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KWAZULU-NATAL PROVINSIE
ISIFUNDAZWE SAKWAZULU-NATALI

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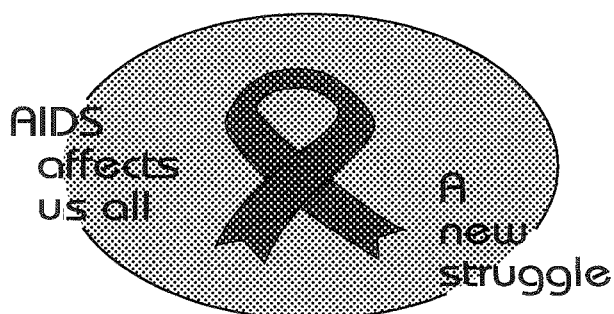
Vol. 5

PIETERMARITZBURG,

8 JUNE 2011
8 JUNIE 2011
8 kuNHLANGULANA 2011

No. 591

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PROVINCIAL NOTICE—PROVINSIALE KENNISGEWING—ISAZISO SESIFUNDAZWE

No. 56**8 June 2011****ADULT BASIC EDUCATION AND TRAINING ACT, 2000
(ACT NO. 52 OF 2000)****ELECTION OF GOVERNING BODIES OF ADULT BASIC EDUCATION AND TRAINING
CENTRES**

I, EDWARD SENZO MCHUNU, Member of the Executive Council of the Province of KwaZulu-Natal responsible for education, has, in terms of sections 8, 9 and 19 of the Adult Basic Education and Training Act, 2000 (Act No. 52 of 2000) determined matters relating to the election of governing bodies of public centres as appear in this Schedule.

SCHEDULE**Definitions**

1. In this notice any word or expression to which a meaning has been assigned in the Act shall have that meaning unless the context indicates otherwise:-

“**Act**” means the Adult Basic Education and Training Act, 2000 (Act No. 52 of 2000) as amended ;

“**Centre**” means an Public Adult Basic Education and Training Centre established in terms of the Act.

“**Closed meeting**” means a meeting open only to –

- (a) parents for the election of parents;
- (b) educators for the election of educators;
- (c) non-educators for the election of non-educators; and
- (d) learners from the representative council of learners;

“**Co-opted members**” means members –

- (a) without voting powers co-opted for their expertise; and
- (b) with voting powers co-opted to replace departing members who have not completed their term of office;

“**Day**” means calendar day;

“**Department**” means the KwaZulu-Natal Department of Education;

“**Election meeting**” means –

- (a) three separate election meetings held exclusively for the nomination and election of educators only, non-educators only and learners from the representative council of learners only, as the case may be; and
- (b) a by-election meeting;

“Election monitors” means officers or community leaders selected by the provincial or district electoral task team and approved by the Superintendent-General as observers, supervisors or overseers of elections;

“Electoral officers” means the provincial electoral officer, district electoral officer, public electoral officer, all deputy electoral officers and assistant electoral officers;

“First meeting” means a meeting held exclusively for the election of office bearers;

“Level” means that part of an ABET educational programme which a learner may complete in one year;

“Member of the Executive Council” means the Member of the Executive Council responsible for education in the Province of KwaZulu-Natal;

“Non-educator” means any employee at the Centre other than an educator;

“Public Centre Electoral Officer” means a centre manager or an officer appointed by the Head of Department to conduct the governing body elections;

“Superintendent-General” means the Head of Department of basic education in the Province of KwaZulu-Natal; and

“Voter” means educator in the educator component, non-educator in the non-educator’s component and learner in the learner component.

Membership of governing body

2.(1) A governing body consists of –

- (a) one educator elected by educators employed at the public centre for which the governing body is being elected if there are no more than five educators employed at the public centre concerned and two educators if there are more than five educators employed at the public centre concerned;

- (b) one non-educator elected by non-educators employed at the public centre for which the governing body is being elected;
- (c) one learner in centres which have one level and two learners in the centres which have more than one level;
- (d) the centre manager, in his or her official capacity;
- (e) co-opted members who shall consist of –
 - (i) two members of the community with voting powers;
 - (ii) chairperson of the host school governing body;
 - (iii) the principal; or
 - (iv) a person designated by the principal or the chairperson but such designated person shall have no voting powers,
- (f) one representative of any sponsoring body;
- (g) one representative of an organisation for disabled persons, where applicable; and
- (h) any expert in the field of adult basic education and training, where applicable.

(2) The number of co-opted person must not exceed seven.

(3) The governing body, when considering the co-option of members, must consider gender and youth.

Term of office

3.(1) A governing body is elected for three years unless otherwise directed by the Member of the Executive Council.

(2) The Member of the Executive Council shall determine the election period for all public centres.

(3) If the governing body has –

- (a) six months or less before the expiry of its term of office, the Member of the Executive Council may, notwithstanding such period, direct that elections be held on a date determined by him or her; or
- (b) more than six months before the expiry of its term of office, the Member of the Executive Council may, after consultation with the governing body concerned determine a date when elections shall be held notwithstanding the unexpired period of its term of office.

(4) Subject to clause 4(2), all members, excluding learners elected by the representative council of learners, are elected for a term of three years.

(5) The term of office of a learner elected by the representative council of learners in terms of clause 2(1c) is one year.

(6) Subject to clauses 4 and 19 a member of a governing body holds office until the expiry of the term of office of the current governing body.

(7) Should the Superintendent-General determine on reasonable grounds that the governing body has ceased to perform its allocated functions in terms of the act or has failed to perform one or more of its functions, the Superintendent-General may withdraw functions and –

- (a) dissolve the governing body and appoint one or more persons to perform those functions for a period not exceeding three months;
- (b) extend the period referred to in *sub-clause (a)* above for periods not exceeding three months at a time which combined period shall not exceed one year;
- (c) ensure that a governing body is elected within one year after the appointment of the person referred to in *sub-clause (a)*.

(8) Subject to clause 4 a member 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.

Composition and eligibility

4.(1) The following shall be eligible for election as members of a governing body –

- (a) educators employed at the centre;
- (b) non-educators employed at the centre; and
- (c) learners from the representative council of learners.

(2) No person may be elected as a governing body member if he or she –

- (a) has been convicted of an offence and sentenced to more than 12 months' imprisonment without the option of a fine either in the Republic or outside the Republic if the conduct constituting the offence would have been an offence in the Republic, but no one may be regarded as having been sentenced until –
 - (i) an appeal against the conviction or sentence has been determined; or
 - (ii) the time for an appeal has expired, provided that a disqualification under this paragraph ends five years after the sentence has been completed.
- (b) is of unsound mind and has been declared so by a competent court;
- (c) is in the service of the Department and is stationed at the centre, except for persons elected to represent educators at the centre and members of staff who are not educators;

- (d) is an unrehabilitated insolvent; or
- (e) is not a South African citizen and not in possession of a permanent resident permit unless permitted by the Superintendent-General.

(3) A member vacates his or her office if he or she –

- (a) does not meet the requirements set out in the clause 4;
- (b) resigns;
- (c) is a member elected in terms of clause 2 (1) (a) or (b) and his or her employment is terminated or he or she is transferred or seconded away from the centre concerned;
- (d) is a member elected in terms of clause 2(1) (c) and he or she no longer attends the centre concerned as a learner;
- (e) is deceased;
- (f) has been absent without leave from three consecutive ordinary meetings of the governing body;
- (g) is no longer a member of the representative council of learners.

Appointment of provincial electoral officer

5. (1) The Superintendent-General must appoint in writing a provincial electoral officer, a deputy provincial electoral officer and assistant electoral officers;

(2) The provincial electoral officer must –

- (a) ensure there is adequate publicity of the election;
- (b) administer the appointment of one or more officers in the service of the Department to assist at the election as assistant provincial electoral officers;
- (c) ensure that there is compliance with provincial legislation in respect of the elections;
- (d) compile an election schedule for all centres in the Province;
- (e) monitor the induction of newly-elected governing body members; and
- (f) conduct investigations as directed by the Superintendent-General.

(3) The deputy provincial electoral officer and the assistant provincial electoral officers, assist the provincial electoral officer in the performance of his or her functions.

Appointment of district electoral officers

6. (1) The Superintendent-General must appoint in writing a district electoral officer, a deputy district electoral officer and assistant district electoral officers.

(2) The district electoral officer must –

- (a) administer the appointment of one or more officers in the service of the Department to assist at the election as assistant district electoral officer;
- (b) administer the appointment of centre electoral officers;
- (c) publicise an election schedule for all centres in the district;
- (d) ensure compliance with the election process;
- (e) ensure that every centre has a valid voters' roll;
- (f) develop and administer the database of all newly elected governing body members in the district and make the data available to the Department;
- (g) ensure that the newly elected governing body members are inducted within three months of being elected; and
- (h) resolve disputes relating to the elections in terms of clause 16.

(3) Except for resolving disputes as provided in clause 6(2)(h), the deputy district electoral officer and the assistant district electoral officers will assist the district electoral officer in the performance of all other functions.

(4) The deputy district electoral officer and assistant district electoral officers may provide advice to the district electoral officer on any issue relating to the elections.

Appointment of public centre electoral officers

7.(1) The Superintendent-General must appoint in writing an officer of the Department as a centre electoral officer for the election of educators, non-educators and for learners from the representative council of learners as members of a governing body.

(2) A centre manager shall not be appointed as centre electoral officer in a centre where he or she is employed.

(3) The centre manager must appoint in writing one or more officers or educators in the service of the Department or employed by the governing body to assist at the elections as assistant electoral officers.

(4) The centre electoral officer shall preside at all election meetings.

(5) The centre electoral officer and the assistant centre electoral officer shall not be a candidate, a proposer or seconder of a candidate.

Oath or affirmation of confidentiality

8. (1) All electoral officers must sign an oath or affirmation of confidentiality in a form determined by the Superintendent-General before he or she acts in such capacity

Notice of an election meeting

9.(1) The public centre manager shall –

- (a) determine a date, time and place for an election meeting; and
- (b) prepare a notice setting out the date, time and place of the election meeting.

(2) At least 21 days prior to the date of the election the public centre electoral officer must –

- (a) hand a copy of the notice of the election meeting to every learner at the centre;
- (b) hand a copy of the notice of the election meeting to every educator and non-educator employed at the centre;
- (c) cause a copy of such notice to be displayed in a conspicuous place at the public centre concerned, community halls, public transport vehicles, libraries and any other prominent public places; and
- (d) hand a copy of such notice to each member of the representative council of learners.

(3) In the case of a new centre, the election meeting must be held within 90 days of the establishment of the centre.

Voters' roll

10.(1) The public centre manager must prepare a separate voters' roll for each of the following –

- (a) educators;
- (b) non-educators; and
- (c) learners from the representative council of learners.

(2) The public centre manager must prepare a separate voters' roll using the –

- (a) register of learners from the representative council of learners;
- (b) time book for educators and non-educators.

(3) At least 21 days before the election meeting, the public centre manager must allow potential voters to inspect the voters' roll.

(4) Any complaint relating to the voters' roll must be referred to the public centre manager at least seven days before the election date.

Election meetings

11.(1) Separate election meetings must be held for –

- (a) learners;
- (b) educators; and
- (c) non-educators.

