



KWAZULU-NATAL PROVINCE  
KWAZULU-NATAL PROVINSIE  
ISIFUNDAZWE SAKWAZULU-NATALI

**Provincial Gazette • Provinsiale Koerant • Igazethi Yesifundazwe**

**GAZETTE EXTRAORDINARY—BUITENGEWONE KOERANT—IGAZETHI EYISIPESHELI**

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(Irejistiwee njengephephandaba eposihhovisi)*

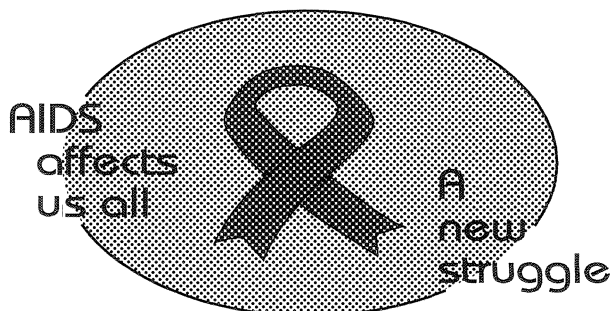
**Vol. 9**

**PIETERMARITZBURG,**

22 JUNE 2015  
22 JUNIE 2015  
22 kUNHLANGULANA 2015

**No. 1385**

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DEPARTMENT OF HEALTH

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**CONTENTS**

<i>No.</i>		<i>Page</i>
	<b>PROVINCIAL NOTICE</b>	
29	South African Schools Act, 1996 (Act No. 84 of 1996): Notice for the determination of serious misconduct, disciplinary proceedings to be followed and the provision of due process in disciplinary proceedings for learners in public schools .....	6

**INHOUD**

<i>No.</i>		<i>Bladsy</i>
	<b>PROVINSIALE KENNISGEWING</b>	
29	Suid-Afrikaanse Skolewet, 1996 (Wet no. 84 of 1986): Kennisgewing vir die bepaling van ernstige wangedrag, dissiplinêre verrigtinge wat gevolg moet word en die bepaling van behoorlike beregting tydens dissiplinêre verrigtinge vir leerders in openbare skole.....	10

*No.**Ikhasi***ISAZISO SESIFUNDAZWE**

29	Umthetho weziKole waseNingizimu Afrika, 1996 (uMthetho No. 84 ka 1996): Isaziso sokunqunywa komgomo wamacala abucayi okuziphatha, inqubo okumele ilandelwe kanye nokuhlinzekwa kohlelo olusetshenziswayo uma kuqondiswa izigwegwe kubafundi ezikoleni zikahulumeni.....	16
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# IMPORTANT Information from Government Printing Works

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Government Printing Works has implemented rules for completing and submitting the electronic Adobe Forms when you, the customer, submits your notice request.

Please take note of these guidelines when completing your form.

## GPW Business Rules



1. No hand written notices will be accepted for processing, this includes Adobe forms which have been completed by hand.
2. Notices can only be submitted in Adobe electronic form format to the email submission address [submit.egazette@gpw.gov.za](mailto:submit.egazette@gpw.gov.za). This means that any notice submissions not on an Adobe electronic form that are submitted to this mailbox will be **rejected**. National or Provincial gazette notices, where the Z95 or Z95Prov must be an Adobe form but the notice content (body) will be an attachment.
3. Notices brought into GPW by "walk-in" customers on electronic media can only be submitted in Adobe electronic form format. This means that any notice submissions not on an Adobe electronic form that are submitted by the customer on electronic media will be **rejected**. National or Provincial gazette notices, where the Z95 or Z95Prov must be an Adobe form but the notice content (body) will be an attachment.
4. All customers who walk in to GPW that wish to submit a notice that is not on an electronic Adobe form will be routed to the Contact Centre where the customer will be taken through the completion of the form by a GPW representative. Where a customer walks into GPW with a stack of hard copy notices delivered by a messenger on behalf of a newspaper the messenger must be referred back to the sender as the submission does not adhere to the submission rules.
5. All notice submissions that do not comply with point 2 will be charged full price for the notice submission.
6. The current cut-off of all Gazette's remains unchanged for all channels. (Refer to the GPW website for submission deadlines – [www.gpwonline.co.za](http://www.gpwonline.co.za))
7. Incorrectly completed forms and notices submitted in the wrong format will be rejected to the customer to be corrected and resubmitted. Assistance will be available through the Contact Centre should help be required when completing the forms. (012-748 6200 or email [info.egazette@gpw.gov.za](mailto:info.egazette@gpw.gov.za))
8. All re-submissions by customers will be subject to the above cut-off times.
9. All submissions and re-submissions that miss the cut-off will be rejected to the customer to be submitted with a new publication date.
10. Information on forms will be taken as the primary source of the notice to be published. Any instructions that are on the email body or covering letter that contradicts the notice form content will be ignored.

You are therefore advised that effective from **Monday, 18 May 2015** should you not comply with our new rules of engagement, all notice requests will be rejected by our new system.

Furthermore, the fax number **012- 748 6030** will also be **discontinued** from this date and customers will only be able to submit notice requests through the email address [submit.egazette@gpw.gov.za](mailto:submit.egazette@gpw.gov.za).



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These new forms can be found on our website:  
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**DO** attach documents separately in your email to GPW. (In other words, your email should have an Adobe Form plus proof of payment – 2 separate attachments – where notice content is applicable, it should also be a 3<sup>rd</sup> separate attachment)

**DO** specify your requested publication date.

**DO** send us the electronic Adobe form. (There is no need to print and scan it).

**DON'T** submit request as a single PDF containing all other documents, i.e. form, proof of payment & notice content, it will be **FAILED** by our new system.

**DON'T** print and scan the electronic Adobe form.

**DON'T** send queries or RFQ's to the submit.egazette mailbox.

**DON'T** send bad quality documents to GPW. (Check that documents are clear and can be read)

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**Important!**

No.	Rule Description	Explanation/example
1.	All forms must be completed in the chosen language.	GPW does not take responsibility for translation of notice content.
2.	All forms must be completed in sentence case, i.e. No fields should be completed in all uppercase.	e.g. "The company is called XYZ Production Works"
3.	No single line text fields should end with any punctuation, unless the last word is an abbreviation.	e.g. "Pty Ltd.", e.g. Do not end an address field, company name, etc. with a period (.) comma (,) etc.
4.	Multi line fields should not have additional hard returns at the end of lines or the field itself.	This causes unwanted line breaks in the final output, e.g. <ul style="list-style-type: none"> <li><b>Do not</b> type as: 43 Bloubokrand Street Putsonderwater 1923</li> <li><b>Text should be entered as:</b> 43 Bloubokrand Street, Putsonderwater, 1923</li> </ul>
5.	Grid fields (Used for dates, ID Numbers, Telephone No., etc.)	<ul style="list-style-type: none"> <li>Date fields are verified against format CCYY-MM-DD</li> <li>Time fields are verified against format HH:MM</li> <li>Telephone/Fax Numbers are not verified and allow for any of the following formats limited to 13 characters: including brackets, hyphens, and spaces <ul style="list-style-type: none"> <li>0123679089</li> <li>(012) 3679089</li> <li>(012)367-9089</li> </ul> </li> </ul>
6.	Copy/Paste from other documents/text editors into the text blocks on forms.	<ul style="list-style-type: none"> <li>Avoid using this option as it carries the original formatting, i.e. font type, size, line spacing, etc.</li> <li>Do not include company letterheads, logos, headers, footers, etc. in text block fields.</li> </ul>



No.	Rule Description	Explanation/example
7.	Rich text fields (fields that allow for text formatting)	<ul style="list-style-type: none"> <li>• Font type should remain as Arial</li> <li>• Font size should remain unchanged at 9pt</li> <li>• Line spacing should remain at the default of 1.0</li> <li>• The following formatting is allowed:                             <ul style="list-style-type: none"> <li>○ Bold</li> <li>○ Italic</li> <li>○ Underline</li> <li>○ Superscript</li> <li>○ Subscript</li> </ul> </li> <li>• Do not use tabs and bullets, or repeated spaces in lieu of tabs and indents</li> <li>• Text justification is allowed:                             <ul style="list-style-type: none"> <li>○ Left</li> <li>○ Right</li> <li>○ Center</li> <li>○ Full</li> </ul> </li> <li>• Do not use additional hard or soft returns at the end of line/paragraphs. The paragraph breaks are automatically applied by the output software                             <ul style="list-style-type: none"> <li>○ Allow the text to wrap automatically to the next line only use single hard return to indicate the next paragraph</li> <li>○ Numbered lists are allowed, but no special formatting is applied. It maintains the standard paragraph styling of the gazette, i.e. first line is indented.</li> </ul> </li> </ul>
	e.g. 1. The quick brown fox jumps over the lazy river. The quick brown fox jumps over the lazy river. The quick brown fox jumps over the lazy river. 2. The quick brown fox jumps over the lazy river. The quick brown fox jumps over the lazy river. The quick brown fox jumps over the lazy river.	



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


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No. 29

22 June 2015

**DEPARTMENT OF EDUCATION**
**NOTICE FOR THE DETERMINATION OF SERIOUS MISCONDUCT, DISCIPLINARY PROCEEDINGS TO BE FOLLOWED AND THE PROVISION OF DUE PROCESS IN DISCIPLINARY PROCEEDINGS FOR LEARNERS IN PUBLIC SCHOOLS**

I, Neliswa Peggy Nkonyeni, Member of the Executive Council responsible for Education in the Province of KwaZulu-Natal, have determined in terms of section 9(3) of the South African Schools Act, 1996 (Act No. 84 of 1996), as amended, behaviour by a learner which constitutes serious misconduct, disciplinary proceedings to be followed and the provision of due process in disciplinary proceedings in public schools.

