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## GENERAL NOTICE

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### NOTICE 707 OF 2015 DEPARTMENT OF EDUCATION

### GAUTENG SCHOOLS EDUCATION ACT, 1995 (Act No. 6 of 1995)

### AMENDMENT OF REGULATIONS RELATING TO GOVERNING BODIES OF PUBLIC SCHOOLS, 2015

The Member of the Executive Council for Education has, in terms of section 31 read with sections 27(5) and 106 of the Gauteng Schools Education Act, 1995 (Act No. 6 of 1995), and section 28 of the South African Schools Act, 1996 (Act No. 84 of 1996), made the Regulations in the Schedule.

#### SCHEDULE

#### GENERAL EXPLANATORY NOTE

[        ] Words in bold type in square brackets indicate omissions from existing enactments.

\_\_\_\_\_ Words underlined with a solid line indicate insertions in existing enactments.

#### Definitions

1. In these Regulations "the Regulations" means the regulations published under General Notice No. 786 of 1997 (Provincial Gazette No. 331 of 28 February 1997), as amended by General Notice No. 1457 of 1997 (Provincial Gazette No. 354 of 6 May 1997) and General Notice No. 592 of 2012 (Provincial Gazette No. 70 of 13 March 2012).

### Amendment of Regulation 1 of the Regulations

2. Regulation 1 of the Regulations is amended—

(a) by the insertion after the definition of "primary school" of the following definition:

""quorum" refers to the minimum number of members who must be present at a meeting, this excludes apologies whether written or verbal and proxy voters (in the case of elections);"; and

(b) by the insertion after the definition of "secondary school" of the following definition:

""section 17 governing body" means a governing body constituted in terms of section 17 of the South African Schools Act, 1996 (Act No. 84 of 1996);".

### Amendment of Regulation 10 of the Regulations

3. Regulation 10 of the Regulations is hereby amended—

(a) by the substitution for subregulation (1) of the following subregulation:

"(1) The Member of the Executive Council may, by notice in the Provincial Gazette, determine that the governance of two or more schools shall vest in a single governing body in terms of section 17 of the South African Schools Act, 1996 (Act No. 84 of 1996), if it is in the best interests of education at the schools in question.";

(b) by the deletion of subregulation (2);

(c) by the insertion after paragraph (a) of subregulation (3) of the following paragraph:

"(aA) stated in the notice the proposed election procedure contemplated for the constitution of the section 17 governing body;"; and

(d) by the addition of the following subregulations, respectively:

"(4) The notice contemplated in subregulation (1) must specify—

(a) the date of commencement of the section 17 governing body; and

(b) the election procedure to be followed for the constitution of the section 17 governing body.

(5) The composition of the section 17 governing body must be as follows:

(a) For the purposes of secondary schools—

(i) the principals from each of the schools governed by the section 17 governing body who must serve on the governing body as ex-officio members;

- (ii) seven parents elected by and from each school that is governed by the section 17 governing body;
            - (iii) two educators elected by and from each school that is governed by the section 17 governing body;
            - (iv) one non-teaching member elected by and from each school that is governed by the section 17 governing body; and
            - (v) two learners from each school elected by and from each school that is governed by the section governing body.
          - (b) For the purposes of primary schools—
            - (i) the principals from each of the schools governed by the section 17 governing body who must serve on the governing body as *ex-officio* members;
            - (ii) five parents elected by and from each school that is governed by the section 17 governing body;
            - (iii) two educators elected by and from each school that is governed by the section 17 governing body; and
            - (iv) one non-teaching member elected by and from each school that is governed by the section 17 governing body.
- (6) The following procedure must apply to the election of members of the governing body serving two or more schools:
  - (a) after the notice contemplated in subregulation (3), but before the date of commencement of the new governing body serving two or more schools—
    - (i) where the governing bodies of the schools, that have been selected to govern two or more schools, have the requisite number of each component of the governing body as required by subregulation 5(a) and (b), respectively, these members must be duly elected;
    - (ii) where the governing bodies of the schools, that have been selected to govern two or more schools, have less than the requisite number of members as required by subregulation 5(a) and (b), these governing bodies must elect the additional members through an election;