(2) The public centre electoral officer must designate an assistant public centre officer to act as Secretary to the meetings and record the minutes of the proceedings.

(3) Except for election monitors and the assistant public centre electoral officers, the public centre electoral officer must not allow any person who is not qualified as a voter to attend a meeting or allow the election of a person who is not qualified as a candidate in terms of clause 4.

(4) Before proceeding with the election of members of a governing body, the public centre electoral officer must draw the attention of voters to the following –

- (a) that the term of office of the current governing body has expired and members have been officially notified;
- (b) that the election meeting is a closed meeting;
- (c) the provisions of clause 4 relating to eligibility as a member of a governing body;
- (d) the number of persons to be elected;
- (e) every nomination must be seconded by an educator, non-educator or a learner of the representative council of learners, as the case may be, who is entitled to vote;
- (f) that during nominations, voters must take into account representivity and must ensure that nominations are representative of gender, race and wherever possible include nominations of persons with disabilities;
- (g) that a voter has one vote for each vacancy to be filled;
- (h) that voting is by secret ballot; and
- (i) that a grievance procedure exists for those dissatisfied with the election process or outcome.

Quorum for an election meeting

12.(1) A quorum of 15 percent of voters on the voters' roll must be constituted prior to any election being held.

(2) If a quorum referred to in sub-clause (1) is not constituted, the meeting must be adjourned for at least 14 days but not more than 21 days.

(3) In the event of an adjourned election meeting, the centre electoral officer must proceed with the subsequent meeting irrespective of whether a quorum is constituted or not.

Nominations

13.(1) The public centre electoral officer must determine the time allowed for the nomination of candidates during the nomination phase and must inform the voters accordingly.

(2) A person may be nominated in absentia provided the –

- (a) proposer and seconder of the nominated person are present at the meeting; and
- (b) nominated person sends written confirmation of acceptance of nomination.

(3) A candidate may be nominated in writing or verbally by –

- (a) an educator employed at the centre concerned for a vacancy in terms of clause 2 (1)(a);
- (b) a non-educator employed at the centre concerned for a vacancy in terms of clause 2(1)(b); or
- (c) a learner from the representative council of learners in terms of clause 2(1) (c), provided that another educator, non-educator or a learners from the representative council of learners, as the case may be, seconds the proposal and the person nominated indicates to the meeting verbally or in writing if he or she is absent, that he or she is prepared to serve as a member of the governing body, if elected.

(4) The proposer and the seconder of a candidate must be in attendance at an election meeting.

(5) A public centre electoral officer must –

- (a) allow a person who nominated a candidate an opportunity to introduce the candidate to the meeting and give reasons for the nomination; or
- (b) allow a nominated candidate to introduce himself or herself to the meeting.

(6) During the nominations, the public centre electoral officer must consider the nominations and reject the nomination of any candidate who –

- (a) has not been nominated in accordance with clause 13(2) and (3); or
- (b) is ineligible in terms of clause 4.

(7) If the number of persons nominated exceeds the number of vacancies, the public centre electoral officer must immediately after the closing of the nominations, write down the names of the candidates on a suitable board or any other surface that is clear and visible to everyone in attendance at the meeting.

(8) If the number of persons nominated is equal to the number of vacancies, the public centre electoral officer must declare the nominated persons duly elected.

Voting

14.(1) Each voter has one vote for each position to be filled on the governing body.

(2) The public centre electoral officer must request the voters present to mark with a **cross (x)** the names of the candidates preferred by them on the ballot papers provided by the public centre electoral officer.

(3) A person who is unable to mark his or her vote on the ballot paper in terms of clause 14(2), may make a verbal request to the public centre electoral officer or the assistant school electoral officer to assist them in marking, his or her vote on the ballot paper.

(4) The public centre electoral officer shall assist any disabled person in marking his or her vote on the ballot paper.

(5) The request for assistance and the completion of the ballot paper in accordance with the request referred to in clause 14 (3) shall be made in private in an area identified by the public centre electoral officer for that purpose but within the area in which the voting is taking place.

(6) The public centre electoral officer must reject ballot papers with –

- (a) more crosses(x) than the number of vacancies on the governing body; or
- (b) the name of a person or persons not nominated;

(7) After all the voters have cast their votes, the public centre electoral officer and the assistant public centre electoral officers must count the votes in the presence of three observers appointed by those attending the meeting, to observe the counting process;

(8) In the case of an equality of votes for two or more candidates for the last place or places on the list of candidates, the public centre electoral officer must request the voters to indicate the preferred candidate from those with equal votes following the procedure set out in this clause;

(9) The public centre electoral officer must announce the result during the election meeting and declare the candidates who secured the most votes as the elected members of the governing body.

(10) The number of votes a person secures in this election does not determine the outcome of the election of office bearers elected in terms of clause 15.

The first meeting

15.(1) The public centre manager must convene the first meeting of the governing body within twenty-one days after its election.

(2) The purpose of the first meeting of the governing body shall be to –

- (a) enable the public centre manager, representatives from sponsoring body; representatives from an organisation for disabled persons; and an expert in the field of adult basic education to co-opt in to the governing body members of the community;
- (b) elect office bearers of the governing body;
- (c) co-opt the chairperson of the governing body of the host school or the principal of the host or their respective designated person to the centre's governing body.

(3) Members of the community co-opted to the governing body in terms of clause 15 (2) (a) should preferably be from the following categories –

- (a) community leaders;
- (b) traditional leaders;
- (c) religious leaders;
- (d) gender groups; and
- (e) youth groups

Election of office bearers

16.(1) At the first meeting of the governing body, the members shall elect as office bearers –

- (a) a chairperson;
- (b) a vice chairperson;
- (c) a treasurer; and
- (d) a secretary.

(2) The term of office for the office bearers is one year.

(3) An office bearer may be re-elected after the expiry of his or her term of office.

(4) The public centre manager may designate a member of his or her staff to assist the treasurer and secretary of the governing body.

(5) Whenever the office of one of the office bearers becomes vacant, the governing body may, at its first meeting after the vacancy has occurred, elect one of its members to fill the vacancy for the unexpired period.

(6) The public centre manager presides at any meeting for the election of office bearers.

Dispute resolution

17.(1) A voter or person who was a candidate in a governing body election may lodge his or her complaint or grievance in writing with the district electoral officer within seven days of the election meeting if the prescribed procedures were not followed during the election meeting.

(2) Any person who has any knowledge or information of any irregularities relating to the elections may within seven days of the elections inform the district electoral officer in writing of the irregularities.

(3) Upon receipt of the complaint, grievance or information of irregularities, the district electoral officer must appoint his deputy or assistant district electoral officer to conduct an investigation and make a recommendation to him or her.

(4) The district electoral officer may after investigation, declare an election invalid and may call for re-election if he or she is satisfied that –

- (a) the prescribed procedures were not followed;
- (b) the outcome of the election would have been different had the prescribed procedures been followed; or
- (c) irregularities were committed during the election process.

(5) Any person aggrieved by the decision of the district electoral officer may appeal against such decision to the Superintendent-General within 14 days of receipt of the decision of the district electoral officer.

(6) The Superintendent-General must –

- (a) within 7 days of receipt of the appeal refer the appeal to the provincial electoral officer;
- (b) request the provincial electoral officer to investigate and prepare a report with recommendations within 14 days of the appeal being referred to the provincial electoral officer; and

(c) consider the report referred to in 5 (b), make a finding and communicate his or her decision in writing to the appellant and to the district electoral officer within 14 days of receiving the report from the provincial electoral officer.

(7) The decision of the Superintendent-General shall be final.

(8) Pending the outcome of the dispute, the Superintendent-General must appoint sufficient persons to perform the functions of the governing body for a period not exceeding three months.

Procedure after the election

18.(1) After the election of members of a governing body the public centre electoral officer must –

- (a) notify in writing each elected member of his or her election and such notification must be sent by post, e-mail or hand delivered;
- (b) place all documents, including ballot papers used at such elections in envelopes and seal the envelopes;
- (c) keep the envelopes in safe custody for the duration of the term of office of the governing body; and
- (d) notify the district electoral officer in writing of the details of the election including the date of election, names, identity numbers, telephone numbers, fax numbers and addresses of all elected members.

By-election

19.(1) If a vacancy arises as a result of the departure of any member of a governing body before the expiry of the governing body's term of office or the member's term of office, the public centre electoral officer must officiate at the election of a new member to replace the departing member.

(2) If a vacancy or vacancies arise more than six months before the expiry of the term of the office of a governing body, the public centre electoral officer must conduct a by-election following the procedures set out in clauses 13 and 14.

(3) The public centre electoral officer shall arrange an election meeting within 90 days of a vacancy arising and pending the by-election the governing body may co-opt members.

(4) If a vacancy arises less than six months before the expiry of the term of office of a governing body as a result of the departure of a member –

(a) the remaining members must co-opt, by majority vote, a person or persons to fill the vacancy or vacancies for the remainder of the period of office of the governing body; and

(b) the educator, non-educator and learner component recommend names of at least three eligible persons who can be co-opted into the governing body and the governing body must co-opt from the recommended names.

(5) A co-opted member referred to in *sub-clause (4)* assumes the voting rights of the departing member.

Dissolution of a governing body

20.(1) The Member of the Executive Council may dissolve a governing body by notice in the *Provincial Gazette* if –

(a) the centre is closed or partly disestablished;

(b) owing to the merger of centres or any other reorganisation of a centre;

(c) he or she is of the opinion that the governing body is no longer representative of the community for which the centre has been established; and

(d) it is in the public interest to do so.

Delegation of powers

21. The Superintendent-General may delegate the powers bestowed upon him or her in terms of this notice to an official in the employment of the Department.

ES MCHUNU

Member of the Executive Council of the Province of KwaZulu-Natal
responsible for education.

No. 56

8 Junie 2011

WET OP BASIESE ONDERWYS EN OPLEIDING VIR VOLWASSENES, 2000**(WET NO. 52 VAN 2000)****VERKIESING VAN BEHEERLIGGAME VAN BASIESE ONDERWYSSENTRUMS VIR VOLWASSENES**

Ek, EDWARD SENZO MCHUNU, Lid van die Uitvoerende Raad van die provinsie KwaZulu-Natal verantwoordelik vir onderwys, het aangeleenthede bepaal wat verband hou met die verkiesing van beheerliggame van openbare sentrums soos vermeld in hierdie bylae, ingevolge artikels 8, 9 en 19 van die Wet op Basiese Onderwys en Opleiding vir Volwassenes, 2000 (Wet No. 52 van 2000).