**SCHEDULE****1. Definitions**

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;

**“Code of conduct”** means a set of rules adopted by the governing body of a public school as contemplated in section 8 of the Act, which regulates the conduct of learners during any school activity and which stipulates the process to be followed in enforcing the rules;

**“Constitution”** means the Constitution of the Republic of South Africa, 1996;

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

**“Educator”** means any person who teaches, educates or trains other persons or who provides professional educational services at a public school including professional therapy and educational psychological services but does not include a person who is appointed to exclusively perform extra-curricular duties;

**“Governing Body”** means a governing body as defined in the South African Schools Act, 1996 (Act No. 84 of 1996);

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

**“Learner”** means any person enrolled at a public school, receiving education or obliged to receive education in terms of the South African Schools Act, 1996 (Act No. 84 of 1996);

**“Member of the Executive Council”** means the Member of the Executive Council of the Province of KwaZulu-Natal responsible for Education;

**“Member of Staff”** means a person appointed according to the Public Service Act, 1994 (Act No. 103 of 1994), or the South African Schools Act, 1996 (Act No. 84 of 1996), as amended, who is not an educator at a school;

**“Principal”** means an educator appointed or acting as the Head of a school;

**“School”** means a public school which enrolls learners in one or more grades from Grade R (reception) to Grade 12, including where applicable, a special needs school and a school that provides education with a specialised focus on talent; and

**“School activity”** means any official educational, cultural, recreational or social activity of a school within or outside the school premises.

**2. Purpose**

The purpose of this notice is to assist schools in dealing with serious misconduct and to promote-

- (a) a school environment which is dedicated to the improvement and maintenance of a quality learning process;
- (b) a culture of human rights in schools;
- (c) positive forms of discipline in schools;
- (d) a balance between maintaining discipline in schools and ensuring that learners' rights to dignity and integrity are upheld;
- (e) restorative justice rather than retributory measures;
- (f) the principles and values of the Constitution, 1996, in schools; and
- (g) effective school discipline.

### 3. Application

The matters determined herein shall be applicable to all public schools in the Province with effect from the date of publication of this notice.

### 4. Serious Misconduct

(1) The following offences shall constitute serious misconduct in schools and may lead to the suspension or expulsion of a learner from a school:

- (a) all forms of bullying;
- (b) contravening a school's cell phone policy;
- (c) use, sale or possession of illegal drugs and intoxicating substances;
- (d) committing any form of irregularity relating to examinations;
- (e) threats or acts of violence towards fellow learners, educators, members of staff and any other person on school property;
- (f) damage to school property;
- (g) deliberate and serious undermining of the authority of the principal, educators and members of staff;
- (h) all forms of harassment;
- (i) racism in any form;
- (j) robbery;
- (k) all forms of theft excluding petty theft and theft that is classified as a minor offence in the school's code of conduct;
- (l) distribution, possession or viewing of obscene or pornographic material;
- (m) sexual coercion (any acts used or aimed at procuring sexual favours);
- (n) sexual activities (sex related activities amongst learners or between learners and educators, between learners and members of staff or between learners and any other person including those persons involved in a school activity);
- (o) sexual assault (sex related acts including flashing, groping, rape and indecent assault);
- (p) any initiation practices;
- (q) using, selling or being in possession of dangerous objects for non-educational purposes, which can cause harm or be used to threaten or cause harm to others; and
- (r) acts of xenophobia.

(2) The list of serious offences in clause 4(1) above is not exhaustive and schools may include any other offences that may arise from time to time, depending on the circumstances of each school.

(3) Every school's code of conduct must incorporate the serious offences in clause 4(1).

(4) Minor offences that are contained in a school's code of conduct, and are contravened more than three (3) times by a learner, shall be dealt with as serious offences.

### 5. Code of Conduct

(1) A governing body of a school must, after consultation with learners, parents and educators of the school, adopt a code of conduct for learners in terms of sections 8, 8A and 9 of the Act.

(2) The school's code of conduct must be consistent with –

- (a) the Constitution of the Republic of South Africa, 1996;
- (b) the South African Schools Act, 1996 (Act No. 84 of 1996), as amended;
- (c) the Promotion of Administrative Justice Act, 2000 (Act No. 2 of 2000);
- (d) any Provincial Legislation promulgated from time to time by the Member of the Executive; and
- (e) National and Provincial Regulations, guidelines, circulars and policies.

(3) Upon admission of learners to a school, parents must be provided with a copy of the code of conduct of that school.

(4) A code of conduct should be clear and must be explained to all learners and parents.

(5) The code of conduct must be reviewed from time to time after consultation with all stakeholders referred to in clause 5(1) above in order to update the code of conduct and to ensure that it is in keeping with changing legislation, guidelines and policies.

(6) The school's code of conduct must include –

- (a) measures that will be taken against learners should there be a breach of the school's uniform policy;
- (b) processes for random search and seizure and drug testing as contemplated in clause 8A of the Act;
- (c) reference to the school's cellular phone policy and the consequence of the breach thereof; and
- (d) various levels of misconduct.

- (7) The code of conduct adopted by a school must accommodate the cultural diversities of a school and of the community in which the school is situated.

**6. Misconduct in Hostels**

- (1) A governing body of a school with hostel facilities and which admits learners to the boarding facilities must adopt a clear code of conduct relating to misconduct in the hostels and the due disciplinary process.
- (2) Expulsion from a hostel does not mean automatic expulsion from the school.
- (3) Expulsion from a school means automatic expulsion from the hostel.

**7. Disciplinary Process**

- (1) The principal must investigate allegations or suspicions of serious allegations and report them to the governing body.
- (2) The governing body must appoint a disciplinary tribunal to conduct a disciplinary hearing against a learner who allegedly committed serious misconduct.
- (3) No form of persuasion to remove a child from a school in order to avoid disciplinary action must be allowed.

**8. Disciplinary Tribunal**

- (1) Whenever disciplinary action needs to be taken in matters relating to serious misconduct, a governing body must appoint a disciplinary tribunal to attend to the disciplinary matter.
- (2) A tribunal must be constituted with the necessary expertise to deal with different disciplinary matters as and when they arise.
- (3) Where necessary, the governing body may consult with experts to assist the tribunal with disciplinary proceedings, however, such experts need not be part of the governing body or tribunal.
- (4) The tribunal must –
- (a) consist of three members;
  - (b) be chaired by a member of the governing body;
  - (c) be representative of the school's demographics;
  - (d) conduct all proceedings in a fair, just and humane manner, which includes conducting proceedings in a language that accommodates all parties; and
  - (e) make recommendations on its findings to the governing body.

**9. Suspension as a Precautionary Measure**

- (1) The governing body may suspend a learner who is suspected of serious misconduct from attending school as a precautionary measure, pending the disciplinary hearing.
- (2) Suspension as a precautionary measure shall be implemented if –
- (a) the learner has been given a reasonable opportunity to make written representations to the governing body as to why he or she should not be precautionary suspended;
  - (b) the governing body has considered such representations and has given reasons in writing to the learner and to his or her parents for the decision to continue with the precautionary suspension;
  - (c) the presence of the learner at the school compromises the safety of other learners and staff at the school;
  - (d) the presence of the learner at the school may result in damage to property;
  - (e) the presence of the learner in the school will cause disruption of the teaching and learning process; or
  - (f) the presence of the learner in the boarding establishment will compromise the safety of staff and other learners.

**10. Disciplinary Hearing**

- (1) The tribunal must conduct the disciplinary hearing within seven school days from the date of suspension of a learner.
- (2) The governing body must obtain the approval of the Head of Department to continue to suspend the learner if the disciplinary hearing is not conducted within seven days after suspension.
- (3) If the approval referred to in subclause 10(2) is not obtained from the Head of Department, the learner must return to school after the seven days' suspension period has expired.
- (4) The tribunal –
- (a) must give the learner and his or her parent/s at least five school days' written notice to attend the hearing;
  - (b) must stipulate the charges against the learner and must stipulate the place, date and time, of the hearing and the language in which the hearing will be conducted;
  - (c) may proceed with the hearing in the absence of the learner if the learner does not attend the hearing and does not –
    - (i) provide good cause for not attending;
    - (ii) provide documentary proof, where applicable; or
    - (iii) give written notice to the tribunal that he or she will not be attending the hearing and provide reasons for not attending and documentary proof, where applicable; and



- (d) must inform the learner that, should he or she not attend the hearing and not comply with subclause 10(4)(c), he or she shall be bound by any decision taken during his or her absence;
- (e) must consider representations made by all parties during the hearing;
- (f) must make a recommendation to the governing body on its findings;
- (g) must ensure that the disciplinary hearing safeguards the interest of the learner and any other party involved in the proceedings;
- (h) must allow the learner to be accompanied to the hearing by his or her parent/s or by a person designated by the parent/s unless good cause is shown why the tribunal should proceed in the absence of the parent/s or the designated person;
- (i) must ensure, where practicable, that witnesses under the age of 18 give evidence through an intermediary if it appears that such witnesses may be exposed to undue mental stress or suffering when testifying at the proceedings;
- (j) must ensure that the hearing is conducted in a fair and humane manner;
- (k) must conduct the hearing in a language that the learner understands or provide an interpreter; and
- (l) must take into consideration the appropriate needs of learners with special education needs and must create an environment that is conducive to such learners with special education needs, whether such learner is a learner against whom disciplinary action is taken or is a witness at the hearing.

