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ISIFUNDAZWE SAKWAZULU-NATALI

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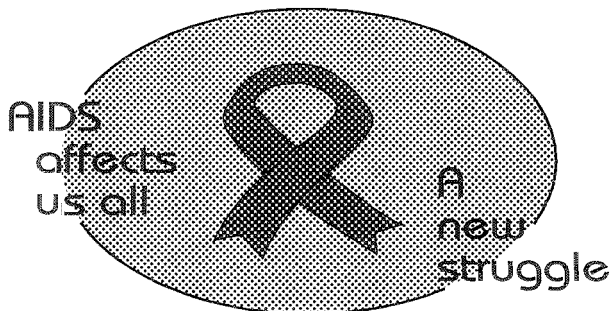
**Vol. 6**

**PIETERMARITZBURG,**

10 FEBRUARY 2012  
10 FEBRUARIE 2012  
10 kuNHLOLANJA 2012

**No. 699**

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**PROVINCIAL NOTICE—PROVINSIALE KENNISGEWING—ISAZISO SESIFUNDAZWE**

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No. 17

10 February 2012

**SOUTH AFRICAN SCHOOLS ACT, 1996 (ACT NO. 84 OF 1996)****NOTICE RELATING TO ELECTION OF MEMBERS OF GOVERNING BODIES  
FOR PUBLIC ORDINARY SCHOOLS  
(EXCLUDING SCHOOLS FOR LEARNERS WITH SPECIAL EDUCATION NEEDS)**

I, EDWARD SENZO MCHUNU, Member of the Executive Council responsible for Education in the Province of KwaZulu-Natal have, in terms of Section 28 of the South African Schools Act, 1996 (Act No. 84 of 1996), as amended, determined matters relating to school governing bodies as contained 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 South African Schools Act, 1996 (Act No. 84 of 1996), as amended;

**“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 day”** means a full day set aside by a school governing body for purposes of conducting elections of a school governing body instead of holding an election meeting;

**“election meeting”** means –

(a) four separate election meetings held exclusively for the nomination and election of parents only, 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 officials or stakeholders selected from the provincial or district electoral task team and approved by the Head of Department as observers, supervisors or overseers of elections;

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

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

**“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 school other than an educator;

**“school”** means an ordinary public school which enrolls learners in one or more grades from grade R to grade 12;

**“school electoral officer”** means a school principal, acting principal or an officer, who is not employed at the school, appointed by the Head of Department to conduct school governing body elections; and

**“voter”** means a parent in the parent component, an educator in the educator component, a non-educator in the non-educator component and a learner from the representative council of learners component.

### **Membership of a school governing body**

2. A governing body which governs one school consists of the following members –

(a) parents of learners enrolled at the school for which a governing body is being elected, comprising one more parent than the combined total number of members with voting rights referred to in subclauses (b), (c), (d) and (e);

(b) one educator elected by the educators employed at the school for which a governing body is being elected if there are four or less educators employed at

the school concerned or two educators if there are five or more educators employed at the school concerned;

(c) one non-educator elected by the non-educators employed at the school for which a governing body is being elected;

(d) two learners elected from the learners from the representative council of learners in a school with grade eight or higher;

(e) the principal, in his or her official capacity; and

(f) co-opted members, if any.

### **Term of office**

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

(2) The Member of the Executive Council shall determine the term and the election period for all schools.

(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, on reasonable grounds and 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, 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 clauses 3(3) and 4(2), all members excluding learners elected from a representative council of learners in terms of clause 2(d) are elected for a term of three years.

(5) The term of office of a governing body member who is a learner elected in terms of clause 2(d) is one year.

(6) Subject to clauses 3(3), 4 and 18, a member of a governing body holds office until the expiry of the term of office of the governing body.

(7) Should the Head of Department determine, on reasonable grounds, that a governing body has ceased to perform its allocated functions in terms of the Act or has failed to

perform one or more of such functions, the Head of Department may withdraw its functions and –

- (a) appoint sufficient persons to carry out all such functions or one or more of such functions of the governing body for a period not exceeding three months;
- (b) may extend the period referred to in clause 3(7)(a) for periods not exceeding three months at a time, which combined period shall not exceed one year; and
- (c) must ensure that a governing body is elected within one year after the appointment of the person referred to in subclause 7(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) parents of learners at the school;
- (b) educators at the school;
- (c) non-educators at the school; and
- (d) learners from the representative council of learners attending grade eight or higher at the school.

(2) No person may be elected as a member of a governing body 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, provided 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 an unrehabilitated insolvent;
- (d) is a parent but not a South African citizen and not in possession of a permanent resident permit unless permitted by the Head of Department;
- (e) is a parent but no longer has a child enrolled at the school;

- (f) is a learner who is not a member of the representative council of learners;
- or
- (g) has been found guilty of serious misconduct in a disciplinary hearing.

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

- (a) does not meet the requirements set out in clauses 4(1) and (2);
- (b) resigns or his or her membership has been terminated;
- (c) is a member elected in terms of clause 2(a) and no longer has a child enrolled as a learner at the school;
- (d) is a member elected in terms of clause 2(b) or (c) and his or her employment is terminated, or he or she is transferred or seconded away from the school concerned;
- (e) is deceased;
- (f) is a member elected in terms of clause 2(d) and he or she no longer attends the school concerned;
- (g) has been absent from two consecutive ordinary meetings of the governing body without providing written apology;
- (h) is no longer a member of the representative council of learners; or
- (i) has been found guilty of serious misconduct in a disciplinary hearing.

### **Appointment of provincial electoral officers**

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

(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 Head of Department 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 during the election as assistant district electoral officer;
- (b) administer the appointment of school electoral officers;
- (c) publicise an election schedule for all schools in the district;
- (d) ensure compliance with the election process;
- (e) ensure that every school 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 school governing body elections as contemplated in clause 16.

(3) The deputy district electoral officer and the assistant district electoral officers will assist the district electoral officer in the performance of his or her 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 school electoral officers**

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

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

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



(4) The school electoral officer shall preside over all election meetings including by-elections and elections for office bearers for the duration of the term of office of the elected school governing body.

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

#### **Oath or affirmation of confidentiality**

8. All electoral officers must sign an oath or affirmation of confidentiality in a format determined by the Head of Department before he or she performs the duties of an electoral officer.

#### **Notice of an election meeting**

9.(1) The principal of the school that holds an election meeting must –

- (a) determine a date, time and place for the 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 meeting, the principal of the school must –

- (a) hand a copy of the notice of the election meeting to every learner at the school with an oral instruction to hand the notice to the learners' parents or send a copy of the notice to the parents by post;
- (b) hand a copy of the notice to the educators and non-educators;
- (c) cause a copy of the notice to be posted in a conspicuous place at the school and at any other suitable and prominent places; and
- (d) hand a copy of the notice to each member of the representative council of learners.

(3) In the case of a new school, the election meeting must be held within 60 days of the establishment of the school.

#### **Voters' roll**

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

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

(2) The principal must prepare the voters' roll by using the –

- (a) learner admission book for parents;
- (b) time book for educators;
- (c) time book for non-educators; and
- (d) learners' attendance register for the election of learners;

(3) The principal must, at least 21 days prior to the election meeting, cause a letter and the form, as approved by the Department, to be sent with the learners to the parents, for purposes of inviting parents to update their information at the school.

(4) At least 14 days prior to the election meeting, the principal must allow potential voters to inspect the voters' roll.

(5) Any complaint relating to the voters' roll must be referred to the principal at least seven days prior to the election date.

### **Election meetings**

11.(1) Unless there are compelling reasons not to, all schools must hold governing body elections through an election meeting and separate election meetings must be held for –

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

(2) The school electoral officer must appoint an assistant school electoral officer to act as secretary to the meetings and to record the minutes of the proceedings.

(3) Except for election monitors and the assistant school electoral officer, the school 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) The school electoral officer must request voters to provide proof of identification in the form of a South African identity document or a valid passport.

(5) Before proceeding with the election of members of a governing body, the school electoral officer must bring the following to the attention of voters –

- (a) that the term of office of the current school 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, which render a person ineligible for membership to a governing body;
- (d) the number of persons to be elected;
- (e) every nomination must be seconded by a parent, 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 representativity 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 any person aggrieved by the election process.

#### **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 subclause (1) is not constituted, the meeting must be adjourned for at least 14 days but not later than 21 days.

(3) In the event of an adjourned election meeting as contemplated in clause 12(2), the school electoral officer must, on the date of the subsequent meeting, proceed with the election meeting irrespective of whether a quorum is constituted or not.

#### **Nominations for an election meeting**

13.(1) The school electoral officer of a school that holds an election meeting must –

- (a) determine and allocate the time for nominations;
- (b) allow sufficient time for the nomination of candidates during the nomination phase; and
- (c) inform the voters of the time allocated.

(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) the nominated person sends written confirmation of acceptance of nomination.

(3) At the election meeting, a candidate may be nominated in writing or verbally by –

(a) a parent of a learner enrolled at the school for a vacancy in terms of clause 2(a);

(b) an educator employed at the school concerned for a vacancy in terms of clause 2(b);

(c) a non-educator employed at the school concerned for a vacancy in terms of clause 2(c); or

(d) a learner from the representative council of learners in terms of clause 2(d),

provided that another parent, educator, non-educator or a learner 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) Despite a list of nominees having been compiled prior to the election meeting, the school electoral officer must allow for verbal nomination of candidates and must allocate sufficient time for the verbal nominations.

(5) The proposer and the seconder of a candidate must be in attendance at an election meeting and must complete a nomination form.

(6) A school 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 him or herself to the meeting.

(7) During the nominations, the school electoral officer must consider the nominations and reject the nomination of any candidate who –

(a) has not been nominated in accordance with clauses 13(2) and 13(3); or

(b) is ineligible in terms of clause 4.

(8) If the number of persons nominated exceeds the number of vacancies, the school 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.

(9) If the number of persons nominated is equal to the number of vacancies the school electoral officer must declare the nominated persons duly elected.

(10) The nomination process shall be closed by the school electoral officer.

#### **Voting at the election meeting**

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

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

(3) A person who is unable to mark his or her vote on the ballot paper, as contemplated in clause 14(2), may make a verbal request for assistance to the school electoral officer or the assistant school electoral officer to mark, next to the appropriate candidate, his or her vote on the ballot paper.

(4) The school electoral officer shall assist any disabled person.

(5) The request for assistance and the completion of the ballot paper contemplated in clause 14(3) shall be done in private in an area identified by the school electoral officer for that purpose but within the area in which the voting is taking place.

(6) The school 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 school electoral officer and the assistant school 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 a tie between candidates after two voting sessions the school electoral officer must break the deadlock by tossing a coin and the winner shall be determined in terms of heads or tails.

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

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

#### **Election of office bearers**

**15.(1)** The school electoral officer may convene a meeting solely for the purpose of electing office bearers on the day of the parents' election meeting if –

- (a) the elections of educators, non-educators and learners have taken place prior to the parent election;
- (b) the 21 days notice in terms of clause 9(2) was issued to parents, educators, non-educators and learners from the representative council of learners informing them that the meeting for the election of office bearers would take place on the day of the parent election; and
- (c) the quorum requirements at the meeting have been complied with.

(2) Should the meeting to elect office bearers not be held in terms of clause 15(1), the school electoral officer must convene the first meeting of the governing body within 21 days of the date of the parent election meeting.

(3) The school electoral officer presides over any meeting convened for election of office bearers.

(4) At the first meeting of a governing body the members must elect, by secret ballot –

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

(5) Only a parent member, not employed at the school, is eligible for the position of chairperson or deputy chairperson of the governing body.

(6) The term of office of office bearers is one year.

(7) The principal may designate a member of his or her staff to assist the treasurer and secretary of the governing body.

(8) Where, for any reason, the office of one of the office bearers becomes vacant, the governing body, at the first meeting after the vacancy has occurred, must elect one of its members to fill the vacancy for the unexpired period of his or her predecessor.

(9) An office bearer may be re-elected after the expiry of the term of office.

(10) The principal must, within 14 days after the election, inform the Head of Department of any change in office bearers and must provide him or her with the details of the new office bearers including names, identity numbers, telephone- or cellular phone numbers, fax numbers, addresses and email addresses, as applicable.

(11) Within 14 days of the election, the outgoing office bearers of the school governing body must hand over to the newly-elected office bearers all documents relating to the school governing body and an approved handover certificate must be issued and signed by both chairpersons.

#### **Dispute resolution**

**16.(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 any irregularities, the district electoral officer must appoint the 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) irregularities were committed during the election process; and
- (c) the outcome of the election would have been different had the prescribed procedures been followed;

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

(6) The Head of Department must –

(a) within seven 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 having been referred to the provincial electoral officer; and

(c) consider the report contemplated in subclause 6(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 Head of Department shall be final;

(8) Pending the outcome of the dispute, the Head of Department may appoint sufficient persons to perform the functions of the governing body for a period not exceeding three months.

#### **Procedure after the election**

17.(1) After the election of members of a governing body, the school electoral officer must –

(a) notify, in writing, each elected member of his or her election and such notification must be sent by fax, post, e-mail or be hand delivered;

(b) 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;

(c) place all documents, including ballot papers used at such elections, in envelopes and seal the envelopes; and

(d) within five days after an election, hand over to the school principal all the documents relating to the election for safekeeping.

#### **By-election**

18.(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 school electoral officer must officiate at the election of a new member to replace the departing member.

(2) If a vacancy arises more than six months before the expiry of the term of office of a governing body, the school electoral officer must conduct a by-election following the procedures stipulated in clauses 9 to 14.

(3) The school 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 parent, educator, non-educator and learner component must recommend the 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 subclauses (3) and (4) assumes the voting rights of the departing member, if any.

#### **Governing body serving two or more schools**

19.(1) A governing body which governs two or more schools must consist of the following members –

(a) parents elected by parents of learners enrolled at each of the schools for which a governing body is being elected, comprising one more parent than the combined total number of representatives elected to the governing body;

(b) one educator elected by the educators employed at each of the schools for which a governing body is being elected;

(c) one non-educator elected by the non-educators employed at each of the schools for which a governing body is being elected;

(d) two learners elected from the learners of the representative council of learners in each of the schools with grade eight or higher;

(e) the principal of each of the schools, in his or her official capacity;

(f) one representative from each of the categories of representatives contemplated in clause 2(e), (f), (g), (h) and (j); and

(g) co-opted members, if any.

(2) The number of persons to be co-opted as contemplated in clause (1)(g) may not exceed five.

(3) The election of office bearers of a school governing body which governs two or more schools must be presided over by the school electoral officer of the governing school.

(4) The school electoral officer must convene a meeting for the election of office bearers 21 days after the last school (of the member schools) has held its parents' election meeting.

(5) All matters pertaining to the election of a school governing body, as contained in this notice, shall apply to a school governing body, which governs two or more schools.

#### **Election day**

20.(1) A school may, by resolution of its governing body, opt to hold elections on an election day instead of holding an election meeting if there are compelling reasons.

(2) Where a school governing body opts for an election day, the principal of the school must –

- (a) at least 21 days prior to sending out a notice of election, apply, in writing, to the district electoral officer for permission to have an election day;
- (b) provide compelling reasons for opting for a full day's election instead of an election meeting;
- (c) provide proof of the availability of monitors and an electoral team during the entire election day;
- (d) provide proof of the availability of resources to carry out the nomination process and election process; and
- (e) provide proof that the teaching and learning process at the school will not be interrupted or interfered with due to a full day's election.

(3) Before granting permission for a full day election to any school, a district electoral officer must bear in mind the provisions of clause 20(2) and must satisfy himself or herself that the requirements thereof have been met by the school.

(4) The decision of the district electoral officer must be communicated to the school within 14 days of the school's application.

- (5) The school electoral officer must, before the election day, ensure that –
- (a) the school has written approval from the district electoral office to conduct an election day;
  - (b) a programme is in place for the election day;
  - (c) all nominees have sent their profiles to the school and these are ready to be posted outside the voting station;
  - (d) the closing time will allow observers as well as the electoral team to travel back home safely; and
  - (e) at closing time, the school has someone available on the spot for the safe-keeping of all documents used for the elections.

