

No. 1 14 March 2013**REGULATIONS****(PUBLISHED UNDER PROVINCIAL NOTICE NO ____ OF 2013)****ADMISSION OF LEARNERS TO PUBLIC SCHOOLS**

The Member of the Executive Council responsible for Education in the North West Province does hereby in terms of section 27 of the North West Schools Education Act 1998 (Act No. 3 of 1998) promulgate the regulations as set out in the Schedule.

SCHEDULE**1 Definitions**

In these Regulations any word or expression to which a meaning has been assigned in the Act, shall bear the meaning assigned to it in the Act and unless the context indicates otherwise -

"age norm for a grade" means in respect of each grade the oldest age of a learner who -

- (i) could have been admitted to grade 'R' in accordance with the then prevailing provisions of section 5(4) of the Act; and
- (ii) would subsequently have been promoted to the succeeding grade each year from the year of his or her admission to grade 'R' until his or her admission to the grade in question.

"application period" the period between 1 August and 30 September of each year, during which application may be made to the Department for the admission of learners to a school in respect of the following academic year;

"Department" means the North West Education Department;

"entry level learner" means -

- (i) A learner applying to be admitted to grade 'R';
- (ii) A learner applying for admission to grade 1;
- (iii) A learner applying for admission to grade 8;
- (iv) in the case of schools which do not commence at grades 'R', grade 1 or grade 8, a learner applying for admission to the lowest grade presented in the school concerned.

"feeder area" means the area determined for a primary school by the MEC in accordance with Regulation 4(1);

"feeder primary school" means a feeder primary school, designated for a high school by the MEC in accordance with Regulation 4(3);

"governing body" means the governing body as contemplated in section 16(1) of the Act

"Head of Department" means the head of the North West Education Department;

"hostel" means a facility in which a school provides residential accommodation to learners;

"hostel learner" means a learner as defined in section 1 of the Act, who has applied for admission to a hostel;

"illegal foreigners" means learners who are not citizens of the Republic of South Africa and whose parents are not in possession of a permit for temporary or permanent residence issued by the Department of Home Affairs;

"learner" means a learner as defined in section 1 of the Act, and includes a prospective learner;

"maximum enrolment capacity" means the maximum number of learners whom a school is able to accommodate, taking into account its filled educator posts, physical infrastructure and resources;

"MEC" means the Member of the Executive Council responsible for education in the North West Province;

"parent" means a parent as defined in section 1 of the Act;

"primary residence" means the place where the learner normally resides in the care of his or her parent or officially appointed legal guardian;

"principal" means a principal of a public school as defined in section 1 of the Act;

"school" means a public school as defined in section 1 of the Act, falling under the responsibility of the North West Department of Education and which may include a hostel facility;

"sibling" means a child of a parent of any specific learner;

"the Act" means the South African Schools Act, 1996 (Act No 84 of 1996);

2 Application and purpose of regulations

- (1) The purpose of these regulations is to provide a regulatory framework for public schools in developing school admission policy and in determining applications for admission to a school and matters related thereto.
- (2) These regulations apply to all schools as defined, save to the extent that a school is exempted therefrom by the Head of Department, or by the Member of the Executive Council on appeal.

3 Admission Policy

- (1) A governing body must have a written admission policy, determined by the governing body of that school in terms of section 5(5) of the Act, which contains the criteria and procedure to be applied by the school in determining an application by a learner for admission to that school.
- (2) The admission policy of a school must be consistent with the Act, with the North West Schools Education Act 1998, and with these Regulations.
- (3) A school shall not admit a learner whose primary residence is situated outside of the boundaries of the North West Province.
- (4) The governing body of a school shall lodge a copy of its admission policy and any subsequent amendment thereto with the applicable District Office of the Department.
- (5) No admission policy of a school or any subsequent amendment thereto shall be of any force and effect until it had been formally submitted as contemplated in subregulation (4).
- (6) Receipt of an admission policy by a District Office shall not be construed to imply that the contents thereof is indeed consistent with the Act, the North West Schools Education Act 1998 and with these Regulations.

4 Feeder Areas for Admission to Schools

- (1) The MEC may, by notice in the Provincial Gazette determine the feeder area for any particular school in relation to learner applications for admission to that school.
- (2) The MEC may by notice in the Provincial Gazette designate one or more primary schools as feeder primary schools in relation to a learner applying for admission to a particular high school.
- (3) In determining a feeder area in relation to a school with a hostel, the MEC may differentiate between hostel learners and other prospective learners in respect of the size of such feeder area.