#### 11. The rights of a learner

The chairperson of the tribunal must inform the learner of the due process and the learner's rights to –

- (a) a formal but fair hearing;
- (b) be present at the hearing and the learner to be alerted to the consequences of being absent;
- (c) be given time to prepare for the hearing;
- (d) be given notice of the charges, in writing, at least five days prior to the hearing;
- (e) be –
  - (i) accompanied by his or her parent/s or a person designated by the parent/s into the hearing venue; and
  - (ii) represented by his or her parent/s or a person designated by the parent/s at the hearing; and
- (f) be assisted through an intermediary if the learner is under 18 years of age or is appearing as a witness at the proceedings;
- (g) ask questions on any evidence produced or on statements of witnesses;
- (h) call witnesses to testify on his or her behalf;
- (i) request for an interpreter, provided the request for an interpreter is made at least 24 hours prior to the disciplinary hearing;
- (j) appeal against any finding or sanction or against both the finding and sanction.

#### 12. Sanctions

- (1) The following sanctions may be imposed by a governing body on a learner who is found guilty of serious misconduct –
  - (a) suspension from the school for not more than seven school days;
  - (b) any other sanction contemplated in the school's code of conduct; or
  - (c) expulsion from the boarding establishment.
- (2) The school governing body must inform a learner, who is found guilty, of the following in writing –
  - (a) the sanction imposed;
  - (b) the reasons for such decision; and
  - (c) the learner's right of appeal to the Head of Department against the sanction imposed by the governing body (excluding expulsion).

#### 13. Expulsion

- (1) A learner who is found guilty of serious misconduct can only be expelled by the Head of Department on the recommendation of a governing body. The recommendation must be submitted in a manner determined by the Head of Department.
- (2) Pending the decision of the Head of Department –
  - (a) the school governing body may suspend or extend the suspension of a learner from school for a period of not more than 14 school days;
  - (b) the governing body must, however, inform the learner and his or her parent/s in writing of the decision to suspend the learner while awaiting the decision of the Head of Department;
  - (c) the learner must continue to receive schooling with the support of the parent/s and the school at the same school;
  - (d) the school must ensure that the learner has access to learning material and resources; and
  - (e) the parent will be responsible for ensuring that the learner utilises whatever provision is available for the learner to access education.

- (3) At the expiry of the 14 days' suspension and whilst awaiting the decision of the Head of Department, the learner must return to school and continue with his or her schooling at the same school.
- (4) The Head of Department must consider recommendations of the governing body and must, within 14 days, make a decision on whether or not to expel the learner.
- (5) Should the Head of Department make a decision not to expel the learner, he or she –
  - (a) must give reasons, in writing, for the decision not to expel the learner;
  - (b) may, after consultation with the governing body, impose a suitable sanction on the learner; or
  - (c) must refer the matter back to the governing body to impose any other sanction contemplated in the school's code of conduct.
- (6) Should the Head of Department decide to expel the learner, he or she must –
  - (a) inform the governing body, the learner and his or her parent/s, in writing, of the decision to expel the learner and the reasons for the decision;
  - (b) inform the learner or his or her parent/s of the right to appeal against the Head of Department's decision to the Member of the Executive Council within 14 days of receiving the notice of expulsion; and
  - (c) make alternate arrangements for the placement of a learner who is subject to compulsory attendance at another public school.
- (7) Pending an appeal against the decision to expel a learner, the Head of Department –
  - (a) must ensure that the learner is given access to education in the manner contemplated by the Head of Department;
  - (b) must ensure that he or she takes reasonable steps to protect the rights of other learners; or
  - (c) may consider an alternative method of providing education to the learner who has appealed.

#### 14. Suspension and expulsion from hostels

- (1) A learner who is found guilty of serious misconduct by the school governing body may be suspended or expelled from a school hostel in which he or she resides, provided the due disciplinary process has been followed.
- (2) A learner may be suspended or expelled from a hostel in which he or she resides in accordance with the school's code of conduct without being suspended or expelled from school.

#### 15. Appeals to the Member of the Executive Council

- (1) A learner or a parent who is aggrieved by the decision of the Head of Department to expel a learner may appeal to the Member of the Executive Council within 14 days of receiving the notice of expulsion.
- (2) If the Member of the Executive Council upholds the appeal from a learner who had been expelled, he or she must ensure that a suitable sanction is imposed within 14 days from which the appeal is upheld.
- (3) The suitable sanction contemplated in subclause 15(2) must be dealt with in terms of clause 13(5) (b) or (c).

#### 16. Repeal

Provincial Notice No. 285 of 1997, published in the KwaZulu-Natal Provincial Gazette No. 5222 dated 21 August 1997, is hereby repealed.

#### MS NELISWA PEGGY NKONYENI, MPL

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

No. 29

22 Junie 2015

#### DEPARTEMENT VAN ONDERWYS

#### KENNISGEWING VIR DIE BEPALING VAN ERNSTIGE WANGEDRAG, DISSIPLINÊRE VERRIGTINGE WAT GEVOLG MOET WORD EN DIE BEPALING VAN BEHOORLIKE BEREGTING TYDENS DISSIPLINÊRE VERRIGTINGE VIR LEERDERS IN OPENBARE SKOLE

Ek, Neliswa Peggy Nkonyeni, Lid van die Uitvoerende Raad verantwoordelik vir Onderwys in die Provinsie van KwaZulu-Natal het, ingevolge artikel 9(3) van die Suid-Afrikaanse Skolewet, 1996 (Wet No. 84 van 1996), soos gewysig, gedrag deur 'n leerder wat ernstige wangedrag uitmaak, dissiplinêre verrigtinge wat gevolg moet word en die bepaling van behoorlike beregting tydens dissiplinêre verrigtinge in openbare skole, bepaal.

## BYLAE

### 1. Omskrywings

In hierdie kennisgewing, tensy uit die samehang anders blyk, dra enige woord of uitdrukking die betekenis daaraan toegewys in die Wet en beteken –

**“Beheerliggaam”** ’n beheerliggaam soos omskryf in die Suid-Afrikaanse Skolewet, 1996 (Wet No. 84 van 1996);

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

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

**“Gedragskode”** ’n stel reëls wat aangeneem is deur die beheerliggaam van ’n openbare skool, soos bedoel in artikel 8 van die Wet, wat die gedrag van leerders tydens enige skoolaktiwiteit reguleer en wat die proses wat gevolg moet word in die toepassing van die reëls stipuleer;

**“Grondwet”** die Grondwet van die Republiek van Suid-Afrika, 1996;

**“Leerder”** enige persoon wat by ’n openbare skool ingeskryf is en wat onderrig word of verplig is om onderrig te word ingevolge die Suid-Afrikaanse Skolewet, 1996 (Wet No. 84 van 1996);

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

**“Opvoeder”** enige persoon wat onderrig, opvoed of ander persone oplei, of wat professionele opvoedkundige dienste verskaf by ’n openbare skool, ingesluit professionele terapie en opvoedkundige sielkundige dienste, maar sluit nie ’n persoon in wat uitsluitlik aangestel word om buitemuurse pligte te verrig nie;

**“Personeellid”** ’n persoon aangestel in ooreenstemming met die Staatsdienswet, 1994 (Wet No. 103 van 1994), of die Suid-Afrikaanse Skolewet, 1996 (Wet No. 84 van 1996), soos gewysig, wat nie ’n opvoeder by die skool is nie;

**“Skool”** ’n openbare skool wat leerders in een of meer grade inskryf vanaf graad O (ontvangs) tot graad 12 ingesluit, waar van toepassing, ’n skool vir spesiale behoeftes en ’n skool wat opvoeding met ’n gespesialiseerde fokus op talent verskaf;

**“Skoolaktiwiteit”** enige amptelike opvoedkundige, kulturele, ontspannings- of sosiale aktiwiteit van ’n skool op of buite die skoolperseel;

**“Skoolhoof”** ’n opvoeder aangestel as waarnemend of wat optree as Hoof van ’n skool;

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

### 2. Doel

Die doel van hierdie kennisgewing is om skole by te staan in die hantering van ernstige wangedrag en om –

- (a) ’n skoolomgewing verbind tot die verbetering en handhawing van ’n kwaliteitsleerproses;
- (b) ’n menseregte kultuur in skole;
- (c) positiewe dissiplinevorme in skole;
- (d) ’n balans tussen die handhawing van dissipline in skole en versekering dat leerders se regte op waardigheid en integriteit behou word;
- (e) herstellende geregtigheid eerder as vergeldingsmaatreëls;
- (f) die beginsels en waardes van die Grondwet, 1996, in skole; en
- (g) doeltreffende skoordissipline, te bevorder.

### 3. Toepassing

Die aangeleentheid hierin bepaal sal van toepassing wees op alle openbare skole in die Provinsie met inwerkingtreding vanaf die publikasiedatum van hierdie kennisgewing.