BYLAE**Omskrywings**

1. In hierdie kennisgewing het enige woord of uitdrukking waaraan 'n betekenis geheg word in die Wet, daardie betekenis tensy uit die konteks anders blyk, en beteken –

“Wet” beteken die Wet op Basiese Onderwys en Opleiding vir Volwassenes, 2000 (Wet No. 52 van 2000), soos gewysig

“sentrum” beteken 'n plek van samekoms wat in terme van die bogenoemde Wet gevestig is

“geslote vergadering” 'n vergadering wat slegs oop is vir –

- (a) ouers vir die verkiesing van ouers;
- (b) opvoeders vir die verkiesing van opvoeders;
- (c) nie-opvoeders vir die verkiesing van nie-opvoeders; en
- (d) leerders van die verteenwoordigende raad van leerders;

“gekoöpteerde lede” lede –

- (a) sonder stembevoegdheid gekoöpteer vir hul kundigheid; en
- (b) met stembevoegdheid gekoöpteer om vertrekkende lede wat nie hul ampstermyn voltooi het nie, te vervang;

“dag” kalenderdag;

“Departement” die KwaZulu-Natal Departement van Onderwys;

“eerste vergadering” 'n vergadering gehou uitsluitlik vir die verkiesing van ampsdraers;

“kieser” opvoeder in die opvoederkomponent, nie-opvoeder in die nie-opvoederkomponent en leerder in die leerderkomponent;

“lid van die Uitvoerende Raad” die lid van die Uitvoerende Raad verantwoordelik vir onderwys in die provinsie KwaZulu-Natal;

“nie-opvoeder” enige ander personeelid by die sentrum buiten 'n opvoeder;

“openbare sentrum-verkiesingsbeampte” 'n sentrumbestuurder of 'n beampte wat deur die departementshoof aangestel is om beheerliggameverkiesings te hou;

“superintendent-generaal” die departementshoof van basiese onderwys in die provinsie KwaZulu-Natal;

“verkiesingsbeamptes” provinsiale verkiesingsbeampte, distriksverkiesingsbeampte, openbare verkiesingsbeampte, alle adjunkverkiesingsbeamptes en assistentverkiesingsbeamptes;

“verkiesingsmonitors” beamptes of gemeenskapsleiers gekies deur die provinsiale of distriksverkiesingtaakspan en goedgekeur deur die superintendent-generaal as waarnemers, toesighouers of opsieners van die verkiesing;

“verkiesingsvergadering” – (a) drie afsonderlike verkiesingsvergaderings gehou uitsluitlik vir die benoeming en verkiesing van slegs opvoeders, slegs nie-opvoeders en slegs leerders uit die verteenwoordigende raad van leerders, na gelang van die geval; en

(b) 'n tussenverkiesingvergadering; en

“vlak” daardie deel van 'n BOOV-opvoedkundige program wat 'n leerder in een jaar kan voltooi; en

“Wet” die Wet op Basiese Onderwys en Opleiding vir Volwassenes, 2000 (Wet No. 52 van 2000).

Lidmaatskap van beheerliggaam

2.(1) 'n Beheerliggaam bestaan uit –

- (a) een opvoeder verkies deur opvoeders in diens van die openbare sentrum waarvoor die beheerliggaam verkies word indien daar nie meer as vyf opvoeders in diens van die betrokke openbare sentrum is nie en twee opvoeders indien daar meer as vyf opvoeders in diens van die betrokke openbare sentrum is;
- (b) een nie-opvoeder verkies deur nie-opvoeders in diens van die openbare sentrum waarvoor die beheerliggaam verkies word;
- (c) een leerder in sentrums wat een vlak het en twee leerders in die sentrums wat meer as een vlak het;
- (d) die sentrumbestuurder, in sy of haar amptelike hoedanigheid;
- (e) gekoöpteerde lede wat bestaan uit –
 - (i) twee lede van die gemeenskap met stembevoegdheid;
 - (ii) voorsitter van die gasheersentrum se beheerliggaam;
 - (iii) die hoof; of
 - (iv) 'n persoon wat deur die hoof of die voorsitter aangewys is, maar sodanige aangewese persoon het geen stembevoegdheid nie,
 - (f) een verteenwoordiger van enige borgliggaam;
 - (g) een verteenwoordiger van 'n organisasie vir gestremdes, waar van toepassing; en
 - (h) enige kundige op die terrein van basiese onderwys en opleiding vir volwassenes, waar van toepassing.

(2) Die aantal gekoöpteerde persone mag nie sewe oorskry nie.

(3) Die beheerliggaam moet, by oorweging van die koöptering van lede, geslag en jeug in ag neem.

Ampstermyn

3.(1) 'n Beheerliggaam word verkies vir drie jaar tensy die lid van die Uitvoerende Raad anders gelas.

(2) Die lid van die Uitvoerende Raad bepaal die verkiesingstydperk vir alle openbare sentrums.

(3) Indien die beheerliggaam –

- (a) ses maande of minder het voor die verstryking van sy ampstermyn, kan die lid van die Uitvoerende Raad, ondanks sodanige tydperk, gelas dat 'n verkiesing gehou word op 'n datum soos deur hom of haar bepaal; of
- (b) meer as ses maande voor die verstryking van sy ampstermyn het, kan die lid van die Uitvoerende Raad, na oorlegpleging met die betrokke beheerliggaam, 'n datum bepaal wanneer 'n verkiesing gehou moet word ondanks die onverstreke tydperk van sy ampstermyn.

(4) Onderhewig aan klousule 4(2), word alle lede, uitsluitend leerders verkies uit 'n verteenwoordigende raad van leerders, vir 'n termyn van drie jaar verkies.

(5) Die ampstermyn van 'n leerder wat deur die verteenwoordigende raad van leerders verkies is ingevolge klousule 2(1c), is een jaar.

(6) Onderhewig aan klousules 4 en 19 beklee 'n lid van 'n beheerliggaam die amp tot die verstryking van die ampstermyn van die huidige beheerliggaam.

(7) Indien die superintendent-generaal met redelike gronde bepaal dat die beheerliggaam opgehou het om sy toegewese funksies ingevolge die Wet te verrig of versuim het om een of meer van sodanige funksies te verrig, kan die Superintendent-generaal funksies onttrek en –

- (a) die beheerliggaam ontbind en een of meer persone aanstel om daardie funksies vir 'n tydperk wat nie drie maande oorskry nie, te verrig;
 - (b) die tydperk vermeld in *subklousule (a)* hierbo verleng met tydperke wat nie drie maande op 'n keer oorskry nie welke gekombineerde tydperk nie een jaar sal oorskry nie;
 - (c) verseker dat 'n beheerliggaam verkies word binne een jaar na die aanstelling van die persoon vermeld in *subklousule (a)*.
- (8) Onderhewig aan klousule 4 kan 'n lid van 'n beheerliggaam na die verstryking van sy of haar ampstermyn herverkies of gekoöpteer word, na gelang van die geval.

Samestelling en verkiesbaarheid

4.(1) Die volgende persone is verkiesbaar as lede van 'n beheerliggaam –

- (a) opvoeders in diens van die sentrum;
- (b) nie-opvoeders in diens van die sentrum; en
- (c) leerders uit die verteenwoordigende raad van leerders.

(2) Geen persoon mag as 'n lid van die beheerliggaam verkies word nie indien hy of sy –

- (a) skuldig bevind is aan 'n misdryf en gevonnisd is tot meer as 12 maande gevangenisstraf sonder die keuse van 'n boete, hetsy binne die Republiek of buite die Republiek, indien die gedrag wat die misdryf uitmaak, 'n misdryf in die Republiek sou wees. Niemand mag as gevonnisd beskou word nie totdat –

- (i) 'n appèl teen die skuldigbevinding of vonnis vasgestel is; of
- (ii) die tyd vir 'n appèl verstryk het, met dien verstande dat onbevoegdheid kragtens hierdie paragraaf vyf jaar eindig nadat die vonnis uitgedien is.

- (b) deur 'n bevoegde hof as ontoerekeningsvatbaar verklaar is;

- (c) in diens is van die Departement en by die sentrum gestasioneer is, buiten persone wat verkies is om opvoeders by die sentrum te verteenwoordig asook personeellede wat nie opvoeders is nie;

- (d) 'n ongerehabiliteerde insolvent is; of

- (e) nie 'n Suid-Afrikaanse burger is nie of nie in besit is van 'n permanente residensiële permit nie, tensy dit deur die superintendent-generaal toegelaat word.

(3) 'n Lid ontruim sy of haar amp indien hy of sy –

- (a) nie aan die vereistes soos uiteengesit in klousule 4 voldoen nie;
- (b) bedank;
- (c) 'n lid is wat verkies is ingevolge klousule 2(1)(a) of (b) en sy of haar diens beëindig word of hy of sy van die betrokke sentrum af verplaas of gesekondeer word;
- (d) 'n lid is wat verkies is ingevolge klousule 2(1)(c) en nie meer betrokke sentrum as 'n leerder bywoon nie;
- (e) oorlede is;
- (f) afwesig was sonder verlof vir drie opeenvolgende gewone vergaderings van die beheerliggaam; of
- (g) nie meer 'n lid van die verteenwoordigende raad van leerders is nie.

Aanstelling van provinsiale verkiesingsbeampte

5. (1) Die superintendent-generaal moet 'n provinsiale verkiesingsbeampte, 'n adjunk- provinsiale verkiesingsbeampte en assistentverkiesingsbeamptes skriftelik aanstel;

(2) Die provinsiale verkiesingsbeampte moet –

- (a) verseker dat daar voldoende publisiteit vir die verkiesing is;
- (b) die aanstelling van een of meer beamptes in diens van die Departement administreer om bystand by die verkiesing te verleen as assistent- provinsiale verkiesingsbeamptes;

- (c) verseker dat provinsiale wetgewing ten opsigte van die verkiesing nagekom word;
- (d) 'n verkiesingskodule vir alle sentrums in die provinsie opstel;
- (e) die intrede van nuutverkose beheerliggaamlede moniteer; en
- (f) ondersoek uitvoer soos gelas deur die superintendent-generaal.

(3) Die adjunk- provinsiale verkiesingsbeampte en die assistent- provinsiale verkiesingsbeamptes staan die provinsiale verkiesingsbeampte by in die uitvoering van sy of haar pligte.

Aanstelling van distrikverkiesingsbeamptes

6. (1) Die superintendent-generaal moet 'n distrikverkiesingsbeampte, 'n adjunkdistrikverkiesingsbeampte en assistentdistrikverkiesingsbeamptes skriftelik aanstel.

(2) Die distrikverkiesingsbeampte moet –

- (a) die aanstelling administreer van een of meer beamptes in diens van die Departement om by die verkiesing bystand te verleen as assistentdistrikverkiesingsbeampte;
- (b) die aanstelling van sentrumverkiesingsbeamptes administreer;
- (c) 'n verkiesingskodule vir alle sentrums in die distrik bekendstel;
- (d) nakoming van die verkiesingsproses verseker;
- (e) verseker dat elke sentrum 'n geldige kieserslys het;
- (f) die databasis van alle nuutverkose beheerliggaamlede in die distrik ontwikkel en administreer en die inligting aan die Departement beskikbaar maak;
- (g) verseker dat die nuutverkose beheerliggaamlede binne drie maande na hul verkiesing intree; en
- (h) dispute ten opsigte van die sentrumbeheerliggaamverkiesing ingevolge klousule 16 oplos.

(3) Buiten die oplos van dispute soos bepaal in klousule 6(2)(h), moet die adjunkdistrikverkiesingsbeampte en die assistentdistrikverkiesingsbeamptes die distrikverkiesingsbeampte bystaan in die uitvoering van alle ander pligte.

(4) Die adjunkdistrikverkiesingsbeampte en assistentdistrikverkiesingsbeamptes kan die distrikverkiesingsbeampte van raad dien rakende enige kwessie wat met die verkiesing verband hou.