### **Nominations for the election day**

21.(1) Schools which opt to have an election day instead of an election meeting must follow the following nomination process –

- (a) the school electoral officer must prepare notices of the nomination meeting and must indicate the date, place and time of the nomination meeting; and
- (b) the notice of the nomination meeting for parents should be distributed and displayed in prominent places at the school and in the community at least 21 days prior to the date of the election day.

(2) The principal must ensure that –

- (a) a hard copy of the notice of the nomination meeting and the nomination form must be handed to every learner at least 21 days prior to the proposed election day, with a verbal instruction to hand the notice and the form to their parents; and
- (b) alternatively, a copy of the notice and the nomination form must be sent to the parents of every learner by post at least 21 days prior to the date of the election day; or
- (c) a combination of the two notification methods is used provided that parents and members of the community are not disadvantaged; and
- (d) the notice and the nomination form must, where possible, be in the school's language of instruction and in the home language(s) of the learners to ensure maximum participation.

(3) The notice must inform the parents that the nomination form should be completed and signed by the candidate, the proposer and the seconder and returned to the school 14 days before the nomination meeting and must include the profile contemplated in clause 21(6).

(4) During the nomination meeting, the school electoral officer must adhere to the nomination process contemplated in clause 13(1), (2), (3) and (4).

(5) A candidate may only be nominated and seconded by a person belonging to the same representative membership category to which the candidate belongs.

(6) The school electoral officer must ensure that any person who is eligible to be nominated, and wants to be nominated, is free to participate in the nomination process and any such person must submit their profile stating –

- (a) his or her surname and name;
- (b) the names and grades of his or her children in the school;
- (c) his or her occupation and experience or skills;
- (d) a statement that indicates that he or she qualifies to be a member of a governing body as contemplated in clause 4; and
- (e) his or her brief statement stipulating the vision for the school.

(7) At the nomination meeting the school electoral officer must request for profiles from all the nominees.

(8) After the nominations, the school electoral officer must consider the nominations and reject the nomination of any candidate who –

- (a) has not been nominated;
- (b) is not eligible for election; and
- (c) has not completed and submitted the nomination form and profile as required.

(9) If the total number of nominees is less than the number of members required in the governing body, a notice must be sent to parents and more nominees' names must be requested.

(10) If the number of nominees is equal to the number of members required in the governing body, the school electoral officer must declare all the nominees as duly elected members and indicate that an election day will no longer be necessary.

(11) The principal must, within seven days after the nomination process, notify parents, in writing, of the election outcome contemplated in clause 21(10) and inform parents that an election day will no longer be necessary.

(12) If the number of nominees is more than the number of members required in a governing body, the principal must inform the parents, in writing, of the names and profiles of the candidates whose nominations have been accepted and an election day, by secret ballot, must take place.

(13) The principal must make the nominees' profiles available to the parents at least seven days prior to the election day.

(14) No person shall make attempts to organise the nomination process in such a manner that only the required number of members is nominated in order to avoid the election process and any such attempt shall be deemed to be an election irregularity as contemplated in clause 16.

### **Voting on the election day**

**22.(1)** Voting shall be by secret ballot and the following voting process must apply –

- (a) all eligible voters whose names appear on the voters' roll are located and marked off the roll in 100% of cases;
- (b) an eligible voter who complies with all requirements and does not require any assistance must, where possible, be processed within five minutes or less through the entire voting process;
- (c) voters who require special attention, such as the elderly, disabled or pregnant women, are assisted without prejudicing other voters;
- (d) voters whose names do not appear on the voters' roll for that school will not be allowed to vote;
- (e) all the voting integrity tasks are performed for each eligible voter who has visited the station (i.e. voter's name is marked off the voters' roll);
- (f) no voters who fail any of the voting integrity checks are allowed to vote;
- (g) all voters are issued with the correct ballot papers;
- (h) complaints or objections regarding the assistance given to illiterate voters or voters with visual impairment are attended to promptly;
- (i) the electoral process and personnel are monitored in a manner that provides sufficient information for recordkeeping and to allow for timely interventions when required;
- (j) objections from voters are recorded and decided in line with the dispute process;
- (k) interactions with voters, personnel and any other role-players are inclusive, non-partisan, respecting human dignity and promoting tolerance;
- (l) potential or actual problems are identified and analysed in terms of potential impact on the electoral process and possible solutions;
- (m) resolution of problems is justified by the situations and is suitable for addressing the problems effectively;
- (n) the manner of problem-solving promotes the smooth running of the voting station, upholds the principle of free and fair elections and does not, under any circumstances, disenfranchise an eligible voter; and

(o) the voting process and procedures are open to observers who shall monitor the process without interfering with the elections.

(2) The school electoral officer may improvise if there is no official ballot box but the ballot box must be sealed after observers have acknowledged that it is empty.

### **Counting of ballots and quorum**

**23.(1)** The school electoral officer must decide at what time the counting of ballots shall take place but counting must start on the day of the elections and upon closure of the voting process.

(2) The school electoral officer must ensure that the ballot papers meet the 15% poll in order for the counting to proceed. If not, counting must stop and another date for the elections must be decided upon by the principal of the school and such date must be communicated to the parent body within seven days.

(3) If the quorum, as contemplated in clause 12, is not attained in terms of clause 23(2) the principal must decide on the date on which an election day will be held and counting must proceed after the closure of voting irrespective of whether a quorum is constituted or not.

(4) If the 15% poll is met the school electoral officer must ensure that –

- (a) the counting process is open to observers and candidates;
- (b) all objections to the counting process are recorded accurately;
- (c) the name of each candidate and the number of votes cast for each is loudly announced to the observers;
- (d) the counted ballot paper form is completed; and
- (e) the results slip has been signed.

(5) Where the number of votes recorded for two or more candidates is equal and it affects the result of the poll, the school electoral officer shall ascertain, by drawing lots or by the tossing of a coin, in order to break a tie between candidates. This tie-breaker process must be conducted openly and in agreement with the candidates.

(6) The school electoral officer must reject a ballot paper that –

- (a) does not contain the school stamp;
- (b) has more votes recorded than the number of candidates; or
- (c) is completed in such a way that it is not clear which vote was for which candidate or candidates.

(7) Where the school electoral officer has rejected a ballot paper as contemplated in clause 23(6), an explanation must be given by the school electoral officer to all candidates present and he or she must grant the candidates an opportunity to view the rejected ballot if they so wish.

(8) Any voter present must also be given the opportunity to object to the decision of the school electoral officer in the counting or rejection process but such objection shall not change the school electoral officer's decision.

(9) A record of such objection must be made at the back of the ballot paper and in the election report by the school electoral officer.

(10) Should there be a dispute that the electoral officer is unable to resolve, the dispute process contemplated in clause 16 must be followed.

(11) All envelopes, boxes and ballot boxes must be clearly marked by the electoral officer and he or she must indicate the election date and note all the contents.

#### **Application of this notice**

24. Unless otherwise specifically provided in this notice, all other matters provided for in this notice relating to the election of governing bodies shall be applicable to schools that opt for an election day.

#### **Dissolution of a governing body**

25.(1) The Member of the Executive Council may dissolve a governing body if –

- (a) the school is dysfunctional, closed, partly disestablished, is a health risk or may affect the safety of any person at such a school;
- (b) a merger, closure, division of a school or any other re-organisation of the school occurs;
- (c) he or she is of the opinion that the governing body is no longer representative of the community for which a school has been established; or
- (d) due to poor governance, the school is rendered dysfunctional and the process of teaching and learning can no longer be undertaken at the school.

(2) Upon consideration of a motion of no confidence passed by not less than 15 percent of parents on the parents' voters' roll at a general meeting of parents, the Member of the Executive Council may dissolve a governing body.

(3) The Member of the Executive Council may dissolve any school governing body that has rendered a school ungovernable, dysfunctional, or for any other reason that he or she deems fit and in the interest of education in the Province.

(4) The Member of the Executive Council may not dissolve a governing body unless he or she has notified the school governing body concerned of his or her intention, granted the school governing body the opportunity to make representations, and duly considered such representations.

#### **Delegation of Powers**

26. The Head of Department may delegate the duties, functions and powers bestowed upon him or her in terms of this notice to an official in the employment of the Department.

#### **Repeal of notice**

27. Provincial Notice No. 99 of 2009 published in the KZN Extraordinary *Gazette* dated 29 May 2009 is hereby repealed.

#### **ES MCHUNU MPL**

Member of the Executive Council of the Province of KwaZulu-Natal  
responsible for Education



No. 17

10 kuNhlolanja 2012

**UMTHETHO WEZIKOLE WASENINGIZIMU AFRIKA, 1996  
(UMTHETHO NO. 84 KA 1996)**

**ISAZISO ESIPHATHELENE NOKUKHETHWA KWAMALUNGU EZIGUNGU  
EZILAWULAYO ZEZIKOLE EZIJWAYELEKILE ZIKAHULUMENI (NGAPHANDLE  
KWEZIKOLE ZABAFUNDI ABANEZIDINGO EZIKHETHEKILE)**

Mina, EDWARD SENZO MCHUNU, iLungu loMkhandlu oPhethe elibhekele ezemfundo esiFundazweni saKwaZulu-Natali, ngokwesigaba 28 soMthetho weziKole waseNingizimu Afrika, 1996 (uMthetho No. 84 ka 1996), njengoba uchitshiyelwe senginqume njengoba kubekiwe kulolu Hlelo mayelana nezigungu ezila wulayo zezikole.

**UHLELO**

**Izincazelo**

1. Kulesi saziso noma yiliphi igama noma isisho esinikwe incazelo kulo Mthetho siyokuba naleyo ncazelo ngaphandle uma ingqikithi isho okwehlukile –

“**uMthetho**” kushiwo uMthetho weziKole waseNingizimu Afrika, 1996 (uMthetho No. 84 ka 1996) njengoba uchitshiyelwe;

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

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

“**amalungu engeziwe**” kushiwo amalungu –

- (a) angenawo amandla okuvota engezwe ngokobungcweti bawo; kanye
- (b) anamandla okuvota engezwe ezikhundleni zamalungu ashiye singakapheli isikhathi sawo sokuba sezikhundleni;

“**usuku**” kushiwo usuku lwekhalenda;

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

**“usuku lokhetho”** kushiwo usuku olubekwe isigungu esilawulayo sesikole ngenhloso yokubamba ukhetho lwesigungu esilawulayo sesikole esikhundleni sokuthi kubanjwe umhlangano wokhetho;

**“umhlangano wokhetho”** kushiwo –

- (a) imihlangano emine eyahlukene ebanjelwa ukuthi kuphakanyiswe futhi kuqokwe abazali bodwa, othisha bodwa, abangesibona othisha bodwa kanye nabafundi bomkhandlu omele abafundi bodwa, njengoba kungaba njalo; kanye
- (b) nomhlangano wokhetho lokuchibiyela;

**“abaqaphi bokhetho”** kushiwo izikhulu noma abaholi bomphakathi abaqokwe yithimba lesifundazwe noma lesifunda elibhekele ukhetho abagunyazwe iNhloko yoMnyango njengabaqaphi, njengezinduna noma njengababhekele ukhetho;

**“umhlangano wokuqala”** kushiwo umhlangano obanjelwe ukuthi kuqokwe abazongena ezikhundleni;

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

**“ongesiyena uthisha”** kushiwo noma yimuphi umsebenzi oqashwe esikoleni ongesiyena uthisha;

**“isikole”** kushiwo isikole esijwayelekile sikahulumeni esifunda abafundi ebangeni elilodwa noma ngaphezulu kusukela ebangeni R kuya ebangeni le- 12;

**“isikhulu sokhetho sesikole”** kushiwo uthishanhloko, ibamba likathishanhloko noma isikhulu esingaqashiwe esikoleni, esiqokwe yiNhloko yoMnyango ukuthi siqhube ukhetho lwesigungu esilawulayo sesikole;

**“iNhloko yoMnyango”** kushiwo iNhloko yoMnyango wezeMfundo esiFundazweni saKwaZulu-Natali;

**“umvoti”** kushiwo umzali emkhakheni wabazali, uthisha emkhakheni wothisha, ongesiyena uthisha emkhakheni wabangesibona othisha kanye nomfundi emkhakheni womkhandlu omele abafundi.

### **Ubulungu esigungwini esilawulayo sesikole**

2.(1) Isigungu esilawulayo sesikole esengamele isikole esisodwa siqukethe la malungu alandelayo –

- (a) abazali babafundi abafunda esikoleni okuqokwa kusona isigungu esilawulayo, abangaphezulu ngelungu elilodwa noma ngaphezulu kwesibalo samalungu anelungelo lokuvota okukhulunywe ngawo esigabeni somthetho 2(1)(b), (c), (d) no (e) ngezansi esehlangene;
- (b) uthisha oyedwa oqokwe othisha abaqashwe esikoleni okuqokwa kusona isigungu esilawulayo uma kunothisha abane noma ngaphansi abaqashwe kuleso sikole, noma othisha ababili uma bebahlanu noma ngaphezulu othisha abaqashwe kuleso sikole;
- (c) oyedwa ongesiyena uthisha oqashwe esikoleni okuqokwa kusona isigungu esilawulayo;
- (d) abafundi ababili abaqokwa phakathi kwabafundi abasemkhandlwini omele abafundi esikoleni esinebanga lesishi yagalombili noma elingaphezulu;
- (e) uthishanhloko, ngokwesikhundla sakhe; kanye
- (f) namalungu engeziwe, uma ekhona.

### **Isikhathi sokuba sesikhundleni**

3.(1) Isigungu esilawulayo siqokelwa iminyaka emithathu ngaphandle uma iLungu loMkhandlu oPhethe linqume okunye.

(2) ILungu loMkhandlu oPhethe liyonquma isikhathi sokuba sesikhundleni kwesigungu kanye nezikhathi okuzobanjwa ngazo ukhetho kuzo zonke izikole.

(3) Uma isigungu esilawulayo –

- (a) sinezinyanga eziyisithupha noma ngaphansi ezisele ngaphambi kokuba kuphele isikhathi saso sokuba sesikhundleni, iLungu loMkhandlu oPhethe, uma lingahambisani nokulinda lesi sikhathi, lingayalela ukuthi ukhetho lubanjwe ngosuku olunqunywe yilona; noma
- (b) sinezinyanga ezingaphezulu kweziyisithupha ngaphambi kokuba kuphele isikhathi saso sokuba sesikhundleni, iLungu loMkhandlu oPhethe, ngemva kokubonisana naleso sigungu esilawulayo esithintekayo, linganquma usuku okumele kubanjwe ngalo ukhetho uma lingahambisani nokulinda isikhathi esisasele sokuba sesikhundleni.

(4) Kuncike ezigabeni zomthetho 3(3) no 4(2), wonke amalungu ngaphandle kwabafundi abaqokwe emkhandlwini omele abafundi ngokwesigaba somthetho 2(d) eqokelwa isikhathi esiyiminyaka emithathu.

(5) Isikhathi sokuba sesikhundleni selungu lesigungu esilawulayo elingumfundi eliqokwe ngokwesigaba somthetho 2(d) siwunyaka owodwa.

(6) Kuncike esigabeni somthetho 3(3), 4 no 18, ilungu lesigungu esilawulayo liba kuleso sikhundla kuze kuphele isikhathi sokuba sesikhundleni kwesigungu esilawulayo.

(7) Uma iNhlolo yoMnyango inquma ngezizathu ezizwakalayo ukuthi isigungu esilawulayo sesiwuphothulile umsebenzi ebesijutshelwe wona ngokoMthetho noma sehlulekile ukwenza umsebenzi owodwa noma ngaphezulu, iNhlolo yoMnyango ingayihoxisa imisebenzi yayo bese –

- (a) iqoka abantu abenele ukuqhuba yonke leyo misebenzi noma owodwa noma ngaphezulu yesigungu esilawulayo isikhathi esingeqile ezinyangeni ezintathu;
- (b) ingelula isikhathi okukhulunywe ngaso esigatshaneni somthetho 7(a) isikhathi esingeqile ezinyangeni ezintathu isikhawu ngasinye kodwa leso sikhathi singeqi onyakeni owodwa uma sesihlanganisiwe;
- (c) kumele iqinisekise ukuthi isigungu esilawulayo sikhethwa onyakeni owodwa ngemuva kokuqokwa komuntu okukhulunywe ngaye esigatshaneni somthetho 7(a).