### 4. Ernstige wangedrag

- (1) Die volgende misdrywe sal ernstige wangedrag in skole uitmaak en kan lei tot die skorsing of uitsetting van ’n leerder uit ’n skool:
  - (a) ...
  - (b) ...
  - (c) ...
  - (d) ...
  - (e) ...
  - (f) ...
  - (g) ...
  - (h) ...
  - (i) ...
  - (j) ...
  - (k) ...
  - (l) ...
  - (m) ...
  - (n) ...
  - (o) ...
  - (p) ...
  - (q) ...
  - (r) ...
  - (s) ...
  - (t) ...
  - (u) ...
  - (v) ...
  - (w) ...
  - (x) ...
  - (y) ...
  - (z) ...

- (a) alle vorms van afknouery;
  - (b) oortreding van 'n skool se selfoonbeleid;
  - (c) die gebruik, verkoop of besit van onwettige dwelms en afhanklikheidsvormende stowwe;
  - (d) die pleeg van enige vorm van onreëlmatigheid met betrekking tot eksamens;
  - (e) dreigemente of geweldsdade teenoor mede-leerders, opvoeders, personeellede en enige ander persoon op die skoleiendom;
  - (f) skade aan skoleiendom;
  - (g) die opsetlike en ernstige ondermyning van die skoolhoof, opvoeders en personeellede se gesag;
  - (h) alle vorme van teistering;
  - (i) enige vorm van rassisme;
  - (j) roof;
  - (k) alle vorms van diefstal, met uitsondering van kleindiefstal en diefstal wat geklassifiseer word as 'n geringe oortreding in die skool se gedragskode;
  - (l) die verspreiding, besit of besigtiging van onweloweglike of pornografiese materiaal;
  - (m) geforseerde seks (enige daad wat gebruik word of gemik is op die verkryging van seksuele gunste);
  - (n) seksuele aktiwiteite (seksverwante aktiwiteite onder leerders of tussen leerders en opvoeders, tussen leerders en personeellede of tussen leerders en enige ander persoon, ingesluit daardie persone betrokke by 'n skoolaktiwiteit);
  - (o) seksuele aanranding (seksverwante daad ingesluit ontbloting, betasting, verkragting en onsedelike aanranding);
  - (p) enige inisiasiepraktyke;
  - (q) die gebruik, verkoop of besit van gevaarlike voorwerpe vir nie-opvoedkundige doeleindes wat skade kan berokken of gebruik kan word vir bedreiging of om ander skade aan te doen; en
  - (r) optredes wat xenofobies van aard is.
- (2) Die lys van ernstige misdrywe in klousule 4(1) hierbo is nie volledig nie en skole kan enige ander misdrywe, wat van tyd tot tyd mag voorkom, byvoeg afhangende die omstandighede van elke skool.
- (3) Die ernstige misdrywe in klousule 4(1) moet in elke skool se gedragskode opgeneem word.
- (4) Geringe misdrywe wat in die skool se gedragskode opgeneem is en meer as drie (3) keer deur 'n leerder oortree word, sal as ernstige misdrywe hanteer word.

## 5. Gedragskode

- (1) 'n Beheerliggaam van 'n skool moet na oorlegpleging met leerders, ouers en opvoeders van die skool 'n gedragskode vir leerders ingevolge artikel 8, 8A en 9 van die Wet aanneem.
- (2) Die skool se gedragskode moet in ooreenstemming wees met –
- (a) die Grondwet van die Republiek van Suid-Afrika, 1996;
  - (b) die Suid-Afrikaanse Skolewet, 1996 (Wet No. 84 van 1996), soos gewysig;
  - (c) die Wet op die Bevordering van Administratiewe Geregtigheid, 2000 (Wet No. 2 van 2000);
  - (d) enige Provinsiale Wetgewing wat van tyd tot tyd deur die Lid van die Uitvoerende Raad gepromulgeer word; en
  - (e) Nasionale en Provinsiale Regulasies, riglyne, omsendbriewe en beleide.
- (3) By toelating van leerders tot 'n skool, moet die ouers voorsien word van 'n afskrif van daardie skool se gedragskode.
- (4) 'n Gedragskode moet duidelik wees en moet aan al die leerders en ouers verduidelik word.
- (5) Die gedragskode moet van tyd tot tyd hersien word na oorlegpleging met alle belanghebbendes verwys na in klousule 5(1) hierbo ten einde die gedragskode op te dateer en te verseker dat in lyn bly met veranderende wetgewing, riglyne en beleide.
- (6) Die skool se gedragskode moet –
- (a) maatreëls wat geneem sal word teen leerders indien daar 'n skending is van die skool se beleid vir skooluniforms;
  - (b) werkswyses vir lukrake deursoeking en beslaglegging en dwelmtoetsing soos bedoel in klousule 8A van die Wet;
  - (c) verwysing na die skool se selfoonbeleid en die gevolge van die skending daarvan; en
  - (d) verskeie vlakke van wangedrag, insluit.
- (7) Die gedragskode wat deur 'n skool aangeneem word moet versoenbaar wees met die kulturele diversiteite van 'n skool en die gemeenskap waarin die skool geleë is.

**6. Wangedrag in Koshuise**

- (1) 'n Beheerliggaam van 'n skool met koshuisfasiliteite en wat leerders toelaat tot die loseerfasiliteite moet 'n duidelike gedragskode betreffende wangedrag in die koshuise en behoorlike dissiplinêre beregting aanvaar.
- (2) Uitsetting uit die koshuis beteken nie outomatiese uitsetting uit die skool nie.
- (3) Uitsetting uit die skool beteken outomatiese uitsetting uit die koshuis.

**7. Dissiplinêre proses**

- (1) Die skoolhoof moet bewerings of vermoedens van ernstige wangedrag ondersoek en dit aan die beheerliggaam rapporteer.
- (2) Die beheerliggaam moet 'n dissiplinêre tribunaal aanstel vir die uitvoer van 'n dissiplinêre verhoor teen 'n leerder wat na bewering ernstige wangedrag gepleeg het.
- (3) Om 'n kind te verwyder uit 'n skool deur middel van enige wyse van oorrading ten einde dissiplinêre stappe te vermy mag nie toegelaat word nie.

**8. Dissiplinêre Tribunaal**

- (1) Wanneer dissiplinêre stappe oor aangeleenthede wat verband hou met ernstige wangedrag geneem moet word, moet die beheerliggaam 'n dissiplinêre tribunaal aanstel om die dissiplinêre aangeleentheid te behartig.
- (2) 'n Tribunaal moet uit die nodige kundiges saamgestel word vir die hantering van verskillende dissiplinêre aangeleenthede soos en wanneer hulle voorkom.
- (3) Waar nodig, kan die beheerliggaam met kundiges oorleg pleeg ten einde die tribunaal by te staan met dissiplinêre verrigtinge, nietemin hoef sodanige kundiges nie deel van die beheerliggaam of tribunaal te wees nie.
- (4) Die tribunaal moet –
  - (a) uit drie lede bestaan;
  - (b) 'n lid van die beheerliggaam moet as voorgesitter optree;
  - (c) verteenwoordigend wees van die skool se demografie;
  - (d) alle verrigtinge op 'n billike, regverdige en menslike manier lei, ingesluit dat verrigtinge gelei word in 'n taal wat alle partye akkommodeer; en
  - (e) aanbevelings oor sy bevindinge aan die beheerliggaam maak.

**9. Skorsing as 'n Voorsorgmaatreël**

- (1) Die beheerliggaam kan 'n leerder wat verdink word van ernstige wangedrag skors van skoolbywoning as 'n voorsorgmaatreël, hangende die dissiplinêre verhoor.
- (2) Skorsing as 'n voorsorgmaatreël sal in werking gestel word indien –
  - (a) die leerder 'n redelike geleentheid gegun is om skriftelike voorleggings waarom hy of sy nie voorwaardelik geskors moet word nie aan die beheerliggaam te maak;
  - (b) die beheerliggaam sodanige voorleggings oorweeg het en skriftelik redes aan die leerders en sy of haar ouers verskaf het vir die besluit om voort te gaan met die skorsing as 'n voorsorgmaatreël;
  - (c) die teenwoordigheid van die leerder by die skool die veiligheid van ander leerders en personeel by die skool kompromitteer;
  - (d) die teenwoordigheid van die leerder by die skool mag lei tot beskadiging van eiendom;
  - (e) die teenwoordigheid van die leerder by die skool ontwrigting van die onderrig- en leerproses sal veroorsaak; of
  - (f) die teenwoordigheid van die leerder in die koshuis die veiligheid van personeel en ander leerders sal kompromitteer.

**10. Dissiplinêre Verhoor**

- (1) Die tribunaal moet 'n dissiplinêre verhoor binne sewe dae vanaf die skorsing van 'n leerder hou.
- (2) Die beheerliggaam moet die goedkeuring van die Departementshoof verkry om voort te gaan met die leerder se skorsing indien die dissiplinêre verhoor nie binne sewe dae vanaf die skorsing gehou word nie.
- (3) Indien die goedkeuring verwys na in subklousule 10(2) nie vanaf die Departementshoof verkry word nie, moet die leerder terugkeer skool toe nadat die sewe dae skorsingstydperk verval het.