Aanstelling van openbare sentrum-verkiesingsbeamptes

7.(1) Die superintendent-generaal moet 'n beampte van die Departement skriftelik aanstel as sentrumverkiesingsbeampte vir die verkiesing van opvoeders, nie-opvoeders en vir leerders uit die verteenwoordigende raad van leerders as lede van 'n beheerliggaam.

(2) 'n Sentrumbestuurder mag nie aangestel word as sentrumverkiesingsbeampte in 'n sentrum waar hy of sy in diens is nie.

(3) Die sentrumbestuurder moet een of meer beamptes of opvoeders in diens van die Departement of in diens van die beheerliggaam skriftelik aanstel om bystand te verleen by die verkiesing as assistentverkiesingsbeamptes.

(4) Die sentrumverkiesingsbeampte moet by alle verkiesingsvergaderings voorsit.

(5) Die sentrumverkiesingsbeampte en die assistent- sentrumverkiesingsbeampte mag nie 'n kandidaat, 'n voorsteller of sekondant van 'n kandidaat wees nie.

Eed of plegtige verklaring van vertroulikheid

8.(1) Alle verkiesingsbeamptes moet 'n eed of plegtige verklaring van vertroulikheid teken in 'n vorm soos deur die superintendent-generaal bepaal voordat hy of sy in sodanige hoedanigheid optree.

Kennisgewing van 'n verkiesingsvergadering

9.(1) Die bestuurder van die openbare sentrum moet –

- (a) 'n datum, tyd en plek vir 'n verkiesingsvergadering bepaal; en
- (b) 'n kennisgewing voorberei waarin die datum, tyd en plek van die verkiesingsvergadering vermeld word.

- (2) Die openbare sentrum-verkiesingsbeampte moet ten minste 21 dae voor die datum van die verkiesing
- (a) 'n afskrif van die kennisgewing van die verkiesingsvergadering aan elke leerder by die betrokke sentrum oorhandig;
 - (b) 'n afskrif van sodanige kennisgewing aan die opvoeders en nie-opvoeders wat by die sentrum in diens is, oorhandig;
 - (c) 'n afskrif van sodanige kennisgewing by 'n opvallende plek by die betrokke openbare sentrum, asook by gemeenskapsale, openbare vervoer-voertuie, biblioteke en by enige ander prominente plek opplak; en
 - (d) 'n afskrif van sodanige kennisgewing aan elke lid van die verteenwoordigende raad van leerders oorhandig.
- (3) In die geval van 'n nuwe sentrum, moet die verkiesingsvergadering gehou word binne 90 dae na die stigting van die sentrum.

Kieserslys

10.(1) Die bestuurder van die openbare sentrum moet 'n afsonderlike kieserslys voorberei vir elk van die volgende –

- (a) opvoeders;
 - (b) nie-opvoeders; en
 - (c) leerders van die verteenwoordigende raad van leerders.
- (2) Die bestuurder van die openbare sentrum moet 'n afsonderlike kieserslys voorberei deur die
- (a) register van leerders van die verteenwoordigende raad van leerders; en
 - (b) tydboek vir opvoeders en nie-opvoeders, te gebruik.
- (3) Ten minste 21 dae voor die verkiesingsvergadering, moet die bestuurder van die openbare sentrum potensiële kiesers toelaat om die kieserslys te inspekteer.
- (4) Enige klagte ten opsigte van die kieserslys moet na die bestuurder van die openbare sentrum verwys word ten minste sewe dae voor die verkiesingsdatum.

Verkiesingsvergaderings

11.(1) Afsonderlike verkiesingsvergaderings moet gehou word vir –

- (a) leerders;
 - (b) opvoeders; en
 - (c) nie-opvoeders.
- (2) Die openbare sentrum-verkiesingsbeampte moet 'n assistent- openbare sentrumbeampte aanstel om as sekretaris by die vergaderings op te tree en om notule van die verrigtinge te hou.
- (3) Buiten verkiesingsmonitors en die assistent- openbare sentrumverkiesingsbeamptes, moet die sentrumverkiesingsbeampte geen persoon wat onbevoeg is as 'n kieser toelaat om 'n vergadering by te woon nie of die verkiesing van 'n persoon wat nie 'n bevoegde kandidaat is ingevolge klousule 4 nie, toelaat nie.
- (4) Voordat die verkiesing van lede van 'n beheerliggaam voortgaan, moet die openbare sentrum-verkiesingsbeampte die kiesers se aandag vestig op die volgende –
- (a) dat die ampstermyn van die huidige beheerliggaam verstryk het en lede amptelik in kennis gestel is;
 - (b) dat die verkiesingsvergadering 'n geslote vergadering is;
 - (c) die bepalinge van klousule 4 betrekking het op verkiesbaarheid as 'n lid van 'n beheerliggaam;
 - (d) die aantal persone wat verkies moet word;

- (e) dat elke benoeming deur 'n opvoeder, nie-opvoeder of 'n leerder van die verteenwoordigende raad van leerders, na gelang van die geval, wat daarop geregtig is om te stem, gesekondeer moet word;
- (f) dat gedurende benoemings, kiesers verteenwoordiging in ag moet neem en moet verseker dat benoemings verteenwoordigend is van geslag, ras en indien moontlik benoemings van gestremde persone insluit;
- (g) dat 'n kieser een stem het vir elke vakature wat gevul moet word;
- (h) dat stemming deur middel van geheime stembriewe plaasvind; en
- (i) dat 'n grieweprosedure bestaan vir diegene wat ontevrede is met die verkiesingsproses of uitslag.

Kworum vir 'n verkiesingsvergadering

12.(1) 'n Kworum van 15 persent van die kiesers op die kieserslys moet gevorm word voordat enige verkiesing gehou word.

(2) Indien 'n kworum vermeld in subklousule (1) nie gevorm word nie, moet die vergadering uitgestel word vir ten minste 14 dae maar nie later nie as 21 dae.

(3) In die geval van 'n uitgestelde verkiesingsvergadering, moet die sentrumverkiesingsbeampte voortgaan met die daaropvolgende vergadering ongeag of 'n kworum gevorm word of nie.

Benoemings

13.(1) Die openbare sentrum-verkiesingsbeampte moet die tyd bepaal wat toegelaat word vir die benoeming van kandidate gedurende die benoemingsfase en moet die kiesers dienooreenkomstig inlig.

(2) 'n Persoon mag in absentia benoem word, met dien verstande dat die –

- (a) voorsteller en sekondant van die benoemde persoon by die vergadering teenwoordig is; en
- (b) benoemde persoon skriftelike bevestiging van aanvaarding van die benoeming stuur.

(3) 'n Kandidaat mag skriftelik of mondelings benoem word deur –

- (a) 'n opvoeder in diens van die betrokke sentrum vir 'n vakature ingevolge klousule 2(1)(a);
- (b) 'n nie-opvoeder in diens van die betrokke sentrum vir 'n vakature ingevolge klousule 2(1)(b); of
- (c) 'n leerder uit die verteenwoordigende raad van leerders ingevolge klousule 2(1)(c),

met dien verstande dat 'n ander opvoeder, nie-opvoeder of 'n leerder uit die verteenwoordigende raad van leerders, na gelang van die geval, die voorstel sekondeer en die benoemde, indien hy of sy afwesig is, mondelings of skriftelik vir die vergadering aandui dat hy of sy, indien verkies, bereid is om as 'n lid van die beheerliggaam te dien.

(4) Die voorsteller en die sekondant van 'n kandidaat moet by 'n verkiesingsvergadering teenwoordig wees.

(5) 'n Openbare sentrum-verkiesingsbeampte moet –

- (a) 'n persoon wat 'n kandidaat benoem die geleentheid bied om die kandidaat aan die vergadering bekend te stel en redes vir die benoeming te gee; of
- (b) 'n benoemde kandidaat toelaat om hom- of haarself aan die vergadering bekend te stel.

(6) Gedurende die benoemings, moet die openbare sentrum-verkiesingsbeampte die benoemings oorweeg en die benoeming afkeur van enige kandidaat wat –

- (a) nie benoem is ooreenkomstig klousule 13(2) en (3) nie; of
- (b) ingevolge klousule 4 onverkiesbaar is.

(7) Indien die aantal persone wat benoem is die aantal vakatures oorskry, moet die openbare sentrum-verkiesingsbeampte onmiddellik na die sluiting van die benoemings, die name van die kandidate op 'n geskikte bord of enige oppervlak wat vir almal wat die vergadering bywoon duidelik en sigbaar is, neerskryf.

(8) Indien die aantal persone wat benoem is, gelyk is aan die aantal vakatures, moet die openbare sentrum-verkiesingsbeampte die benoemde persone behoorlik verkies verklaar.

Stemming

14.(1) Elke kieser het een stem vir elke vakature wat op die beheerliggaam gevul moet word.

(2) Die openbare sentrum-verkiesingsbeampte moet die kiesers wat teenwoordig is, versoek om 'n kruis (x) teenoor die name van die kandidate wat hul verkies op die stembriewe wat deur die openbare sentrum-verkiesingsbeampte verskaf word, te maak.

(3) 'n Persoon wat nie in staat is om sy of haar stem op die stembrief in klousule 14(2) bo te maak nie, kan 'n mondelinge versoek om bystand aan die openbare sentrum-verkiesingsbeampte of die assistentsentrumverkiesingsbeampte rig om sy of haar stem teenoor die toepaslike kandidaat op die stembrief te merk.

(4) Die openbare sentrum-verkiesingsbeampte moet enige gestremde persoon bystaan om sy of stem uit te bring.

(5) Die versoek om bystand en die voltooiing van die stembrief ooreenkomstig die versoek vermeld in klousule 14(3), moet privaat gedoen word in 'n gebied wat vir daardie doel deur die openbare sentrum-verkiesingsbeampte aangedui is, maar binne die gebied waarin die stemming plaasvind.

(6) Die openbare sentrum-verkiesingsbeampte moet stembriewe met –

(a) meer kruise (x) as die aantal vakatures op die beheerliggaam; of

(b) die naam van 'n persoon of persone wat nie benoem is nie, afkeur.

(7) Nadat al die kiesers gestem het, moet die openbare sentrum-verkiesingsbeampte en die assistentsentrumverkiesingsbeamptes die stemme tel in die teenwoordigheid van drie waarnemers wat aangestel is deur diegene wat die vergadering bywoon, om die telproses waar te neem.

(8) In die geval van 'n staking van stemme vir twee of meer kandidate vir die laaste plek of plekke op die lys van kandidate, moet die openbare sentrum-verkiesingsbeampte die kiesers versoek om die verkieslike kandidaat aan te dui uit diegene met gelyke stemme deur die prosedure wat in hierdie klousule uiteengesit word, te volg.

(9) Die openbare sentrum-verkiesingsbeampte moet die uitslag gedurende die verkiesingsvergadering aankondig en die kandidate wat die meeste stemme gekry het as die verkose lede van die beheerliggaam verklaar.

(10) Die aantal stemme wat 'n persoon in hierdie verkiesing ontvang, bepaal nie die uitslag van die verkiesing van ampsdraers wat verkies is ingevolge klousule 15 nie.