(8) Kuncike esigabeni somthetho 4, ilungu lesigungu esilawulayo lingaphinde liqokwe noma lengezwe, njengoba kungaba njalo, uma sekuphele isikhathi salo sokuba sesikhundleni.

#### **Ukwakheka kanye nokufaneleka**

4.(1) Laba abalandelayo bayoba ngabafanelekile ukuthi baqokwe njengamalungu esigungu esilawulayo –

- (a) abazali babafundi bakuleso sikole;
- (b) othisha abaqashwe kuleso sikole;
- (c) okungesibona othisha abaqashwe kuleso sikole; kanye
- (d) nabafundi abasemkhandlwini omele abafundi abasebangeni lesishiyagalombili kuyaphezulu kuleso sikole.

(2) Akekho umuntu oyoqokwa njengelungu lesigungu esilawulayo uma –

- (a) eke watholakala enecala wagwetshwa izinyanga eziyi-12 ebhadla ejele ngaphandle kokubonelelwa ngokuthi akhokhe inhlawulo okungaba kwiRiphabhulikhi

noma ngaphandle kweRiphabhulikhi, uma isenzo sakhe siyicala kwiRiphabhulikhi, angeke athathwe njengosegwetshiwe kuze kube –

- (i) kuthathwa isinqumo ngesikhalo sesigwebo sakhe; noma
  - (ii) isikhathi sakhe skudlulisa isikhalo sesiphelile,
- kuncike ekutheni ukuhoxiswa ngaphansi kwale ndima kuyophela eminyakeni emihlanu ngemva kokuphothulwa kwesigwebo;
- (b) emenezelwe yinkantolo esemthethweni njengongaphilile kahle engqondweni;
  - (c) ecwile ezikweletini ngokungenakuhlengeka;
  - (d) engumzali kodwa engesona isakhamuzi saseNingizimu Afrika noma engenayo imvume yokuhlala ngaphandle uma egunyazwe iNhloko yoMnyango;
  - (e) engumzali kodwa engasenayo ingane efunda esikoleni; noma
  - (f) engumfundi kodwa engesilona ilungu lomkhandlu omele abafundi;
  - (g) etholwe enecala lokuziphatha kabi ngesikhathi sokuqondiswa kwezigwegwe.

(3) Ilungu liyasishiya isikhundla salo uma –

- (a) lingahlangabezani nezidingo ezibekwe ezigabeni zomthetho 4(1) no (2);
- (b) lesula noma kunqanyulwa kobulungu balo;
- (c) liyilungu eliqokwe ngokwesigaba somthetho 2(a) futhi elingasenayo ingane efunda esikoleni;
- (d) liyilungu eliqokwe ngokwesigaba somthetho 2(b) noma (c) futhi eselixoshiwe, noma elidluliselwe noma elisiselwe kude naleso sikole;
- (e) lishonile;
- (f) liyilungu eliqokwe ngokwesigaba somthetho 2(d) futhi lingasafundi kuleso sikole esithintekayo;
- (g) liphuthe emihlanganweni emibili ejwayelekile yesigungu esilawulayo ngaphandle kokuletha incwadi yesixoliso;
- (h) lingaselona ilungu lomkhandlu omele abafundi; noma
- (i) litholwe linecala lokuziphatha kabi ngesikhathi sokuqondiswa kwezigwegwe.

### **Ukuqokwa kwezikhulu zokhetho zesiFundazwe**

5.(1) INhloko yoMnyango kumele iqoke ngokubhalwe phansi isikhulu sokhetho sesiFundazwe, isekela lesikhulu sokhetho sesiFundazwe kanye nabasizi bezikhulu zokhetho.

(2) Isikhulu sokhetho sesiFundazwe kumele –

- (a) siqinisekise ukuthi ukhetho lukhangiswa ngokwanele;
- (b) silawule ukuqokwa kwesikhulu esisodwa noma ngaphezulu esizosebenzela uMnyango ukwelekelela okhethweni njengomsizi wezikhulu zokhetho

zesiFundazwe;

- (c) siqinisekise ukuthi kuyahanjiswa nomthetho wesifundazwe omayelana nokubanjwa kokhetho;
- (d) sihlanganise uhlelo lokhetho lwazo zonke izikole esiFundazweni;
- (e) siqaphe ukufundiswa kwamalungu amasha esigungu esilawulayo; futhi
- (f) senze uphenyo njengokuyalelwa iNhloko yoMnyango.

(3) Isekela lesikhulu sokhetho sesifundazwe kanye nabasizi bezikhulu zokhetho besifundazwe basiza isikhulu sokhetho sesifundazwe ekuqhubeni imisebenzi yaso.

#### **Ukuqokwa kwezikhulu zokhetho zezifunda**

6.(1) INhloko yoMnyango kumele iqoke ngokubhalwe phansi isikhulu sokhetho sesifunda, isekela lesikhulu sokhetho sesifunda kanye nabasizi bezikhulu zokhetho zezifunda.

(2) Isikhulu sokhetho sesifunda kumele –

- (a) silawule ukuqokwa kwesikhulu esisodwa noma ngaphezulu esizosebenzela uMnyango ukwelekelela okhethweni njengomsizi wesikhulu sokhetho sesifunda;
- (b) silawule ukuqokwa kwezikhulu zokhetho zezikole;
- (c) sisabalalise uhlelo lokhetho lwazo zonke izikole esifundeni;
- (d) siqinisekise ukuhambisana nohlelo lokhetho;
- (e) siqinisekise ukuthi zonke izikole zinohlu olusemthethweni lwabavoti;
- (f) sisungule futhi silawule ibhuku lamalungu amasha aqokelwe esigungwini sokulawula esifundeni futhi senze ukuthi ibhuku litholakale eMnyangweni;
- (g) siqinisekise ukuthi amalungu amasha aqokelwe esigungwini esilawulayo afundisiwe ngomsebenzi esikhathini esiyizinyanga ezintathu eqokiwe; futhi
- (h) sixazulule izinkinga ezimayelana nokhetho lwesigungu esilawulayo sesikole njengoba kuhlangozwe esigabeni somthetho 16.

(3) Isekela lesikhulu sokhetho sesifunda kanye nabasizi bezikhulu zokhetho zezifunda bayosiza isikhulu sokhetho sesifunda ekwenzeni imisebenzi yaso.

(4) Isekela lesikhulu sokhetho sesifunda kanye nomsizi wesikhulu sokhetho bezifunda bangahlinzeka isikhulu sokhetho sesifunda ngezuleko mayelana nanoma yiluphi udaba olumayelana nokhetho.

### **Ukuqokwa kwezikhulu zokhetho zezikole**

7.(1) INhloko yoMnyango kumele iqoke ngokubhalwe phansi isikhulu sokhetho sesikole uma kuqokwa abazali, othisha, abangesibona othisha kanye nabafundi abasemkhandlwini omele abafundi njengamalungu esigungu esilawulayo.

(2) Uthishanhloko angeke aqokelwe ekubeni yisikhulu sokhetho sesikole aqashwe kusona.

(3) Isikhulu sokhetho sesikole kumele siqoke ngokubhalwe phansi isikhulu esisodwa noma ngaphezulu noma othisha abasebenzela uMnyango noma abaqashwe yisigungu esilawulayo ukwelekelela okhethweni njengabasizi bezikhulu zokhetho.

(4) Isikhulu sokhetho sesikole kumele sengamele kuyona yonke imihlangano yokhetho kuhlanganisa nokhetho lokuchibiyela kanye nokhetho lwabazongena ezikhundleni kwisigungu esilawulayo.

(5) Isikhulu sokhetho sesikole kanye nomsizi wesikhulu sokhetho sesikole angeke baphakanyiswe, bafake izicelo noma bavune ophakanyisiwe.

### **Isifungo noma isibopho sokugcinwa kwezimfihlo**

8. Zonke izikhulu zokhetho kumele zisayine isifungo noma isibopho sokugcina izimfihlo ngendlela enqunywe iNhloko yoMnyango ngaphambi kokuthi ziqale ukusebenza kulezo zikhundla.

### **Isaziso somhlangano wokhetho**

9.(1) Uthishanhloko wesikole esizobamba umhlangano wokhetho kumele –

(a) anqume usuku, isikhathi kanye nendawo okuyobanjelwa kuyona umhlangano wokhetho; futhi

(b) akhiphe isaziso esibeka usuku, isikhathi kanye nendawo yomhlangano wokhetho.

(2) Okungenani ezinsukwini ezingama-21 ngaphambi kosuku lomhlangano wokhetho, uthishanhloko wesikole esithintekayo kumele –

(a) anikeze bonke abafundi esikoleni ikhophi yesaziso somhlangano wokhetho futhi abayalele ngomlomo ukuthi banikeze abazali babo isaziso noma athumele leyo khophi yesaziso kubazali ngeposi;

(b) anikeze othisha kanye nalabo abangesibona othisha ikhophi yaleso saziso;

(c) aqinisekise ukuthi ikhophi yaleso saziso inanyathiselwe endaweni esobala kuleso sikole esithintekayo nakunoma iyiphi enye indawo efanele; futhi

(d) anikeze ilungu ngalinye lomkhandlu omele abafundi ikhophi.

(3) Uma kuyisikole esisha, ukhetho kumele lubanjwe ezinsukwini ezingama-60 kusungulwe lesi sikole.

#### **Uhlu lwabavoti**

**10.(1)** Uthishanhloko kumele alungise uhlu lwabavoti ngalunye kule mikhakha elandelayo –

- (a) abazali;
- (a) othisha;
- (b) abangesibona othisha;
- (c) abafundi abasemkhandlwini omele abafundi.

(2) Uthishanhloko kumele alungise uhlu lwabavoti asebenzise –

- (a) incwadi yokwamukelwa komfundi kubazali;
- (b) incwadi yokuqoshwa kwesikhathi kothisha;
- (c) incwadi yokuqoshwa kwesikhathi kwabangesibona othisha; kanye
- (d) nerejista kubafundi abasemkhandlwini omele abafundi.

(3) Uthishanhloko kumele okungenani kusasele izinsuku ezingama-21, aqinisekise ukuthi uphathisa abafundi incwadi evela eMnyangweni ukunxenxa abazali ukuthi bavuselele imininingwane yabo esesikoleni.

(4) Okungenani kusasele izinsuku eziyi-14 ngaphambi kokuthi kubanjwe umhlangano wokuvota, uthishanhloko kumele avumele labo abangakwazi ukuvota ukuthi bahlole uhlu lwabavoti.

(5) Noma yisiphi isikhalo esimayelana nohlu lwabavoti kumele sibhekiswe kuthishanhloko kusasele okungenani izinsuku eziyisikhombisa kubanjwe ukhetho.

#### **Imihlangano yokhetho**

**11.(1)** Ngaphandle uma kunezizathu eziphoqayo, zonke izikole kumele zibambe ukhetho lwezigungu ezilawulayo ngokuba nomhlangano wokhetho kanti futhi kumele kubanjwe imihlangano ehlukene –



- (a) yabazali
- (b) yothisha;
- (c) yabangesibona othisha; kanye
- (d) neyabafundi abasemkhandlwini omele abafundi.

(2) Isikhulu sokhetho sesikole kumele siqoke umsizi wesikhulu sokhetho sesikole ukuthi asebenze njengonobhala emihlanganweni futhi aqophe amaminithi emihlangano.

(3) Ngaphandle kwabaqaphe ukhetho kanye nomsizi wesikhulu sokhetho sesikole, isikhulu sokhetho sesikole akumele sivumele noma imuphi umuntu ongesiyena umvoti ukuthi ethamele umhlangano noma sivumele ukuthi kuqokwe umuntu ongalungenelanga ukhetho ngokwesigaba somthetho 4.

(4) Isikhulu sokhetho sesikole kumele sinxuse abavoti ukuthi baveze ubufakazi bokuthi bangobani ngokuthi baveze omazisi babo baseNingizimu Afrika noma amaphasisiphothi asemthethweni.

(5) Ngaphambi kokuqhubeka nokhetho lwamalungu esigungu esilawulayo, isikhulu sokhetho sesikole kumele siqwashise abavoti baqaphele ngalokhu okulandelayo –

- (a) ukuthi isikhathi sokuba sesikhundleni samalungu esigungu esilawulayo sesiphelile futhi amalungu asazisiwe ngokusemthethweni;
- (b) ukuthi umhlangano wokhetho ungumhlangano ovalekile;
- (c) izinhlinzeko zesigaba somthetho 4 eziveza umuntu ongafanelekile ukuthi yilungu lesigungu esila wulayo;
- (d) isibalo sabantu okumele baqokwe;
- (e) zonke iziphakamiso kumele zeseke umzali, uthisha, ongesiyena uthisha, umfundi osemkhandlwini omele abafundi, njengoba kungaba njalo, ofanelekile ukuthi avote;
- (f) ukuthi, ngesikhathi kwenziwa iziphakamiso, abavoti kumele babhekelele ukumeleleka futhi kumele baqinisekise ukuthi iziphakamiso zabo zimele ubulili, ibala futhi kumele zibandakanye ukuphakanyiswa kwabantu abanokukhubazeka;
- (g) umvoti ngamunye unevoti elilodwa esikhaleni okumele sigwaliswe;
- (h) kuvotwa ngephepha lokuvota eliyimfihlo; futhi
- (i) ikhona inqubo yokufaka izikhalo kulabo abangenelisekanga ngenqubo kanye nomphumela wokhetho.

### **Isibalo esivumelekile sabangabamba umhlangano wokhetho**

12.(1) Isibalo esivumelekile esingamaphesenti ayi-15 sabavoti abasohlwini lokuvota kumele sibe khona ngaphambi kokuthi kubanjwe noma yiluphi ukhetho.

(2) Uma isibalo okukhulunywe ngaso kwisigatshana somthetho (1) singahlangani, umhlangano kumele uhlehliselwe okungenani ezinsukwini eziyi-14 kodwa kungeqi ezinsukwini ezingama-21.

(3) Uma umhlangano wokhetho uhlehliswa njengoba kuhlangozwe esigabeni somthetho 12(2), isikhulu sokhetho sesikole kumele siqhubeke nomhlangano olandelayo kungakhathaleki ukuthi isibalo esivumelekile somhlangano siphelile noma asiphelile.

### **Iziphakamiso zomhlangano wokhetho**

13.(1) Isikhulu sokhetho sesikole esibambe umhlangano wokhetho kumele –

- (a) sinqume futhi sibeke isikhathi seziphakamiso;
- (b) sivumele isikhathi sokuthi kuqokwe abazongenela ukuqokwa uma sekusesigabeni sokwenza iziphakamiso; futhi
- (c) sazise abavoti ngesikhathi esibekiwe.

(2) Umuntu angaphakanyiswa noma engekho kuncike ekutheni –

- (a) omphakamisayo nalowo ovuna lesi siphakamiso bakhona emhlanganweni; futhi
- (b) umuntu ophakanyisiwe uthumela ngokubhaliwe ukwamukela ukuphakanyiswa kwakhe.

(3) Emhlanganweni wokhetho, ongenela ukhetho angaphakanyiswa ngokubhalwe phansi noma ngomlomo –

- (a) umzali womfundi ofunda kuleso sikole ukuthi asebenze ngokwesigaba somthetho 2(a);
- (b) uthisha oqashwe kuleso sikole ukuthi asebenze ngokwesigaba somthetho 2(b);
- (c) ongesiyena uthisha kodwa oqashwe kuleso sikole ukuthi asebenze ngokwesigaba somthetho 2(c); noma
- (d) umfundi osemkhandlwini omele abafundi ngokwesigaba somthetho 2(d),

kuncike ekutheni omunye umzali, uthisha, ongesiyena uthisha noma abafundi abasemkhandlwini omele abafundi, njengoba kungaba njalo, bayasivuna isiphakamiso futhi umuntu ophakanyiswayo uyosho emhlanganweni ngomlomo noma ngokubhalwe phansi uma engekho, ukuthi ukulungele ukusebenza njengelungu lesigungu esilawulayo, uma eqokiwe.

