of the following heading:

“Election of [acting] office- bearers of governing bodies”.

Amendment of Regulation 37 of the Governing Body Regulations for Public Schools

16. Regulation 37 of the Regulations is hereby amended by the substitution for subregulation (4) of the following subregulation:

(4) “The District Director or an official delegated by him or her 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.”.

Amendment of Regulation 39 of the Regulations

17. Regulation 39 of the Regulations is hereby amended by the substitution for subregulation (2) of the following subregulation:

“(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 of which the majority shall be parent members .”.

Amendment of Regulation 41 of the Regulations

18. Regulation 41 of the Regulations is hereby amended by the addition of subregulation (3) and (4) of the following subregulation:

“(3) A quorum of the Annual General Meeting shall be 15% of the voters roll.

(4) If the quorum is not reached at the AGM referred to in sub regulation (3) —

(a) the Chairperson of the SGB shall determine a date, time and place for a second AGM and inform the parents in writing at least 20 days prior to the date of such meeting;

(b) the principal shall at least 14 days prior to the date of the second AGM distribute a copy of the notice to every learner at the school with an instruction to hand it to his or her parents; and

(c) at the second AGM there shall be no quorum requirement and the meeting shall proceed according to the provisions of regulation 41.”.

Insertion of Regulation 42 in the Regulations

19. Regulation 42 of the Regulations is hereby amended by the insertion of subregulation (1A) after subregulation (1):

“(1A) A quorum of the Special General Meeting shall be 15% of the voters roll.”.

CHAPTER 6

DUTIES AND FUNCTIONS OF GOVERNING BODIES (regulations 43-58)

Amendment of Regulation 43 of the Regulations

20. Regulation 43 of the Regulations is hereby amended by the addition after subregulation (7) of the following subregulation:

“(8) A school governing body should not enter into any contract that exceeds its three year term of office.”.

Amendment of Regulation 45 of the Regulations

21. Regulation 45 of the Regulations is hereby amended by the addition of subregulations (4) and (5):

“(4) The Member of the Executive Council shall by notice in the *Provincial Gazette* publish a standard school constitution and standing orders referred to in subregulation (1).

(5) The governing body of a school shall be deemed to have adopted the standard constitution and standing orders if it has not adopted its own standard constitution and standing orders in terms of subregulation (1) within 90 days of its election.”.

Substitution of Regulation 46 of the Regulations

22. The following regulation is hereby substituted for regulation 46 of the Regulations:

“(1) Subject to the Constitution, the South African Schools Act, 1996 (Act No. 84 of 1996), [the Act], and its regulations, a governing body of a school shall —

(a) determine the language policy of the school;

(aA) determine a finance 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 a learner attendance policy and 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.

(2) Where there is a conflict between a policy, rule or code contemplated in subregulation (1) and adopted by a governing body [of a school is inconsistent] with the South African Schools Act, 1996 (Act No. 84 of 1996), the Act, its regulations and , the Constitution shall prevail."

Amendment of Regulation 49 of the Regulations

23. Regulation 49 of the Regulations is hereby amended by the substitution for paragraph (d) of the following paragraph:

"(d) shall open and maintain [a] one banking account, but may, with the approval of the Member of the Executive Council, invest surplus money in another account."

Insertion of Regulation 56A of the Regulations

24. The following regulation is hereby inserted in the Regulations after regulation 56:

"56A Functions of governing bodies with regard to handover

(1) Before the end of its term, the school governing body must prepare a handover report for the incoming school governing body and submit the report to the District Director.

(2) The handover report must inform the incoming governing body of all relevant issues relating to the school, including—

(a) the governance of the school;

(b) the finance of the school;

(c) contracts entered into by the school;

(d) the management of the school;

(e) the educators and educator establishment of the school;

(f) the learners of the school; and

(g) the educational standards and results of the school.

(3) The outgoing governing body must meet with the incoming governing body at the commencement of the incoming governing body's term and discuss the handover report.

(4) In the event a governing body fails to submit a report as contemplated in subregulation (1), the members of that governing body shall not be eligible for re-election or serving as members in the governing body for a period of three years. However, such members may with the permission of the Head of Department still serve in the governing body by being co-opted only after eighteen months of the non-compliance with sub-regulation 1."

GENERAL PROVISION

25. The Regulations is hereby amended by the:

(a) substitution for the phrase "Student Representative Council" wherever these occur in the Regulations of the phrase "Representative Council of Learners";

(b) substitution for the word "level" wherever this occurs in the Regulation of the word "grade"; and

(c) substitution of Schedule A for the following schedule:

SCHEDULE A

STANDARD NOTICE OF NOMINATION MEETING AND POLL FOR THE ELECTION OF PARENT MEMBERS

SCHOOL LETTER HEAD

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)

Please attend the meetings to nominate and elect parent members of our governing body. The governing body decides policy and plans to improve our school and it is important to take part in the elections. Eligible parents of learners may nominate and vote for parent members of the governing body.

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 a 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)

Two eligible parents may vote per family. If you are the main person responsible for the child/children at the school, please make sure you will be able to vote by filling in the registration form and sending it back to the school so that your name will be on the voters roll.

Please bring your ID, passport or other legally accepted form of identification to the nomination and election meeting. If you are not able to attend the election meeting you can send someone else on the voters roll to vote in your place. Fill in the Proxy Vote form and send it, together with a certified copy of your ID, with the person you asked to vote for you (a proxy form is included).

Date

Signature of Election Officer

Address of Election Officer

NOMINATION FORM PARENTS

Name of School _____

Candidate Proposed _____
 full name

PROPOSER _____
 name ID/passport signature

SECONDER _____
 name ID/passport signature

CANDIDATE:
 I accept nomination as an SGB member

 name ID/passport signature

FOR OFFICE USE ONLY: NOMINATION ACCEPTED BY ELECTORAL OFFICER

_____ name ID/passport signature date _____

PROXY VOTE FORM

School _____
 SGB election date: _____

I, _____ (your full name)
 am unable to attend the SGB election meeting and appoint Mr/Mrs/Ms _____
 _____ (name of person who will vote for you) to
 cast a vote on my behalf .

I attach a certified copy of my identity document or passport
 My address is: _____

My contact number is: _____

Signed: _____

Date _____

PARENT REGISTRATION FORM FOR VOTERS ROLL

A parent means –

- (a) the biological or adoptive or legal guardian of a learner.
- (b) the person legally entitled to custody of a learner; or
- (c) the person who undertakes to fulfill the obligations of a person in paragraphs (a) and (b) towards the learners education at school. (SASA Act No. 84 of 1996, as amended)

Only two parent members may vote per family.

If you are not on the school admission register and you want to vote or stand for SGB elections, please fill in the form below and return it to the principal at least 24 hours before the nomination and election meeting.

Name of school _____
 Name of learner _____
 (if more than one, use oldest learner)
 Class of learner _____

Name of parent 1 _____ Signed _____
 Address _____

Name of parent 2 _____ Signed _____
 Address _____
 Date _____

Short Title

26. This Regulation is called the Governing Body Amendment Regulations for Public Schools, 2012 and come into effect on the date of publication thereof in the Provincial Gazette.