Die eerste vergadering

15.(1) Die bestuurder van die openbare sentrum moet die eerste vergadering van die beheerliggaam binne een-en-twintig dae na die verkiesing daarvan byeenroep.

(2) Die doel van die eerste vergadering van die beheerliggaam is om –

(a) die bestuurder van die openbare sentrum, verteenwoordigers van borge, verteenwoordigers van 'n organisasie vir gestremdes, en 'n kundige op die terrein van basiese onderwys vir volwassenes in staat te stel om lede van die gemeenskap tot die beheerliggaam te koöpteer;

(b) ampsdraers van die beheerliggaam te verkies; en

(c) die voorsitter van die beheerliggaam van die gasheersentrum of die sentrumhoof van die gasheer of hul onderskeie aangewese persoon tot die sentrum se beheerliggaam te koöpteer.

(3) Lede van die gemeenskap wat ingevolge klousule 15(2)(a) op die beheerliggaam gekoöpteer word, moet verkieslik uit een van die volgende kategorieë kom –

(a) gemeenskapsleiers;

(b) tradisionele leiers;

(c) godsdiensteleiers;

(d) geslagsgroepe; en

(e) jeuggroepe.

Verkiesing van ampsdraers

16.(1) Op die eerste vergadering van die beheerliggaam moet die lede –

- (a) 'n voorsitter;
 - (b) 'n adjunkvoorsitter;
 - (c) 'n tesourier; en
 - (d) 'n sekretaris,
- as ampsdraers verkies.

(2) Die ampstermyn van ampsdraers is een jaar.

(3) 'n Ampsdraer mag herverkies word na die verstryking van sy of haar ampstermyn.

(4) Die bestuurder van die openbare sentrum kan 'n lid van sy of haar personeel aanwys om die tesourier en sekretaris van die beheerliggaam by te staan.

(5) Wanneer die amp van een van die ampsdraers om enige rede vakant raak, moet die beheerliggaam, by die eerste vergadering nadat die vakature ontstaan het, een van sy lede verkies om die vakature vir die onverstreke tydperk te vul.

(6) Die bestuurder van die openbare sentrum sit voor by enige vergadering wat belê is vir die verkiesing van ampsdraers.

Oplossing van geskille

17.(1) 'n Kieser of persoon wat 'n kandidaat in 'n beheerliggaamverkiesing was, kan sy of haar klagte of grief skriftelik by die distrikverkiesingsbeampte inhandig binne sewe dae na die verkiesingsvergadering indien die voorgeskrewe prosedures nie gedurende die verkiesingsvergadering gevolg is nie.

(2) 'n Persoon wat oor enige kennis of inligting van enige onreëlmatighede ten opsigte van die verkiesing beskik, kan die distrikverkiesingsbeampte binne sewe dae na die verkiesing skriftelik oor die onreëlmatighede inlig.

(3) By ontvangs van die klagte, grief of inligting oor onreëlmatighede, moet die distrikverkiesingsbeampte sy adjunk- of assistentdistrikverkiesingsbeampte aanstel om 'n ondersoek te doen en 'n aanbeveling aan hom of haar te maak.

(4) Die distrikverkiesingsbeampte kan na 'n ondersoek 'n verkiesing ongeldig verklaar en 'n herverkiesing uitroep indien hy of sy van mening is dat –

- (a) die voorgeskrewe prosedures nie gevolg is nie;
- (b) die uitslag van die verkiesing anders sou gewees het indien die voorgeskrewe prosedures gevolg was; en
- (c) onreëlmatighede gedurende die verkiesingsproses gepleeg is.

(5) Enige persoon wat deur die distrikverkiesingsbeampte se besluit nagekom is, kan by die superintendent-generaal binne 14 dae na ontvangs van die distrikverkiesingsbeampte se besluit teen sodanige besluit appelleer.

(6) Die superintendent-generaal moet –

- (a) binne 7 dae na ontvangs van die appèl, die appèl na die provinsiale verkiesingsbeampte verwys;
- (b) die provinsiale verkiesingsbeampte versoek om die saak te ondersoek en 'n verslag met aanbevelings voor te berei binne 14 dae nadat die appèl na die provinsiale verkiesingsbeampte verwys is;
- (c) die verslag vermeld in 5(b) oorweeg, 'n bevinding maak en sy of haar besluit skriftelik aan die appellant en aan die distrikverkiesingsbeampte kommunikeer binne 14 dae nadat die verslag van die provinsiale verkiesingsbeampte ontvang is.

(7) Die besluit van die superintendent-generaal is finaal.

(8) Hangende die uitslag van die geskil, moet die superintendent-generaal voldoende persone aanstel om die funksies van die beheerliggaam vir 'n tydperk wat nie drie maande oorskry nie, te verrig.

Prosedure na die verkiesing

- 18.(1)** Na die verkiesing van lede van 'n beheerliggaam, moet die openbare sentrum-verkiesingsbeampte
- (a) elke verkose lid skriftelik van sy of haar verkiesing in kennis stel en sodanige kennisgewing moet per pos of e-pos gestuur word, of met die hand afgelewer word;
 - (b) alle dokumente, insluitend stembriewe wat by sodanige verkiesing gebruik is, in koeverte plaas en die koeverte verseël;
 - (c) die koeverte vir die duur van die ampstermyn van die beheerliggaam in veilige bewaring hou;
 - (d) die distrikverkiesingsbeampte skriftelik in kennis stel van die besonderhede van die verkiesing met inbegrip van die datum van die verkiesing, name, identiteitsnommers, telefoonnommers, faksnommers en adresse van alle verkose lede.

Tussenverkiesing

- 19.(1)** Indien 'n vakature ontstaan as gevolg van die vertrek van enige lid van 'n beheerliggaam voor die verstryking van die beheerliggaam se ampstermyn of die lid se ampstermyn, moet die openbare sentrum-verkiesingsbeampte by die verkiesing van 'n nuwe lid voorgaan om die vertrekkende lid te vervang.
- (2) Indien 'n vakature meer as ses maande voor die verstryking van die ampstermyn van 'n beheerliggaam ontstaan, moet die openbare sentrum-verkiesingsbeampte 'n tussenverkiesing hou en die prosedures soos uiteengesit in klousules 13 en 14 volg.
- (3) Die openbare sentrum-verkiesingsbeampte moet 'n verkiesingsvergadering reël binne 90 dae nadat 'n vakature ontstaan het, en hangende die tussenverkiesing mag die beheerliggaam lede koöpteer.
- (4)(a) Indien 'n vakature minder as ses maande voor die verstryking van die ampstermyn van 'n beheerliggaam as gevolg van die vertrek van 'n lid ontstaan, moet –
- (a) die oorblywende lede deur middel van 'n meerderheidstem, 'n persoon of persone koöpteer om die vakature of vakatures vir die oorblywende deel van die ampstydperk van die beheerliggaam te vul; en
 - (b) die opvoeder, nie-opvoeder en leerderkomponent moet name van ten minste drie verkiesbare persone aanbeveel wat tot die beheerliggaam gekoöpteer kan word en die beheerliggaam moet uit die aanbevole name koöpteer.
- (5) 'n Gekoöpteerde lid vermeld in sub-klousule (4) neem die stemreg van die vertrekkende lid oor.

Ontbinding van 'n beheerliggaam

- 20.(1)** Die lid van die Uitvoerende Raad kan 'n beheerliggaam ontbind deur middel van kennisgewing in die *Provinsiale Koerant* –
- (a) indien die sentrum gesluit of deels afgestig is;
 - (b) as gevolg van die samesmelting van sentrums of enige ander herorganisasie van die sentrum;
 - (c) indien hy of sy van mening is dat die beheerliggaam nie meer verteenwoordigend is van die gemeenskap waarvoor die sentrum gestig is nie; en
 - (d) indien dit in die publiek se belang is om dit te doen.

Delegering van bevoegdhede

- 20.** Die superintendent-generaal kan die bevoegdhede wat ingevolge hierdie kennisgewing aan hom of haar verleen is, aan 'n beampte in diens van die Departement delegeer.

ES MCHUNU

Lid van die Uitvoerende Raad van die provinsie KwaZulu-Natal
verantwoordelik vir onderwys

No. 56

8 kuNhlangulana 2011

**UMTHETHO WEMFUNDO YABADALA NOKUQEQESHA, 2000
(UMTHETHO NO. 52 KA 2000)**

**UKUKHETHWA KWEZIGUNGU EZILAWULA IZIKHUNGO ZEMFUNDO NOKUQEQESHA
YABADALA**

Mina EDWARD SENZO MCHUNU, iLungu loMkhandlu oPhethe esiFundazweni saKwaZulu-Natali elibhekele ezemfundo, ngokwezigaba 8, 9 no 19 zoMthetho weMfundo yabaDala nokuQeqesha, 2000 (uMthetho No. 52 ka 2000) senginqume ngezinto eziphathelene nokukhethwa kweziGungu eziLawulayo zeziKhungo zoMphakathi njengoba kuvela kulolu Hlelo.

UHLELO

Izincazelo

1. Kulesi saziso noma iliphi igama noma isisho esincazelo yaso ikhona eMthethweni sisho leyo ncazelo ngaphandle uma ingqikithi isho okwehlukile -

“**uMthetho**” kushiwo uMthetho weMfundo yabaDala nokuQeqesha, 2000 (uMthetho No. 52 ka 2000); njengokuba uchibiyelwe.

“**isikhungo**” kushiwo indawo yokufundela umphakathi esungelwa ngaphansi komthetho wemfundo yabadala nokuqeqesha.

“**umhlangano ovalelekile**” kushiwo umhlangano ovuleleke kuphela –

- (a) kubazali uma kukhethwa abazali;
- (b) kothisha uma kukhethwa othisha;
- (c) kwabangebona othisha uma kukhethwa abangebona othisha; kanye
- (d) nakubafundi abasemkhandlwini omele abafundi;

“**amalungu engeziwe**” kushiwo amalungu –

- (a) angenawo amandla okuvota engezwe ngokwamakhono awo; kanye
- (b) nalawo anawo amandla okuvota engezwe ukungena ezikhundleni zamalungu ashiyayo singakapheli isikhathi sawo sokuba sezikhundleni;

“**usuku**” kushiwo usuku lwekhalenda;

“**umnyango**” kushiwo uMnyango wezeMfundo KwaZulu-Natali;

“**umhlangano wokhetho**” kushiwo –

(a) imihlangano yokhetho emithathu ehlukene ebanjelwa ukuphakamisa nokukhetha othisha bodwa, abangebona othisha bodwa kanye nabafundi abasemkhandlwini omele abafundi bodwa, njengoba kungaba njalo; kanye

(b) nomhlangano wokhetho lokuchibiyela;

“abaqapha ukhetho” kushiwo izikhulu noma abaholi bomphakathi abakhethwe ithimba elibhekele ukhetho lesifundazwe noma lesifunda futhi bagunyazwa uNsumpa-Jikelele njengabaqaphi nabahloli bokhetho;

“izikhulu zokhetho” kushiwo isiKhulu soKhetho sesiFundazwe, isiKhulu soKhetho sesiFunda, isiKhulu soKhetho soMphakathi, bonke osekela bezikhulu zokhetho kanye nabo bonke abasizi bezikhulu zokhetho;

“umhlangano wokuqala” kushiwo umhlangano okhethekile obanjelwa ukukhetha abazongena ezikhundleni;

“ibanga” kushiwo ingxenye yohlelo lokufunda lwe-ABET umfundi aluphothula ngonyaka owodwa;

“iLungu loMkhandlu oPhethe” kushiwo iLungu loMkhandlu oPhethe elibhekele ezemfundo esiFundazweni saKwaZulu-Natali;

“ongeyena uthisha” kushiwo osebenza esikhungweni kodwa ongeyena uthisha;

“isiKhulu soKhetho sesiKhungo soMphakathi” kushiwo imenenja yesikhungo noma isikhulu esiqokwe iNhloko yoMnyango ukuba siqhube ukhetho lwesigungu esilawulayo;

“uNsumpa-Jikelele” kushiwo iNhloko yoMnyango wemfundo eyisisekelo esiFundazweni saKwaZulu-Natali; futhi

“umvoti” kushiwo uthisha emkhakheni wothisha, ongeyena uthisha emkhakheni wabangebona othisha kanye nomfundi emkhakheni wabafundi.