(4) Ngaphandle kokuhlenganiswa kohlu lwabaphakanyisiwe ngaphambi komhlangano wokhetho, isikhulu sokhetho sesikole kumele sivumele ukuphakanyiswa ngomlomo kwabazophakanyiswa futhi sivule ithuba elanele labaphakanyiswa ngomlomo.

(5) Ophakamisa ozongenela ukhetho nalowo omvunayo kumele babe khona emhlanganweni wokhetho futhi bagcwalise ifomu yeziphakamiso.

(6) Isikhulu sokhetho sesikole kumele –

- (a) sinike umuntu ophakamisa ozongenela ukhetho ithuba lokuthi ethule lowo amphakamisile emhlanganweni futhi anikeze izizathu zokumphakamisa kwakhe; noma
- (b) sivumele ophakanyisiwe ukuthi azethule yena ngokwakhe emhlanganweni.

(7) Ngesikhathi sokwenziwa kweziphakamiso, isikhulu sokhetho sesikole kumele samukele iziphakamiso futhi sichithe ukuphakanyiswa kwanoma yimuphi umuntu ozongenela –

- (a) ongaphakanyiswanga ngokuhambisana nesigaba somthetho 13(2) no 13(3); noma
- (b) ongafanelekile ngokwesigaba somthetho 4.

(8) Uma isibalo sabantu abaphakanyisiwe seqa isibalo sezikhala zomsebenzi, isikhulu sokhetho sesikole kumele ngokushesha ngemuva kokuvala ithuba leziphakamiso, sibhale phansi amagama abaphakanyisiwe ebhodini elifanele noma kunoma iyiphi indawo ecacile futhi ebonakalayo kuwo wonke umuntu owethamele umhlangano.

(9) Uma isibalo sabantu abaqokiwe silingana nezikhala zomsebenzi, isikhulu sokhetho sesikole kumele simemezele abantu abaphakanyisiwe njengasebeqokiwe.

(10) Ukuqhutshwa kokuqokwa kwabaphakanyiswayo kumele kuvalwe isikhulu sokhetho sesikole.

#### **Ukuvota**

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

(2) Isikhulu sokhetho sesikole kumele sinxuse abavoti abakhona ukuthi bafake uphawu lwesiphambano (x) maqondana namagama abaphakanyisiwe ababakhethayo emaphepheni okuvota ayohlinzekwa yisikhulu sokhetho sesikole.

(3) Umuntu owehlulekayo ukufaka uphawu lwevoti lakhe ephepheni lokuvota njengoba kuhlangozwe esigabeni somthetho 14(2) angacela esikhulwini sokhetho sesikole noma kumsizi wesikhulu sokhetho ukuthi alekelelwe afake uphawu lwevoti eceleni kophakanyisiwe amkhethayo ephepheni lakhe lokuvota.

(4) Isikhulu sokhetho sesikole siyosiza noma yimuphi umuntu okhubazekile.

(5) Isicelo sokusizwa nesokugcwalisa iphepha lokuvota njengoba kuhlangozwe esigabeni somthetho 14(3) siyokwenziwa ngasese endaweni ehlonzwe yisikhulu sokhetho sesikole ngenxa yaleyo nhloso kodwa kube sendaweni okubanjelwe kuyona ukhetho.

(6) Isikhulu sokhetho sesikole kumele singawemukeli amaphepha okuvota -

(a) afakwe iziphambano (x) eziningi ngaphezu kwezikhala ezikhona esigungwini esilawulayo; noma

(b) anagama lomuntu noma anamagama abantu abangaphakanyisiwe.

(7) Uma bonke abavoti sebevotile, isikhulu sokhetho sesikole kanye nomsizi wesikhulu sokhetho sesikole kumele babale amavoti akhona bekanye nabaqaphi abathathu abaqokwe yilabo abethamele umhlangano, ukuthi baqaphe ukubalwa kwamavoti.

(8) Uma kuba nokulingana kwamavoti phakathi kwababili abaphakanyisiwe emva kwezikhawu ezimbili zokuvota, isikhulu sokhetho sesikole kumele sicingqe uhlamvu lwemali ophumelele aqokwe ngokuthi uhlamvu luhlale ngaluphi uhlangothi.

(9) Isikhulu sokhetho sesikole kumele simemezele imiphumela emhlanganweni wokhetho bese sidalula abaphakanyisiwe abathole amavoti amaningi njengamalungu aseqokelwe esigungwini esilawulayo.

(10) Isibalo samavoti atholwe umuntu kulolu khetho asinqumi umphumela wokhetho lwabazokuba sezikhundleni ngokwesigaba somthetho 15.

#### **Ukhetho lwabazongena ezikhundleni**

15.(1) Isikhulu sokhetho sesikole singabiza umhlangano ngenhloso yokuqoka abazongena ezikhundleni kuphela ngosuku lomhlangano wokhetho lwabazali uma –

(a) ukhetho lothisha, lwabangesibona othisha nolwabafundi lubanjwe ngaphambi kokhetho lwabazali;

- (b) isaziso sezinsuku ezingama-21 ngokwesigaba somthetho 9(2) sanikezwa abazali, othisha, abangesibona othisha kanye nabafundi abasemkhandlwini omele abafundi ukubazisa ukuthi umhlangano wokhetho lwabazongena ezikhundleni uzobanjwa ngosuku lomhlangano wokhetho lwabazali; futhi
- (c) kuhanjswene nezidingo zokuba khona kwesibalo esanele sabantu abangabamba umhlangano.
- (2) Uma umhlangano wokukhetha abazongena ezikhundleni ungabanjwanga ngokwesigaba somthetho 15(1) isikhulu sokhetho sesikole kumele sibize umhlangano wokuqala wesigungu esilawulayo ezinsukwini ezingama-21 kusukela osukwini lokubanjwa kokhetho lwabazali.
- (3) Isikhulu sokhetho sesikole sengamela noma imuphi umhlangano obizelwe ukhetho lwabazongena ezikhundleni.
- (4) Emhlanganweni wokuqala wesigungu esiphethe amalungu kumele akhethe ngokusebenzisa iphepha lokuvota eliyimfihlo –
- (a) usihlalo;
  - (b) usekela kasihlalo;
  - (c) umgcinimafa; kanye
  - (d) nonobhala.
- (5) Ilungu elingumzali kuphela, elingaqashiwe esikoleni elifanelekile esikhundleni sokuba ngusihlalo noma usekela kasihlalo esigungwini esilawulayo.
- (6) Isikhathi sokuba sesikhundleni kwabazongena ezikhundleni siwunyaka owodwa.
- (7) Uthishanhloko angaqoka ilungu kubasebenzi bakhe ukwelekelela umgcinimafa kanye nonobhala wesigungu esilawulayo.
- (8) Uma kwenzeka nganoma yisiphi isizathu kuba nesikhala esikhundleni esisodwa, isigungu esilawulayo, emhlanganweni wokuqala ngemuva kokuvela kwesikhala, kumele siqoke oyedwa wamalungu aso ukugcwalisa lesi sikhala isikhathi esisasele salowo oshiyile.
- (9) Osesikhundleni angaphinde aqokwe kabusha uma kuphela isikhathi sakhe sokuba kuleso sikhundla.

(10) Uthishanhloko ezinsukwini eziyi-14 emva kokhetho kumele azise iNhlolo yoMnyango nganoma yiluphi uguquko lwabasezikhundleni futhi kumele ayihlinzeke ngemininingwane yalabo abangene ezikhundleni kubandakanya amagama, izinombolo zomazisi, izinombolo zezingcingo, izinombolo zefeksi namakheli kanye nama-imeyli.

(11) Ezinsukwini eziyi-14 kubanjwe ukhetho, abasezikhundleni zesigungu esilawulayo sesikole asebephuma kumele badlulisele kwabasha abangene ezikhundleni yonke imibhalo emayelana nesigungu esilawulayo sesikole futhi abaphathizihlalo bezinhlangothi zombili kumele babanikeze isitifiketi sokudluliselwa kwamandla esisayinwe.

### **Ukuxazululwa kokungaboni ngaso linye**

16.(1) Umvoti noma umuntu obephakanyisiwe ngesikhathi kukhethwa isigungu esilawulayo angadlulisela isikhalo sakhe noma ukungeneliseki kwakhe ngokubhalwe phansi esikhulwini sokhetho sesifunda ezinsukwini eziyisikhombisa ngemuva kokhetho uma izinqubo ezibekiwe zingazange zilandelwe ngesikhathi kunomhlangano wokhetho.

(2) Nanoma yimuphi umuntu onolwazi oluthile nganoma yikuphi okungazange kuhambe ngendlela mayelana nokhetho angazisa isikhulu sokhetho sesifunda ngokubhalwe phansi ngalokho okungahambanga ngendlela ezinsukwini eziyisikhombisa kudlule ukhetho.

(3) Uma sithola isikhalo, noma ulwazi olumayelana nokungazange kuhambe ngendlela, isikhulu sokhetho sesifunda siyoqoka usekela waso noma umsizi wesikhulu sokhetho sesifunda ukuthi aqhube uphenyo futhi enze izincomo.

(4) Isikhulu sokhetho sesifunda kungathi ngemuva kophenyo, simemezele ukhetho njengolungekho semthethweni futhi singamema ukuthi kuqokwe kabusha uma senelisekile ukuthi –

- (a) inqubo ebekiwe ayizange ilandelwe;
- (b) okungahambanga ngendlela kwenziwa ngesikhathi kuqhutshwa ukhetho; futhi
- (c) umphumela wokhetho ubuyokwehluka ukube inqubo ebekiwe ibilandeliwe.

(5) Nanoma yimuphi umuntu ongenelisekile ngesinqumo sesikhulu sokhetho sesifunda angakhalaza mayelana naleso sinqumo kwiNhlolo yoMnyango ezinsukwini eziyi-14 kwamukelwe isinqumo esivela esikhulwini sokhetho sesifunda.

(6) INhlolo yoMnyango kumele –

- (a) ezinsukwini eziyisikhombisa sithole isikhalo isidlulisele esikhulwini sokhetho sesifundazwe;

(b) icele isikhulu sokhetho sesifundazwe ukuthi siphenye futhi silungise umbiko kanye nezincomo ezinsukwini eziyi-14 kudluliselwe isikhalo esikhulwini sokhetho sesifundazwe;

(c) ibheke umbiko ohlongozwe esigabeni somthetho 6(b), ithathe isinqumo bese yazisa ofake isikhalo nesikhulu sokhetho sesifunda ngesinqumo sayo ezinsukwini eziyi-14 ithole umbiko ovela esikhulwini sokhetho sesifundazwe.

(7) Isinqumo seNhloko yoMnyango siyokuba ngujuqu.

(8) Ngesikhathi kusalindwe umphumela wokuxazululwa kokungaboni ngaso linye, iNhloko yoMnyango kumele iqoke abantu abafanele ukuqhuba imisebenzi yesigungu esilawulayo isikhathi esingeqile ezinyangeni ezintathu.

### **Inqubo ngemva kokhetho**

17. Emva kokhetho lwamalungu esigungu esilawulayo, isikhulu sokhetho sesikole kumele –

(a) sibhalele ilungu ngalinye eloqokiwe ngokuqokwa kwalo futhi lesa saziso kumele sithunyelwe ngefeksi, ngeposi, nge-imeyili noma sihanjiswe ngesandla;

(b) sazise isikhulu sokhetho sesifunda ngokubhaliwe mayelana neminingwane yokhetho kubandakanya usuku lokhetho, amagama, izinombolo zomazisi, izinombolo zezingcingo, izinombolo zamafeksi kanye namakheli awo wonke amalungu aqokiwe;

(c) sigcine zonke izincwadi, kubandakanya amaphepha okuvota asetshenzisiwe kulolo khetho ezimvilophini futhi sivale lezo zimvilophu;

(d) ezinsukwini eziyi-5 emva kokhetho sinikeze uthishanhlolo yonke imibhalo emayelana nokhetho ukuze ayigcine kahle.

### **Ukhetho lokuchibiyela**

18.(1) Uma kuvela isikhala ngenxa yokushiya kwanoma yiliphi ilungu esigungwini esilawulayo singakapheli isikhathi salo sokuba sesikhundleni, isikhulu sokhetho sesikole kumele sibambe ukhetho lwelungu elisha elizongena esikhundleni selungu elishiyile.

(2) Uma isikhala sivela kusasele izinyanga ezingaphezu kweziyisithupha ngaphambi kokuthi kuphele isikhathi sokuba sesikhundleni kwesigungu esilawulayo, isikhulu sokhetho sesikole

kumele sibambe ukhetho lokuchibiyela ngokulandela izinqubo ezibekwe ezigabeni zomthetho 9 no 14.

(3) Isikhulu sokhetho sesikole kumele sihlele umhlangano wokhetho ezinsukwini ezingama-90 kuvele leso sikhala futhi ngesikhathi kusalindwe ukhetho lokuchibiyela isigungu esilawulayo singengeza amalungu.

(4) Uma isikhala sivela ngenxa yokushiya kwelungu sekusele izinyanga ezingaphansi kweziyisithupha kuphele isikhathi sokuba sesikhundleni kwesigungu esilawulayo, amalungu asele kumele –

(a) engeze, ngevoti leningi, umuntu ozogcwalisa leso sikhala noma abantu abazogcwalisa lezo zikhala kuleso sikhathi esisasele sokusebenza kwesigungu esilawulayo; futhi

(b) abazali, othisha, abangesibona othisha kanye nabafundi kumele benze izincomo ngamagama abantu okungenani abathathu abafanelekile abangaqokwa esigungwini esilawulayo futhi isigungu esilawulayo kumele sengeze kulawo magama aphakanyisiwe.

(5) Ilungu elengeziwe okukhulunywe ngalo ezigatshaneni zomthetho (3) no (4) lithatha amalungelelo okuvota elungu elishiyile, uma ekhona.

### **Isigungu esilawulayo esisebenza phakathi kwezikoleni ezimbili noma ngaphezulu**

**19.(1)** Isigungu esengamele izikole ezimbili noma ngaphezulu kumele sibe namalungu alandelayo:

(a) abazali abaqokwe ngabazali babafundi abafunda esikoleni ngasiye okuqokwa kusona isigungu esilawulayo, esinomzali oyedwa ngaphezu kwesibalo esihlanganisiwe sabaphakanyiselwe ukuqokelwa esigungwini esilawulayo;

(b) uthisha oyedwa oqokwe abanye othisha abaqashwe esikoleni ngasiye okuqokwa kusona isigungu esilawulayo;

(c) oyedwa ongesiyena uthisha oqokwe abangesibona othisha esikoleni ngasiye okuqokwa kusona isigungu esilawulayo;

(d) abafundi ababili abaqokwe emkhandlwini omele abafundi esikoleni ngasinye kusukela ebangeni lesi-8 noma ngaphezulu;

(e) othishanhloko balezi zikole ngokwezikhundla zabo ezisemthethweni;

(f) oyedwa omele umkhakha ngamunye ohlongozwe esigabeni somthetho 2(1)e, f, g, h no j;

(g) amalungu engeziwe, uma ekhona.



(2) Isibalo sabantu abengeziwe njengoba kuhlangozwe esigabeni somthetho (1)(g) angeke seqe kwabahlanu.

(3) Ukhetho lwabazongena ezikhundleni esigungwini esilawulayo sesikole esengamele izikole ezimbili noma ngaphezulu kumele lulawulwe isikhulu sokhetho sesikole esikhulu.

(4) Isikhulu sokhetho sesikole kumele sibambe umhlangano wokhetho lwabazongena ezikhundleni emva kwezinsuku ezingama-21 isikole sokugcina (sezinye zezikole) sibe nomhlangano wokhetho wabazali.