- (4) Die tribunaal –
- (a) moet die leerder en sy of haar ouer/s minstens vyf dae skriftelike kennisgewing gee om die verhoor by te woon;
  - (b) moet die aanklagte teen die leerder bepaal en moet die tyd, datum en plek van die verhoor, asook die taal waarin die verhoor gehou sal word bepaal;
  - (c) kan voortgaan met die verhoor in die afwesigheid van die leerder indien die leerder nie die verhoor bywoon nie en die leerder nie –
    - (i) afdoenbare redes voorsien vir die afwesigheid nie;
    - (ii) dokumentêre bewyse, waar van toepassing, voorsien nie; of
    - (iii) skriftelike kennisgewing aan die tribunaal gee dat hy of sy nie die verhoor sal bywoon nie en redes vir nie-bywoning en dokumentêre bewyse voorsien, waar van toepassing; en
  - (d) moet die leerder in kennis stel dat sou hy of sy nie die verhoor bywoon nie en nie subklousule 10(4)(c) nakom nie, hy of sy verplig sal wees om enige besluit geneem in sy of haar afwesigheid na te kom;
  - (e) moet voorleggings wat gemaak is deur alle partye tydens die verhoor oorweeg;
  - (f) moet 'n aanbeveling aan die beheerliggaam maak oor sy bevindinge;
  - (g) moet verseker dat die dissiplinêre verhoor die belange van die leerder en enige ander party betrokke by die verrigtinge beveilig;
  - (h) moet die leerder toelaat om na die verhoor vergesel te word deur sy of haar ouer/s of 'n persoon aangewys deur die ouer/s tensy afdoenbare beweesgredes aangevoer word waarom die tribunaal moet voortgaan in die afwesigheid van die ouer/s of die aangewese persoon;
  - (i) moet verseker, waar doenlik, dat getuienisse onder die ouderdom van 18 jaar getuienis lewer deur 'n tussenganger indien dit blyk dat sodanige getuienisse blootgestel kan word aan onbehoorlike geestesspanning of lyding tydens die lewering van getuienis by die verrigtinge;
  - (j) moet verseker dat die verhoor word op 'n billike en menslike manier gelei word;
  - (k) moet die verhoor lei in 'n taal wat die leerder verstaan of 'n tolk voorsien; en
  - (l) moet die toepaslike behoeftes van leerders met spesiale opvoedingsbehoefte in ag neem en moet 'n omgewing skep wat bevorderlik is vir sodanige leerders met spesiale opvoedingsbehoefte, ongeag of sodanige leerder 'n leerder is teen wie dissiplinêre stappe geneem word of 'n getuienis by die verhoor is.

#### 11. Die regte van 'n leerder

- (1) Die voorsitter van die tribunaal moet die leerder in kennis stel van die behoorlike beregting en die leerder se regte –
- (a) tot 'n formele maar billike verhoor;
  - (b) om teenwoordig te wees by die verhoor en die leerder wysmaak van die gevolge van afwesigheid van die verhoor;
  - (c) om tyd gegun te word ter voorbereiding vir die verhoor;
  - (d) om skriftelik kennis gegee te word van die aanklagte minstens vyf dae voor die verhoor;
  - (e) om –
    - (i) na die verhoorlokaal vergesel te word deur sy of haar ouer/s of 'n persoon aangewys deur die ouer; en
    - (ii) verteenwoordig te word deur sy of haar ouer/s of 'n persoon aangewys deur die ouer by die verhoor; en
  - (f) bygestaan te word deur 'n tussenganger indien die leerder jonger as 18 jaar is of verskyn as 'n getuie by die verrigtinge;
  - (g) oor enige getuienis wat voorgelê is of op stellings van getuienisse vrae te stel;
  - (h) getuienisse te roep om namens hom of haar te getuig;
  - (i) 'n tolk te versoek, met dien verstande dat die versoek vir 'n tolk minstens 24 uur voor die dissiplinêre verhoor gemaak word; en
  - (j) te appèlleer teen enige bevinding of strafbepaling of teen beide die bevinding en strafbepaling.

#### 12. Strafbepalings

- (1) Die volgende strafbepalings kan deur 'n beheerliggaam op 'n leerder wat skuldig bevind is aan ernstige wangedrag opgelê word –
- (a) skorsing uit die skool vir nie meer as sewe dae nie;
  - (b) enige ander strafbepaling bedoel in die skool se gedragskode; of
  - (c) uitsetting uit die koshuis.
- (2) Die beheerliggaam van die skool moet, skriftelik, 'n leerder wat skuldig bevind is inlig van die volgende –

- (a) die opgelegde strafbepaling;
- (b) die rede vir sodanige besluit; en
- (c) die leerder se reg om appèl aan te teken teen die strafbepaling wat deur die beheerliggaam opgelê is (met uitsluiting van uitsetting) by die Departementshoof.

### 13. Uitsetting

- (1) 'n Leerder wat skuldig bevind is aan ernstige wangedrag kan slegs uitgesit word deur die Departementshoof op aanbeveling van die beheerliggaam. Die aanbeveling moet ingedien word op 'n wyse bepaal deur die Departementshoof.
- (2) Hangende die besluit van die Departementshoof –
  - (a) kan die beheerliggaam van die skool die leerder skors of die skorsing uit die skool verleng vir 'n tydperk van nie meer as 14 skooldae nie;
  - (b) moet die beheerliggaam desnieteenstaande die leerder en sy of haar ouer/s skriftelik in kennis stel van die besluit om die leerder te skors terwyl die besluit van die Departementshoof hangende is;
  - (c) moet die leerder voortgaan om onderrig te ontvang met die ondersteuning van die ouer/s en die skool, by dieselfde skool;
  - (d) moet die skool toesien dat die leerder toegang het tot leermateriaal en hulpbronne; en
  - (e) is die ouer verantwoordelik om te verseker dat die leerder gebruik maak van watter voorsiening ook al beskikbaar gestel word vir toegang tot opvoeding vir die leerder.
- (3) By die verstryking van die 14 dae skorsing en terwyl die besluit van die Departementshoof hangend is, moet die leerder terugkeer skool toe en voortgaan met sy of haar skoolloopbaan by dieselfde skool.
- (4) Die Departementshoof moet die aanbevelings van die beheerliggaam oorweeg en moet binne 14 dae 'n besluit neem oor hetsy die leerder uitgesit word of nie.
- (5) Sou die Departementshoof 'n besluit neem om nie die leerder uit te sit nie –
  - (a) moet hy of sy, skriftelik, redes gee vir die besluit om nie die leerder uit te sit nie;
  - (b) kan hy of sy, na oorlegpleging met die beheerliggaam, 'n geskikte strafbepaling op die leerder oplê; of
  - (c) moet hy of sy die aangeleentheid terugverwys na die beheerliggaam om enige ander strafbepaling, soos bedoel in die skool se gedragskode, op te lê.
- (6) Sou die Departementshoof besluit om die leerder uit te sit moet hy of sy –
  - (a) die beheerliggaam, die leerder en sy of haar ouer/s skriftelik in kennis stel van die besluit, en die redes daarvoor, om die leerder uit te sit;
  - (b) die leerder of sy of haar ouer/s in kennis stel van die reg om appèl teen die besluit van die Departementshoof aan die Lid van die Uitvoerende Raad voor te lê binne 14 dae vanaf ontvangs van die kennisgewing van uitsetting; en
  - (c) alternatiewe reëlings tref vir die leerder wat onderhewig is aan verpligte skoolbywoning vir plasing by 'n ander openbare skool.
- (7) Hangende 'n appèl teen die besluit om 'n leerder uit te sit, moet die Departementshoof –
  - (a) verseker dat die leerder toegang tot opvoeding gegee word op 'n wyse soos bedoel deur die Departementshoof;
  - (b) verseker dat hy of sy redelike stappe neem om die regte van ander leerders te beskerm; of
  - (c) dit kan oorweeg om 'n alternatiewe metode van opvoeding aan die leerder wat appèlleer, te voorsien.

### 14. Skorsing en uitsetting uit koshuise

- (1) 'n Leerder wat deur die skool se beheerliggaam skuldig bevind word aan ernstige wangedrag kan uit 'n skoolkoshuis waarin hy of sy bly geskors of uitgesit word met dien verstande dat die behoorlike dissiplinêre beregting gevolg is.
- (2) 'n Leerder kan uit 'n koshuis waarin hy of sy bly geskors of uitgesit word in ooreenstemming met die skool se gedragskode sonder om uit die skool geskors of uitgesit te word.

**15. Appèlle aan die Lid van die Uitvoerende Raad**

- (1) 'n Leerder of 'n ouer wat gegrief voel deur die Departementshoof se besluit om 'n leerder uit te sit kan appèl by die Lid van die Uitvoerende Raad aanteken binne 14 dae vanaf ontvangs van die uitsettingskennisgewing.
- (2) Indien die Lid van die Uitvoerende Raad die appèl van 'n leerder wat uitgesit is bekragtig, moet hy of sy verseker dat 'n geskikte strafbepaling opgelê word binne 14 dae vanaf bekragtiging van die appèl.
- (3) Die geskikte strafbepaling bedoel in subklousule 15(2) moet hanteer word ingevolge klousule 13(5)(b) of (c).

**16. Herroeping**

Provinsiale Kennisgewing No. 285 van 1997, gepubliseer in die KwaZulu-Natal Provinsiale *Koerant* No. 5222 op 21 Augustus 1997, word hiermee herroep.