Ubulungu esigungwini esilawulayo

2.(1) Isigungu esilawulayo sakhiwe –

(a) uthisha oyedwa okhethwe othisha abasebenza esikhungweni somphakathi lapho kukhethwa khona isigungu esilawulayo uma othisha abaqashwe esikhungweni

somphakathi bengeqile kwabayisihlanu noma othisha ababili uma othisha abaqashwe esikhungweni somphakathi beqile kwabayisihlanu;

(b) ongeyena uthisha oyedwa okhethwe abangebona othisha abaqashwe esikhungweni somphakathi lapho kukhethwa khona isigungu esilawulayo;

(c) umfundi oyedwa ezikhungweni ezinebanga elilodwa noma abafundi ababili ezikhungweni ezinamabanga angaphezu kwelilodwa;

(d) umphathi wesikhungo ngokwesikhundla sakhe;

(e) amalungu engeziwe phakathi kwawo okuyoba –

(i) amalungu amabili omphakathi anamandla okuvota;

(ii) usihlalo wesigungu esilawulayo sesikole okufundelwa kuso;

(iii) uthishanhloko; noma

(iv) umuntu oqokwe uthishanhloko noma usihlalo kodwa lowo muntu oqokiwe ngeke abe nawo amandla okuvota,

(f) oyedwa omele noma imuphi umgwamanda oxhasile;

(g) oyedwa omele inhlango yabantu abakhubazekile, uma ikhona; kanye

(h) nanoma imuphi ungoti emkhakheni wemfundo yabadala nokuqeqeshwa, uma ekhona.

(2) Isibalo sabantu abengeziwe akumele seqe kubantu abayisikhombisa.

(3) Isigungu esilawulayo, uma sihlela ukwengeza amalungu, kumele sibhekelele ubulili kanye nentsha.

Isikhathi sokuba sesikhundleni

3.(1) Isigungu esilawulayo sikhethelwe iminyaka emithathu ngaphandle uma kunquma iLungu loMkhandlu oPhethe.

(2) ILungu loMkhandlu oPhethe liyonquma isikhathi sokhetho kuzo zonke iziKhungo zoMphakathi.

(3) Uma isigungu esilawulayo –

(a) sisalelwe izinyanga eziyisithupha noma ngaphansi ngaphambi kokuthi siphelelwe yisikhathi sokusebenza, iLungu loMkhandlu oPhethe, ngaphandle kokubheka leso sikhathi, lingayalela ukuthi kubanjwe ukhetho ngosuku olunganqunywa ilona; noma

(b) sisalelwe isikhathi esingaphezu kwezinyanga eziyisithupha sisebenza, iLungu loMkhandlu oPhethe, ngemuva kokubonisana nesigungu esilawulayo esithintekayo, linganquma usuku okuyobanjwa ngalo ukhetho ngale kokubhekela isikhathi esisasele sokusebenza kwesigungu esilawulayo.

(4) Kuncike kwisigatshana somthetho 4(2), wonke amalungu, ngaphandle kwabafundi abakhethwe umkhandlu omele abafundi, akhethelwa iminyaka emithathu.

(5) Isikhathi sokuba sesikhundleni somfundi okhethwe umkhandlu omele abafundi ngokwesigaba somthetho 2(1c) siwunyaka owodwa.

(6) Kuncike kwizigaba zomthetho 4 no 19 ilungu lesigungu silawulayo liba sesikhundleni kuze kuphele isikhathi sokuba sesikhundleni kwaleso sigungu esilawulayo esikhona.

(7) Uma uNsumpa-Jikelele enquma ngezizathu ezizwakalayo ukuthi isigungu esilawulayo sesiwuphuthulile umsebenzi esinqunyelwe wona ngokomthetho noma sihlulekile ukwenza umsebenzi noma imisebenzi esinqunyelwe yona, uNsumpa-Jikelele angayihoxisa eyo misebenzi futhi –

- (a) ahlakaze isigungu esilawulayo bese eqoka umuntu noma abantu abazokwenza leyo misebenzi isikhathi esingeqile ezinyangeni ezintathu;
- (b) elule isikhathi okukhulunywe ngaso kwisigatshana somthetho (a) ngasenhla ngesikhathi esingeqile ezinyangeni ezintathu okumele uma sesihlangene leso sikhathi singeqi onyakeni owodwa;
- (c) aqinisekise ukuthi isigungu silawulayo sikhethwa ungakapheli unyaka ngemuva kokuba kukhethwe umuntu okukhulunywe ngaye kwisigatshana somthetho. [a]

(8) Kuncike kwisigaba somthetho 4 ilungu lesigungu esilawulayo lingaphinde likhethwe noma lengezwe, njengoba kungaba njalo, ngemuva kokuphela kwesikhathi ebelikade liqokelwe sona.

Ukwakheka nokufaneleka

4.(1) Laba abalandelayo bayofaneleka ukuqokwa njengamalungu esigungu esilawulayo:

- (a) othisha abaqashwe esikhungweni;
- (b) abangebona othisha abaqashwe esikhungweni; kanye
- (c) nabafundi abasemkhandlwini omele abafundi.

(2) Akekho umuntu oyokhethwa njengelungu lesigungu esilawulayo uma –

- (a) eke watholakala necala wagwetshwa ukubhadla ejele isikhathi esingaphezu kwezinyanga eziyi-12 ngaphandle kokubonelelwa ngenhlawulo okungaba ngaphakathi kwiRibhabhulikhi noma ngaphandle kweRiphabhulikhi uma isenzo sakhe besiyoba yicala kwiRiphabhulikhi, kodwa akekho oyothathwa njengosegwetshiwe kuze kube –
 - (i) kunqunywa ngesikhalazo sakhe mayelana nokutholakala necala noma nokugwetshwa; noma

- (ii) kudlula isikhathi sokukhalaza, kuncike ekutheni ukuhoxiswa ngokwalesi sigaba kuyaphela ngemuva kweminyaka emihlanu ngemuva kokuphela kwesigwebo.
 - (b) emenyezelwe yinkantolo efanele njengongaphilile kahle engqondweni;
 - (c) eqashwe uMnyango esebenzela kuleso sikhungo, ngaphandle kwabantu abakhethwe ukumela othisha kuleso sikhungo, kwamalungu abasebenzi abangebona othisha noma abangabasebenzi kulesosikhungo.;
 - (d) ecwile ezikweletini ngokungenakuhlengeka; futhi
 - (e) engesona isakhamuzi saseNingizimu Afrika noma engenayo incwadi yemvume yokuhlala unomphelo ngaphandle uma kugunyaze uNsumpa-Jikelele.
- (3) Ilungu liyashiya isikhundla salo uma –
- (a) lingahlangabezani nezidingo ezibekwe esigabeni somthetho 4;
 - (b) lizesulela;
 - (c) liyilungu elikhethwe ngokwesigaba somthetho 2(1)(a) noma (b) futhi uma liphelelwa umsebenzi noma lidluliselwa noma libolekiswa kwenye indawo;
 - (d) liyilungu elikhethwe ngokwesigaba somthetho 2(1)(c) ingasafundi kuleso sikhungo;
 - (e) selishonile;
 - (f) lilove ngaphandle kwemvume emihlanganweni ejwayelekile emithathu elandelanayo yesigungu esilawulayo;
 - (g) lingaselona ilungu lomkhandlu omele abafundi.

Ukuqokwa kwesiKhulu soKhethe sesiFundazwe

5. (1) UNsumpa-Jikelele kumele aqoke ngokubhalwe phansi isiKhulu soKhethe sesiFundazwe, iSekela lesiKhulu soKhethe sesiFundazwe kanye nomsizi wezikhulu zokhethe.

(2) IsiKhulu soKhethe sesiFundazwe kumele –

- (a) siqinisekise ukuthi ukhethe lukhangiswa ngendlela eyanele;
- (b) silawule ukuqokwa kwesikhulu noma kwezikhulu ezisebenza eMnyangweni ezizosiza okhethweni njengabasizi bezikhulu zokhethe zesifundazwe;
- (c) siqinisekise ukuthi kuyahanjiswana nomthetho wesifundazwe ophathelene nokhethe;
- (d) sakhe uhlelo lokhethe lwazo zonke izikhungo esiFundazweni;
- (e) siqaphe ukuqeqeshwa kwamalungu amasha akhethelwe esigungwini esilawulayo; futhi
- (f) siqhube uphenyo ngokomyalelo kaNsumpa-Jikelele.

(3) Usekela wesikhulu sokhethe sesifundazwe kanye nomsizi wezikhulu zokhethe zesifundazwe, basiza isikhulu sokhethe sesifundazwe ekwenzeni imisebenzi yaso.

Ukuqokwa kwesiKhulu soKhetho sesiFunda

6. (1) UNsumpa-Jikelele kumele aqoke ngokubhalwe phansi isikhulu sokhetho sesifunda, usekela wesikhulu sokhetho sesifunda nomsizi wezikhulu zokhetho zesifunda.

(2) IsiKhulu soKhetho sesiFunda kumele –

- (a) silawule ukuqokwa kwesikhulu noma kwezikhulu ezisebenzela uMnyango ezizolekelela okhethweni njengabasizi besikhulu sokhetho sesifunda;
- (b) silawule ukuqokwa kwezikhulu zokhetho zezikhungo;
- (c) sikhangele uhlelo lokhetho lwazo zonke izikhungo esifundeni;
- (d) siqinisekise ukuthi inqubo yokhetho iyalandelwa;
- (e) siqinisekise ukuthi zonke izikhungo zinohlu lwabavoti olusemthethweni;
- (f) sakhe futhi silawule uhlu lwawo wonke amalungu amasha akhethelwe ezigungwini ezilawulayo esifundeni futhi sihliziseke uMnyango ngalolo hlu;
- (g) siqinisekise ukuthi amalungu amasha akhethelwe ezigungwini ezilawulayo ayaqeqeshwa ezinyangeni ezintathu ekhethiwe; futhi
- (h) sixazulule ukungaboni ngasolinye okuphathelene nokhetho ngokwesigaba somthetho 16.

