

GENERAL NOTICES

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GENERAL NOTICES

WESTERN CAPE EDUCATION DEPARTMENT

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PROCEDURES FOR THE ESTABLISHMENT AND ELECTION OF GOVERNING BODIES AT

PUBLIC SCHOOLS REGULATIONS, 2017

The Provincial Minister of Education in the Western Cape, under section 24, read with section 63, of the Western Cape Provincial School Education Act, 1997 (Act 12 of 1997), has made the regulations set out in the Schedule.

SCHEDULE

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Definitions

1. In these regulations, unless stated otherwise, any word or expression to which a meaning has been assigned in the Act bears the meaning assigned to it and, unless the context indicates otherwise-
- "code of conduct"** means a code of conduct of a governing body as contemplated in section 26A of the Act;
- "day"** means any day, including Saturday, Sunday, a public holiday and a day falling in a school holiday;
- "district electoral officer"** means a senior district official at an education district office who is responsible for overseeing and managing the election process in the district;
- "educator"** means any person appointed by the Head of Department or the governing body in a contract or permanent capacity, including a grade R educator, who teaches, educates or trains other persons or who provides professional educational services, including professional therapy and education psychological services, at a public school, but excluding a person who is appointed exclusively to perform extracurricular duties;
- "member"** means a member of a governing body;
- "non-educator"** means a person, other than an educator, appointed at a school in a contract or permanent capacity in accordance with the Public Service Act, 1994 (Proclamation 103 of 1994), or by the governing body;
- "ordinary school"** means a school other than a school for learners with special education needs;
- "school"** means an ordinary public school or a public school for learners with special education needs;
- "school electoral officer"** means an electoral officer contemplated in regulation 8;
- "school electoral team"** means the school electoral officer appointed in terms of regulation 8(1) together with the persons appointed to assist the school electoral officer in terms of regulation 8(2);
- "sponsoring body"** means a body that provides financial support to a school for learners with special education needs;
- "the Act"** means the Western Cape Provincial School Education Act, 1997 (Act 12 of 1997).

Composition of governing body

2. (1) Subject to subregulation (19) and regulation 6(4), the governing body of an ordinary secondary school, intermediate school or combined school must consist of-
- (a) seven parents who are not employed at the school by the Western Cape Education Department or the governing body;
 - (b) two educators at the school;
 - (c) one non-educator at the school;
 - (d) two learners in the eighth grade or higher elected by the representative council of learners from its own ranks; and
 - (e) the principal.
- (2) Subject to subregulations (3), (4), (5) and (19) and regulation 6(4), the governing body of an ordinary primary school must consist of-
- (a) five parents who are not employed at the school by the Western Cape Education Department or the governing body;
 - (b) two educators at the school;
 - (c) one non-educator at the school; and
 - (d) the principal.
- (3) Subject to subregulation (19) and regulation 6(4), the governing body of an ordinary primary school with a staff establishment of one educator must consist of-
- (a) two parents who are not employed at the school by the Western Cape Education Department or the governing body; and
 - (b) the principal.
- (4) Subject to subregulation (19) and regulation 6(4), the governing body of an ordinary

primary school with a staff establishment of one educator and one non-educator must consist of-

- (a) three parents who are not employed at the school by the Western Cape Education Department or the governing body;
 - (b) the principal; and
 - (c) the non-educator at the school.
- (5) Subject to subregulation (19) and regulation 6(4), the governing body of an ordinary primary school with a staff establishment of two educators and one non-educator must consist of-
 - (a) four parents who are not employed at the school by the Western Cape Education Department or the governing body;
 - (b) the principal;
 - (c) one educator at the school; and
 - (d) the non-educator at the school.
- (6) Subject to subregulation (19) and regulation 6(4), the governing body of a school for learners with special education needs must consist of-
 - (a) seven parents who are not employed at the school by the Western Cape Education Department or the governing body, if reasonably practicable;
 - (b) two educators at the school;
 - (c) one non-educator at the school;
 - (d) two learners in the eighth grade or higher elected by the representative council of learners from its own ranks, if reasonably practicable;
 - (e) the principal;
 - (f) one representative of sponsoring bodies, if applicable;
 - (g) one representative of organisations of parents of learners with special education needs, if applicable;
 - (h) one representative of organisations of disabled persons, if applicable;
 - (i) one disabled person, if applicable; and
 - (j) one expert in appropriate fields of special education needs.
- (7) No decision taken by a governing body or action taken on the authority of a governing body is invalid merely because a vacancy existed on that governing body or because a person who was not entitled to sit as a member of that governing body sat on that governing body as such a member at the time when the decision was taken or the action authorised, if the decision was taken or the action was authorised by one more than half of the members of the governing body who were then present and entitled to sit as members.
- (8) A governing body may co-opt-
 - (a) the owner of the property or his or her nominee if the school is located on private property;
 - (b) persons to assist in fulfilling specified responsibilities.
- (9) Subject to subregulation (10)(b) and regulation 5(6), co-opted members do not have voting rights on the governing body.
- (10) In the circumstances contemplated in subregulations (1), (2), (3), (4) and (5)-
 - (a) the number of parent members who have voting rights must comprise one more than the combined total of other members who have voting rights on the governing body; and
 - (b) if there is a vacancy in the number of parent members as contemplated in paragraph (a), the governing body must temporarily co-opt parents with voting rights.
- (11) If a parent is co-opted with voting rights as contemplated in subregulation (10)(b), the co-option ceases when the vacancy has been filled through a by-election, which must be held within 90 days after the vacancy has occurred, in accordance with the same procedures as those for the election of parent members as detailed in these regulations.
- (12) If the by-election contemplated in subregulation (11) is not held within 90 days after the

vacancy has occurred, the governing body may co-opt parents with voting rights for a further 30 days from the date of the expiration of the 90-day period, during which time the by-election must be held.