**ME NELISWA PEGGY NKONYENI, LPW**

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

**No. 29****22 kuNhlangulana 2015****UMNYANGO WEZEMFUNDO****ISAZISO SOKUNQUNYWA KOMGOMO WAMACALA ABUCAYI OKUZIPHATHA, INQUBO OKUMELE ILANDELWE KANYE NOKUHLINZEKWA KOHLELO OLUSETSHENZISWAYO UMA KUQONDISWA IZIGWEGWE KUBAFUNDI EZIKOLENI ZIKAHULUMENI**

Mina, Neliswa Peggy Nkonyeni, iLungu loMkhandlu oPhethe elibhekele ezeMfundo esiFundazweni saKwaZulu-Natali, ngokwesigaba 9(3) soMthetho weziKole waseNingizimu Afrika, 1996 (uMthetho No. 84 ka 1996), njengoba uchitshiyelwe, senginqume umgomo wokuqondisa izigwegwe abafundi abaziphatha njendlela ethathwa njengamacala abucayi, inqubo ezolandelwa ukuqondisa izigwegwe kanye nenhlinzeko yohlelo oluzosetshenziswa uma kuqondiswa izigwegwe kubafundi ezikoleni zikahulumeni.

**UHLELO****1. Izincazelo**

Kulesi saziso, noma iliphi 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;

**“uMthethosisekelo”** kushiwo uMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, 1996;

**“uMgomo wokuziPhatha”** kushiwo imithetho ethile egunyazwe isigungu esilawulayo esikoleni sikahulumeni njengoba kuhlongozwe esigabeni 8 soMthetho, elawula ukuziphatha kwabafundi nganoma isiphi isikhathi sesikole futhi ebalula inqubo elandelwayo ukugcizelela imithetho;

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

**“uThisha”** kushiwo nanoma imuphi umuntu ofundisa noma oqeqesha abanye abantu noma ohlinzeka ngemisebenzi yobungoti kwezemfundo kubandakanya nemisebenzi yokwelapha neyokululekwa kwezemfundo kodwa akubandakanyi umuntu oqokelwe ukwenza imisebenzi yokufundisa izinto ezingekho ezinhlelweni zezifundo;

**“isiGungu esilawula isiKole”** kushiwo isigungu esilawula isikole njengoba kuchazwe eMthethweni weziKole waseNingizimu Afrika, 1996, (uMthetho No. 84 ka 1996);

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

**“uMfundi”** kushiwo nanoma yimuphi umfundi obhaliswe esikoleni sikahulumeni, ofunda noma onesibopho sokuthola imfundo ngokoMthetho weziKole waseNingizimu Afrika, 1996, (uMthetho No. 84 ka 1996);

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

**“uMsebenzi”** kushiwo umuntu oqokwe ngokoMthetho wabaSebenzi baHulumeni, 1994, (uMthetho No. 103 ka



1994) noma ngokoMthetho weziKole waseNingizimu Afrika, 1996, (uMthetho No. 84 ka 1996) njengoba uchtshiyelwe, ongeyona uthisha;

**“uThishanhloko”** kushiwo umuntu onguthisha oqokiwe noma osebenza njengeNhloko yesikole;

**“isiKole”** kushiwo isikole sikahulumeni okufunda kuso abafundi ebangeni elilodwa noma ngaphezulu kusukela ebangeni R kuya ebangeni le-12, kubandakanya, isikole sabafundi abanezidingo ezikhethekile kanye nesikole esihlinzeka imfundo egxile kakhulu emakhonweni; kanti

**“okwenziwa esikoleni”** kushiwo nanoma yini ephathlelene nemfundo, namasiko, nezokungcebeleka noma nomphakathini eyenziwa ngaphakathi noma ngaphandle kwamagceke esikole egunyaziwe.

## 2. Inhloso

Inhloso yalesi saziso ukweseka izikole ekuphatheni amacala abucayi kanye nokugququzela –

- (a) isimo esikoleni esigququzela ukuphuculwa nokugcinwa kokufunda kusezingeni elicokeme;
- (b) ukuphuculwa kwamalungelo abantu ezikoleni;
- (c) izindlela ezikahle zokuqondisa izigwegwe ezikoleni;
- (d) ukuqinisekiswa kokugcinwa komgomo wokuziphatha ezikoleni kanjalo nokuqinisekisa ukugcinwa kwamalungelo nesithunzi kubafundi ngendlela efanele;
- (e) ukuqondiswa kwezigwegwe ngendlela eyakhayo nenobulungiswa kunokujezisa ngokushaya;
- (f) imigomo kanye nobugugungqangi boMthethosisekelo, 1996 ezikoleni; kanye
- (g) nohlelo olunemiphumela ebonakalayo lokuqondisa izigwegwe.

## 3. Ukusebenza kokunqunywe

Okunqunywe lapha kuyosebenza kuzo zonke izikole zikahulumeni esiFundazweni kusukela ngosuku okuyoshicilelwa ngalo lesi saziso.

## 4. Amacala abucayi okuziphatha

- (1) La macala alandelayo ayothathwa njengamacala abucayi okuziphatha ezikoleni futhi angahlela ekumisweni noma ekuxoshweni komfundi esikoleni –
  - (a) yonke inhlobo yokuchukuluza abanye abafundi;
  - (b) ukwephula umgomo wesikole maqondana namaselula;
  - (c) ukusebenzisa, ukudayisa noma ukubanjwa nezidakamizwa kanye nophuzo oludakayo;
  - (d) ukwenza noma yini ephambene nomgomo wokubhalwa kwezivivinyo;
  - (e) ukusabisa noma ukukhombisa izenzo zodlame kwabanye abafundi, kothisha, kubasebenzi basesikoleni nakunoma imuphi omunye umuntu osemagcekeni esikole;
  - (f) ukulimaza impahla yesikole;
  - (g) ukwedelela ngenhloso nokubukela phansi imiyalelo kathishanhloko, yothisha kanye neyabasebenzi basesikoleni;
  - (h) zonke izinhlobo zokuhlukumeza;
  - (i) ukucwasa noma ingayiphi indlela;
  - (j) ukubamba inkunzi;
  - (k) zonke izinhlobo zokweba ngaphandle kokweba izinto ezincane nokweba okuthathwa njengamacala amancane ngokomgomo wokuziphatha wesikole;
  - (l) ukusabalalisa, ukuphatha noma ukubuka amabhuku anezithombe zabantu abanqunu noma zocansi;
  - (m) ukuphoqelela ucansi (ngokwenza noma yini ngenhloso yokuyenga omunye ukuba azibandakanye ngokocansi);
  - (n) ukugila imikhuba ephathelene nezocansi (ukulalana kwabafundi noma phakathi kwabafundi nothisha noma phakathi kwabafundi nabasebenzi basesikoleni noma phakathi kwabafundi nanoma imuphi umuntu kubandakanya nalabo bantu abazibandakanya kokwenziwa esikoleni);
  - (o) ukubhudekeza (ukwenza izinto ezinjengokulalisa amehlo, ukuthintathinta, ukudlwengula nokukhombisa ukukhanukela omunye ngokocansi);
  - (p) nanoma ikuphi ukuyengela omunye umuntu ocansini;
  - (q) ukusebenzisa, ukudayisa noma ukuba nento enobungozi engahlangene nokufunda, engalimaza noma engasetshenziselwa ukusabisa noma ukulimaza abanye abantu;
  - (r) izenzo ezikhombisa ukucwasa ngokobuzwe.
- (2) Uhlu lwamacala abucayi asesigabeni soMthetho 4(1) ngenhla aluphelele ngakho-ke izikole zingazifakela nanoma imaphi amanye amacala njalo uma evela kuncike ezimweni zesikole ngasinye.
- (3) Yonke imigomo yokuziphatha yezikole kumele ibandakanye amacala abucayi asesigabeni soMthetho 4(1);
- (4) Amacala angatheni aqukethwe emgomweni wokuziphatha wesikole futhi enziwa umfundi kuze kube izikhawu ezintathu (3) kufanele athathwe njengamacala abucayi;

**5. Umgomo wokuziphatha**

- (1) Isigungu esilawula isikole kumele ngemva kokubonisana nabafundi, abazali kanye nothisha besikole, sigunyaze umgomo wokuziphatha wabafundi ngokwesigaba 8, 8A kanye nesigaba 9 soMthetho.
- (2) Umgomo wokuziphatha wesikole kumele uhambisane –
  - (a) noMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, 1996;
  - (b) noMthetho weziKole waseNingizimu Afrika, 1996, (uMthetho No. 84 ka 1996), njengoba uchitshiyelwe;
  - (c) noMthetho wokuGqugquzela ukuPhatha ngoBulungiswa, 2000, (uMthetho No. 2 ka 2000);
  - (d) nanoma imuphi uMthetho wesifundazwe omenyezalwe iLungu loMkhandlu oPhethe; kanye
  - (e) neMithethonqubo, imihlahlandlela, amasekhula kanye nezinqubomgomo zikaZwelonke kanye nezesiFundazwe.
- (3) Uma kwamukelwa abafundi esikoleni, abazali kumele bahlinzekwe ngekhophi ebhaliwe yomgomo wokuziphatha waleso sikole.
- (4) Umgomo wokuziphatha kufanele ubhalwe ngendlela ezwakalayo futhi bonke abafundi kanye nabazali bachazelwe ngawo.
- (5) Umgomo wokuziphatha kumele ubuyekwe njalonjalo ngemva kokuthintana nabo bonke ababambe iqhaza okukhulunywe ngabo esigabeni soMthetho 5(1) ngenhla ukuze uvuselelwe futhi kuqinisekiswa ukuthi uhambisana nemithetho, nemihlahlandlela kanye nezinqubomgomo eziguququkayo.
- (6) Umgomo wokuziphatha wesikole kumele ubandakanye –
  - (a) izinyathelo eziyathathelwa abafundi uma kwenzeka bephula umgomo wokugqokwa komfaniswano wesikole;
  - (b) uhlelo lokusesha izikhwama nezimpahla zabafundi nokuthathwa kwezinto ezitholakele kanye nokuhlololwa izidakamizwa njengoba kuhlangozwe esigabeni soMthetho 8A soMthetho;
  - (c) inqubomgomo yesikole mayelana namaselula kanye nomphumela wokwephula lowo mgomo; kanye
  - (d) nokudlebeleka ngezindlela ezehlukahlukene.
- (7) Umgomo wokuziphatha ogunyazwe isikole kumele uhambisane namasiko ehlukeni abantu bonke kanye nawomphakathi isikole esakhiwe phakathi kuwona.