(3) Ngaphandle kokuxazulula ukungaboni ngasolinye njengoba kuhlinzekwe esigabeni somthetho 6(2)(h), isekela lesikhulu sokhetho sesifunda nomsizi wezikhulu zokhetho bayosiza isikhulu sokhetho ekwenzeni yonke eminye imisebenzi yaso.

(4) Isekela lesikhulu sokhetho nomsizi wezikhulu zokhetho bangahlinzeka isikhulu sokhetho sesifunda ngezehluleko nganoma iluphi udaba oluphathelene nokhetho.

Ukuqokwa kweziKhulu zoKhetho zeziKhungo zoMphakathi

7.(1) UNsumpa-Jikelele kumele aqoke ngokubhalwe phansi isikhulu eMnyangweni njengesikhulu sokhetho sesikhungo ukuze kukhethwe othisha, abangebona othisha nabafundi abasemkhandlwini omele abafundi njengamalungu esigungu esilawulayo.

(2) Imenenja yesikhungo angeke iqokwe njengesikhulu sokhetho sesikhungo lapho iqashwe khona.

(3) Imenenja yesikhungo kumele iqoke ngokubhalwe phansi isikhulu noma izikhulu noma othisha abasebenzela uMnyango noma abaqashwe yisigungu esilawulayo ukuba basize okhethweni njengabasizi bezikhulu zokhetho.

(4) Isikhulu sokhetho sesikhungo siyokwengamela yonke imihlangano yokhetho.

(5) Isikhulu sokhetho sesikhungo kanye nomsizi wesikhulu sokhetho sesikhungo angeke bavotelwe, baphakamise abazovotelwa noma beseke abavotelwayo.

Isifungo noma isiqinisekiso sobumfihlo

8. (1) Zonke izikhulu zokhetho kumele zisayine isifungo noma isiqinisekiso sobumfihlo ngendlela enqunywe uNsumpa-Jikelele ngaphambi kokuba ziqale ukusebenza kulezo zikhundla.

Isaziso somhlangano wokhetho

9.(1) Imenenja yesikhungo somphakathi –

- (a) iyonquma usuku, isikhathi nendawo okuyobanjelwa kuyo umhlangano wokhetho; futhi
- (b) iyokwenza isaziso esibeka usuku, isikhathi nendawo yomhlangano wokhetho.

(2) Isikhulu sokhetho sesikhungo kumele, kusasele okungenani izinsuku ezingama-21 kufike usuku lokhetho –

- (a) sinikeze bonke abafundi esikhungweni ikhophi yesaziso somhlangano wokhetho;
- (b) sinikeze bonke othisha nabangebona othisha esikoleni ikhophi yesaziso somhlangano wokhetho;
- (c) siyalele ukuba kunanyathiselwe leso saziso endaweni esobala kuleso sikhungo somphakathi, emahholo omphakathi, ezithuthini zomphakathi, kwimitapo yolwazi nakunoma iziphi ezinye izindawo ezivame ukuhlanganela umphakathi; futhi
- (d) sinikeze ilungu ngalinye lomkhandlu omele abafundi ikhophi yaleso saziso.

(3) Uma kuyisikhungo esisha, umhlangano wokhetho kumele ubanjwe ezinsukwini ezingama-90 kusungulwe leso sikhungo.

Uhlu lwabavoti

10.(1) Imenenja yesikhungo somphakathi kumele yakhe uhlu lwabavoti oluhlukene kule mikhakha elandelayo:

- (a) othisha;
- (b) abangebona othisha; kanye
- (c) nabafundi abasemkhandlwini omele abafundi.

(2) Imenenja yesikhungo somphakathi kumele ihlukanise uhlu lwabavoti isebenzisa –

- (a) irejista yabafundi abasemkhandlwini omele abafundi;
- (b) ibhuku lokusebenza lothisha nabangebona othisha.

(3) Imenenja yesikhungo somphakathi kumele ivumele abantu abafanelekile ukuvota ukuba bahlole uhlu lwabavoti kusasele okungenani izinsuku ezingama-21 kubanjwe umhlangano wokhetho.

(4) Noma isiphi isikhalazo esimayelana nohlu lwabavoti kumele sibhekiswe kwimenenja yesikhungo somphakathi kusasele okungenani izinsuku eziyisikhombisa kufike usuku lokhetho.

Imihlangano yokhetho

11.(1) Kumele kubanjwe imihlangano yokhetho ehlukenene –

- (a) yabafundi;
- (b) yothisha; kanye
- (c) neyabangebona othisha.

(2) Isikhulu sokhetho sesikhungo somphakathi kumele siqoke umsizi wesikhulu sokhetho sesikhungo somphakathi ukuba asebenze njengonobhala emihlanganweni futhi aqophe amaminithi emihlangano.

(3) Isikhulu sokhetho sesikhungo somphakathi akumele sivumele umuntu ongafanelekile ukuvota ngaphandle kwabaqaphe ukhetho nomsizi wezikhulu zokhetho zesikhungo somphakathi ukuba angene emhlanganweni noma sivumele ukuba kukhethwe umuntu ongafanelekile ukukhethwa ngokwesigaba somthetho 4.

(4) Ngaphambi kokuba kuqhutshekwe nokukhethwa kwamalungu esigungu esilawulayo, isikhulu sokhetho sesikhungo somphakathi kumele senze abavotayo baqaphele lokhu okulandelayo –

- (a) ukuthi isikhathi sokuba sesikhundleni sesigungu esilawulayo esikhona sesiphelile futhi amalungu azisiwe ngokusemthethweni;
- (b) ukuthi umhlangano wokhetho ungumhlangano ovalelekile;
- (c) izinhlinzeko zesigaba somthetho 4 ngokufaneleka ukuba ilungu lesigungu esilawulayo;
- (d) isibalo sabantu abazokhethwa;
- (e) zonke iziphakamiso kumele zisekelwe othisha, abangebona othisha noma abafundi abasemkhandlwini omele abafundi, njengoba kungaba njalo, abafanelekile ukuvota;
- (f) ukuthi ngesikhathi seziphakamiso, abavoti kumele babheke ukumeleleka futhi kumele baqinisekise ukuthi abaphakanyiswayo bamele bonke ubulili, ibala futhi uma kunokwenzeka kuphakanyiswe nabantu abanokukhubazeka;

- (g) ukuthi umvoti unevoti elilodwa esikhaleni ngasinye okumele sigcwaliswe;
- (h) ukuthi kuvotwa ngepheshana lokuvota eliyimfihlo; futhi
- (i) ikhona inqubo yokufaka izikhalazo kulabo abanganelisekanga ngenqubo yonketho nangemiphumela.

Isibalo sabangabamba umhlangano wokhetho

12.(1) Kumele kuqale kuhlangele isibalo sabantu abangamaphesenti ayi-15 abangabamba ukhetho ngaphambi kokuthi kubanjwe noma imuphi umhlangano wokhetho.

(2) Uma isibalo sabantu abangabamba ukhetho okukhulunywe ngaso kwisigatshana somthetho

(1) singahlangani, umhlangano kumele uhlehliselwe okungenani ezinsukwini eziyi-14 kodwa kungeqi ezinsukwini ezingama-21.

(3) Uma kuhlehliswe umhlangano wokhetho, isikhulu sokhetho sesikhungo kumele siqhubeke nomhlangano olandelayo kungakhathaleki ukuthi sanele yini isibalo sabantu abangabamba umhlangano.

Ukuphakamisa

13.(1) Isikhulu sokhetho sesikhungo somphakathi kumele sinqume isikhathi esivumelekile sokuphakamisa abazongenela ukhetho esigabeni sokuphakanyiswa kwabantu futhi kumele sazise abavoti ngendlela efanele.

(2) Umuntu angaphakanyiswa engekho kuncike ekutheni –

- (a) ophakamisayo noma oweseka umuntu ophakanyiswayo bakhona emhlanganweni; futhi
- (b) umuntu ophakanyisiwe uthumela incwadi ebhaliwe yokwamukela ukuphakanyiswa kwakhe.

(3) Ongenela ukhetho angaphakanyiswa ngencwadi noma ngomlomo –

- (a) uthisha osebenza kuleso sikhungo okunesikhala somsebenzo kuso ngokwesigaba somthetho 2(1)(a);
- (b) ongesiyena uthisha osebenza kuleso sikole okunesikhala somsebenzi kuso ngokwesigaba somthetho 2(1)(b); noma
- (c) umfundi osemkhandlwini omele abafundi ngokwesigaba somthetho 2(1)(c),

kuncike ekutheni omunye uthisha, ongeyena uthisha noma abafundi abasemkhandlwini omele abafundi, njengoba kungaba njalo, bayaseseka isiphakamiso nomuntu ophakanyiswayo

uyakuveza ngomlomo noma ngencwadi uma engekho emhlanganweni, ukuthi ukulungele ukusebenza njengelungu lesigungu esilawulayo, uma ekhethiwe.

(4) Ophakamisayo noweseka ophakanyiswayo kumele babe khona emhlanganweni wokhetho.

(5) Isikhulu sokhetho sesikhungo somphakathi kumele –

(a) sinike ithuba umuntu ophakamise ozongenela ukhetho emhlanganweni ukuba ethule lowo amphakamisayo futhi anikeze izizathu zakhe zokumphakamisa; noma

(b) sinike ithuba lowo ophakanyisiwe ukuba azethule yena ngokwakhe emhlanganweni.

(6) Ngesikhathi sokuphakanyiswa kwabantu, isikhulu sokhetho sesikhungo somphakathi kumele sicubungule iziphakamiso futhi sichithe ukuphakanyiswa kwanoma imuphi umuntu –

(a) ongaphakanyiswanga ngokuhambisana nesigaba somthetho 13(2) no (3); noma

(b) ongafanelekile ngokwesigaba somthetho 4.

(7) Uma isibalo sabantu abaphakanyisiwe seqa isibalo sezikhala zomsebenzi, isikhulu sokhetho sesikhungo somphakathi kumele ngemuva kokuvalwa kweziphakamiso sibhale phansi amagama abantu abazongenela ukhetho ebhodini elifanele noma endaweni ecacile futhi esobala kuwo wonke umuntu osemhlanganweni.

(8) Uma isibalo sabantu abaphakanyisiwe silingana nezikhala zomsebenzi, isikhulu sokhetho sesikhungo somphakathi kumele simemezele labo bantu abaphakanyisiwe njengabakhethiwe.

Ukuvota

14.(1) Umvoti ngamunye unevoti elilodwa esikhundleni ngasinye okumele sigcwaliswe esigungwini esilawulayo.

(2) Isikhulu sokhetho sesikhungo somphakathi kumele sinxuse abavoti ukuba bafake uphawu **lwesiphambano (x)** emagameni abangenele ukhetho okuyibona ababafunayo emaphepheni okuvota ahlinzekwe yisikhulu sokhetho sesikhungo somphakathi.

(3) Umuntu ongakwazi ukufaka uphawu ephepheni lakhe lokuvota ngokwesigaba somthetho 14(2), angacela ngomlomo esikhulwini sokhetho sesikhungo somphakathi noma kumsizi wesikhulu sokhetho ukuba amsize ukuze avote ephepheni lakhe lokuvota.