- (13) The nomination and election meeting for the by-election contemplated in subregulation (11) must be held in terms of these regulations.
- (14) Subject to subregulation (22), parents of learners of the school must nominate and elect the parent members contemplated in subregulation (1)(a), (2)(a), (3)(a), (4)(a), (5)(a) and (6)(a).
- (15) Educators employed at the school must nominate and elect the educator members contemplated in subregulation (1)(b), (2)(b), (5)(c) and (6)(b).
- (16) Non-educator staff employed at the school must nominate and elect the non-educator member contemplated in subregulation (1)(c), (2)(c) and (6)(c): Provided that if the school has only one non-educator, that member is automatically elected.
- (17) The representative council of learners at the school must nominate and elect the learner members contemplated in subregulation (1)(d) and (6)(d).
- (18) The governing body of a school for learners with special education needs must establish a committee on special education needs as contemplated in section 30(2) of the South African Schools Act.
- (19) The Head of Department may approve the composition and term of office of a governing body at a school that differs from the composition contemplated in subregulation (1), (2), (3), (4), (5) and (6) if-
 - (a) the governing body of the school has applied in writing for such different composition and provided reasons therefor; or
 - (b) a governing body needs to be established to perform the functions of a governing body in the interim, to facilitate the establishment of a new school, and the Head of Department is satisfied that such composition is in the interest of education at the school.
- (20) In the circumstances contemplated in subregulation (19)(a) the number of parent members serving on a governing body of a school contemplated in subregulation (1), (2), (3), (4) and (5) must comprise one more than the combined total of other members who have voting rights.
- (21) The Head of Department may at any time in his or her discretion, withdraw the approval contemplated in subregulation (19) and dissolve the interim governing body composed under subregulation (19)(b), whereupon a new governing body must be composed in accordance with subregulation (1), (2), (3), (4), (5) or (6), as the case may be.
- (22) For the purpose of the establishment of an interim governing body as contemplated in subregulation (19)(b), the district director, in consultation with the principal, if applicable, must submit to the Head of Department the names and particulars of sufficient persons to perform all the functions of the governing body.

Disqualification of members of a governing body

- 3.** A person may not be nominated for or appointed as a member of a governing body if he or she-
 - (a) has at any time been convicted by a court of law of an offence for which he or she received a suspended prison sentence without the option of a fine, or was sentenced to imprisonment without the option of a fine, unless he or she has received a free pardon, or the period of suspension or imprisonment has expired at least three years prior to the date of his or her nomination or appointment as a member of the governing body;
 - (b) has been declared unsuitable to work with children in terms of the Children's Act, 2005 (Act 38 of 2005), or the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act 32 of 2007);
 - (c) is mentally ill and has been declared as such by a court of law;
 - (d) is an unrehabilitated insolvent;
 - (e) in the case of an educator appointed in terms of the Employment of Educators Act, 1998 (Act 76 of 1998), has been found guilty of misconduct and has-
 - (i) received a fine;
 - (ii) been suspended without pay;
 - (iii) been demoted; or
 - (iv) received a combination of the sanctions contemplated in subparagraphs (i) to

- (iii), unless the period of his or her sanction has expired at least three years prior to the date of his or her nomination or appointment as a member of the governing body;
- (f) in the case of a non-educator appointed in terms of the Public Service Act, 1994, or by the governing body, has been found guilty of misconduct and has-
 - (i) been suspended without pay;
 - (ii) been demoted; or
 - (iii) received a combination of the sanctions contemplated in subparagraphs (i) and (ii), unless the period of his or her sanction has expired at least three years prior to the date of his or her nomination or appointment as a member of the governing body;
- (g) in the case of a parent, does not have a child enrolled as a learner at the school concerned and is not a caregiver of the child; or
- (h) has been removed from a governing body by the Head of Department in terms of regulation 4(3) during the previous three years.

Term of office of members of governing body

4. (1) Subject to subregulation (3) and (4) and regulations 5, 6, 20(5), 21(2) and 22(13), the term of office of a member of a governing body who is not a learner must be three years and is effective from the date of the first meeting of the newly elected governing body until the first meeting of the next elected governing body or as determined by the Head of Department.
- (2) The term of office of a learner member must be one year.
- (3) The Head of Department may at any time suspend or terminate the membership of a governing body member for a breach of the code of conduct and after due process was followed in terms of section 26A(5) of the Act.
- (4) If a person elected as a member of a governing body as contemplated in regulation 2(1), (2), (3), (4), (5) or (6) ceases to fall within the category contemplated in that regulation in respect of which he or she was elected as a member, he or she ceases to be a member of the governing body.
- (5) A member of a governing body may be re-elected or co-opted, as the case may be, after the expiry of his or her term of office if he or she is eligible to be a member in terms of these regulations.

Vacancies in governing body

5. (1) A vacancy occurs in a governing body if a member-
 - (a) tenders his or her written resignation;
 - (b) dies;
 - (c) is absent from three consecutive meetings of the governing body without valid reason, after having been duly notified of the meetings;
 - (d) becomes ineligible as contemplated in regulation 3 and 4(4); or
 - (e) has been removed from office in terms of regulation 4(3).
- (2) When a vacancy occurs-
 - (a) in a governing body composed in terms of regulation 2(19)(b), the Head of Department must appoint a member in the vacancy;
 - (b) in a governing body composed in accordance with regulation 2(1), (2), (3), (4), (5), (6) or (19)(a), the vacancy must be filled through a by-election in accordance with the election procedures in terms of these regulations-
 - (i) in the case of a parent member, within 90 days after the occurrence of the vacancy; and
 - (ii) in the case of an educator vacancy, non-educator vacancy or learner vacancy, within 14 days after the occurrence of the vacancy.
- (3) A member appointed in accordance with subregulation (2)(a) or elected to fill a vacancy by means of a by-election in accordance with subregulation (2)(b) obtains membership for the unexpired period of the term of office of his or her predecessor, with voting rights, subject to regulation 4.
- (4) If a vacancy has been filled-