**6. Ukungaziphathi kahle emaHostela**

- (1) Isigungu esilawula isikole esinamahostela okuhlala abafundi nesithatha abafundi abazohlala endaweni yokubhoda kumele sigunyaze umgomo wokuziphatha obeka ngendlela ecacile konke ukungaziphathi kahle emahostela kanye nenqubo elandelwayo yokuqondisa izigwegwe.
- (2) Ukuxoshwa ehostela akusho ukuxoshwa nasesikoleni.
- (3) Ukuxoshwa esikoleni kusho ukuxoshwa nasehostela.

**7. Uhlelo lokuQondisa iziGwegwe**

- (1) UThishanhlolo kumele enze uphenyo mayelana nezinsolo nokuyizinsolo ezibucayi bese ethula umbiko ngakutholile kwisigungu esilawula isikole.
- (2) Isigungu esilawula isikole kumele siqoke isigungu sokuqondisa izigwegwe ukuba kube yisona esizokwengamela ukuqulwa kwecala elibekwe umfundi owenze icala elibucayi.
- (3) Noma sekuthiwani, umfundi akumele avunyelwe ukuthi aphume esikoleni ngenhloso yokubalekela ukuthathelwa izinyathelo zokuqondisa izigwegwe.

**8. IsiGungu sokuQondisa iziGwegwe**

- (1) Uma kumele kuthathwe izinyathelo zokuqondisa izigwegwe ezindabeni eziphathelene namacala abucayi okuziphatha, isigungu esilawula isikole kumele siqoke isigungu sokuqondisa izigwegwe ukuze sibhekana nalolo daba lokuqondisa izigwegwe.
- (2) Isigungu esilawula isikole kumele sididiyele abantu abanolwazi olunzulu lokuxazulula izindaba ezehlukene zokuqondisa izigwegwe uma zivela.
- (3) Uma kunesidingo, isigungu esilawula isikole singaxhumana nongoti ukuze bakwazi ukusiza isigungu sokuqondisa izigwegwe, kodwa, labo ngoti akudingeki ukuthi babe ingxenye yesigungu esilawula isikole noma yesigungu sokuqondisa izigwegwe.

## (4) Isigungu sokuqondisa izigwegwe kumele –

- (a) sibunjwe amalungu amathathu;
- (b) usihlalo waso kube ilungu lesigungu esilawula isikole;
- (c) simele bonke abakhona esikoleni;
- (d) siqhube ukuqulwa kwecala ngendlela enobulungiswa, eqotho nenobuntu, okubandakanya inqubo yokuqulwa kwecala ngolimi oluqondwa yibo bonke abathintekayo; futhi
- (e) senze izincomo ngesikutholile kwisigungu esilawula isikole.

**9. Ukumiswa esikoleni ukuvimbela ukuthikamezeka kokuqulwa kwecala**

(1) Isigungu esilawula isikole singamisa umfundi osolekayo ngecala elibucayi lokuziphatha ekutheni aqhubeke nokufunda ukuvimbela ukuthikamezeka kokuqulwa kwecala, kuze kube kuyaphothulwa.

(2) Ukumiswa esikoleni ukuvimbela ukuthikamezeka kokuqulwa kwecala kuyomele kwenziwe uma –

- (a) umfundi enikezwe ithuba elanele lokubeka uhlangothi lwakhe esigungwini esilawula isikole nesizathu sokuthi kungani kumele angamiswa esikoleni;
- (b) uma isigungu esilawula isikole sesikucubungulile okushiwo umfundi siyobe sesibhalela umfundi noma abazali bakhe ngesinqumo esithathiwe sokuqhubeka nokumiswa komfundi esikoleni;
- (c) ubukhona bomfundi esikoleni kungadala ukuthi abanye abafundi bazizwe bengaphephile kanye nabasebenzi bonke bakuleso sikole;
- (d) ubukhona bomfundi esikoleni kungaholela ekulimaleni kwempahla yesikole;
- (e) ubukhona bomfundi esikoleni kungaholela ekuphazamisekeni kwezinhlelo zokufunda nokufundisa;
- (f) ubukhona bomfundi endaweni yokubhoda kungadala ukuthi abasebenzi kanye nabanye abafundi bazizwe bengaphephile.

**10. Ukuqulwa kwecala**

(1) Isigungu sokuqondisa izigwegwe kufanele siqhube ukuqulwa kwecala kungakapheli izinsuku eziyisikhombisa kusukela osukwini umfundi amiswe ngalo esikoleni.

(2) Isigungu esilawula isikole kufanele sithole igunya kwiNhlolo yoMnyango lokuqhubeka nokumisa umfundi uma icala lingaqulwanga ezinsukwini eziyisikhombisa emisiwe.

(3) Uma igunya okukhulunywe ngalo kwisigatshana soMthetho 10(2) ingatholakali kwiNhlolo yoMnyango, umfundi kufanele abuyele esikoleni ngemva kwezinsuku eziyisikhombisa uma sekuphele isikhathi sokumiswa kwakhe.

(4) Isigungu sokuqondisa izigwegwe –

- (a) kumele sinikeze umfundi noma umzali wakhe noma abazali bakhe isaziso esibhaliwe okungenani kusasele izinsuku ezinhlanu ngaphambi kosuku lokuqulwa kwecala;
- (b) kumele sibalule amacala athweswe umfundi kanye nesikhathi, usuku, indawo icala elizoqulelwa kuyo kanye nolimi oluyosetshenziswa uma sekuqulwa icala;
- (c) singaqhubeka nokuqula icala noma umfundi engekho uma kwenzeka umfundi engezi ecaleni abekwe lona futhi –

(i) engalethi ubufakazi besizathu esiqinile esimenze wangakwazi ukufika ngosuku lwecala; futhi.

(d) kumele sazise umfundi ukuthi uma kungenzeka angezi ecaleni futhi uma ehluleke ukuhambisana nesigatshana soMthetho 10(4)(c), kuyofanele azi ukuthi uyobe uzibophezela kunoma isiphi isinqumo esiyothathwa ngaye engekho;

(e) kumele sicubungule konke okwethulwe abathintekayo ngesikhathi kuqulwa icala;

(f) kumele senze izincomo kwisigungu esilawula isikole ngesikutholile;

(g) kumele siqinisekise ukuthi ukuqulwa kwecala kubhekelela ukuvikelwa komfundi kanye nezinhlangothi ezithintekayo ngesikhathi kuqulwa kwalo;

(h) kumele sivumele umfundi ukuba aphezelwe abazali bakhe noma umuntu okhethwe abazali ngesikhathi kuqulwa icala lakhe ngaphandle uma kunesizathu esiqinile noma engekho umuntu okhethwe abazali;

(i) kumele siqinisekise, uma kwenzeka bekhona, ofakazi ukuthi abaneminyaka engaphansi kweyi-18 bethulelwa ubufakazi yilowo obamele uma kubonakala ukuthi lowo fakazi kungenzeka ukuthi ukwethula ubufakazi kubafakele ingcindezi ngokomqondo noma kubahlukumeze ngesikhathi kuqulwa icala;

(j) kumele siqinisekise ukuthi ukuqulwa kwecala kuqhutshwa ngendlela enobulungiswa nobuqotho;

(k) kumele siqinisekise ukuqulwa kwecala ngolimi umfundi aluqonda kangcono noma sihlizenze ngotolika;

(l) kumele sibhekele izidingo ezifanelekile zomfundi ikakhulu uma enezidingo ezikhethekile noma ngabe lowo mfundi uyena othathelwe izinyathelo zokuqondiswa izigwegwe noma ewufakazi kulelo cala;

**11. Ilungelo lomfundi**

Usihlalo wesigungu sokuqondisa izigwegwe kumele azise umfundi ngenqubo ezolandelwa nangamalungelo akhe –

- (a) okuquliswa icala ngendlela egcizelela umthetho kodwa enobulungiswa;
- (b) okubakhona uma kuqulwa icala nokuqwashisa umfundi ngemiphumela yokuphutha kwakhe uma kuqulwa icala;
- (c) okunikezwa isikhathi sokulungiselela ukuqulwa kwecala;
- (d) okunikezwa isaziso ngokubhaliwe samacala athweswe wona okungenani ezinsukwini ezinhlanu ngaphambi kokuthi kuqulwe icala;
- (e) okuthi –
  - (i) aphelezwe abazali bakhe noma umuntu okhethwe abazali bakhe uma eza endaweni okuzoqulwa kuyo icala;
  - (ii) amelwe abazali bakhe noma umuntu okhethwe abazali uma sekuqulwa icala;
- (f) okuthola usizo lokuba nomkhulumeli uma umfundi eneminyaka engaphansi kweyi-18 noma ezoba ufakazi ngesikhathi kuqulwa icala;
- (g) okubuza imibuzo nganoma ibuphi ubufakazi obubekwe ezithebeni noma obethulwa ofakazi;
- (h) okubiza ofakazi abazomfakazela;
- (i) okucela utolika, inqobo nje uma ezofaka isicelo ngaphambi kwamahora angama-24 kuqulwe icala;
- (j) okufaka isikhalo nganoma yini etholakale noma ngesigwebo noma ngakho kokubili.