5 Admission of Entry Level Learners

- (1) Learners shall apply for admission to a school in accordance with the prescribed forms and application and admissions procedure determined by the Head of Department.
- (2) Within fourteen (14) days following the end of the application period, each school shall -
 - (i) in accordance with Regulation (6) fill the vacancies within the school in respect of the following academic year from the learners who have applied to it during the application period;
 - (ii) notify all applicants in writing whether or not their applications have been successful;
 - (iii) notify all unsuccessful applicants of the reasons for the failure of their application.
- (3) Notwithstanding the provisions of any school admission policy, in the case of a learner who has not been placed at any school by 30 November of any given year, the Head of Department or his or her delegate may place the learner at any school -
 - (i) which has not reached its maximum enrolment capacity in respect of the following academic year; and
 - (ii) in respect of which no remaining unplaced learners exist on any waiting list of such school.
- (4) In placing a learner at a particular school in terms of subregulation (3), the Head of Department or his or her delegate shall have regard to -
 - (i) the proximity of the school to the learner's primary residence;
 - (ii) the capacity of that school to accommodate the learner relative to the capacity of other schools situated in the area of authority of the specific area office under which that school resorts.
- (5) The provisions of this regulation apply to all schools situated under the authority of the Department, irrespective of whether a school provides hostel accommodation, subject to subregulation (6) below.
- (6) Notwithstanding subregulation (5) a school with a hostel facility may admit a fixed number of learners who would otherwise not qualify for admission to the school in terms of these regulations, subject to the following:
 - (i) the learners must have also applied for, and qualify in terms of the hostel admission policy of the school to be accommodated in the hostel;
 - (ii) the number of learners may not exceed the number of vacancies in the hostel in respect of the following academic year;
 - (iii) the corresponding number of vacancies may be offered to such hostel learners who also qualify in respect of the hostel admission policy in the order in which they applied for admission to the school.
- (7) A learner shall not be admitted to hostel accommodation provided by a school, prior to his or her admission to the school in accordance with the provisions of these regulations.

6 Preferential Rights to Admission for Entry Phase Learners

- (1) For the purposes of entry phase admissions to a primary school, the school must keep an 'A' waiting list and a 'B' waiting list:
 - (a) Applicants for admission to a primary school will be entered on the 'A' waiting list if:

- (i) their primary residence falls within the feeder area of the school; or
 - (ii) they have a sibling already attending the school.
- (b) Applicants for admission to a primary school who do not qualify for the 'A' waiting list must:
 - (i) be entered on the 'B' waiting list; and
 - (ii) be advised in writing by the school that they should seek admission at a school where they qualify to be placed on the 'A' waiting list.
- (2) For the purposes of entry phase admissions to a high school, the school must keep an 'A' waiting list and a 'B' waiting list.
 - (a) Applicants for admission to a high school will be entered on the 'A' waiting list if:
 - (i) their primary residence is within the feeder area of the school; or
 - (ii) they attended a feeder primary school to that high school; or
 - (iii) they have a sibling already attending that school.
 - (b) All applicants for admission to a high school who do not qualify for the 'A' waiting list must be entered on the 'B' waiting list.
- (3) All applicants for admission to a school must be entered on the waiting list for which they are eligible and in the order in which their applications were received by the school.
- (4) All vacancies at the school must be filled in the following order:
 - (i) from waiting list 'A', in the order of the applicant's position on waiting list 'A';
 - (ii) should vacancies remain after all applicants on waiting list 'A' have been accommodated such further vacancies are filled from waiting list 'B' and in the order of the applicant's position on waiting list 'B'.
- (5) Learners who do not apply for admission within the application period enjoy no right to the preferential placement provided for in subregulation (4) and their applications for admission must be dealt with in terms of Regulations 5(3) and 5(4), in the event of the school initially applied at, having reached maximum enrolment capacity.

7 Re-enrolment of Learners

- (1) A learner enrolled at the school at any level other than grade 'R' is entitled to be re-enrolled at that school in the following year, if the school offers teaching and learning at the grade for which he or she will be eligible in the following academic year, subject to subregulations (2) and (4).
- (2) The parent of a learner enrolled at a school at a level other than grade 'R' or at the highest level offered by that school must before the end of the application period complete a written notice which complies substantively with the prescribed form, indicating whether the parent intends to retain the learner at the same school.
- (3) Current learners who have complied with subregulation (2) will be re-enrolled within fourteen (14) days from the termination of the application period.
- (4) Current learners who desire to remain enrolled at the school, but who have failed to comply with subregulation (2), must apply for admission afresh, and such applications are dealt with in terms of Regulations 5 and 6.

8 Transfer of Learners between Schools

- (1) The parent of a learner who is not an entry phase learner and who is currently enrolled at a school (including an independent school) and who applies to be transferred to another school (excluding an independent school) must complete a transfer application, substantively in accordance with the prescribed form.
- (2) The following documents must be attached to the transfer application form:
 - (i) the transfer card of the learner; and
 - (ii) the most recent school report in respect of the learner at his or her existing school;
- (3) The application must be dealt with *mutatis mutandis* as in Regulations 5 and 6.