- (a) in accordance with subregulation (2)(a), the Head of Department must; or
 - (b) in accordance with subregulation (2)(b), the secretary of the governing body must, Notify the principal in writing of the name of the person who is no longer a member of the governing body and of the name and address of the person's successor.
- (5) A temporary vacancy occurs in a governing body if a member is absent from three consecutive meetings of the governing body with a valid reason.
- (6) In the circumstances contemplated in subregulation (5) the governing body must co-opt a person from the same category of members as the absent member to perform the functions of the absent member until such time as the absent member is able to resume his or her functions on the governing body.
- (7) In the circumstances contemplated in subregulation (6) the secretary of the governing body must notify the principal in writing of the name of the member who is temporarily absent and the name and address of the person who is temporarily performing the functions of the absent member.

Dissolution and re-composition of governing body

- 6.** (1) The Head of Department may dissolve a governing body if-
- (a) he or she is of the opinion that, owing to the merger of schools or the division of a school or other re-organisation of school facilities, it is necessary to afford parents of the schools or school concerned an opportunity to elect members of a new governing body that will be properly representative of the parents of learners attending the schools or school after such merger, division or re-organisation;
 - (b) the governing body has failed to perform its functions satisfactorily or has acted in a manner that is not in the best interest of the school;
 - (c) at least 60 per cent of all parents entitled to vote under regulation 7(1) vote, at a parents' meeting convened for this purpose, in favour of a motion of no confidence in the governing body.
- (2) (a) The chairperson of a governing body must, within 14 days after he or she has been requested to do so in writing by not less than 30 per cent of the parents entitled to vote in terms of regulation 7(1), convene a parents' meeting referred to in subregulation (1)(c).
- (b) At least 14 days' prior written notice of the meeting must be given, either by sending the notice by post to all parents or by handing the notice to each learner with the oral instruction to hand it to his or her parents.
- (3) Where a governing body has been dissolved under subregulation (1), it becomes inoperative on a date fixed by the Head of Department.
- (4) As soon as possible after the date on which a governing body becomes inoperative-
- (a) the district director must furnish the Head of Department with a list of names of persons, in order of preference, who are eligible to be appointed as members of the governing body; and
 - (b) the Head of Department must appoint sufficient persons from that list to perform the functions of a governing body at the school for a period not exceeding three months.
- (5) The Head of Department must notify the principal forthwith in writing of the names and addresses of the members of the governing body appointed in terms of subregulation (4).
- (6) The Head of Department may extend the period referred to in subregulation (4) by further periods not exceeding three months each, but the total period must not exceed one year.
- (7) A governing body must be elected under these regulations within a year after the appointment of the persons referred to in subregulation (4).

Franchise

- 7.** (1) Every parent who has one or more children enrolled as learners at a school is entitled to vote for parent members of the governing body at that school, and may vote only once for a particular nominee, with a maximum number of votes equal to the number of parent members to be elected.
- (2) In the circumstances contemplated in subregulation (1) no more than two parents per learner are permitted to vote.
- (3) Every educator employed at a school, including the principal, is entitled to vote for educator

members of the governing body at that school, and may vote only once for a particular nominee, with a maximum number of votes equal to the number of educator members to be elected.

- (4) Every member of a representative council of learners at a school is entitled to vote for learner members of the governing body at that school and may vote only once for a particular nominee, with a maximum number of votes equal to the number of learner members from the representative council to be elected.
- (5) Every member of the non-educator staff at a school is entitled to vote for a member of the non-educator staff, and has one vote: Provided that if the school has only one non-educator, that member is automatically elected.

School electoral officer

8. (1) The district director must appoint a principal, or deputy principal if needed, of another school in writing as the school electoral officer, to conduct the nomination and election, as the case may be, of parent, educator and non-educator members contemplated in regulation 2(1), (2), (3), (4), (5) and (6) to a governing body: Provided that a principal or deputy principal may not be appointed as school electoral officer at a school if he or she has children enrolled at that school or has not been trained and certified as a school electoral officer.
- (2) The school electoral officer may appoint one or more persons to assist at a nomination and election meeting: Provided that such a person is not a parent of a learner at the school conducting the nomination and election.
- (3) The school electoral officer must preside at any meeting held for the election of members of a governing body, excluding the election of learner members.

Date, time and venue of nomination and election meeting of parent members

9. (1) The school electoral officer must determine a date, time and venue for a meeting for the nomination and election of parent members and must inform the principal in writing thereof.
- (2) The nomination and election of parent members must be preceded by the election of the other categories of members of the governing body.
- (3) In the case of a new school, the meeting for the nomination and election of parent members must be held not later than 90 days after the opening of the school to learners.
- (4) The Head of Department may, if it is reasonably required in the circumstances, allow an extension in writing of the period contemplated in subregulation (3), but such extension may not exceed six months after the establishment of the school.