**12. Izigwebo**

(1) Lokhu okulandelayo izigwebo isigungu esilawula isikole esingazinika umfundi otholalake enecala elibucayi lokuziphatha –

- (a) ukumiswa esikoleni izinsuku ezingeqile kweziyisikhombisa;
- (b) nanoma isiphi esinye isigwebo esihlongozwe emgomweni wokuziphatha wesikole;
- (c) ukuxoshwa endaweni yababhodayo.

(2) Isigungu esilawula isikole kumele, ngokubhalwe phansi, sazise umfundi otholwe enecala ngalokhu okulandelayo –

- (a) ngesigwebo esikhishiwe;
- (b) ngezizathu zokuthathwa kwaleso sinqumo;
- (c) ngelungelo lomfundi lokufaka isikhalo kwiNhloko yoMnyango maqondana nesigwebo esikhishwe isigungu esilawula isikole (ngaphandle kokuxoshwa)

**13. Ukuxoshwa**

(1) Umfundi otholakala enecala elibucayi lokuziphatha uyoxoshwa kuphela iNhloko yoMnyango ngezincomo ezenziwe isigungu esilawula isikole. Izincomo kumele zithunyelwe ngendlela enqunywe iNhloko yoMnyango.

(2) Ngesikhathi kusalandwe isinqumo seNhloko yoMnyango –

- (a) isigungu esilawula isikole singamisa noma singelula isikhathi sokumiswa komfundi esikoleni isikhathi esingeqile ezinsukwini eziyi-14 zokufunda;
- (b) isigungu esilawula isikole kumele, nokho, sazise umfundi kanye nabazali bakhe ngokubhalwe phansi ngesinqumo esithathile sokummisa ngesikhathi kusalandwe isinqumo seNhloko yoMnyango;
- (c) umfundi kufanele aqhubeke nokufunda ekhaya ngokusizwa abazali bakhe kanye nesikole afunda kuso ngokunjalo;
- (d) isikole kumele siqinisekise ukuthi umfundi uyakwazi ukuthola izinsiza kufunda;
- (e) umzali uyena oyoba nejoka lokuqiniseka ukuthi umfundi uyakusebenzisa konke ahlinzekwe ngakho ukuze aqhubeke nokufunda.

(3) Ekupheleni kwezinsuku eziyi-14 umfundi emisiwe futhi kusalandwe isinqumo seNhloko yoMnyango, umfundi kumele abuyele esikoleni ukuze aqhubeke nokufunda esikoleni abefunda kuso.

(4) INhloko yoMnyango kumele icubungule izincomo zesigungu esilawula isikole futhi ezinsukwini eziyi-14 kumele ikhiphe isinqumo sokuthi ngabe umfundi iyamxosha noma ayimxoshi esikoleni.

(5) Uma kwenzeka iNhloko yoMnyango ithatha isinqumo sokungamxoshi umfundi, –

- (a) kumele ibeke izizathu ezibhalwe phansi, ngesinqumo sayo sokungamxoshi umfundi;

- (b) ngemva kokubonisana nesigungu esilawula isikole, inganikeza umfundi esifanele; noma
- (c) kumele ibuyisele emuva udaba kwisigungu esilawula isikole ukuthi sikiphe noma isiphi esinye isigwebo esihlongozwe emgomweni wokuziphatha wesikole.
- (6) Uma kwenzeka iNhlolo yoMnyango inquma ukumxosha umfundi, kumele –
- (a) yazise isigungu esilawula isikole kanye nabazali bomfundi, ngokubhalwe phansi, ngesinqumo esithathile sokuxosha umfundi iphinde ibeke nezizathu eziholele ekutheni ithathe lesi sinqumo;
- (b) yazise umfundi kanye nabazali bakhe ngelungelo analo lokufaka isikhalo esiphikisana nesinqumo esithathwe iNhlolo yoMnyango umfundi angasiqondisa kwiLungu loMkhandlu oPhethe ezinsukwini eziyi-14 ethole isaziso sokuxosha kwakhe; futhi
- (c) imfunene isikhala sokufunda kwesinye isikole umfundi okunqunywe ukuthi ayofunda kwesinye isikole sikahulumeni.
- (7) Ngesikhathi kusafakwe isikhalo ngesinqumo sokuxosha komfundi, iNhlolo yoMnyango kumele-
- (a) iqinisekise ukuthi umfundi uyaqhubeka nokuthola imfundo ngendlela ehlongozwe iyona;
- (b) iqinisekise ukuthi ithatha izinyathelo ezinqala ukuvikela amalungelo abanye abafundi; futhi
- (c) ingaphinde ithole enye indlela yokuhlinzeka umfundi ofake isikhalo ngemfundo.
- 14. Ukumiswa kanye nokuxosha ehostela**
- (1) Umfundi otholwe isigungu esilawula isikole enecala elibucayi lokuziphatha angamiswa noma axoshe ehostela lesikole lapho umfundi ehlala khona inqobo nje uma kuzolandelwa inqubo yokuqondisa izigwegwe.
- (2) Umfundi angamiswa noma axoshe ehostela abehlala kulo ngokuhambisana nomgomo wokuziphatha wesikole ngaphandle kokumiswa noma kokuxosha esikoleni afunda kuso.
- 15. Ukufaka isikhalo kwiLungu loMkhandlu oPhethe**
- (1) Umfundi noma umzali onesikhalo ngesinqumo seNhlolo yoMnyango sokuxosha umfundi angafaka isikhalo kwiLungu loMkhandlu oPhethe ezinsukwini eziyi-14 ethole isaziso sokuxosha komfundi.
- (2) Uma iLungu loMkhandlu oPhethe livuna isikhalo somfundi oxoshiwe, kumele liqinisekise ukuthi kukhishwa isigwebo esifanele ezinsukwini eziyi-14 livune isikhalo somfundi.
- (3) Isigwebo esifanele esihlongozwe esigatshaneni soMthetho 15(2) kumele sisebenze njengoba kuhlongozwe kwisigaba soMthetho 13(5)(b) noma (c).
- 16. Okuchithwayo**
- Ngalokhu kuchithwa iSaziso sesiFundazwe No. 285 sika 1997, esashicilelwa *kwiGazethi* yesiFundazwe No. 5222 mhla zingama-21 kuNcwaba 1997.

**NKK. NELISWA PEGGY NKONYENI**

iLungu loMkhandlu oPhethe esiFundazweni saKwaZulu-Natali  
elibhekele iMfundo eyisiSekelo KwaZulu-Natali





# IMPORTANT

## Information

### from Government Printing Works

Dear Valued Customers,

Government Printing Works has implemented rules for completing and submitting the electronic Adobe Forms when you, the customer, submits your notice request.

Please take note of these guidelines when completing your form.



#### **GPW Business Rules**

1. No hand written notices will be accepted for processing, this includes Adobe forms which have been completed by hand.
2. Notices can only be submitted in Adobe electronic form format to the email submission address [submit.egazette@gpw.gov.za](mailto:submit.egazette@gpw.gov.za). This means that any notice submissions not on an Adobe electronic form that are submitted to this mailbox will be **rejected**. National or Provincial gazette notices, where the Z95 or Z95Prov must be an Adobe form but the notice content (body) will be an attachment.
3. Notices brought into GPW by "walk-in" customers on electronic media can only be submitted in Adobe electronic form format. This means that any notice submissions not on an Adobe electronic form that are submitted by the customer on electronic media will be **rejected**. National or Provincial gazette notices, where the Z95 or Z95Prov must be an Adobe form but the notice content (body) will be an attachment.
4. All customers who walk in to GPW that wish to submit a notice that is not on an electronic Adobe form will be routed to the Contact Centre where the customer will be taken through the completion of the form by a GPW representative. Where a customer walks into GPW with a stack of hard copy notices delivered by a messenger on behalf of a newspaper the messenger must be referred back to the sender as the submission does not adhere to the submission rules.
5. All notice submissions that do not comply with point 2 will be charged full price for the notice submission.
6. The current cut-off of all Gazette's remains unchanged for all channels. (Refer to the GPW website for submission deadlines – [www.gpwonline.co.za](http://www.gpwonline.co.za))
7. Incorrectly completed forms and notices submitted in the wrong format will be rejected to the customer to be corrected and resubmitted. Assistance will be available through the Contact Centre should help be required when completing the forms. (012-748 6200 or email [info.egazette@gpw.gov.za](mailto:info.egazette@gpw.gov.za))
8. All re-submissions by customers will be subject to the above cut-off times.
9. All submissions and re-submissions that miss the cut-off will be rejected to the customer to be submitted with a new publication date.
10. Information on forms will be taken as the primary source of the notice to be published. Any instructions that are on the email body or covering letter that contradicts the notice form content will be ignored.

You are therefore advised that effective from **Monday, 18 May 2015** should you not comply with our new rules of engagement, all notice requests will be rejected by our new system.

Furthermore, the fax number **012- 748 6030** will also be **discontinued** from this date and customers will only be able to submit notice requests through the email address [submit.egazette@gpw.gov.za](mailto:submit.egazette@gpw.gov.za).

