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GENERAL NOTICE

NOTICE 21 OF 2012

SOUTH AFRICAN SCHOOLS ACT, 84 OF 1996

REGULATIONS FOR THE ELECTION OF SCHOOL GOVERNING BODIES

I, Makgabo Reginah Mhaule, Member of the Executive Council for Education in the Mpumalanga Province, acting in terms of section 28 of the South African Schools Act, 1996, hereby publish in the Schedule hereto Regulations for the Election of School Governing Bodies of Public Schools in the Mpumalanga Province.

REGINAH MHAULE

MEMBER OF THE EXECUTIVE COUNCIL

SCHEDULE

1. Definitions

Any word or expression to which a meaning has been attached in the Act shall have the same meaning in these regulations.

In these regulations, unless the context indicates otherwise-

"combined school" means a public school providing education in grades falling in the foundation, intermediate and senior phases of curriculum;

"department" means the Mpumalanga Education Department;

"district director" means an official of the department appointed as director of the education districts in which a public school is situated;

"learner member" means a learner officially enrolled in a public school and who has been elected to the governing body in terms of these regulations"

"member" means a member of the governing body who has been elected in terms of these regulations;

"non-educator member" means a person other than an educator, employed at a public school by the education department or by the school, and who has been elected to the governing body in terms of these regulations;

"ordinary public school" means a public school other than a public school for learners with special educational needs;

"Parent " means *the* biological or adoptive *parent* or legal guardian of a *learner* in terms of the Basic Education Laws Amendment Act, 2011 (Act N0 of 15 of 2011)

"primary school" means a public school providing education in the foundation and intermediate phase of the curriculum;

"secondary school" means a public school providing education from the eighth grade to the twelfth grade;

"representative council of learners" means the representative council of learners, duly constituted in terms of section 11 of the Act;

"the Act" means the South African Schools Act, 1996 (Act NO 84 of 1996.

"School Electoral Officer" means a principal or a senior manager of another school.

2. Application

These regulations shall apply to all public schools in the Mpumalanga Province and shall come into operation upon publication in the Provincial Gazette.

3. Size of School Governing Bodies

The number of parent, educator and learner members of a governing body shall vary according to the type and grading of the school.

4. Composition of Governing Bodies of Ordinary Public Schools

- (1) A governing body of an ordinary public school shall consist of the following members:
 - (a) elected members;
 - (b) the principal by virtue of his or her office; and
 - (c) co-opted members.
- (2) Elected members of the governing body shall comprise a member or members of each of the following categories:
 - (a) parents of the learners admitted to the school;
 - (b) educators employed at the school;
 - (c) non-educator members of staff employed at the school; and
 - (d) learners in the eighth grade or higher admitted at the school.

5. Composition of Governing Bodies of Public Schools for Learners with Special education needs

The school governing body of a public school for learners with special education needs shall be constituted as prescribed in section 24 of Act.

6. Profile of a Governing Body

The particulars of each member of a school governing body shall be recorded in a prescribed manner.

7. Co-opted Members

- (1) A governing body may at any time during its term of office co-opt members of the community to serve on the governing body in the discharging of its functions.

- (2) Subject to regulation 9(2) members co-opted in terms of sub-regulation (1) shall not have voting rights.
- (3) A governing body of a public school which provides education to learners with special needs, shall, where practicably possible, co-opt a person or persons with expertise in the field of the relevant education needs of such learners.
- (4) A governing body of a public school situated on private property may co-opt the owner of the property occupied by the school or the nominated representative of such owner.
- (5) If a governing body of a public school acts under sub-regulation (4), and there is more than one owner of the property on which the school is situated, such owners shall nominate one of their member, or a representative to represent them on the governing body.

8. Term of Office

- (1) The term of office of a member of a school governing other than a learner may not exceed shall three years calculated from the date of elections.
- (2) The term of office of a learner member may not exceed one year.
- (3) A member or office-bearers of a governing body may be re elected or co-opted, as the case may be after the expiry of his or her term of office.
- (4) The term of office of an office bearer of a governing body may not exceed one year

9. Vacation of Office and Filling of Vacancies

- (1) Incidental vacancies shall occur whenever a member-
 - (a) resigns in writing;
 - (b) dies;
 - (c) is removed from office in terms of section 18A of the Act;
 - (d) becomes ineligible in terms of regulation 8; or
 - (e) is absent from 3 consecutive meetings without reasonable explanation.
- (2) Should a vacancy contemplated in sub-regulation (1) occur in respect of an elected parent member, a school governing body may co-opt a parent to serve as a member with full voting rights for a period not exceeding 90 days.
- (3) Should a vacancy contemplated in sub-regulation (1) exist, the principal of the school shall in writing and within 14 days, inform the district director of the existence of such vacancy.
- (4) In the event of a vacancy in the categories of membership referred to in paragraphs (a) (b), (c) and (d) of sub-regulation (2) of regulation 4, eligible members of the category concerned shall, within 90 days, hold an election to fill the vacancy.