Notice of nomination and election meeting of parent members

10. (1) The school electoral officer must prepare a notice, in the form of Annexure A, of the nomination and election meeting contemplated in regulation 9 and a nomination form, in the form of Annexure B, and must, at least 21 days prior to the nomination and election meeting, provide the principal with a copy of the notice and nomination form in order that the provisions of subregulation (4) may be implemented.
- (2) The notice to the parent must-
 - (a) state the date, time and venue of the meeting;
 - (b) include a reminder that parents must bring a form of identification to be allowed to vote; and
 - (c) indicate the date, time and venue of a follow-up meeting, to be held not less than seven days and not more than 14 days after the first meeting, should a quorum not be achieved at the first meeting.
- (3) The identification contemplated in subregulation (2)(b) must be a South African identity card or green barcoded identity document, or a temporary identity document issued by the Department of Home Affairs or, in the case of a foreigner, a permit issued in terms of the Immigration Act, 2002 (Act 13 of 2002): Provided that in the event of such identification not being available an alternative form of identification may be accepted by a member of the school electoral team.
- (4) The principal must at least 21 days prior to the date of the nomination and election meeting for parent members-
 - (a) ensure that the educators hand copies of the notice and nomination form to every learner of the school concerned with the oral instruction to hand it to his or her parents;
 - (b) ensure that copies of the notice and nomination form are sent to the parents of every learner at the school by post, if he or she deems it expedient;

- (c) use a combination of the two notification methods contemplated in subregulation (4)(a) and (b); or
- (d) use any other method to notify the parents of every learner at the school of the nomination and election meeting of parent members, as long as the method of notification does not place any parents at a disadvantage or impede their participation in the election process.

Voters' rolls

11. (1) The principal must make a voters' roll for each of the following categories of voters, containing the names of all parents, educators and non-educators at the school who are entitled to vote as follows:
- (a) the voters' roll for parents must be based on the school admission register, and eligible voters are those persons appearing in the admissions register as parents or who can show proof that they are parents of learners enrolled in the school;
 - (b) the voters' roll for educators must consist of all educators employed at the school; and
 - (c) the voters' roll for non-educators must consist of all non-educators employed at the school. (2) The voters' roll for parents must be made available to parents, at their request, for scrutiny at least 14 days prior to the meeting.

Nomination and election meeting of parent members

12. (1) To nominate a parent candidate, the parent of a learner at the school must-
- (a) lodge with the school electoral officer, not later than seven days before the nomination and election meeting, a nomination form in the form of Annexure B, duly completed by the proposer, seconder and parent candidate; or
 - (b) propose a parent as a member of the governing body during the nomination and election meeting.
- (2) A nomination contemplated in subregulation (1)(b) must be seconded by another parent, and a nomination form in the form of Annexure B must be duly completed by the proposer, the seconder and, if present, the parent candidate, and must be lodged with the school electoral officer within the time contemplated in subregulation (3).
- (3) If a quorum as contemplated in regulation 13(2) is reached, the nomination and election meeting must proceed, and the school electoral officer must determine the time allowed for the nomination of parent candidates and must inform the meeting thereof.
- (4) If a quorum as contemplated in regulation 13(2) is not reached within 30 minutes after the scheduled starting time of the meeting, the follow-up meeting contemplated in regulation 10(2)(c), at which no quorum is required, must be arranged in accordance with subregulation (5).
- (5) In the circumstances contemplated in subregulation (4)-
- (a) the school electoral officer must notify the principal that a quorum has not been reached and that a follow-up meeting as contemplated in regulation 10(2)(c) will be held on the date and at the time and venue stated in the notice;
 - (b) the principal must within two days of the first meeting distribute the notice to the parents by methods contemplated in regulation 10(4);
 - (c) any nominations made in terms of subregulation (1)(a) remain valid for the second meeting; and
 - (d) additional nominations of candidates to stand for election may be lodged at the follow-up meeting.
- (6) A parent may not nominate himself or herself.
- (7) After expiry of the time contemplated in subregulation (3), the school electoral officer must consider the nominations and reject the nomination of any parent who-
- (a) has not been nominated in accordance with subregulation (1)(a) or (2);
 - (b) is ineligible as contemplated in regulation 3;
 - (c) in the case of a nomination contemplated in subregulation (1)(b), did not complete the nomination form, unless written proof to the satisfaction of the school electoral officer is submitted before the expiry of the time contemplated in subregulation (3) that such parent candidate will be willing to serve as a member of the governing body; or

- (d) nominated himself or herself, and thereafter the school electoral officer must make known the names of the parents whose nominations have been accepted.
- (8) If the total number of parent candidates whose nominations have been accepted as contemplated in subregulation (7)-
- (a) is less than the number of members required in terms of regulation 2(1)(a), (2)(a), (3)(a), (4)(a), (5)(a) or (6)(a) in respect of the governing body concerned, a new meeting at which additional parent candidates must be nominated must be convened in accordance with the procedures as set out in these regulations;
 - (b) is equal to the number of the members determined in terms of regulation 2(1)(a), (2)(a), (3)(a), (4)(a), (5)(a) or (6)(a) in respect of the governing body concerned, the school electoral officer must declare every accepted parent candidate to be a duly elected member of the governing body;
 - (c) is more than the number of members determined in terms of regulation 2(1)(a), (2)(a), (3)(a), (4)(a), (5)(a) or (6)(a) in respect of the governing body concerned, a poll must be held in accordance with regulation 13.

