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PROVINCIAL NOTICES • PROVINSIALE KENNISGEWINGS

PROVINCIAL NOTICE 331 OF 2018**PROVINCE OF GAUTENG****GAUTENG DEPARTMENT OF EDUCATION****GAUTENG SCHOOLS EDUCATION ACT, 1995****(ACT NO. 6 of 1995)****GOVERNING BODY AMENDMENT REGULATIONS FOR PUBLIC
SCHOOLS, 2018**

The Member of the Executive Council responsible for education matters in the Province of Gauteng, Mr Panyaza Andrek Lesufi, MPL, has, under section 31 read with section 106(1) of the Gauteng School Education Act, 1995 (Act No. 6 of 1995), made the Regulations set out in the Schedule.

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.

Definitions

1. In these Regulations, unless the context indicates otherwise, "the Regulations" means the Governing Body Regulations for Public Schools, 1997, published under General Notice No. 786 of 1997 (Provincial *Gazette* No. 331 of 28 February 1997), as amended by General Notice Nos. 1457 of 1997 (Provincial *Gazette* No. 354 of 6 May 1997), 453 of 2012 (Provincial *Gazette* No. 51 of 23 February 2012), 592 of 2012

(Provincial Gazette No. 70 of 13 March 2012) and 707 (Provincial Gazette No. 58 of 5 March 2015).

Amendment of regulation 1 of Regulations

2. Regulation 1 of the Regulations is hereby amended—

(a) by the insertion after the definition of "co-opted member" of the following definition:

"days" has the meaning defined in section 4 of the Interpretation Act, 1957 (Act No. 33 of 1957);"

(b) by the insertion after the definition of "educator member" of the following definition:

"election period" means the period between the commencement date and end date for the election of members of governing bodies determined, with the concurrence of the Minister, by the Member of the Executive Council under section 28(g) of the South African Schools Act, 1996 (Act No. 84 of 1996);" and

(c) by the deletion of the definition of "quorum".

Amendment of regulation 9 of Regulations

3. Regulation 9 of the Regulations is hereby amended by the addition of the following sub-regulation:

"(6) The co-option of a member in terms of this regulation shall be decided upon by the governing body on an annual basis with a view to provide other members an opportunity to gain experience on the governing body."

Amendment of regulation 15 of Regulations

4. Regulation 15 of the Regulations is hereby amended—

(a) by the substitution for paragraph (a) of sub-regulation (1) of the following paragraph:

"(a) in the office of any member, except a parent member, such vacancy shall be filled in accordance with an election in terms of these [regulations;] Regulations;"

(b) by the insertion after sub-regulation (1) of the following sub-regulations, respectively:

"(1A) The Chairperson of the governing body must, in consultation with the principal, inform the District Director of the vacancy."

(1B) The governing body of the school may, in accordance with the procedure set out in regulations 28 and 29, co-opt an eligible member for a period not exceeding 90 days.

(1C) A by-election must be held—

- (a) within 90 days of the occurrence of the vacancy; and
- (b) in accordance with the procedure set out in regulations 24 to 27 of these Regulations, depending on the category of representation required.

(1D) The District Director must appoint an election officer for each by-election.

(1E) A member co-opted in terms of sub-regulation (1B) shall cease to be a member of a governing body when the vacancy is filled in terms of sub-regulation (1C)."

- (c) by the substitution for sub-regulation (2) of the following sub-regulation:

"(2) A **[parent]** member co-opted in terms of sub-regulation (1)(b) or sub-regulation (1B) shall have voting rights."

- (d) by the substitution for sub-regulation (3) of the following sub-regulation:

"(3) A member—

- (a) elected or co-opted in terms of sub-regulation (1)(b), or
- (b) elected in terms of sub-regulation (1C),

shall remain a member for the unexpired term of office of his or her predecessor: Provided that he or she is still eligible to remain in office in terms of regulation 16."

- (e) by the deletion of sub-regulations (4) and (5).

Amendment of regulation 16 of Regulations

5. Regulation 16 of the Regulations is hereby amended—

- (a) by the substitution for sub-regulation (1) with the following sub-regulation:

"(1) A parent member shall be a parent of a learner officially enrolled at the school; and 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] employed at the school.**

(c) by the substitution for sub-regulation (8A) of the following sub-regulation:

"(8A) [The co-option of a member without voting rights shall be decided upon by the governing body on an annual basis, with a view to providing other parent members an opportunity to gain experience on the governing body] A person shall not be eligible to be a member if he or she—

- (a) is mentally ill and has been declared as such by a court with competent jurisdiction;**
- (b) is an unrehabilitated insolvent;**
- (c) has been convicted of an offence and sentenced to imprisonment in a court of law in the Republic or another country, if the offence would have been declared an offence in terms of the laws of the Republic, for a period exceeding six months, without the option of a fine, or has not yet served his or her full period of imprisonment;**
- (d) has been declared unsuitable to work with children, as provided for under the Children's Act, 2005 (Act No. 38 of 2005) or is listed in the register of people unsuitable to work with children in terms of the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007;";**
- (e) does not fall within one of the categories of members who make up a governing body;**
- (f) no longer falls within the category of members that he or she represented at the time of his or her election; or**
- (g) has had his or her membership of the governing body terminated by the Head of Department in terms of the Act."**

Amendment of regulation 17 of Regulations

5. Regulation 17 of the Regulations is hereby amended by the substitution for sub-regulation (2) of the following sub-regulation

"(2) A parent's vote may not be exercised by a proxy voter [**who has the written authority of the parent: Provided that a proxy voter may not exercise more than two proxy votes**].".