(5) Zonke izindaba eziphathelene nokhetho lwesigungu sesikole njengoba ziqukethwe kulesi Saziso, ziyosetshenziswa esigungwini esilawulayo esengamele izikole ezimbili noma ngaphezulu.

#### **Usuku lokhetho**

**20.(1)** Isikole ngokunquma kwesigungu saso esilawulayo singabamba ukhetho ngosuku lokhetho esikhundleni sokubamba umhlangano wokhetho uma kunezizathu eziphoqayo.

(2) Uma isigungu esilawulayo sesikole siquma usuku lokhetho, uthishanhloko wesikole kumele –

- (a) okungenani kusasele izinsuku ezingama-21 akhiphe isaziso sokhetho, afake isicelo esikhulwini sokhetho sesifunda acele kuso imvume yokunquma usuku lokhetho;
- (b) anikeze izizathu ezisemqoka ngesinqumo sokungenela ukhetho oluzothatha usuku lonke esikhundleni sokubamba umhlangano wokhetho;
- (c) anikeze isiqiniseko sokuthi kuzoba khona abaqaphi kanye nethimba lezokhetho usuku lonke;
- (d) anikeze isiqiniseko sokuthi zonke izinto ezisetshenziselwa uhlelo lokwenza iziphakamiso kanye nokhetho zizotholakala;
- (e) anikeze isiqiniseko sokuthi uhlelo lokufunda nokufundisa esikoleni angeke luphazamiseke ngenxa yokhetho oluzobanjwa usuku lonke.

(3) Ngaphambi kokunikeza noma isiphi isikole imvume yokubamba ukhetho usuku lonke, isikhulu sokhetho sesifunda kumele sidlinze ngezinhlinzeko zesigaba somthetho 20(2) futhi sigculiseke ukuthi isikole sihlangebezene nalezo zinhlinzeko.

- (4) Isinqumo esithathwe isikhulu sokhetho sesifunda kumele sidluliselwe esikoleni okungenani ezinsukwini eziyi-14 isikole sifake isicelo.
- (5) Isikhulu sokhetho sesikole kumele ngaphambi kosuku lokhetho siqinisekise ukuthi –
- (a) isikole sinencwadi yemvume yokuqhuba ukhetho ephuma ehovisi lokhetho lesifunda;
  - (b) uhlelo losuku lokhetho lumi ngomumo;
  - (c) bonke abaphakanyisiwe bayithumele imininingwane yabo esikoleni ukuze ibekwe obala esikhungweni sokuvota;
  - (d) isikhathi sokuvala sizovumela ukuthi ababhekele ukugcinwa komthetho kanye nethimba lokhetho bagoduke bephephile;
  - (e) uma sekuvalwa, isikole sizobe sinaye umuntu okhona lapho kuvotelwa khona ukuze agcine yonke imibhalo ebisetshenziselwa ukhetho iphephile.

### **Iziphakamiso**

**21.(1)** Izikole ezinqume ukuba nosuku lokhetho esikhundleni sokubamba umhlangano wokhetho kumele zilandele lolu hlelo lokwenza iziphakamiso –

- (a) isikhulu sokhetho sesikole kumele sibhale izaziso zomhlangano wokwenza iziphakamiso futhi kumele sinqume usuku, indawo kanye nesikhathi somhlangano;
  - (b) isaziso somhlangano wokwenza iziphakamiso wabazali kufanele sikhishwe futhi sibekwe ezindaweni ezisobala esikoleni nasezindaweni zomphakathi okungenani kusasele izinsuku ezingama-21 ngaphambi kosuku lokhetho.
- (2) Uthishanhloko kumele aqinisekise ukuthi –
- (a) isaziso somhlangano wokwenza iziphakamiso kanye nefomu yabantu abaphakanyisiwe kunikezwa bonke abafundi okungenani kusasele izinsuku ezingama-21 ngaphambi kosuku lokhetho oluhlongoziwe, uyalela ngomlomo abafundi ukuthi banikeze abazali isaziso kanye nefomu;
  - (b) uma kungenjalo, isaziso kanye nefomu yabantu abaphakanyisiwe kuthunyelelwa kobo bonke abazali babafundi ngeposi okungenani kusasele izinsuku ezingama-21 ngaphambi kosuku lokhetho; noma
  - (c) kusetshenziswa zombili lezi zindlela: Inqobo nje uma zingeke zibeke abazali kanye namalungu omphakathi engcupheni; futhi
  - (d) isaziso kanye nefomu yabantu abaphakanyisiwe uma kunokwenzeka ibhalwe ngolimi umfundi alusebenzisa esikoleni nangolimi alusebenzisa ekhaya ukuqinisekisa ukuthi kutholakala isibalo esigcwele sabazobambiqhaza.

(3) Isaziso kumele sazise abazali ngokuthi ifomu yabantu aphakanyisiwe kufanele igcwaliswe futhi isayinwe ngozongenela ukhetho, ophakamisayo kanye nomvuni bese ibuyiselwa esikoleni okungenani kusasele izinsuku eziyi-14 ngaphambi komhlangano wokwenza iziphakamiso futhi kumele ibe neminingwane ehlongozwe esigabeni somthetho 21(6).

(4) Ngesikhathi somhlangano wokwenza iziphakamiso, isikhulu sokhetho sesikole kumele sigxile ohlelweni lweziphakamiso oluhlongozwe esigabeni somthetho 13(1), (2), (3) no (4).

(5) Ongenele ukhetho angaphakanyiswa kuphela futhi avunwe ngumuntu osohlangothini olufanayo nalolo ayilungu kulo.

(6) Isikhulu sokhetho sesikole kumele siqinisekise ukuthi nanoma yimuphi umuntu ofanelekile ukuphakanyiswa futhi ofuna ukuphakanyiswa, ukhululekile ukubambiqhaza ohlelweni lweziphakamiso futhi lowo muntu kumele alethe iminingwane yakhe –

- (a) enesibongo negama lakhe;
- (b) enamagama kanye namabanga ezingane zakhe ezifunda esikoleni;
- (c) echaza ngomsebenzi awenzayo nesipiliyoni noma amakhono omsebenzi anawo;
- (d) enesitatimende esibeka ukuthi ungofanelekile ukuba yilungu lesigungu esilawulayo njengoba kuhlongozwe esigabeni somthetho 4; kanye
- (e) nesitatimende esibeka kafishane umbono anawo ngesikole.

(7) Emhlanganweni wokwenza iziphakamiso, isikhulu sokhetho sesikole kumele sicele bonke abaphakanyisiwe ukuthi balethe yonke iminingwane yabo.

(8) Emva kokuphakanyiswa kwabantu, isikhulu sokhetho sesikole kumele sicubungule iziphakamiso futhi sichithe ukuphakanyiswa kwanoma ngubani ongenele ukhetho –

- (a) ongazange aphakanyiswe;
- (b) ongafanelekile ukungenela ukhetho; futhi
- (c) ongazange agcwalise futhi athumele ifomu yeziphakamiso kanye neminingwane edingekayo.

(9) Uma isibalo sonke sabantu abaphakanyisiwe singaphansi kwesibalo samalungu adingeka esigungwini esilawulayo, kumele kuthunyelwe isaziso kubazali sokuthi bacelwe ukuthi baphinde baphakamise amagama abanye abantu.

(10) Uma isibalo sabantu abaphakanyisiwe silingana nesibalo samalungu adingeka esigungwini esilawulayo, isikhulu sokhetho sesikole kumele simemezele ukuthi bonke abantu abaphakanyisiwe sebengamalungu afanelekile nokuthi asisekho isidingo sokuba nosuku lokhetho.

(11) Uthishanhloko okungenani kusasele izinsuku eziyi-7 emva kohlelo lweziphakamiso kumele abhalele abazali abazise ngemiphumela yokhetho ehlongozwe esigabeni somthetho 21(10) futhi azise abazali nokuthi asisekho isidingo sokuba nosuku lokhetho.

(12) Uma isibalo sabantu abaphakanyisiwe singaphezulu kwesibalo esidingekayo esigungwini esilawulayo, uthishanhloko kumele abhalele abazali abazise ngamagama nangemininingwane yabantu iziphakamiso zabo ezamukeliwe nangosuku lokhetho okuyovotwa ngalo ngephepha lok uvota eliyimfihlo.

(13) Uthishanhloko kumele avezele abazali imininingwane yabaphakanyisiwe okungenani kusasele izinsuku eziyi-7 ngaphambi kosuku lokhetho.

(14) Akekho umuntu oyoza ukuhlela uhlelo lweziphakamiso ngendlela yokuthi kuphakanyiswe isibalo sabantu abadingekayo kuphela ukuze ukhetho lungabe lusabanjwa futhi lowo mzamo uyothathwa njengokungahambisani nomthetho wezokhetho njengoba kuhlongozwe esigabeni somthetho 16.

### **Usuku lokhetho**

22.(1) Kuyovotwa ngephepha lokuvota eliyimfihlo futhi lolu hlelo lokuvota olulandelayo kumele lusetshenziswe:

- (a) yibona bonke abavoti abafanelekile amagama abo atholakala ohlwini lwabavoti kanti ayesulwa ohlwini uma sebevotile;
- (b) umvoti ofanelekile onakho konke okudingekayo futhi ongadingi ukusizwa, kumele avote aqede emizuzwini emihlanu noma engaphansi kwalokho;
- (c) abavoti abadinga usizo oluyisipesheli, njengabantu abadala, abakhubazekile noma abesifazane abakhulelwe basizwa ngaphandle kokubandlulula abanye abavoti;
- (d) abavoti amagama abo angaveli ohlwini lwabavoti lwaleso sikole angeke bavunyelwe ukuthi bavote;
- (e) yonke imisebenzi ephathelene nokuvota yenzelwa bonke abavoti abafanelekile abafike esikhungweni sokuvota (isibonelo: igama lomvoti liyesulwa ohlwini uma esevotile);

- (f) akekho umvoti ovumeleke ukuvota uma ngesikhathi sokuhlolwa kwezinto eziphathelene nokuvota kutholakale ukuthi ungumuntu ongafanelekile;
- (g) bonke abavoti banikezwa iphepha lokuvota elifanele;
- (h) izikhalo noma ukungenliseki mayelana nosizo oluhlinzekwa abavoti abangakwazi ukufunda nokubhala noma abangaboni zibhekwa ngokushesha;
- (i) uhlelo lokuvota kanye nabasebenzi luqashwe ngendlela yokuthi luhlinzeke ngolwazi oluyilo ngokugcina amarekhodi ukuze kungenelelwe uma kunesidingo;
- (j) ukungenliseki okuvela kubavoti kuyaqoshwa futhi kuthathwe izinqumo ngokulandela inqubo yokuxazulula ukungaboni ngaso linye;
- (k) ukuxoxisana nabavoti, abasebenzi kanye nababambe iqhaza, nalabo abangalibambile iqhaza, ukuhlonishwa kwesithunzi sabantu nokugqugquzela ukubekezelelana;
- (l) izinkinga ezikhona nezingabakhona ziyahlonzwa ziphinde zicutshungulwe ukuthi zingaba nomthelela ongakanani ohlelweni lokuvota kubhekwe nezisombululo ezingasetshenziswa;
- (m) ukuxazululwa kwezinkinga kuncike ezimweni futhi kuyasiza ukubhekana ngqo nezingkinga ngendlela efanele;
- (n) indlela yokuxazulula izinkinga igqugquzela ukusebenza kahle kwesikhungo sokuvota, iqinisa imigomo yokhetho olukhululekile nolungachemile futhi noma ngayiphi indlela inika umvoti ofanelekile ithuba lokuvota;futhi
- (o) uhlelo lokuvota kanye nezinqubo ezisetshenziswayo zivulelekile kubagcini bomthetho abazoqapha uhlelo lokuvota ngaphandle kokuphazamisa ukhetho.

(2) Isikhulu sokhetho sesikole singakwazi ukuthola elinye ibhokisi lokufaka amavoti uma lingekho ibhokisi elisemthethweni lokufaka amaphepha okuvota, kodwa ibhokisi kumele livalwe thaqa ngemva kokuthi ababhekele ukugcinwa komthetho sebenelisekile ukuthi alinalutho phakathi.

#### **Ukubalwa kwamavoti kanye nesibalo esivumelekile**

**23.(1)** Isikhulu sokhetho sesikole kumele sinqume isikhathi okuzobalwa ngaso amavoti kodwa ukubalwa kwamavoti kumele kwenziwe ngosuku lokhetho emuva kokuba sekuqediwe ukuvota.

(2) Isikhulu sokhetho sesikole kumele siqinisekise amaphepha okuvota afinyelela esibalweni esingamaphesenti ayi-15 ukuze kuqalwe ukubala, uma kungenjalo, ukubalwa kwamavoti kufanele kumiswe kunqunywe olunye usuku lokuvota futhi kumele leso sinqumo saziswe umgwamanda wabazali ezinsukwini eziyi-7.

(3) Uma isibalo esivumelekile njengoba kuhrongozwe esigabeni somthetho 12 kungafinyelelwa kusona emhlanganweni ohlongoziwe olandelayo, isigungu sesikole esilawulayo kumele sibhalelele isikhulu sokhetho sesifunda sisazise ngomphumela wokhetho bese sicela imvume yokubamba ukhetho ngomhlangano wokhetho.

(4) Uma isikhulu sokhetho sesikole sinikeza imvume yokubamba umhlangano wokhetho, zonke izinhlinzeko eziphathelene nokubamba umhlangano wokhetho ziyosebenza.

(5) Uma amavoti efinyelela esibalweni esingamaphesenti ayi-15, isikhulu sokhetho sesikole kumele siqinisekise ukuthi –

- (a) ukubalwa kwamvoti luvulelekile kwababhekele ukugcinwa komthetho nakulabo abangenele ukhetho;
- (b) konke ukunganeliseki ngokubalwa kwamavoti kurekhodwa ngokucophelela;
- (c) igama lomuntu ngamunye ongenele kanye nesibalo samavoti afakwe kumuntu ngamunye amenyezelwa ababhekele ukugcinwa komthetho;
- (d) ifomu lamavoti asebaliwe liyagcwaliswa; kanye
- (e) nokuthi isiliphu semiphumela yokhetho sisayiniwe.

(6) Uma isibalo samavoti arekhodiwe abantu abangenele ukhetho ababili noma ngaphezulu silingana futhi siphazamisa imiphumela yokuvota, isikhulu sokhetho sesikole siyoqinisekisa ngokugingqa uhlamvu lwemali ukuhlonzwa kodle umhlanganiso. Lokhu kufanele kwenziwe ngendela evulelekile nangokuvumelana nabantu abangenele ukhetho.

(7) Isikhulu sokhetho sesikole kumele silichithe iphepha lokuvota –

- (a) elingenaso isigxivizo sesikole;
- (b) elinamavoti amaningi arekhodwe ngaphezu kwesibalo sabantu abangenele ukhetho; futhi
- (c) uma ligcwaliswe ngendlela yokuthi akusacaci ukuthi belivotele bani kubantu abangenele ukhetho.

(8) Uma isikhulu sokhetho sesikole sichithe iphepha lokuvota njengoba kuhrongozwe esigabeni somthetho 22(4) kumele sichazele bonke abantu abangenele ukhetho abakhona lapho futhi siphinde sinikeze ithuba labo abangenele ukhetho lokuthi bahlale iphepha levoti elichithiwe uma befisa ukwenze njalo.

(9) Nanoma yimuphi umvoti okhona lapho kumele anikezwe ithuba lokuphikisa isinqumo

sesikhulu sokhetho sesikole ngesikhathi sibala noma sichitha iphepha levoti kodwa lokho kungeneliseki angeke kuze kuguqule isinqumo esithathwe isikhulu sokhetho sesikole.

(10) Irekhodi lalokho kungeneliseki kumele ukuthi libhalwe ngemuva kwalelo phepha lokuvota, nasembikweni wokhetho owenziwa isikhulu sokhetho sesikole.

(11) Uma kwenzeka kuba nokungaboni ngaso linye isikhulu sokhetho sesikole esehluleka ukukuxazulula, kumele kulandelelwe uhlelo lokuxazulula ukungaboni ngaso linye oluhlongozwe esigabeni somthetho 16.