Poll at election of parent members

- 13.**
- (1) The poll contemplated in regulation 12(8)(c) must be held on the date and at the time and venue determined in accordance with the nomination and election process.
 - (2) A quorum of parents-
 - (a) consists of 10 per cent of the total number of parents on the voters' roll; and
 - (b) must be present at a poll for an election to take place.
 - (3) The school electoral officer must issue every parent who is entitled to and wishes to vote with an approved ballot paper on which the school stamp appears.
 - (4) A parent must record his or her vote on the ballot paper contemplated in subregulation (3): Provided that if a parent is on account of illiteracy, blindness or any other physical defect unable to record his or her vote, the school electoral officer may, at the request of that parent and in the presence of a witness chosen by the parent, record the vote for the parent candidate or parent candidates indicated by that parent on the ballot paper.
 - (5) The school electoral officer must reject a ballot paper-
 - (a) on which the school stamp contemplated in subregulation (3) does not appear;
 - (b) on which more votes are recorded than the number of members to be elected in accordance with regulation 2; or
 - (c) which is completed in such a way that it is in the opinion of the school electoral officer uncertain for which parent candidate or parent candidates a vote was recorded.
 - (6) The school electoral officer must-
 - (a) in the presence of every parent candidate who wishes to be present, ensure that the votes recorded for every parent candidate are counted by the school electoral team; and
 - (b) declare the determined number of parents in terms of regulation 2(1)(a), (2)(a), (3)(a), (4)(a), (5)(a) or (6)(a) in respect of the governing body concerned for whom the greatest number of votes were recorded to be duly elected members of the governing body and state the number of votes recorded for every parent candidate.
 - (7) If the number of votes recorded for two or more parent candidates is equal and it affects the result of the poll, the school electoral officer must, in the presence of every parent candidate who wishes to be present, draw lots to determine which of the parents are successfully elected.
 - (8) No proxy votes are accepted for governing body elections.

Deviation from single nomination and election meeting

- 14.**
- (1) A governing body may apply to the district director, not less than 60 days prior to the date of the election to be determined in terms of subregulation (4), for approval to deviate from the procedure for the nomination and election of parent members as contemplated in regulations 10, 12 and 13.
 - (2) The application contemplated in subregulation (1) must be fully motivated and must clearly indicate the procedure by which the school intends to manage the nomination and election of the parent members of the governing body.

- (3) The district director must-
- (a) consider the application and decide the matter in writing within 14 days of receipt of the application;
 - (b) grant the application if he or she is satisfied that-
 - (i) the deviation will promote the best interests of the school community and the school concerned;
 - (ii) the deviation will allow for maximum participation of parents to cast their vote during the elections;
 - (iii) the deviation will not compromise the parents' ability to vote for candidates;
 - (iv) the deviation will not discriminate unfairly against any potential voters;
 - (v) effective provision is made for a fair nomination process in the run-up to the election; and
 - (vi) the parents will be duly informed of the particulars of the candidates.
- (4) The school electoral officer must-
- (a) determine the date and time of the election;
 - (b) identify a suitable venue;
 - (c) ensure that the nomination forms and notice of the election are prepared; and
 - (d) ensure that the nomination forms and notice are distributed at least 21 days prior to the election day by methods contemplated in regulation 10(4).
- (5) If the district director grants the application for a deviation-
- (a) there will be no single nomination and election meeting;
 - (b) all nominations must be submitted in writing on a nomination form as contemplated in Annexure B, and must be lodged with the school at which the election is to take place not less than 14 days before the date of the election; and
 - (c) the particulars of the candidates nominated to stand for election and whose nominations have been accepted must be circulated to all parents in the school, in writing, at least seven days before the election.
- (6) For an election held in terms of this regulation to be valid and for nominated candidates to be considered elected, a quorum of parents of at least 10 per cent of the total number of parents on the voters' roll must have voted in the election.
- (7) If a quorum of parents as contemplated in subregulation (6) is not attained, a follow-up election must be held not more than seven days after the previous election, at which a quorum is not required.
- (8) In the circumstances contemplated in subregulation (7)-
- (a) the school electoral officer must provide the principal with a notice stating that a quorum has not been achieved and that a follow-up election must be held; and
 - (b) any prior nominations made or submitted remain valid for the follow-up election.
- (9) (a) A governing body that is not satisfied with the decision of the district director as contemplated in subregulation (3)(a) may lodge an appeal with the Head of Department within 14 days after receiving the decision of the district director.
- (b) The Head of Department must consider the appeal and decide the matter in writing within 14 days of receipt of the appeal.

Nomination and election meeting of educator members

- 15.** (1) The school electoral officer must in a notice in the form of Annexure A indicate a date, time and venue for a meeting for the nomination and election of educator members of the governing body, which must be held at least 14 days before the nomination and election meeting for parent members.
- (2) To nominate an educator, an educator on the establishment of the same school must-
- (a) lodge with the school electoral officer, not more than seven days prior to the

- date of the nomination and election meeting, a nomination form in the form of Annexure B, duly completed by the proposer, seconder and educator candidate; or
- (b) propose an educator as a member of the governing body during the nomination and election meeting.
- (3) A nomination contemplated in subregulation (2)(b) must be seconded by another educator, and a nomination form in the form of Annexure B must be duly completed by the proposer, the seconder and, if present, the educator nominee and must be lodged with the school electoral officer within the time contemplated in subregulation (4).
- (4) If a quorum as contemplated in regulation 16(2) is reached, the school electoral officer must determine the time to be allowed for the nomination of educator candidates during the nomination and election meeting, and must inform the meeting thereof.
- (5) An educator may not nominate himself or herself.
- (6) After expiry of the time contemplated in subregulation (4) the school electoral officer must consider the nominations and reject the nomination of any educator who-
- (a) has not been nominated in accordance with subregulation (2)(a) or (3);
- (b) is ineligible as contemplated in regulation 3;
- (c) in the case of a nomination contemplated in subregulation (2)(b), has not completed the nomination form, unless written proof to the satisfaction of the school electoral officer is submitted before the expiry of the time contemplated in subregulation (4) that the educator candidate is willing to serve as a member of the governing body; or
- (d) has nominated himself or herself, and thereafter the school electoral officer must announce the names of the educator candidates whose nominations have been accepted.
- (7) If the total number of educator candidates whose nominations have been accepted as contemplated in subregulation (6)-
- (a) is less than the number of members determined in terms of regulation 2(1)(b), (2)(b), (5)(c) or (6)(b) in respect of the governing body concerned, a new meeting at which new educator candidates must be nominated must be convened within seven days of the first meeting in accordance with the procedures as set out in these regulations;
- (b) is equal to the number of members determined in terms of regulation 2(1)(b), (2)(b), (5)(c) or (6)(b) in respect of the governing body concerned, the school electoral officer must declare every accepted educator candidate to be a duly elected member of the governing body;
- (c) is more than the number of members determined in terms of regulation 2(1)(b), (2)(b), (5)(c) or (6)(b) in respect of the governing body concerned, a poll must be held in accordance with regulation 16.
- (8) If there are ten or fewer educators on the establishment of a school, the procedure for the nomination of educator members is not followed, but the procedure for the poll contemplated in regulation 16 must be followed.