- (5) The appointment of the co-opted member referred to in sub-regulation (2) shall take place within 21 days of the existence of the vacancy.
- (6) Within the 90 days referred to in sub-regulation (2), a by-election as prescribed in regulation 29 to elect a new member must be held.
- (7) A member elected in terms of sub-regulation (4) or (5), shall remain a member for the unexpired term of office of his or her predecessor.

10. Eligibility

- (1) 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 un-rehabilitated 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 unsuitable to work with children as stipulated in terms of the Children's Act ,2005 (Act N0 38 of 2005 as amended)
- (2) If a person elected as a member of a governing body ceases to fall within the category for which they were nominated and elected, he or she shall cease to be a member of the governing body.
- (3) A parent who is employed at a school may not be elected as a parent member of a governing body at the school.
- (4) A principal of a school may not be elected as an educator member of a governing body at the school.
- (5) No learner may be elected to a governing body of an ordinary public school unless he or she is admitted to the eighth grade or higher and he or she is an elected member of the representative council of learners at the school concerned.
- (6) In the case of learners with special education needs learners in the eighth grade or higher may be elected, only if it is reasonably practicable.
- (7) A parent shall be entitled to vote only for a parent member of the governing body and shall have one vote in respect of each parent candidate.
- (8) An educator, other than the principal employed at a public school shall be entitled to vote only for educator members and shall have one vote in respect of each educator candidate.
- (9) A non-educator member of staff shall be entitled to vote only for non-educator members and shall have one vote in respect of each non-educator candidate.
- (10) Every member of the representative council of learners shall be entitled to vote only for a learner member, and shall have one vote in respect of each learner candidate.

11. Registration of Voters

- (1) The school voter's roll should be developed by the school principal in order to register voters properly.
- (2) The school admission register must be used as a basis for the voter's roll.
- (3) Eligible voters are those people referred to in regulation 4(2)..

12. Voters' Roll for Governing Body Elections

- (1) There shall be a voters' roll in respect of each of the categories of membership referred to in regulation 4(2).
- (2) The school admissions register shall be used as the basis for the parent voters' roll.
- (3) The principal shall provide the school electoral officer with a copy of the voters' rolls upon request
- (4) The voters' rolls shall be open to public scrutiny at any reasonable time.

13. Electoral Officers

- (1) The Head of Department shall appoint an official of the department as the Provincial Election Co-ordinator.
- (2) The duties of such a Provincial Election Coordinator 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 School Governing Body elections; and
 - (c) Coordinate the election and make sure that the province makes available the necessary human, material and financial resources to conduct efficient and fair elections;
 - (d) Develop materials and procedures for the training of district and school Electoral Officers and teams, and ensuring 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 Body on taking office.
- (3) The District Director shall appoint the District Electoral Officer who is a senior district official of a district concerned.

- (4) The District Electoral Officer shall:
- a) appoint a district electoral team to oversee the election process in the district.
 - b) Dividing itself into clusters that each has a Circuit Manager to monitor and support the election process;
 - c) Administrating the appointment of a School Electoral Officer at each school in line with the national guidelines, which state that an official cannot serve as an Electoral Officer at a school where he or she is employed;
 - d) Providing training to Electoral Officers ;
 - e) Drafting and publicising a district election schedule for all schools in their district;
 - f) Ensuring that every school has a valid voters' roll based on the school admissions register before the election;
 - g) Handling and resolving disputes not resolved by the School Electoral Officer;
 - h) Ensuring all schools advertise the elections in line with the provincial regulations and guidelines;
 - i) Providing monitoring staff to visit schools during the elections and ensuring that elections are in line with national and provincial election regulations and guidelines;
 - j) Supporting and monitoring each school every step of the way;
 - k) Ensuring that all documentation pertaining to the School Governing Body elections are available for verification;
 - l) Developing and administrating the database of all newly appointed School Governing Body members in the district and making the data available to the provincial and national departments when required; and
 - m) Sending letters of congratulation to all new School Governing Body members on the database upon their election, and letters of thanks or certificates of service to outgoing School Governing Body members.
 - n) Ensuring that handover processes take place smoothly
- (5) The provincial and district electoral officers may not be nominated or elected as members of any governing body of any school in the province.
- (6) The School Electoral Officer will be the Principal or a senior manager of another school. an educator or non-educator who has received training by the Independent Electoral Commission (IEC) as an Electoral Officer may serve as a School Electoral Officer of a school where he or she is not employed.
- (7) The functions of the school electoral officer before the election meeting shall be to-
- a) Prepare a notice giving details of the date, time and venue of the election meeting;
 - b) Ensure that eligible voters receive notice of the meeting in time, as stipulated in the provincial regulations;