(12) Zonke izimvilophu, amabhokisi kanye namabhokisi okufaka amavoti kumele abhalwe ngamagama amakhulu isikhulu sokhetho sesikole futhi siphinde sibhale usuku lokhetho kanye nokuphakathi.

#### **Ukusetshenziswa kwalesi saziso**

**24.(1)** Ngaphandle uma kuhlinzekwe ngenye indlela kulesi saziso, zonke ezinye izindaba ezihlinzekelwe kulesi saziso eziphathelene nokhetho lwezigungu ezilawulayo kufanele ziyosebenza ezikoleni ezinqume ukuba nosuku lokhetho.

#### **Ukuhlakazwa kwesigungu esilawulayo**

**25.(1)** ILungu loMkhandlu oPhethe lingahlakaza isigungu esilawulayo uma –

- (a) isikole singasebenzi, sivaliwe, ingxenye yaso ihlakazwa, sibeka engozini impilo noma ukuphepha kwanoma yimuphi umuntu kuleso sikole;
- (b) isikole sihlanganiswa nesinye, sivalwa, sihlukaniswa noma uma sihlelwa kabusha;
- (c) linombono wokuthi isigungu esilawulayo asisamele umphakathi okusungulwe kuwona isikole;
- (d) ukungaphathwa ngendlela efanele kwesikole kwenza ukuthi kungasebenzeki futhi ukufunda nokufundisa kungeke kusaqhubeka esikoleni.

(2) Uma isibalo esingekho ngaphansi kwamaphesenti ayi-15 sabazali abasohlwini lwabazali abavotayo emhlanganweni wabazali sivumelana ngokuthi asisasethemi isigungu esilawulayo, iLungu loMkhandlu oPhethe lingasihlakaza isigungu esilawulayo.

(3) ILungu loMkhandlu oPhethe lingahlakaza nanoma yisiphi isigungu esilawulayo sesikole esenza ukuthi isikole singabe sisakwazi ukulawuleka, ukusebenza nanoma ingasiphi isizathu elisibona sifanele nangokubhekelela ezemfundo esiFundazweni.

(4) ILungu loMkhandlu oPhethe angeke lisihlakaze isigungu esilawulayo ngaphandle kokwazisa isigungu esilawulayo sesikole ngenhloso yalo, kokunikeza isigungu esilawulayo sesikole ithuba lokuziphendulela nelokucubungula ngokucophelela isinqumo salo.

#### **Ukudluliselwa kwamandla**

26. INhloko yoMnyango ingadlulisela ejutshelwe kona, imisebenzi amandla ekunikezwe ngokwalesi saziso kumsebenzi oqashwe uMnyango.

#### **Ukuchithwa kwesaziso**

27. ISaziso sesiFundazwe No. 99 sika 2009 esashicilelwa mhla zingama-29 kuNhlaba 2009 *kwiGazethi eyiSipesheli yesiFundazwe saKwaZulu-Natali* ngalokhu siyachithwa.

#### **ES MCHUNU**

iLungu loMkhandlu oPhethe esiFundazweni saKwaZulu-Natali elibhekele ezeMfundo



No. 17

10 Februarie 2012

**WET OP SUID-AFRIKAANSE SKOLE, 1996 (WET NO. 84 VAN 1996)****KENNISGEWING TEN OPSIGTE VAN VERKIESING VAN LEDE VAN BEHEERLIGGAME  
VIR GEWONE STAATSKOLE  
(UITSLUITEND SKOLE VIR LEERDERS MET SPESIALE ONDERWYSBEHOEFTE)**

Ek, EDWARD SENZO MCHUNU, Lid van die Uitvoerende Raad verantwoordelik vir Onderwys in die Provinsie van KwaZulu-Natal, het ingevolge artikel 28 van die Wet op Suid-Afrikaanse Skole, 1996 (Wet No. 84 van 1996), soos gewysig, aangeleentheid bepaal wat verband hou met skoolbeheerliggame soos vervat in hierdie bylae.

**BYLAE****Omskrywings**

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

“**dag**” kalenderdag;

“**Departement**” die KwaZulu-Natal Departement van Onderwys;

“**Departementshoof**” die Departementshoof van Onderwys in die Provinsie van KwaZulu-Natal;

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

“**gekoöpteerde lede**” lede –

(a) sonder stembevoegdhede gekoöpteer vir hul kundigheid; en

(b) met stembevoegdhede gekoöpteer om vertrekkende lede wat nie hul ampstermyn voltooi het nie, te vervang;

“**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;

“**kieser**” ouer in die ouerkomponent, opvoeder in die opvoederkomponent, nie-opvoeder in die nie-opvoederkomponent en leerder van die verteenwoordigende raad van leerderskomponent;

“**Lid van die Uitvoerende Raad**” die lid van die Uitvoerende Raad verantwoordelik vir Onderwys in die Provinsie KwaZulu-Natal;

“**nie-opvoeder**” enige ander personeellid buiten 'n opvoeder;

“**skool**” 'n gewone staatskool wat leerders in een of meer graad vanaf graad 0 tot graad 12 laat inskryf;

“**skoolverkiesingsbeampte**” 'n skoolhoof, waarnemende skoolhoof of 'n beampte wat nie by die skool in diens is nie, wat deur die departementshoof aangestel is om skoolbeheerliggaamverkiesings te hou;

“**verkiesingsdag**” 'n volle dag opsygesit deur 'n skoolbeheerliggaam vir doeleindes om verkiesings vir 'n skoolbeheerliggaam te hou in plaas van om 'n verkiesingsvergadering te hou;

“**verkiesingsvergadering**” –

- (a) vier afsonderlike verkiesingsvergaderings gehou uitsluitlik vir die benoeming en verkiesing van slegs ouers, slegs opvoeders, slegs nie-opvoeders en slegs leerders uit die verteenwoordigende raad van leerders, soos die geval mag wees; en
- (b) 'n tussenverkiesingvergadering;

“**verkiesingsmonitors**” beamptes of belanghebbendes gekies uit die provinsiale of distriksverkiesingtaakspan en goedgekeur deur die Departementshoof as waarnemers, toesighouers of opsieners van die verkiesing; en

“**Wet**” die Wet op Suid-Afrikaanse Skole, 1996 (Wet No. 84 van 1996) soos gewysig.

### **Lidmaatskap van 'n beheerliggaam**

2. 'n Beheerliggaam wat een skool beheer bestaan uit die volgende lede –

- (a) ouers van leerders ingeskryf by die skool waarvoor 'n beheerliggaam verkies word, bestaande uit een meer ouer as die gekombineerde totale aantal lede met stemreg verwys na in subklousules (b), (c), (d) en (e);

- (b) een opvoeder verkies deur die opvoeders in diens van die skool waarvoor 'n beheerliggaam verkies word indien daar vier of minder opvoeders in diens van die betrokke skool is of twee opvoeders indien daar vyf of meer opvoeders in diens van die betrokke skool is;
- (c) een nie-opvoeder verkies deur die nie-opvoeders in diens van die skool waarvoor 'n beheerliggaam verkies word;
- (d) twee leerders verkies uit die verteenwoordigende raad van leerders in 'n skool met graad agt of hoër;
- (e) die skoolhoof, in sy of haar amptelike hoedanigheid; en
- (f) gekoöpteerde lede, indien enige.

### **Ampstermyn**

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

(2) Die Lid van die Uitvoerende Raad sal die termyn en die verkiesingstydperk vir alle skole bepaal.

(3) Indien die beheerliggaam –

- (a) ses maande of minder oor het voor die verstryking van sy ampstermyn, mag die Lid van die Uitvoerende Raad, op redelike gronde en niteenstaande sodanige tydperk, gelas dat 'n verkiesing gehou word op 'n datum soos deur hom of haar bepaal; of
- (b) meer as ses maande oor het voor die verstryking van sy of haar ampstermyn, mag die Lid van die Uitvoerende Raad, op redelike gronde en na oorlegpleging met die betrokke beheerliggaam, 'n datum bepaal wanneer 'n verkiesing gehou sal word niteenstaande die onverstreke tydperk van sy of haar ampstermyn.

(4) Onderhewig aan klousules 3(3) en 4(2) word alle lede, uitgesluit leerders verkies uit 'n verteenwoordigende raad van leerders, ingevolge klousule 2(d), verkies vir 'n termyn van drie jaar.

(5) Die ampstermyn van 'n lid van die beheerliggaam wat 'n leerder, verkies ingevolge klousule 2(d) is, is een jaar.

(6) Onderhewig aan klousules 3(3), 4 en 18 beklee 'n lid van 'n beheerliggaam die amp tot die verstryking van die ampstermyn van die beheerliggaam.

(7) Sou die Departementshoof op redelike gronde bepaal dat 'n beheerliggaam opgehou het om toegewese funksies ingevolge die Wet te verrig of versuim het om een of meer van sodanige funksies te verrig, mag die Departementshoof die beheerliggaam se funksies terugtrek en –

(a) moet hy of sy voldoende persone aanstel om alle sodanige funksies of een of meer sodanige funksies van die beheerliggaam vir 'n tydperk wat nie drie maande oorskry nie, te verrig;

(b) mag die tydperk vermeld in klousule 3(7)(a) verleng met tydperke wat nie drie maande op 'n keer oorskry nie, welke gekombineerde tydperk nie een jaar sal oorskry nie; en

(c) moet hy of sy verseker dat 'n beheerliggaam verkies word binne een jaar na die aanstelling van die persoon vermeld in subklousule 7(a).

(8) Onderhewig aan klousule 4, mag 'n lid van 'n beheerliggaam herverkies of gekoöpteer word soos die geval mag wees na die verstryking van sy of haar ampstermyn.

#### **Samestelling en verkiesbaarheid**

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

(a) ouers van leerders by die skool;

(b) opvoeders by die skool;

(c) nie-opvoeders by die skool; en

(d) leerders uit die verteenwoordigende raad van leerders wat graad agt of hoër by die skool bywoon.

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

(a) skuldig bevind is aan 'n misdryf en gevonnissen 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, met dien verstande dat niemand beskou mag word as gevonnissen totdat –

(i) appèl teen die skuldigbevinding of vonnis vasgestel is; of

(ii) die tyd vir appèl verstryk het, met dien verstande dat

onbevoegdheid kragtens hierdie paragraaf eindig vyf jaar nadat die vonnis uitgedien is;

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

(c) 'n ongerehabiliteerde insolvent is; (d) 'n ouer is, maar nie 'n Suid-Afrikaanse burger is nie en nie in besit is van 'n permanente residensiële permit nie tensy dit deur die Departementshoof toegelaat word;

- (e) 'n ouer is, maar nie meer 'n ingeskrewe kind by die skool het nie;
- (f) 'n leerder is wat nie 'n lid van die verteenwoordigende raad van leerders is nie; of
- (g) skuldig bevind is aan ernstige wangedrag in 'n dissiplinêre verhoor.

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

- (a) nie aan die vereistes voldoen soos uiteengesit in klousule 4(1) en (2) nie;
- (b) bedank, of sy of haar ampstermyn beëindig is;
- (c) 'n lid is wat verkies is ingevolge klousule 2(a) en nie meer 'n kind as ingeskrewe leerder by die skool het nie;
- (d) 'n lid is verkies ingevolge klousule 2(b) of (c), en sy of haar diens beëindig word, of hy of sy oorgeplaas is vanaf, of gesecondeer word weg van, die betrokke skool ;
- (e) oorlede is;
- (f) 'n lid is wat verkies is ingevolge klousule 2(d) en hy of sy nie meer die betrokke skool bywoon nie;
- (g) afwesig is van twee opeenvolgende gewone vergaderings van die beheerliggaam sonder om skriftelike verskoning te verskaf;
- (h) nie meer 'n lid van die verteenwoordigende raad van leerders is nie; of
- (i) skuldig bevind is aan ernstige wangedrag tydens 'n dissiplinêre verhoor.

### **Aanstelling van provinsiale verkiesingsbeamptes**

5.(1) Die Departementshoof moet, skriftelik, 'n provinsiale verkiesingsbeampte, 'n adjunk-provinsiale verkiesingsbeampte en assistent-verkiesingsbeamptes aanstel;

(2) Die provinsiale verkiesingsbeampte moet –

- (a) verseker dat die verkiesing voldoende publisiteit kry;
- (b) die aanstelling administreer van een of meer beamptes in diens van die Departement om bystand aan die verkiesing te verleen as assistent-provinsiale verkiesingsbeamptes;
- (c) verseker dat die wetgewing ten opsigte van die verkiesing nagekom word;
- (d) 'n verkiesingskedere vir alle skole in die Provinsie opstel;
- (e) die intrede van nuutverkose beheerliggaamlede monitor; en
- (f) ondersoek instel soos gelas deur die Departementshoof.

(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 Departementshoof moet, skriftelik, 'n distrikverkiesingsbeampte, 'n adjunk-distrikverkiesingsbeampte en assistent-distrikverkiesingsbeamptes aanstel.

(2) Die distrikverkiesingsbeampte moet –

- (a) die aanstelling administreer van een of meer beamptes in diens van die Departement om bystand tydens die verkiesing te verleen as assistent-distrikverkiesingsbeampte;
- (b) die aanstelling van skoolverkiesingsbeamptes administreer;
- (c) 'n verkiesingskedsule vir alle skole in die distrik publiseer;
- (d) nakoming van die verkiesingsproses verseker;
- (e) verseker dat elke skool 'n geldige kieserslys het;
- (f) die databasis van alle nuutverkose beheerliggaamlede in die distrik ontwikkel en administreer en die inligting aan die Departement beskikbaar stel;
- (g) verseker dat die nuutverkose beheerliggaamlede binne drie maande na hul verkiesing intree; en
- (h) dispute ten opsigte van die skoolbeheerliggaamverkiesing soos bedoel in klousule 16 oplos.

(3) Die adjunk-distrikverkiesingsbeampte en die assistent-distrikverkiesingsbeamptes sal die distrikverkiesingsbeampte in die uitvoering van sy of haar pligte bystaan.

(4) Die adjunk-distrikverkiesingsbeampte en assistent-distrikverkiesingsbeamptes mag die distrikverkiesingsbeampte van raad voorsien aangaande enige kwessie wat met die verkiesing verband hou.

**Aanstelling van skoolverkiesingsbeamptes**

7.(1) Die Departementshoof moet, skriftelik, 'n skoolverkiesingsbeampte aanstel vir die verkiesing van ouers, opvoeders, nie-opvoeders en leerders uit die verteenwoordigende raad van leerders as lede van 'n beheerliggaam.

(2) 'n Skoolhoof mag nie aangestel word as skoolverkiesingsbeampte in 'n skool waar hy of sy in diens is nie.

(3) Die skoolverkiesingsbeampte moet, skriftelik, een of meer beamptes of opvoeders in diens van die Departement of in diens van die skoolbeheerliggaam aanstel om bystand te verleen tydens die verkiesing as assistent-verkiesingsbeamptes.

(4) Die skoolverkiesingsbeampte sal voorsit by alle verkiesingsvergaderings, ingesluit tussenverkiesings en verkiesings vir ampsdraers vir die duur van die ampstermyn van die verkose skoolbeheerliggaam.

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

### **Plegtige verklaring van vertroulikheid**

8. Alle verkiesingsbeamptes moet 'n plegtige verklaring van vertroulikheid teken in 'n vorm soos bepaal deur die Departementshoof voordat hy of sy die pligte van 'n verkiesingsbeampte uitvoer.

### **Kennisgewing van 'n verkiesingsvergadering**

9.(1) Die skoolhoof van die skool wat die verkiesingsvergadering hou 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 uiteengesit word.