Poll at election of educator members

- 16.**
- (1) The school electoral officer must prepare a notice of the nomination and election meeting and must distribute a copy of the notice to every educator on the establishment of the school at least seven days before the poll.
- (2) A quorum at the poll consists of a majority of the total number of educators on the establishment of the school.
- (3) The school electoral officer must issue each educator who wishes to cast his or her vote with an approved ballot paper on which the school stamp appears.
- (4) An educator contemplated in subregulation (1) who wishes to vote, must cast his or her vote by writing the names of not more than two educator candidates on the ballot paper.
- (5) The school electoral officer must reject a ballot paper-
- (a) on which the school stamp contemplated in subregulation (3) does not appear;
- (b) on which the names of more than two educator candidates appear; or
- (c) that is completed in such a way that it is, in the opinion of the school electoral officer, uncertain for which educator candidate or educator candidates a vote

was recorded.

- (6) The two educator candidates for whom the greatest number of votes have been recorded must be declared by the school electoral officer as duly elected.
- (7) If no educator candidate receives a majority of the votes, the candidate who receives the lowest number of votes must be eliminated and a further vote taken on the remaining candidates in accordance with these regulations. The procedure must be repeated until an educator candidate receives a majority of the votes.
- (8) When applying subregulation (7), if two or more educator candidates each have the lowest number of votes, a separate vote must be taken on those candidates, and repeated as often as may be necessary to determine which candidate is to be eliminated.

Nomination and election of a non-educator member

17. The procedure for the nomination and election of educator members applies, with the necessary changes, to the nomination and election of a non-educator member.

Nomination and election of learner members

18. The two learner members contemplated in regulation 2(1)(d) and (6)(d) must be elected by the representative council of learners from its own ranks as contemplated in the Determination of the Functions and Procedures for the Establishment and Election of Representative Councils of Learners at Public Schools made by the Provincial Minister under Provincial Notice 272/2014 in *Provincial Gazette* 7317, dated 13 October 2014.

Decisions of school electoral officer

19.
 - (1) The school electoral officer must decide and settle all matters connected with the nomination of candidates and election of members.
 - (2) Subject to regulation 20(1), all disputes about the nomination and election process must be reported to the school electoral officer.
 - (3) The school electoral officer must endeavour to resolve all disputes in order to declare elections undisputed.
 - (4) A decision of the school electoral officer during the nomination and election process is final.
 - (5) Should there be a dispute that the school electoral officer is unable to resolve, the nominations and elections must go ahead.

Decisions of district electoral officer

20.
 - (1) Any person who wishes to lodge an objection against a decision of a school electoral officer must, within seven days after the election of members in the category concerned, lodge the objection in writing with the district electoral officer concerned.
 - (2) The district electoral officer must consider the objection and respond in writing within seven days of receipt of the objection.
 - (3) Any person who is not satisfied with a decision of the district electoral officer may lodge an appeal with the Provincial Minister within 21 days after receiving the decision of the district electoral officer.
 - (4) The Provincial Minister must consider the appeal and decide the matter in writing within 21 days of receipt of the appeal.
 - (5) The members of an outgoing governing body must retain their membership until any objections or appeals lodged in terms of subregulation (1) or (3) have been resolved.

Procedure after election of governing body

21.
 - (1) After the election of a governing body the school electoral officer must-
 - (a) place all documents used in the nomination and election of the members, including all completed ballot papers used in the election and all nomination forms received, in envelopes and seal the envelopes;
 - (b) keep those envelopes in safe custody for a period of at least three years from the date of the election of the governing body;
 - (c) notify each elected member in writing of his or her election; and
 - (d) notify the principal and the district electoral officer within three days of the date of the nomination and election meeting or the poll, as the case may be, in writing of the names and addresses of the persons elected as members.
 - (2) The outgoing governing body must continue to perform its functions until the first meeting of

the newly elected governing body as contemplated in regulation 22(1).

Election of office-bearers

- 22.**
- (1) The principal must convene the first meeting of a newly elected governing body within seven days after receiving the notice contemplated in regulation 21(1)(d) in order to elect the office-bearers of the governing body.
 - (2) The handover process must take place within 14 days of the first meeting of the new governing body and the principal must facilitate the handover process.
 - (3) At the first meeting of the governing body, the body must from among its members elect office-bearers, who must comprise at least a chairperson, a treasurer and a secretary.
 - (4) No member may hold more than one office of the governing body simultaneously.
 - (5) In the circumstances contemplated in regulation 2(1), (2), (3), (4) and (5), only a parent member of a governing body may serve as chairperson or deputy chairperson of the governing body.
 - (6) Any educator, non-educator or parent member, including a co-opted member of the governing body, may serve as secretary or treasurer.
 - (7) Any member with voting rights may serve as chairperson of a committee of the governing body.
 - (8) Subject to subregulation (9), the office-bearers must remain in office for a term of 12 months from their election.
 - (9) An office-bearer of a governing body may be re-elected as an office-bearer after the expiry of his or her term of office, provided that he or she still qualifies to be a member of the governing body.
 - (10) If for any reason the office of an office-bearer becomes vacant, the governing body must at the first meeting after the vacancy has occurred, elect one of its members to fill the vacancy for the unexpired period of office of his or her predecessor.
 - (11) The principal must preside at an election contemplated in subregulation (3) and (10).
 - (12) The principal must, after a meeting at which any office-bearer has been elected in accordance with this regulation, notify the Head of Department by means of the Western Cape Education Department's online management information system of the date of the meeting, the name and address of the person elected and the office into which he or she has been elected.
 - (13) At the expiry of his or her term of office, an outgoing office-bearer must perform his or her functions until the election of the new office-bearer who is to replace him or her has taken place, provided that the new office-bearer qualifies to be a member of the governing body.