- (iii) where the governing body of the schools, that have been selected to govern two or more schools, have more than the requisite number of each component as required by subregulation 5(a) and (b), they must —
- (aa) elect from the members of that governing body the required number of members for each component; and
- (bb) elect among themselves the required number of members to serve on the section 17 governing body.
- (7) The Member of the Executive Council may determine that the members of the section 17 governing body which is elected in accordance with the procedure contemplated in subregulation (6) must serve a shorter period than the period contemplated in regulation 12(1).
- (8) The section 17 governing body must, from its members, elect the following office-bearers, namely a chairperson, a deputy chairperson, a secretary and treasurer for each school governed by the section 17 governing body.
- (9) The chairperson and deputy chairperson must be parent members elected from the different schools contemplated in subregulation (5).
- (10) The section 17 governing body must appoint an executive committee comprising of the chairperson, deputy chairperson, secretary, treasurer and principals from each school.
- (11) Only the chairperson, deputy chairperson, treasurer and principals must have voting rights on the executive committee.
- (12) The provisions of regulations 9, 12 to 15, 33 to 38 and Chapter 6, read with the changes required by the context, must apply to governing bodies serving two or more schools, except that the section 17 governing body must govern and has authority over and be responsible for each school under its jurisdiction.
- (13) Notwithstanding subregulation (1), the schools governed by a section 17 governing body must be separate schools as contemplated in section 15 of the South African Schools Act, 1996, under the auspices of a section 17 governing body.
- (14) The governing body established in subregulation (5) must be subject to all rules and regulations applicable to governing bodies.
- (15) A quorum for any meeting of the combined governing body will be one half of the members representing each of the separate schools."

### **Amendment of Regulation 13 of the Regulations**

4. Regulation 13 of the Regulations is hereby amended by the addition of the following subregulation:

"(7) Where the Member of the Executive Council confirms the decision of the Head of Department, the member may—

- (a) not be re-elected into any governing body for the current term of office during which he or she was removed; and
- (b) only stand for elections in future governing body elections after obtaining permission from the Head of Department."

### **Amendment of Regulation 15 of the Regulations**

5. Regulation 15 of the Regulations is hereby amended by the addition of the following subregulations, respectively:

"(4) Whenever a vacancy contemplated in Regulation 14 occurs—

- (a) the Chairperson of the governing body must, in consultation with the principal, inform the District Director of the vacancy;
- (b) the governing body of the school may co-opt an eligible member, with voting rights, subject to Regulations 28 and 29 of the Regulations, for a period not exceeding 90 days;
- (c) the District Director must appoint an electoral officer for each by-election;
- (d) a by-election must be held within 90 days of the occurrence of the vacancy; and
- (e) the by-election must be held in accordance with Regulations 24 to 27 of these Regulations, depending on the category of representation required.

(5) A member elected in accordance with subregulation (4) remains in office for the unexpired term of office of his or her predecessor: Provided that he or she is still eligible to remain on the governing body in terms of Regulation 16."

### **Amendment of Regulation 16 of the Regulations**

6. Regulation 16 of the Regulations is hereby amended by the substitution for subregulation (8A) of the following subregulation:

"(8A) The co-option of a member without voting rights shall be decided upon by the governing body on an annual basis, with a view to providing other parent members an opportunity to gain experience on the governing body."

### **Amendment of Regulation 23 of the Regulations**

7. Regulation 23 of the Regulations is hereby amended by the substitution for subregulation (2) of the following subregulation:

"(2) A quorum at the poll meeting shall be 15 percent of the total number of parents who are[:

- (a) eligible to vote: and
- (b) in possession of a valid South African identity document, passport or such other legal identity documents] on the voter's roll."

### **Insertion of Regulation 23A into the Regulations**

8. The following Regulation is hereby inserted after Regulation 23:

#### **"Deviation from a single day election to an extended election**

- 23A. (1)** The governing body of a school that intends to hold an extended election must, at least 30 days prior to the intended election, apply to the Head of Department for permission to deviate from the single day election, stating the date and time of election.
- (2)** The Head of Department, or a person delegated by him, must, within seven days of receipt of an application referred to in subregulation (1), consider the application and communicate his or her decision to the school.
- (3)** If the Head of Department is satisfied that—
- (a) the deviation will promote the best interests of the school community and the school and will allow for maximum participation of voters in the voting process;



- (b) the deviation will not discriminate unfairly against any potential voter or group of voters; and
        - (c) sufficient provision is made for the nomination process.  
the application shall be granted.
  - (4) If permission is granted as contemplated in subregulation (3)—
    - (a) the school must communicate the deviation to the electoral officer before notices are sent out to parents;
    - (b) nominations and polling must take place in the manner provided for in Regulations 22 and 23;
    - (c) a quorum of 15 percent of voters is needed for the voting to proceed; and
    - (d) If less than 15 percent of the eligible parents voted, the electoral officer must determine a new date for the voting, where there shall be no quorum requirement.
  - (5) For the purposes of this Regulation—
    - (a) a single day election takes place where there is a poll meeting which is scheduled to begin at a specified time and which proceeds as soon as a quorum is present, or is aborted where a quorum is not present within a reasonable time and is rescheduled for another date.
    - (b) an extended election is one where there is no poll meeting, polling begins at a specified time and continues for an extended period, however, the counting of votes may proceed only if the number of votes cast by close of polls indicates that a quorum has been achieved."

### Short title

9. These Regulations are called the Amendment Regulations relating to Governing Bodies of Public Schools, 2015.













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