- c) Ensure that nomination forms are available at the Principal's office and during the election meeting;
 - d) Ensure that there is a suitable venue for the election meeting;
 - e) Ensure that there is a voters' roll, which the school should prepare and which should be accurate; and
 - f) Ensure that the Election Team knows what process will be followed, and that all the resources that will be needed are available, such as the box for votes, a board to write the names of nominees, paper for voting, etc.
- (8) During the election meeting the school electoral officer shall-
- a) Explaining the procedure for nominations and elections to the voters;
 - b) Allowing the nominees to introduce themselves in accordance with the provincial guidelines;
 - c) Managing the election process;
 - d) Intervening and resolving any disputes on the day of election;
 - e) Submitting election results and the voters' roll to the district office; and
 - f) Submitting the School Governing Body data to the district office within 30 days after the elections have been conducted.

14. Election Procedure for the Parent Component of the Governing Body

- (1) The school electoral officer shall prepare notices of the combined nomination and election meeting in which the date, time, and place of the nomination and election meeting shall be stated. The date, time and venue should be considered that will allow for maximum parent participation in the election.
- (2) Notices of the date time and venue of the nomination and election should be distributed and displayed in prominent places in the school and community at least 30 days prior to the date of the nomination and election meeting.
- (3) The principal of the school must ensure that:
 - (a) a hard copy of the notice is handed to every learner at least 14 days prior to the proposed nomination and election meeting with clear oral instruction to the learner to hand it to his or her parent; or
 - (b) a copy of the notice is sent to the parents of every learner at the school by post at least 21 days prior to the date of the nomination and election meeting for parent members; 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 member of the school community.

15. Quorum

- (1) A quorum of 15% of the total number of parents on the voters' roll is required for the nomination and election meeting to proceed.
- (2) If the quorum is not met at the meeting, the meeting must be re-scheduled for another day and the same process described above must be repeated. The second meeting does not require a quorum.

16. Nominations and Elections

- (1) The school electoral officer will determine the time and duration of the nomination process.
- (2) The nomination of a candidate shall take place when the parent making the nomination:
 - (a) lodges with the school electoral officer, not more than 7 days and not less than 24 hours prior to the commencement of the nomination and election meeting, a nomination form duly completed and signed by the parent making the nomination, a supporter of the nomination and the candidate nominated, or
 - (b) makes the nomination during the time allowed for nomination in the election meeting: Provided that such nomination shall be supported by another parent and a nomination form referred to in paragraph (a) is duly completed, and is lodged with the electoral officer in the meeting.
- (3) After the nomination time has expired the school electoral officer must:
 - (a) consider the nominations and reject the nomination of any candidate who:
 - (i) has not been nominated in accordance with the procedure set out in these regulations;
 - (ii) is not eligible to vote in terms of these regulations; or
 - (iii) has not completed the said nomination form as required in these regulations.
 - (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 lower than the number of members allowed for the category of the school concerned, a new meeting at which new candidates must be nominated shall be convened within 21 days.
 - (b) is equal to the number of the members referred to in paragraph (a), the school electoral officer shall declare all the nominees duly elected to the governing body; or
 - (c) is greater than the number of the members determined in respect of the category concern, an election shall be held by secret ballot.
- (5) If after the second nomination meeting held in terms of paragraph (a) of sub-regulation (5), the total number of valid nominations is still lower than the required number of parent

members, the school electoral officer shall declare the nominated candidates to be duly elected and the provisions of regulation 7 shall apply.