(2) Ten minste 21 dae voor die datum van die verkiesingsvergadering moet die skoolhoof van die skool –

- (a) 'n afskrif van die kennisgewing van die verkiesingsvergadering aan elke leerder by die skool oorhandig met 'n mondelinge instruksie om die kennisgewing aan die leerder se ouers te oorhandig of 'n afskrif van sodanige kennisgewing per pos aan die ouers stuur;
- (b) 'n afskrif van die kennisgewing aan die opvoeders en nie-opvoeders oorhandig;
- (c) teweegbring dat 'n afskrif van die kennisgewing in 'n opvallende plek by die skool en by enige ander geskikte en prominente plek opgeplak word; en
- (d) 'n afskrif aan elke lid van die verteenwoordigende raad van leerders oorhandig.

(3) In die geval van 'n nuwe skool, moet die verkiesingsvergadering binne 60 dae na die stigting van die skool gehou word.

### **Kieserslys**

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

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

- (2) Die skoolhoof moet die kieserslys voorberei deur gebruik van die –
- (a) leerdertoelatingsboek vir ouers;
  - (b) tydboek vir opvoeders;
  - (c) tydboek vir nie-opvoeders; en
  - (d) bywoningsregister van die leerders vir die verkiesing van leerders.
- (3) Die skoolhoof moet, ten minste 21 dae voor die verkiesingsvergadering, teweegbring dat 'n brief en die vorm, soos goedgekeur deur die Departement, saam met die leerders gestuur word, waarin ouers uitgenooi word om hul inligting by die skool op te dateer.
- (4) Ten minste 14 dae voor die verkiesingsvergadering moet die skoolhoof potensiële kiesers toelaat om die kieserslys te inspekteer.
- (5) Enige klagte ten opsigte van die kieserslys moet na die skoolhoof verwys word ten minste sewe dae voor die verkiesingsdatum.

### **Verkiesingsvergaderings**

11.(1) Tensy daar oortuigende redes is waarom nie, moet alle skole skoolbeheerliggaam verkiesings hou deur middel van 'n verkiesingsvergadering en afsonderlike verkiesingsvergaderings moet gehou word vir –

- (a) ouers;
  - (b) opvoeders;
  - (c) nie-opvoeders; en
  - (d) leerders uit die verteenwoordigende raad van leerders.
- (2) Die skoolverkiesingsbeampte moet 'n assistent-skoolverkiesingsbeampte aanstel om as sekretaris by die vergaderings op te tree en om notule van die verrigtinge te hou.
- (3) Buiten verkiesingsmonitors en die assistent-skoolverkiesingsbeampte, moet die skoolverkiesingsbeampte 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 nie, ingevolge klousule 4, toelaat nie.
- (4) Die skoolverkiesingsbeampte moet kiesers versoek om bewys van identifikasie te lewer in die vorm van 'n Suid-Afrikaanse identiteitsdokument of 'n geldige paspoort.



(5) Voordat die verkiesing van lede van 'n beheerliggaam voortgaan, moet die skoolverkiesingsbeampte die kiesers se aandag vestig op die volgende –

- (a) die ampstermyn van die huidige skoolbeheerliggaam het verstryk en lede is amptelik in kennis gestel;
- (b) die verkiesingsvergadering is 'n geslote vergadering;
- (c) die bepalings van klousule 4 wat 'n persoon onverkiesbaar maak vir lidmaatskap van 'n beheerliggaam;
- (d) die getal persone wat verkies moet word;
- (e) elke benoeming moet deur 'n ouer, opvoeder, nie-opvoeder of 'n leerder van die verteenwoordigende raad van leerders, soos die geval mag wees, wat daarop geregtig is om te stem, gesekondeer word;
- (f) dat, tydens benoemings, kiesers verteenwoordiging in ag moet neem en verseker dat benoemings verteenwoordigend is van geslag, ras en waar ook al 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 grieweprocedure bestaan vir enige persoon wat gegrief voel deur die verkiesingsproses.

#### **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 is 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 soos bedoel in klousule 12(2), moet die skoolverkiesingsbeampte, op die dag van die daaropvolgende vergadering, voortgaan met die verkiesingsvergadering ongeag of 'n kworum gevorm is of nie.

#### **Benoemings vir 'n verkiesingsvergadering**

13.(1) Die skoolverkiesingsbeampte van 'n skool wat 'n verkiesingsvergadering hou moet –

- (a) die tyd van benoemings bepaal en toeken;
- (b) genoegsame tyd vir die benoemings van kandidate tydens die benoemingsfase toelaat; en
- (c) die kiesers van die toegelate tyd in kennis stel.

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

- (a) voorsteller en sekondant van die benoemde persoon teenwoordig is by die vergadering; en
- (b) die benoemde persoon skriftelike bevestiging van aanvaarding van die benoeming stuur.
- (3) By die verkiesingsvergadering mag 'n kandidaat skriftelik of verbaal benoem word deur –
- (a) 'n ouer van 'n ingeskrewe leerder by die skool vir 'n vakature ingevolge klousule 2(a);
- (b) 'n opvoeder in diens van die betrokke skool vir 'n vakature ingevolge klousule 2(b);
- (c) 'n nie-opvoeder in diens van die betrokke skool vir 'n vakature ingevolge klousule 2(c); of
- (d) 'n leerder uit die verteenwoordigende raad van leerders ingevolge klousule 2(d), met dien verstande dat 'n ander ouer, opvoeder, nie-opvoeder of 'n leerder uit die verteenwoordigende raad van leerders, soos die geval mag wees, die voorstel sekondeer en die benoemde mondelings, of skriftelik indien hy of sy afwesig is, vir die vergadering aandui dat hy of sy bereid is om as 'n lid van die beheerliggaam te dien, indien verkies.
- (4) Ten spyte daarvan dat 'n lys van benoemdes saamgestel is voor die verkiesingsvergadering, moet die skoolverkiesingsbeampte mondelinge benoemings van kandidate toelaat en moet genoegsame tyd toelaat vir mondelinge benoemings.
- (5) Die voorsteller en die sekondant van 'n kandidaat moet teenwoordig wees by 'n verkiesingsvergadering en moet 'n benoemingsvorm voltooi.
- (6) 'n Skoolverkiesingsbeampte moet –
- (a) 'n persoon wat 'n kandidaat benoem het die geleentheid gun om die kandidaat aan die vergadering bekend te stel en redes vir die benoeming gee; of
- (b) 'n benoemde kandidaat toelaat om hom- of haarself aan die vergadering bekend te stel.
- (7) Tydens die benoemings moet die skoolverkiesingsbeampte die benoemings oorweeg en die benoeming afkeur van enige kandidaat wat –
- (a) nie benoem is in ooreenstemming met klousule 13(2) en 13(3) nie; of
- (b) ingevolge klousule 4 onverkiesbaar is.
- (8) Indien die aantal persone wat benoem is die aantal vakatures oorskry, moet die skoolverkiesingsbeampte, 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.

(9) Indien die aantal persone wat benoem is, gelyk is aan die aantal vakatures, moet die skoolverkiesingsbeampte die benoemde persone as behoorlik verkies verklaar.

(10) Die benoemingsproses sal deur die skoolverkiesingsbeampte gesluit word.

### **Stemming by die verkiesingsvergadering**

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

(2) Die skoolverkiesingsbeampte moet die kiesers wat teenwoordig is, versoek om 'n kruis (x) teenoor die name van die kandidate, wat hulle verkies, te maak op die stembriewe voorsien deur die skoolverkiesingsbeampte.

(3) 'n Persoon wat nie in staat is om sy of haar stem op die stembrief uit te bring nie, soos bedoel in klousule 14(2), mag 'n mondelinge versoek om bystand aan die skoolverkiesingsbeampte of die assistent-skoolverkiesingsbeampte rig om sy of haar stem teenoor die toepaslike kandidaat op die stembrief te merk.

(4) Die skoolverkiesingsbeampte sal enige gestremde persoon bystaan.

(5) Die versoek om bystand en die voltooiing van die stembrief bedoel in klousule 14(3), sal in privaat gedoen word in 'n gebied wat vir daardie doel deur die skoolverkiesingsbeampte geïdentifiseer is, maar binne die gebied waarin die stemming plaasvind.

(6) Die skoolverkiesingsbeampte moet stembriewe afkeur met –

- (a) meer kruise (x) as die getal vakatures op die beheerliggaam; of
- (b) die naam van 'n persoon of persone wat nie benoem is nie.

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

(8) In die geval van 'n staking van stemme tussen kandidate na twee stessies, moet die skoolverkiesingsbeampte die dooie punt oplos deur die opskiet van 'n muntstuk sodat die wenner bepaal kan word deur kruis of munt.

(9) Die skoolverkiesingsbeampte moet die uitslag tydens die verkiesingsvergadering aankondig en die kandidate wat die meeste stemme gekry het as die verkose lede van die beheerliggaam verklaar.

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

### **Verkiesing van ampsdraers**

15.(1) Die skoolverkiesingsbeampte mag 'n vergadering belê uitsluitlik vir die doel om ampsdraers te verkies op die dag van die ouerverkiesingsvergadering indien –

- (a) die verkiesing van opvoeders, nie-opvoeders en leerders alreeds voor die ouerverkiesing plaasgevind het;
- (b) die 21 dae-kennisgewing ingevolge klousule 9(2) uitgereik is aan ouers, opvoeders, nie-opvoeders en leerders uit die verteenwoordigende raad van leerders ter inligting dat die vergadering vir die verkiesing van ampsdraers op die dag van die ouerverkiesing sou plaasvind; en
- (c) die kworumvereistes by die vergadering nagekom is.

(2) Sou die vergadering om ampsdraers te verkies nie gehou word ingevolge klousule 15(1) nie, moet die skoolverkiesingsbeampte die eerste vergadering van die beheerliggaam binne 21 dae na die datum van die ouerverkiesingsvergadering belê.

(3) Die skoolverkiesingsbeampte sit voor by enige vergadering wat belê is vir die verkiesing van ampsdraers.

(4) By die eerste vergadering van 'n beheerliggaam moet die lede, deur middel van geheime stembriewe, 'n –

- (a) voorsitter;
- (b) adjunk-voorsitter;
- (c) tesourier; en
- (d) sekretaris,

verkies.

(5) Slegs 'n ouerlid wat nie in diens van die skool is nie is verkiesbaar vir die amp van voorsitter of adjunk-voorsitter van die beheerliggaam.

(6) Die ampstermyn van ampsdraers is een jaar.

(7) Die skoolhoof mag 'n lid van sy of haar personeel aanwys om die tesourier en sekretaris van die beheerliggaam by te staan.

(8) Indien, vir enige rede, die amp van een van die ampsdraers 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 van sy of haar voorganger te vul.

(9) 'n Ampsdraer mag herverkies word na die verstryking van die ampstermyn.

(10) Die skoolhoof moet, binne 14 dae na die verkiesing, die Departementshoof inlig van enige verandering in die ampsdraers en moet hom of haar voorsien van die besonderhede van die nuwe ampsdraers, ingesluit name, identiteitsnommers, telefoon- of selfoonnommers, faksnommers, adresse en e-posadresse, waar toepaslik.

(11) Binne 14 dae na die verkiesing moet die uittredende ampsdraers aan die nuutverkose ampsdraers alle dokumente ten opsigte van die skoolbeheerliggaam oorhandig en 'n goedgekeurde oorhandigingsertifikaat moet uitgereik en deur beide voorsitters geteken word.

### **Oplossing van dispute**

**16.(1)** 'n Kieser of persoon wat 'n kandidaat in 'n beheerliggaamverkieëing is, mag sy of haar klagte of grief skriftelik by die distrikverkieëingsbeampste indien binne sewe dae na die verkieëingsvergadering indien die voorgeskrewe prosedures nie tydens die verkieëingsvergadering gevolg is nie.

(2) 'n Persoon wat oor enige kennis of inligting van enige onreëlmattighede ten opsigte van die verkieëing beskik, mag die distrikverkieëingsbeampste binne sewe dae na die verkieëing, skriftelik, oor die onreëlmattighede inlig.

(3) By ontvangs van die klagte, grief of inligting oor enige onreëlmattighede, moet die distrikverkieëingsbeampste die adjunk-distrikverkieëingsbeampste of assistent-distrikverkieëingsbeampste aanstel om 'n ondersoek te doen en 'n aanbeveling aan hom of haar te maak.

(4) Die distrikverkieëingsbeampste mag, na 'n ondersoek, 'n verkieëing ongeldig verklaar en 'n herverkieëing uitroep indien hy of sy tevrede is dat –

(a) die voorgeskrewe prosedures nie gevolg is nie;

(b) onreëlmattighede gedurende die verkieëingsproses gepleeg is; en

(c) die uitkoms van die verkieëing anders sou gewees het indien die voorgeskrewe prosedures gevolg was.

(5) Enige persoon gegrief deur die distrikverkiesingsbeampte se besluit, mag teen sodanige besluit appelleer aan die Departementshoof binne 14 dae na ontvangs van die distrikverkiesingsbeampte se besluit.

(6) Die Departementshoof moet –

- (a) binne sewe 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; en
- (c) die verslag bedoel in subklousule 6(b) oorweeg, 'n bevinding maak en sy of haar besluit skriftelik kommunikeer aan die appellant en aan die distrikverkiesingsbeampte binne 14 dae nadat die verslag van die provinsiale verkiesingsbeampte ontvang is.

(7) Die besluit van die Departementshoof is finaal.

(8) Die Departementshoof mag, hangende die uitslag van die dispuut, voldoende persone aanstel om die funksies van die beheerliggaam vir 'n tydperk wat nie drie maande oorskry nie, te verrig.

### **Prosedure na die verkiesing**

17. Na die verkiesing van lede van 'n beheerliggaam, moet die skoolverkiesingsbeampte –

- (a) elke verkose lid, skriftelik, van sy of haar verkiesing in kennis stel en sodanige kennisgewing moet per faks, pos of e-pos gestuur word, of per hand afgelewer word;
- (b) die distrikverkiesingsbeampte skriftelik in kennis stel van die besonderhede van die verkiesing, ingesluit die datum van die verkiesing, name, identiteitsnommers, telefoonnommers, faksnommers en adresse van alle verkose lede;
- (c) alle dokumente, insluitend stembriewe wat by sodanige verkiesing gebruik is, in koeverte plaas en die koeverte verseël; en
- (d) binne vyf dae na 'n verkiesing alle dokumente ten opsigte van die verkiesing aan die skoolhoof oorhandig vir veilige bewaring.

### **Tussenverkiesing**

18.(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 skoolverkiesingsbeampte voorsit by die verkiesing van 'n nuwe lid 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 skoolverkiegingsbeamppte 'n tussenverkieging hou en die prosedures soos uiteengesit in klousules 9 tot 14 volg.

(3) Die skoolverkiegingsbeamppte moet 'n verkiegingsvergadering reël binne 90 dae nadat 'n vakature ontstaan het en, hangende die tussenverkieging, mag die beheerliggaam lede koöpteer.

(4) 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 –

(a) moet 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 ouer, opvoeder, nie-opvoeder en leerderkomponent moet name van ten minste drie geskikte persone aanbeveel wat tot die beheerliggaam gekoöpteer kan word en die beheerliggaam moet uit die aanbevole name koöpteer.

(5) 'n Gekoöpteerde lid, verwys na in subklousules (3) en (4), neem die stemregte van die vertrekkende lid, indien enige, oor.

### **Beheerliggaam wat twee of meer skole dien**

19.(1) 'n Beheerliggaam wat twee of meer skole beheer, moet uit die volgende lede bestaan –

(a) ouers verkies deur ouers van leerders ingeskryf by elk van die skole waarvoor 'n beheerliggaam verkies word, bestaande uit een meer ouer as die gekombineerde getal van verteenwoordigers verkies tot die beheerliggaam;

(b) een opvoeder verkies deur die opvoeders in diens by elk van die skole waarvoor 'n beheerliggaam verkies word;

(c) een nie-opvoeder verkies deur die nie-opvoeders in diens by elk van die skole waarvoor 'n beheerliggaam verkies word;

(d) twee leerders verkies uit die leerders van die verteenwoordigende raad van leerders in elk van die skole met graad agt of hoër;

(e) die hoofde van elk van die skole, in sy of haar amptelike hoedanigheid;

(f) een verteenwoordiger van elk van die kategorieë van verteenwoordigers bedoel in klousule 2(e), (f), (g), (h) en (j); en

(g) gekoöpteerde lede, indien enige.