Meetings of governing body

- 23.**
- (1) The chairperson of a governing body must determine the date, time and venue of a meeting of the governing body, and the secretary of the governing body must notify each member in writing thereof at least 14 days prior to such meeting.
 - (2) In the circumstances contemplated in subregulation (1), if the chairperson of the governing body is of the opinion that a matter requires urgent attention, the secretary of the governing body must give each member at least 24 hours' notice of the meeting.
 - (3) Any person may on the invitation of a governing body be present at a meeting of the body and take part in the discussion, but may not vote and must leave the meeting when the governing body makes a decision.
 - (4) A governing body may require any staff member of the school concerned to attend a meeting of the body in connection with any matter relating to the functions of the governing body.
 - (5) The majority of all the enfranchised members of a governing body constitutes a quorum for any meeting of the governing body.
 - (6) A governing body must determine its own rules relating to its meetings and the procedures at such meetings.

Minutes of proceedings of meetings

- 24.**
- (1) The secretary of a governing body must keep minutes of the proceedings of every meeting of the governing body and must provide each member of the governing body with a copy of the minutes at least 14 days prior to the next meeting.
 - (2) The secretary of a governing body must provide, on reasonable request and for a specific

purpose, the Head of Department, or any person duly designated by the Head of Department, with a copy of the minutes.

- (3) The secretary of a governing body must provide, on request, a parent of a learner at the school or an educator or a non-educator at the school with a copy of those parts of the minutes relevant to the protection of the rights or interests of the parent or his or her child, the educator or non-educator, as the case may be.
- (4) In the circumstances contemplated in subregulation (3) there must be no violation of the rights of any other persons, or breach of confidentiality where such breach is not in the best interests of the school or member of the governing body, member of staff, parent or learner at the school.
- (5) The minutes of a meeting of a governing body or a committee thereof must at the next meeting of the governing body or a committee thereof, as the case may be, be submitted for approval.
- (6) Upon the dissolution of a governing body or the expiry of its term of office, all minutes and other documents of the governing body and any committee thereof must be handed to the principal of the school.
- (7) At the closure of a school, the principal must hand in all minutes and other documents of the governing body or any committee thereof to the Head of Department for safekeeping.

Transitional provisions

25. A governing body at a public school which, at the commencement of these regulations, was validly constituted in terms of the Determination of the Procedures for the Establishment and Election of Governing Bodies at Public Schools published under Provincial Notice 40/2015 in *Provincial Gazette* 7352 of 6 February 2015, is regarded as being constituted in terms of these regulations.

Repeal

26. The Determination of the Procedures for the Establishment and Election of Governing Bodies at Public Schools published under Provincial Notice 40/2015 in *Provincial Gazette* 7352 of 6 February 2015, is repealed.

Short title and commencement

27. These regulations are called the Procedures for the Establishment and Election of Governing Bodies at Public Schools Regulations, 2017, and come into operation on 18 August 2017.

ANNEXURE A

Notice of Nomination and Election Meeting

Election of Parents of Learners / Educators / Non-Educators to the Governing Body

(Regulations 10, 12, 13, 15, 16 and 17 of the Procedures for the Establishment and Election of Governing Bodies at Public Schools Regulations, 2017)

NAME OF SCHOOL:

Notice is hereby given that a meeting for the nomination and election of candidates for the election of (parents of learners / educators / non-educators) as members of the governing body for the above-mentioned school will be held on(date) at.....(time) in

.....(venue). Should a quorum not be reached, a follow-up meeting will be held on(date) at(time).

It will be determined at(time) on the evening of the nomination and election meeting whether enough parents / educators / non-educators entitled to vote are present for the meeting to go ahead. Parents / educators / non-educators are therefore encouraged to attend the meeting, and parents must bring with them their South African identity card or green barcoded identity document, or a temporary identity document issued by the Department of Home Affairs or, in the case of a foreigner, a permit issued in terms of the Immigration Act, 2002 (Act 13 of 2002).

Please arrive at the meeting before(time).

A candidate may be nominated at the meeting or by lodging with the school electoral officer not later than seven days before the above meeting, a nomination form duly completed by a proposer, a seconder and the nominated candidate. For this purpose, nominations will be accepted at the school from(date) until.....(time) on(date).

If more candidates are nominated than the number of members to be elected, a poll will be conducted after the nominations have been submitted.