17. Casting of Votes

- (1) The election shall be held on the date, time and place indicated in the notice of the nomination meeting.
- (2) The school electoral officer shall explain the procedure that will be followed in the meeting and must at least stipulate, that every nominated candidate will have the opportunity to state:
 - a) his or her name;
 - b) the names and grades of his or her children in the school;
 - c) briefly explain his or her vision for the governance of the school.
- (3) The election shall be by secret ballot. Before the ballot papers are distributed, the school electoral officer must ensure that every ballot paper has the school stamp on it, or some other distinguishing feature that prevents the ballot papers from being tampered with.
- (4) The school electoral officer must explain the voting process, the minimum and maximum number of candidates to be voted for as well as how to record the vote.
- (5) Before the election meeting the school electoral officer shall:
 - (a) prepare papers with numbers on them and making sure that once nominated each nominee is assigned a number corresponding to the number on the ballot paper;
 - (b) prepare papers with the names of all nominees on them in alphabetical order; and
 - (c) distribute blank ballot papers wherein voters shall list the names or numbers of their chosen candidates in order of preference.
- (6) A voter shall, in secrecy, record his or her vote on the ballot paper and then deposit the folded ballot paper in a box or other closed container provided for the purpose.
- (7) An illiterate biological parent or a legal guardian not able to vote because of physical disability may, at his or her own request, be assisted by the Electoral Officer in the presence of a witness identified by the person.
- (8) The school electoral officer shall reject any spoiled ballot paper before counting the votes recorded for every candidate.
- (9) The ballot paper on which the official mark or stamp does not appear shall be rejected.
- (10) Ballot papers on which more votes are recorded than the number of members to be elected shall be rejected.
- (11) A vote which is uncertain for which candidate or candidates a vote was recorded shall also be rejected on reasonable grounds.
- (12) After the rejection of spoilt papers, the school electoral officer must-
 - (a) count the votes in the presence of every candidate who wishes to be present;

- (b) announce to the whole meeting the name of each candidate and the number of votes cast for each; and
 - (c) Complete the counted ballot papers form in order of the most votes to the least votes; and declare who has been duly elected.
- (13) The school Electoral Officer must announce the candidates who have been elected, in the descending order of the number of votes obtained.
- (14) 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. This must be done openly and by agreement of the candidates. The school Electoral Officer shall decide all matters relating to the elections.
- (15) One proxy vote per person will be accepted for governing body elections.

18. Decision of the Electoral Officer in the case of Dispute Resolution

- (1) The school Electoral Officer shall decide on all matters connected with the nomination of candidates and the poll.
- (2) All disputes shall be reported to the school Electoral Officer during the elections.
- (3) The school electoral officer is authorised to attempt to resolve all disputes and, as far as possible, ensure that the elections are free and fair.
- (4) Should the school electoral officer, for any reason, be unable to resolve a dispute, he or she must allow the election to be completed and thereafter refer the dispute to the District Electoral officer within 7 days after the election.
- (5) If a complainant is not satisfied with the decision of the Electoral Officers' decision he or she may refer the dispute to the district electoral officer within 7 days of the election.
- (6) Should the complainant still be dissatisfied with the decision of the District Electoral Officer he/she may lodge an appeal with the MEC within 30 days of the decision.
- (7) The decisions referred to in sub-regulations (1), (5) and (6) must be made within 5 working days of the receipt of referral.

19. Procedure after Elections of Governing Body

After the election of a governing body the school electoral officer 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 elected member in writing of his or her election;

- d) Notify the Principal of the school in writing of the names and addresses of the persons elected as members, and inform the Principal that he or she must notify the parents of the election results within 14 days of the meeting;
- e) Ensure that the District Director and Circuit Manager is informed in writing of the names and addresses of the persons elected as School Governing Body members
- f) Include an undisputed election declaration where this was the case, or a declaration detailing any disputes.

20. Election of Office-Bearers

- (1) Prior to the election of office-bearers the principal shall make the members of the governing body aware of their responsibilities and the need to ensure that office-bearers are as representative of gender and racial diversity of the school as possible.
- (2) The principal shall convene the first meeting of the governing body within 14 days after publication of the results of the elections,
- (3) At the first meeting of the governing body such body shall, from amongst its members, elect office bearers who must include at least a chairperson, a treasurer, a secretary: Provided that the chairperson shall be a parent member of the governing body who is not employed at the school concerned.
- (4) Where for any reason the office of any office-bearer becomes vacant, the governing body shall, 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 unexpired period of office of his or her predecessor.
- (5) The principal or his/her nominee shall preside at the meetings referred to in sub-regulations (1) and (3) above if both the offices of chairperson and vice-chairperson are vacant, otherwise the chairperson, or if he or she is not available, the vice-chairperson should preside.
- (6) In the case of a public school for learners with special education needs any member except if the member is a learner or is employed at the school.
- (7) There may not be more than two educator members serving as office-bearers of the school governing body.
- (8) No member of a school governing body may hold more than one office at the same time in the governing body;
- (9) The principal must, after a meeting at which any office-bearer has been elected in accordance with these regulations, forthwith notify in writing the district director and circuit manager concerned of the date of the meeting and of the name, address and office of the persons elected or nominated.