(4) Isikhulu sokhetho sesikhungo somphakathi siyosiza noma imuphi umuntu okhubazekile ekutheni avote ephepheni lakhe lokuvota.

- (5) Isicelo sokusizwa ekugcwaliseni iphepha lokuvota ngokuhambisana nesicelo okukhulunywe ngaso esigabeni somthetho 14(3) siyokwenziwa ngasese endaweni ehlonzwe isikhulu sokhetho sesikhungo somphakathi ukwenza lokho engaphakathi lapho kuvotwa khona.
- (6) Isikhulu sokhetho sesikhungo somphakathi kumele siwachithe amaphepha okuvota –
- (a) aneziphambano (x) ezingaphezu kwesibalo sezikhala zomsebenzi ezikhona esigungwini esilawulayo; noma
 - (b) anegama lomuntu noma amagama abantu abangaphakanyiswa;
- (7) Uma bonke abavoti sebewafakile amavoti abo, isikhulu sokhetho sesikhungo somphakathi nomsizi wesikhulu sokhetho kumele babale amavoti phambi kwabaqaphi abathathu abaqokwe yilabo abahambe umhlangano, ukuze babheke uma sekubalwa amavoti;
- (8) Uma kuba nokulingana kwamavoti kubantu ababili noma ngaphezulu abangenele ukhetho endaweni yokugcina ohlwini lwabangenele ukhetho, isikhulu sokhetho kumele sicele abavoti ukuba basho lowo abamkethayo kulabo abanamavoti alinganayo ngokulandela inqubo ebekwe kulesi sigaba somthetho;
- (9) Isikhulu sokhetho sesikhungo somphakathi kumele simemezele imiphumela kulowo mhlango wokhetho futhi sidalule abantu abathole amavoti amaningi njengamalungu esigungu esilawulayo.
- (10) Isibalo samavoti atholakale kulolu khetho asinqumi umphumela wokhetho lwezikhundla olwenziwa ngokwesigaba somthetho 15.

Umhlangano wokuqala

15.(1) Imenja yesikhungo somphakathi kumele ibize umhlangano wokuqala wesigungu esilawulayo ezinsukwini ezingamashumi amabili nanye kudlule ukhetho.

(2) Inhloso yomhlangano wokuqala wesigungu esilawulayo kuyoba –

- (a) ukwenzela imenja yesikhungo somphakathi, abamele imigwamanda exhasile, abamele izinhlangano zabantu abanokukhubazeka, kanye nongoti emkhakheni wemfundo yabadala ukuba bengeze amalungu omphakathi esigungwini esilawulayo;
- (b) ukukhetha abazongena ezikhundleni esigungwini esilawulayo;
- (c) ukwengeza usihlalo wesigungu esilawulayo sesikole okufundelwa kuso noma uthishanhlolo wesikole okufundelwa kuso noma abantu abaqokwe ibona esigungwini esilawulayo sesikhungo.

(3) Amalungu omphakathi engeziwe esigungwini esilawulayo ngokwesigaba somthetho 15(2)(a) kuyoba kuhle uma eqhamuka kule mikhakha –

- (a) kubaholi bomphakathi;
- (b) kubaholi bendabuko;
- (c) kubaholi bezenkolo;
- (d) ezinhlanganweni zezobulili; kanye
- (e) nasezinhlanganweni zentsha.

Ukukhethwa kwabasezikhundleni

16.(1) Emhlanganweni wokuqala wesigungu esilawulayo, amalungu ayokhethela ezikhundleni –

- (a) usihlalo;
- (b) usekela kasihlalo;
- (c) umgcinimafa; kanye
- (d) nonobhala.

(2) Isikhathi sokuba sesikhundleni sabasezikhundleni siwunyaka owodwa.

(3) Noma isiphi isikhulu singaphinde sikhethelwe esikhundleni uma kuphela isikhathi saso sokuba sesikhundleni.

(4) Imenenja yesikhungo somphakathi ingaqoka ilungu kubasebenzi bayo elizosiza umgcinimafa kanye nonobhala wesigungu esilawulayo.

(5) Noma nini uma kuba khona isikhundla esivulekayo, isigungu esilawulayo, emhlanganweni wokuqala ngemuva kokuvela kwaleso sikhala, siyokhetha oyedwa emalungwini aso ukuvala lesi sikhala kuleso sikhathi esisasele.

(6) Imenenja yesikhungo somphakathi iyona eyengamela yonke imihlangano yokhetho lwabasezikhundleni.

Ukusonjululwa kokungaboni ngasolinye

17.(1) Umvoti noma umuntu obengenele ukhetho okhethweni lwesigungu esilawulayo angathumela isikhalazo noma ukungeneliseki kwakhe ngokubhalwe phansi esikhulwini sokhetho sesifunda zingakedluli izinsuku eziyisikhombisa kudlule umhlangano wokhetho uma inqubo ebekiwe ingazange ilandelwe emhlanganweni wokhetho.

(2) Noma imuphi umuntu onanoma iluphi ulwazi noma imininingwane yanoma ikuphi ukungalandelwa kwenqubo mayelana nokhetho angabikela isikhulu sokhetho sesifunda ngokubhalwe phansi zingakedluli izinsuku eziyisikhombisa mayelana nalokhu kungalandelwa kwenqubo.

(3) Uma sithola isikhalazo, ukunganelieseki noma ulwazi ngokungalandelwa kwenqubo, isikhulu sokhetho kumele siqoke usekela waso noma umsizi wesikhulu sokhetho sesifunda ukuba aphenye futhi enze izincomo kuso.

(4) isikhulu sokhetho sesifunda ngemuva kophenyo, singamemezela ukhetho njengolungekho emthethweni futhi singayalela ukuba kubanjwe ukhetho kabusha uma sinelisekile ukuthi –

- (a) izinqubo ezibekiwe zizange zilandelwe futhi;
- (b) umphumela wokhetho ubuzokwehluka ukuba izinqubo ezibekiwe bezilandeliwe; futhi
- (c) kwenziwa ngokungeyikho ngenkathi kwenziwa ukhetho.

(5) Noma imuphi umuntu onganiselisekile ngesinqumo sesikhulu sokhetho sesifunda angakhalaza ngaleso sinqumo kuNsumpa-Jikelele ezinsukwini ezingama-14 kutholakale isinqumo sesikhulu sokhetho sesifunda.

(6) UNsumpa-Jikelele kumele –

- (a) ezinsukwini eziyi-7 ethole isikhalazo adlulisele isikhalazo esikhulwini sokhetho sesifundazwe;
- (b) acele isikhulu sokhetho sesifundazwe ukuba siphanye futhi senze umbiko nezincomo ezinsukwini eziyi-14 leso sikhalazo sidluliselwe esikhulwini sokhetho sesifundazwe; futhi
- (c) acubungule umbiko okukhulunywe ngawo ku 6(b), athole amaqiniso bese edlulisela isinqumo sakhe ngokubhalwe phansi kulowo okhalazayo nasesikhulwini sokhetho sesifunda ezinsukwini eziyi-14 ngemuva kokuthola umbiko esikhulwini sokhetho sesifundazwe.

(7) Isinqumo sikaNsumpa-Jikelele siyoba ngujuqu.

(8) Kusalindwe umphumela wokuxazululwa kwenkinga, uNsumpa-Jikelele kumele aqoke abantu abenele ukuqhuba imisebenzi yesigungu esilawulayo isikhathi esingeqile ezinyangeni ezintathu.

Inqubo ngemuva kokhetho

18.(1) Ngemuva kokhetho lwamalungu esigungu esilawulayo, isikhulu sokhetho sesikhungo somphakathi kumele –

- (a) sazise ngencwadi wonke amalungu akhethiwe ngokukhethwa kwawo futhi leso saziro kumele sithunyelwe ngeposi, nge-imeyili noma sihanjiswe ngesandla;
- (b) sifake zonke izincwadi, kubandakanya amaphepha okuvota asetshenziswe okhethweni ezimvelophini futhi sivale lezo zimvelophu;
- (c) sigcine izimvelophu endaweni ephephile kuze kuphele izikhathi isigungu esisiqokelwe ezikhundleni;
- (d) sazise isikhulu sokhetho sesifunda ngencwadi ngemininingwane yokhetho kubandakanya usuku lokhetho, amagama, izinombolo zomazisi, izinombolo zocingo, izinombolo zefeksi kanye namakheli awo wonke amalungu akhethiwe.

Ukhetho lokuchibiyela

19.(1) Uma kuvela isikhala ngenxa yokushiya kwanoma iliphi ilungu lesigungu esilawulayo singakapheli isikhathi sesigungu noma salo sokuba sesikhundleni, isikhulu sokhetho sesikhungo somphakathi kumele sibambe ukhetho lwelungu elisha elizongena ezicathulweni zelungu elishiyayo.

(2) Uma isikhala, noma izikhala zomsebenzi zivela kusasele izikhathi esingaphezu kwezinyanga eziyisithupha ngaphambi kokuphela kwesikhathi sokusebenza kwesigungu esilawulayo, isikhulu sokhetho sesikhungo somphakathi kumele sibize ukhetho lokuchibiyela silandele izinqubo ezibekwe esigabeni somthetho 13 no 14.

(3) Isikhulu sokhetho sesikhungo somphakathi siyohlela umhlangano wokhetho ezinsukwini ezingama-90 kuvele isikhala futhi ngesikhathi kusalandwe ukhetho lokuchibiyela isigungu esilawulayo singengeza amalungu.

(4) Uma isikhala sivela sekusele ngaphansi kwezinyanga eziyisithupha kuphele isikhathi sokusebenza kwesigungu esilawulayo ngenxa yokushiya kwelungu –

- (a) amalungu asele kumele engeze umuntu noma abantu, ngokwentando yeningi, abazovala isikhala noma izikhala ezivulekile kuleso sikhathi esisasele sokusebenza kwesigungu esilawulayo; futhi
- (b) othisha, abangebona othisha noma abafundi baphakamise amagama abantu okungenani abathathu abafanelekile abangengezwa esigungwini esilawulayo futhi isigungu esilawulayo kumele sengeze ngalawo magama aphakanyisiwe.

(5) Ilungu elengeziwe okukhulunywe ngalo kwisigatshana somthetho (4) lithatha amandla okuvota alelo lungu elishiyayo.

Ukuhlakazwa kwesigungu esilawulayo

20.(1) Ilungu loMkhandlu oPhethe lingahlakaza isigungu esilawulayo ngesaziso kwiGazethi yesiFundazwe uma –

- (a) kuvalwa isikhungo noma kuhlakazwa ingxenye yaso;
- (b) uma kuhlenganiswa izikhungo noma uma kuhlelwa kabusha isikhungo;
- (c) uma libona ukuthi isigungu esilawulayo asisamele umphakathi lapho kusungulwe khona isikhungo; futhi
- (d) kunesidingo emphakathini sokuthi kwenziwe njalo.

Ukudluliselwa kwamandla

21. UNsumpa-Jikelele angadlulisela amandla anawo ngokwalesi saziso esikhulwini esiqashwe eMnyangweni.

ES MCHUNU

iLungu loMkhandlu oPhethe esiFundazweni saKwaZulu-Natali
elibhekele ezemfundo