Substitution of regulation 19B of Regulations

6. The following regulation is hereby substituted for regulation 19B of the Regulations:

"(1) An election officer shall decide all matters connected with the nomination of candidates and the poll.

(2) All disputes shall be reported to election officer during the nomination or poll meeting.

(3) An election officer has authority to resolve all disputes and, as far as possible, to ensure that the elections are free and fair.

(4) If an election officer is, for any reason, unable to resolve a dispute, he or she must—

(a) allow the election to be completed; and

(b) within seven days of the election, refer the dispute to the District Electoral Officer.

(5) If any interested party is not satisfied with the decision of an election officer, the interested party may, within seven days of receiving written notice of the final decision of an election officer, refer a dispute to the District Electoral Officer for his or her decision.

(6) If the interested party is not satisfied with the decision of the District Electoral Officer, the interested party may, within seven days of receiving the written decision of the District Electoral Officer, lodge an appeal with the Provincial Electoral Officer for his or her decision.

(7) Where a dispute remains unresolved, the interested party may refer the dispute in writing to the MEC within seven days of the decision of the Provincial Electoral Officer. The MEC may call for a re-election at a date and time to be determined by the Provincial Electoral Officer.

(8) The decisions contemplated to in sub-regulations (5), (6) and (7) must be made within 30 days of receipt of the referral."

Amendment of regulation 23 of Regulations

7. Regulation 23 of the Regulations is hereby amended by the substitution for sub-regulation (4) of the following sub-regulation:

"(4) The election officer shall issue one officially marked ballot paper to each person eligible to vote **[plus one for every proxy vote]**".

Amendment of regulation 56A of Regulations

8. Regulation 56A is hereby amended—

(a) by the substitution for sub-regulation (3) of the following sub-regulation:

"(3) The Principal must ensure that the outgoing governing body **[must]** meets with the incoming governing body at the commencement of the incoming governing body's term and discuss the handover report."

(b) by the addition of the following sub-regulation:

"(5) Any employee of the Department who impedes or obstructs the governing body from preparing, submitting or discussing a handover report commits a misconduct and must be subject to disciplinary proceedings contemplated in his or her terms and conditions of service."

Substitution of Schedule A to Regulations

9. The following Schedule is hereby substituted for Schedule A to the Regulations:

"SCHEDULE A

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

SCHOOL LETTERHEAD

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 | |
|----------------|--|

| | |
|----------------------------|--|
| Name of Candidate Proposed | |
|----------------------------|--|

| | |
|-----------------------|--|
| Full Name of Proposer | |
| ID/Passport Number | |
| Signature | |
| Date | |

| | |
|-----------------------|--|
| Full Name of Seconder | |
| ID/Passport Number | |
| Signature | |
| Date | |

Candidate:

I accept nomination as an SGB member

| | |
|------------------------|--|
| Full Name of Candidate | |
| ID/Passport Number | |
| Signature | |
| Date | |

FOR OFFICE USE ONLY: NOMINATION ACCEPTED BY ELECTORAL OFFICER

| | |
|---------------------------------------|--|
| Full Name of School Electoral Officer | |
| ID/Passport Number | |
| Signature | |
| 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 fulfil 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 a parent of a learner currently enrolled at the school and your name is 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. Please note that a person is not eligible to stand for elections if he or she—

- (a) is mentally ill and has been declared as such by a court with competent jurisdiction;
- (b) is an unrehabilitated insolvent;
- (c) has been convicted of an offence and sentenced to imprisonment in a court of law in South Africa or in a another country, if the offence would have been declared an offence in terms of the laws of the Republic, for a period exceeding six months, without the option of a fine, or has not yet served his or her full period of imprisonment;
- (d) has been declared unsuitable to work with children, as provided for under the Children's Act, 2005 (Act No. 38 of 2005) or is listed in the register of people unsuitable to work with children in terms of the Criminal Law (Sexual Offenses and Related Matters) Amendment Act 32 of 2007;";
- (e) does not fall within one of the categories of members who make up a governing body;
- (f) no longer falls within the category of members that he or she represented at the time of his or her election; or
- (g) has had his or her governing body membership terminated by the Head of Department in terms of the Act."

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

12. These Regulations are called the Governing Body Amendment Regulations for Public Schools, 2018.