21. Deviation from Prescribed Procedures

- (1) The school electoral officer may after consultation with the principal and within 30 days prior to the election and nomination meeting, apply to the Head of Department for permission to deviate from the requirement of a single nomination and election meeting.
- (2) In considering the application the Head of Department shall have regard to any possible prejudice to the participation of parents.
- (3) The Head of Department shall decide on the application referred to in sub-regulation (1) within 14 days of the receipt thereof.
- (4) The Head of Department may, on good cause shown, allow any other deviation from the requirements in these regulations if, such deviation is justified on reasonable grounds.

22. Registration of Governing Body Members and Hand-over Procedure

- (1) At the first meeting referred to in sub-regulation (2) of regulation 20 the school principal must ensure that the particulars of every member of the new governing body appear on the data.
- (2) The Principal of the school on behalf of the outgoing Chair must, within 14 days of the meeting, submit the data form to the District Electoral Officer.
- (3) The Principal must inform the District Director and Circuit Manager of any changes to the membership of the governing body within 14 days of those changes being effected, to ensure that the database is up to date.
- (4) The school principal must, as *ex officio* member, manage the transition process to ensure-
 - (a) that the records of the old governing body are handed over to the new school governing body.
 - (b) Conducting an induction session for the new members; and
 - (c) Answering any questions that the new SGB may have.

23. Order of Elections

- (1) The election of the parent component of the governing body shall be preceded by the election of the educator, non-educator staff and learner members of the governing body.

24. Election Procedure for Educator Members of the Governing Body

- (1) The principal of a school shall provide the school electoral officer with a voters' roll for educators.
- (2) The school electoral officer will determine the date, time, and place for the nomination and election meeting for educator members: Provided that the meeting shall be held at least 7 days prior to the election of the parent members.

- (3) The school electoral officer must give every educator at the school, notice of the nomination meeting at least 14 days before the day of the meeting. The nomination of an educator shall be done by the submission of a nomination form duly completed and signed by the educator making the nomination, one supporter of the nomination and the candidate, to the school electoral officer before the election day.
- (4) In the event that the nomination is done at the meeting referred to in sub-regulation (3), the procedure described in sub-regulation (4) shall apply: Provided that the submission shall be done within the time the school electoral officer has allowed for this purpose.
- (5) In the event that the total number of valid nominations is equal to the number allowed for educator members on the governing body, the nominated candidates shall be declared to be duly elected, and the electoral officer shall sign a declaration indicating that members were not elected by secret ballot, and that he or she allowed an opportunity for more nominations.
- (6) In the event that the total number of nominations is lower than the number allowed for educator members on the governing body, the school electoral officer must convene another meeting before the parents' election meeting.
- (7) In the event that the number of the nominated candidates is greater than the number allowed for educator members on the governing body, the school electoral officer must conduct the elections by secret ballot as described in regulation 16. Where a school has only two educators on its staff the school electoral officer may draw lots to determine who of the two will serve on the governing body.

25. Election Procedure for Non-Educator Members of Staff

- (1) The procedure described prescribed in regulation 26 shall apply to the nomination and election of non-educator members of staff.
- (2) In cases where there is no non-educator member of staff at a school, the position will be left open.
- (3) Where there is one non-educator member of staff he or she shall be regarded as duly elected to the governing body.

26. Election Procedure for the Learner Members of the Governing Body

- (1) The procedure prescribed in regulation 25 shall apply to the nomination and election of members of the representative council of learners to the governing body.

27. Removal of Governing Body Members from Office

A member of the School Governing Body of a public school may be removed from office in terms of section 18A of the Act.

28. By-Elections

- (1) By –election must take place within 90 days of a School Governing Body vacancy opening as result of death, resignation, dismissal or a member no longer meets the requirement as referred in regulation 4(2). The Chairperson of the he principal, as a member of the old and new and should inform the School Electoral Officer via the Circuit Manager of such vacancies, and invite him or her to conduct the by-elections.

29. Monitoring of Elections

- (1) The Head of Department shall appoint any number of persons to monitor all processes during elections.
- (2) A person appointed as a monitor shall have unhindered access to any proceeding relevant to the elections.
- (3) A monitor may not intervene with any process relating to the elections.
- (4) A monitor shall compile a written report of his or her observations and submit it to the Provincial/District Electoral Officer within 14 days of the conclusion of the elections.

30. Short Title

These Regulations shall be known as the Regulations for the Constitution and Election of Governing Bodies in Public Schools in the Mpumalanga Province, and shall come into effect on publication in the Provincial Gazette.