9 Prohibited Practices

- (1) No learner may be refused admission or re-admission to a school on the grounds of:
 - (i) his or her parents being unable to pay or having failed to pay the school fees determined by the governing body;
 - (ii) him or her having refused to enter into a contract in terms of which his or her parent waives all claims for damages arising out of the learner participating in school activities;
 - (iii) unfair discrimination on any grounds prohibited by law;
 - (iv) him or her not entering into hostel accommodation offered by the school.
- (2) Neither the principal, nor the governing body, nor any person appointed by the principal or governing body may administer any test relating to the admission of a learner to a school.
- (3) No administrative fees may be levied by a school in respect of an application for admission, transfer or notice of re-enrolment.

10 Learners with Specialised Education Needs

- (1) When an application for admission to an ordinary school is received in respect of a learner with specialised education needs, the principal of the school must within five (5) days from receipt of the application refer the application to the Head of Department.
- (2) The Head of Department must arrange for an assessment of the learner to be carried out by expert officials in the field of specialised education, which assessment shall include consultations between the parents or legal guardian of the learner, the principal of the school in respect of which the application is submitted and the expert support personnel referred to.
- (3) If, as a result of the assessment, it is established that the educational support required by the learner cannot reasonably be provided by the school, the Head of Department must have the learner admitted to an alternative suitable public ordinary school, which is able to provide the required additional educational support or to a school for specialised education.

11 Age Norm and Repetition

- (1) Notwithstanding anything contained in these Regulations, a learner who is sixteen years or older and who has never attended school, or is three years or more above the age norm for a grade may not be admitted or re-admitted to a school and must be advised to enrol at an adult basic education and training centre.
- (2) Subject to subregulation (3), where a learner who is sixteen years or older and less than three years above the age norm for a grade or younger than sixteen

years and three years or more above the age norm for a grade, the principal of a school must ensure that such learner be enrolled in an accelerated programme established by the Head of Department to enable such learner to catch up with his or her peer group as soon as possible.

- (3) A learner referred to in subregulation (2) must be accommodated in such an accelerated learning programme until he or she -
 - (i) has completed the accelerated programme; or
 - (ii) has attained the same level as his or her peer group.
- (4) More than one repetition of a specific school grade by a learner is not permissible.

12 Register of Admissions

- (1) The principal of a school must keep a register of all learners who are admitted to the school.
- (2) The register must as a minimum contain the following information pertaining to a learner:
 - (i) full names;
 - (ii) date of birth;
 - (iii) age and gender;
 - (iv) identity number, if available;
 - (v) primary residence address;
 - (vi) full names, addresses and telephone numbers of learner's parents, as well as those of a next of kin;
 - (vii) full names, addresses and telephone numbers of the learner's lawful guardian, if applicable; and
 - (viii) chronic illness or disability, if applicable.
- (3) The authorised officials of the Department must have access to the register of school admissions for purposes of their official duties.

13 Appeal Procedure

- (1) A learner whom is refused admission or re-admission to a school, may appeal in writing against the decision complained of to the MEC.
- (2) The written appeal must reach the office of the MEC within ten (10) days after the appellant became aware of the decision.
- (3) The written appeal must be substantively in the prescribed form and must contain:
 - (i) the grounds or reasons for the appeal;
 - (ii) all information which the appellant deems relevant for purposes of deciding the appeal;
 - (iii) certified photocopies of all documents pertaining to the appeal which the appellant deems relevant.
- (4) The MEC must within five (5) days after receipt of the appeal:
 - (i) notify the chairperson of the school governing body concerned of the appeal;
 - (ii) furnish to the chairperson a copy of the appeal and all accompanying documents.
- (5) The chairperson shall within five (5) days from receipt of the appeal from the

MEC:

- (i) deliver the complete record of the proceedings appealed against to the MEC, which record shall include the application form in respect of the learner, together with all attachments to such application form;
 - (ii) deliver any reasons for the refusal of the application, together with any written response to the appeal which the governing body desires to give.
- (6) The MEC must within ten (10) days after the date of receipt of the documentation or information contemplated in subregulation (5):
- (i) uphold or dismiss the appeal and provide written reasons for such decision;
 - (ii) in the event of upholding the appeal, substitute the decision of the governing body for his or her own decision after consultation with the governing body or without consultation with the governing body refer the matter back to the governing body for reconsideration within five days.
- (7) Notwithstanding the provisions of subregulation (5), the MEC may decide an appeal if the period prescribed in subregulation (5) has expired without compliance therewith by the governing body.
- (8) The governing body must implement any decision taken by the MEC on appeal.

14 Applications for Exemption

- (1) A school may apply in writing and in the prescribed form to the MEC to be exempted from any provision contained in these Regulations.
- (2) In deciding whether or not to grant an application for exemption, the MEC shall have regard to all relevant factors, including the specialised nature of learning and teaching (if any) at the school, its geographical location, the requirements of learners with specialised education needs and the need to achieve consistent application of these Regulations.
- (3) No exemption granted in terms hereof, shall be valid for a period in excess of 24 months, but a school may re-apply for exemption.
- (4) An application for exemption does not suspend the applicability of these Regulations, and an applicant school must comply with its provisions until notified by the Head of Department that exemption, if any, had been granted.

15 Short title

These regulations are called the Regulations on Admission of Learners to Public Schools 2013