(2) Die getal persone vir koöptering, soos bedoel in klousule (1)(g), mag nie vyf oorskry nie.

(3) Tydens die verkiesing van ampsdraers van 'n skoolbeheerliggaam wat twee of meer skole beheer, moet die skoolverkiesingsbeampte van die beheerskool voorsit.

(4) Die skoolverkiesingsbeampte moet 'n vergadering vir die verkiesing van ampsdraers belê 21 dae na die laaste skool (van die lidskole) sy ouerverkiesingsvergadering gehou het.

(5) Alle aangeleenthede betreffende die verkiesing van 'n skoolbeheerliggaam, soos vervat in hierdie kennisgewing, sal van toepassing wees op 'n beheerliggaam wat twee of meer skole beheer.

### **Verkiesingsdag**

**20.(1)** 'n Skool mag, deur resoluëie van sy beheerliggaam, verkies om verkiesings te hou op 'n verkiesingsdag in plaas van 'n verkiesingsvergadering, indien daar oortuigende redes is.

(2) Indien 'n skoolbeheerliggaam besluit op 'n verkiesingsdag, moet die skoolhoof van die skool –

(a) ten minste 21 dae voor die uitstuur van 'n verkiesingskennisgewing, skriftelik, by die distrikverkiesingsbeampte aansoek doen om toestemming om 'n verkiesingsdag te hou;

(b) oortuigende redes verskaf vir die besluit om 'n volle verkiesingsdag in plaas van 'n verkiesingsvergadering te hou;

(c) bewyse verskaf vir die beskikbaarheid van monitors en 'n verkiesingspan vir die hele verkiesingsdag;

(d) bewyse verskaf van die beskikbaarheid van hulpbronne om die benoemingsproses en verkiesingsproses uit te voer; en

(e) bewyse verskaf dat die onderrig- en leerproses by die skool nie onderbreek sal word of daarmee ingemeng sal word deur 'n verkiesingsdag nie.

(3) Voor die toestaan van toestemming vir 'n volle dagverkiesing aan enige skool, moet 'n distrikverkiesingsbeampte die bepalings van klousule 20(2) in gedagte hou en moet hom- of haarself tevrede stel dat die vereistes daarvan deur die skool nagekom is.

(4) Die besluit van die distrikverkiesingsbeampte moet binne 14 dae na die skool se aansoek aan die skool gekommunikeer word.

(5) Die skoolverkiesingsbeampte moet, voor die verkiesingsdag, verseker dat –



- (a) die skool skriftelike goedkeuring by die distriksverkiegingsbeampte verkry het om die verkiesingsdag te hou;
- (b) 'n program in plek is vir die verkiesingsdag;
- (c) alle benoemdes hulle profiele na die skool gestuur het en gereed is om buite die stemlokaal opgeplak te word;
- (d) die sluitingstyd sal waarnemers, sowel as die verkiesingspan, voldoende tyd gun om veilig na hulle huise terug te reis; en
- (e) teen sluitingstyd, die skool iemand onmiddellik beskikbaar stel vir die veilige bewaring van alle dokumente gebruik vir die verkiesing.

### **Benoemings vir die verkiesingsdag**

21.(1) Skole wat verkies om 'n verkiesingsdag eerder as 'n verkiesingsvergadering te hou moet by die volgende benoemingsprosesse hou –

- (a) die skoolverkiegingsbeampte moet die kennisgewings van die benoemingsvergadering voorberei en moet die datum, plek en tyd van die benoemingsvergadering aandui; en
- (b) die kennisgewing van die benoemingsvergadering vir ouers moet versprei en vertoon word in opsigtelike plekke by die skool en in die gemeenskap ten minste 21 dae voor die verkiesingsdag.

(2) Die skoolhoof moet verseker dat –

- (a) 'n drukstuk van die kennisgewing van die benoemingsvergadering en die benoemingsvorm aan elke leerder oorhandig word ten minste 21 dae voor die voorgestelde verkiesingsdag, met 'n mondelinge instruksie om die kennisgewing en vorm aan hul ouers te oorhandig;
- (b) alternatiewelik, 'n afskrif van die kennisgewing en benoemingsvorm aan die ouers van elke leerder gestuur word per pos 21 dae voor die datum van die verkiesingsdag; of
- (c) 'n kombinasie van die twee kennisgewingsmetodes gebruik word met dien verstande dat ouers en lede van die gemeenskap nie benadeel word nie; en
- (d) die kennisgewing en die benoemingsvorm, waar moontlik, in die skool se medium van instruksie is en in die huistaal(e) van die leerders om maksimum deelname te verseker.

(3) Die kennisgewing moet die ouers inlig dat die benoemingsvorm voltooi en onderteken moet word deur die kandidaat, die voorsteller en die sekondant en 14 dae voor die benoemingsvergadering aan die skool terugbesorg word en moet die profiel bedoel in klousule 21(6) insluit.

(4) Gedurende die benoemingsvergadering moet die skoolverkiesingsbeampte die benoemingsproses bedoel in klousule 13(1), (2), (3) en (4) nakom.

(5) 'n Kandidaat mag slegs benoem en sekondeer word deur 'n persoon wat aan dieselfde verteenwoordigende lidmaatskapskategorie as die kandidaat behoort.

(6) Die skoolverkiesingsbeampte moet verseker dat enige persoon wat geskik is om benoem te word en benoem wil word, vry is om aan die benoemingsproses deel te neem en enige sodanige persoon moet sy of haar profiel, wat –

(a) sy of haar van en naam;

(b) die name en grade van sy of haar kinders in die skool;

(c) sy of haar beroep en ondervinding of vaardighede;

(d) 'n verklaring wat aandui dat hy of sy kwalifiseer as 'n lid van die beheerliggaam soos bedoel in klousule 4; en

(e) sy of haar kort verklaring wat die visie vir die skool uiteensit, meld, indien.

(7) By die benoemingsvergadering moet die skoolverkiesingsbeampte 'n versoek rig vir die profiele van al die benoemdes.

(8) Na die benoemings moet die skoolverkiesingsbeampte die benoemings oorweeg en die benoeming van enige kandidaat afkeur wat –

(a) nie benoem is nie;

(b) onverkiesbaar is; of

(c) nie die benoemingsvorm en profiel, soos versoek, voltooi en ingedien het nie.

(9) Indien die totale getal benoemings minder is as die getal van lede benodig in die beheerliggaam, moet 'n kennisgewing aan die ouers gestuur word en meer name van benoemers versoek word.

(10) Indien die getal benoemdes gelyk is aan die aantal lede nodig vir die beheerliggaam, moet die skoolverkiesingsbeampte alle benoemdes as behoorlik verkose lede verklaar en aandui dat 'n verkiesingsdag nie langer nodig sal wees nie.

(11) Die skoolhoof moet binne sewe dae na die benoemingsproses die ouers skriftelik in kennis stel van die uitslag van die verkiesing bedoel in klousule 21(10) en die ouers inlig dat 'n verkiesingsdag nie langer nodig is nie.

(12) Indien die getal benoemdes meer is as die aantal nodig vir die beheerliggaam, moet die skoolhoof die ouers skriftelik inlig oor die name en profiele van die kandidate wie se benoemings aanvaar is en 'n verkiesingsdag wat deur middel van geheime stemming moet plaasvind.

(13) Die skoolhoof moet die benoemdes se profiele beskikbaar stel aan ouers ten minste sewe dae voor die verkiesingsdag.

(14) Geen persoon sal pogings aanwend om die benoemingsproses op so manier te organiseer dat slegs die vereiste getal lede benoem word ten einde die verkiesingsproses te vermy en enige sodanige poging sal geag word as verkiesings-onreëlmatighede soos bedoel in klousule 16.

### **Stemming op die verkiesingsdag**

22.(1) Verkiesing sal deur geheime stemming wees en die volgende stemmingsproses moet gevolg word –

- (a) alle stemgeregtigde kiesers wie se name op die kieserslys verskyn, word opgesoek en afgemerk van die kieserslys in 100% van die gevalle;
- (b) 'n stemgeregtigde kieser wat aan al die vereistes voldoen en wat nie enige bystand benodig nie moet, indien moontlik, binne vyf minute of minder geprosesseer word deur die hele stemproses;
- (c) kiesers wat spesiale aandag benodig, soos ouer persone, gestremdes, of verwagte vrouens moet bygestaan word sonder om ander kiesers te benadeel;
- (d) kiesers wie se name nie op die kieserslys vir daardie skool verskyn nie sal nie toegelaat word om te stem nie;
- (e) al die eerbaarsheidstake rakende stemming word vir elke stemgeregtigde kieser wat die stemlokaal besoek uitgevoer (m.a.w. keiser se naam is afgemerk van die kieserslys);
- (f) geen kieser wat enige van die eerbaarsheidskontoles gefaal het word toegelaat om te stem nie;
- (g) die korrekte stembriewe word uitgereik aan alle kiesers;
- (h) klagtes of besware betreffende die bystand verskaf aan ongeletterde kiesers of kiesers met visuele gebreke word onmiddellik aangespreek;
- (i) die verkiesingsproses en -personeel word op so 'n wyse gemonitor dat voldoende inligting vir rekordhouding voorsien word en tydige ingryping toelaat waar nodig;
- (j) besware deur kiesers word aangeteken en beslissings word geneem in lyn met die proses vir 'n dispuut;

- (k) interaksies met kiesers, personeel en ander rolspelers is inklusief, onpartydig, met respek vir menswaardigheid en bevordering van verdraagsaamheid;
- (l) potensiële of werklike probleme word geïdentifiseer en analiseer ten opsigte van die potensiële impak op die verkiesingsproses en moontlike oplossings;
- (m) oplossing van probleme word geregverdig deur die situasies en is geskik om die probleme effektief aan te spreek;
- (n) die wyse van probleemoplossing bevorder die gladde verloop van die stemlokaal, handhaaf die beginsel van vry- en regverdigde verkiesings en ontnem nie, onder enige omstandighede, die stemgeregtigde kieser van sy of haar stemreg nie; en
- (o) die stemproses en -prosedures is oop vir waarnemers wat die proses sal monitor sonder om met die verkiesing in te meng.

(2) Die skoolverkiesingsbeampte mag improviseer indien daar nie 'n amptelike stembus is nie maar die stembus moet verseël word nadat die waarnemers verklaar het dat die stembus leeg is.

#### **Tel van stembriewe en kworum**

**23.(1)** Die skoolverkiesingsbeampte moet besluit op die tyd wanneer die telling van die stembriewe sal plaasvind maar telling moet begin op die dag van die verkiesing en by die sluiting van die stemproses.

(2) Die skoolverkiesingsbeampte moet verseker dat die stembriewe die 15% stemmetal nakom ten einde om met die telling voort te gaan. Indien nie, moet die tellery stop en op 'n ander datum vir die verkiesing deur die skoolhoof besluit word. Sodanige datum moet aan die oerliggaam binne sewe dae gekommunikeer word.

(3) Indien die kworum, soos bedoel in klousule 12, nie gevorm is nie ingevolge klousule 23(2), moet die skoolhoof besluit op die datum waarop 'n verkiesingsdag gehou sal word en tellery moet voortgaan na die sluiting van stemmery ongeag of 'n kworum gevorm word of nie.

(4) Indien die 15% stemmetal verkry is, moet die skoolverkiesingsbeampte verseker dat –

- (a) die telproses oop is vir waarnemers en kandidate;
- (b) alle besware teen die telproses akkuraat opgeteken is;
- (c) die name van elke kandidaat en die getal stemme uitgebring vir elk luidkeels aangekondig word aan die waarnemers;
- (d) die vorm vir getelde stembriewe voltooi is; en
- (e) die uitslagstrokie geteken is.

(5) Indien die getal stemme aangeteken vir twee of meer kandidate gelyk is en dit die resultaat van die stemmery beïnvloed, sal die skoolverkiesingsbeampte bepaal, deur die trek van lootjies of die opskiet van 'n muntstuk om so die staking van stemme tussen kandidate te breek. Die uitklop-proses moet openlik gedoen word met goedkeuring van die kandidate.

(6) Die skoolverkiesingsbeampte moet 'n stembrief afkeur wat –

- (a) nie die skoolstempel bevat nie;
- (b) meer stemme aangeteken het as die getal kandidate; of
- (c) op sodanige manier voltooi is dat dit nie duidelik is watter stem was bedoel vir watter kandidaat of kandidate nie.

(7) Indien die skoolverkiesingsbeampte 'n stembrief afgekeur het, soos bedoel in klousule 23(6), moet 'n verduideliking deur die skoolverkiesingsbeampte aan alle kandidate teenwoordig gegee word en hy of sy moet die kandidate 'n geleentheid gun om die afgekeurde stembrief te sien sou hulle so wou.

(8) Enige keiser moet ook die geleentheid gegun word om beswaar aan te teken teen die besluit van die skoolverkiesingsbeampte in die tel- of afkeuringsproses maar sodanige beswaar sal nie die skoolverkiesingsbeampte se besluit verander nie.

(9) Die skoolverkiesingsbeampte moet 'n rekord van sodanige beswaar moet aangebring word op die agterkant van die stembrief en in die verkiesingsverslag.

(10) Sou daar 'n dispuut ontstaan wat nie deur die verkiesingsbeampte opgelos kan word nie, moet die dispuutproses bedoel in klousule 16 gevolg word.

(11) Alle koeverte, kartondose en stembusse moet duidelik gemerk word deur die verkiesingsbeampte en hy of sy moet die verkiesingsdatum aandui en alle inhoud aanteken.

#### **Toepassing van hierdie kennisgewing**

24. Tensy spesifiek anders voorsien in hierdie kennisgewing, sal alle aangeleenthede waarvoor voorsiening gemaak is in hierdie kennisgewing met betrekking tot die verkiesing van beheerliggame, van toepassing wees op skole wat besluit op 'n verkiesingsdag.

#### **Ontbinding van 'n beheerliggaam**

25.(1) Die Lid van die Uitvoerende Raad mag 'n beheerliggaam ontbind indien –

- (a) die skool disfunksioneel, gesluit, deels afgestig is, 'n gesondheidsrisiko is of die veiligheid van enige persoon by sodanige skool mag affekteer;

- (b) 'n samesmelting, sluiting, verdeling van 'n skool of enige ander herorganisasie van die skool voorkom;
- (c) hy of sy van mening is dat die beheerliggaam nie langer verteenwoordigend is van die gemeenskap vir wie die skool tot stand gebring is nie; of
- (d) die skool as disfunksioneel bewys is weens swak bestuur en die onderrig- en leerproses nie langer by die skool kan plaasvind nie.

(2) By oorweging van 'n mosie van wantroue wat aanvaar is deur nie minder as 15 persent van ouers op die kieserslys van ouers by 'n algemene vergadering van ouers, mag die Lid van die Uitvoerende Raad 'n beheerliggaam ontbind.

(3) Die Lid van die Uitvoerende Raad mag enige skoolbeheerliggaam wat 'n skool bewys as onbeheerbaar of disfunksioneel ontbind, of vir enige ander rede wat hy of sy as geskik mag ag in die belang van opvoeding in die Provinsie.

(4) Die Lid van die Uitvoerende Raad mag 'n beheerliggaam nie ontbind nie tensy hy of sy die betrokke skoolbeheerliggaam in kennis gestel het van sy of haar voorneme, die skoolbeheerliggaam die geleentheid gegun het om verhoër te word en sodanige verhoër behoorlik oorweeg het.

#### **Delegering van Bevoegdhede**

26. Die Departementshoof mag die bevoegdhede wat ingevolge hierdie kennisgewing aan hom of haar verleen is, aan 'n beampete in diens van die Departement delegeer.

#### **Herroeping van kennisgewing**

27. Provinsiale Kennisgewing No. 99 van 2009 gepubliseer in die KZN Buitengewone *Koerant* gedateer 29 Mei 2009 word hiermee herroep.

#### **ES MCHUNU LPW**

Lid van die Uitvoerende Raad van die Provinsie van KwaZulu-Natal  
verantwoordelik vir Onderwys