DATE

SIGNATURE OF SCHOOL ELECTORAL OFFICER

ADDRESS:

ELECTION RULES

(To accompany notice of a nomination and election meeting)

1. COMPOSITION OF GOVERNING BODY

- (a) A governing body of an ordinary secondary school, an intermediate school and a combined school must consist of-
- (i) seven parents who are not employed at the school by the Western Cape Education Department or the governing body;
 - (ii) two educators at the school, elected by educators employed at the school;
 - (iii) one non-educator at the school, elected by staff at the school who are not educators;
 - (iv) two learners in the eighth grade or higher elected by the representative council of learners from its own ranks; and
 - (v) the principal.
- (b) Subject to paragraphs (c), (d) and (e), a governing body of an ordinary primary school must consist of-
- (i) five parents who are not employed at the school by the Western Cape Education Department or the governing body;
 - (ii) two educators at the school, elected by educators employed at the school;
 - (iii) one non-educator at the school, elected by staff at the school who are not educators; and
 - (iv) the principal.
- (c) A governing body of an ordinary primary school with a staff establishment of one educator must consist of-
- (i) two parents who are not employed at the school by the Western Cape Education Department or the governing body; and
 - (ii) the principal.
- (d) A governing body of an ordinary primary school with a staff establishment of one educator and one non-educator must consist of-
- (i) three parents who are not employed at the school by the Western Cape Education Department or the governing body;
 - (ii) the principal; and
 - (iii) the non-educator at the school.
- (e) A governing body of an ordinary primary school with a staff establishment of two educators and one non-educator must consist of-
- (i) four parents who are not employed at the school by the Western Cape Education Department or the governing body;
 - (ii) one educator at the school, elected by educators employed at the school;
 - (iii) the non-educator at the school; and
 - (iv) the principal.
- (f) A governing body of a school for learners with special education needs must consist of-
- (i) seven parents who are not employed at the school by the Western Cape Education Department or the governing body, if reasonably practicable;
 - (ii) two educators at the school, elected by educators employed at the school;
 - (iii) one non-educator at the school, elected by staff at the school who are not educators;

- (iv) two learners in the eighth grade or higher elected by the representative council of learners from its own ranks, if practicable;
- (v) the principal;
- (vi) one representative of sponsoring bodies, if applicable;
- (vii) one representative of organisations of parents of learners with special education needs, if applicable;
- (viii) one representative of organisations of disabled persons, if applicable;
- (ix) one disabled person, if applicable; and
- (x) one expert in appropriate fields of special education needs.

2. NOMINATIONS OF PARENT MEMBERS

- (a) Each parent candidate must be proposed and seconded on a nomination form by parents entitled to vote as indicated in paragraph 4 below. A voter who proposes or seconds a parent candidate must first establish that the parent candidate is not disqualified to be elected as a member as indicated in paragraph 3 below.
- (b) A separate nomination form must be completed for each nomination of a parent candidate.
- (c) The electoral officer shall determine the time to be allowed for the nomination of parent candidates prior to the nomination and election meeting and during the nomination and election meeting, and shall inform the meeting thereof.
- (d) A parent candidate may not nominate himself or herself.

3. DISQUALIFICATION OF MEMBERS

A person may not be nominated or appointed as a member of a governing body if he or she-

- (a) has at any time been convicted by a court of law of any offence for which he or she received a suspended prison sentence without the option of a fine or was sentenced to imprisonment without the option of a fine, unless he or she has received a free pardon, or the period of suspension or imprisonment has expired at least three years prior to the date of his or her nomination or appointment as a member of the governing body;
- (b) has been declared unsuitable to work with children in terms of the Children's Act, 2005 (Act 38 of 2005), or the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act 32 of 2007);
- (c) is mentally ill and has been declared as such by a court of law;
- (d) is an unrehabilitated insolvent;
- (e) in the case of an educator appointed in terms of the Employment of Educators Act, 1998 (Act 76 of 1998), has been found guilty of misconduct and has-
 - (i) received a fine;
 - (ii) been suspended without pay;
 - (iii) been demoted; or
 - (iv) received a combination of the sanctions contemplated in subparagraphs (i) to (iii), unless the period of his or her sanction has expired at least three years prior to the date of his or her nomination or appointment as a member of the governing body;
- (f) in the case of a non-educator appointed in terms of the Public Service Act, 1994, (Proclamation 103 of 1994), or by the governing body, has been found guilty of misconduct and has-
 - (i) been suspended without pay;
 - (ii) been demoted; or
 - (iii) received a combination of the sanctions contemplated in subparagraphs (i) and (ii), unless the period of his or her sanction has expired at least three years prior to the date of his or her nomination or appointment as a member of the governing body;
- (g) in the case of a parent, does not have a child enrolled as a learner at the school concerned and is not a caregiver of the child; or
- (h) has been removed from a governing body by the head of the Western Cape Education Department during the previous three years.

4. FRANCHISE

- (a) Every parent of one or more children enrolled at the school at the time of the election of members of the governing body is entitled to vote for parent members at the election. A maximum of two parents per learner will be allowed to vote.
- (b) Every educator employed at the school at the time of the election of members of the governing body, including the principal, is entitled to vote for educator members at the election.
- (c) Every non-educator employed at the school at the time of the election of members of the governing body, is entitled to vote for non-educator members at the election: Provided that if the school has only one non-educator, that member is automatically elected.
- (d) Every member of the representative council of learners at the school at the time of the election of members of the governing body is entitled to vote for learners on the representative council of learners at the election.
- (e) A person who is entitled to vote may vote only once for a particular candidate, with a maximum number of votes equal to the number of members to be elected in the relevant category of members.

5. GENERAL

The principal may-

- (a) include such additional information to this annexure as he or she may deem necessary for the smooth progress of the election, for example, the importance of parent participation; or
- (b) omit those parts of the annexure that are not relevant to the election in question.

ANNEXURE B

NOMINATION FORM

Election of Parents of Learners / Educators / Non-Educator as Members of Governing Body

(Regulations 10, 12, 13, 14, 15, 16 and 17 of the Procedures for the Establishment and Election of Governing Bodies at Public Schools Regulations, 2017)

(The achievement of the highest practicable level of representation must be striven for in the nomination and election of members of the governing body, and we therefore encourage parents / educators / non-educators to participate in this process.)

NAME OF SCHOOL:

PROPOSER:

I,,

(Full name)

of

(Residential address)

being a parent of a learner / educator / non-educator of the above-mentioned school, hereby propose

.....

(Full name of candidate)

as a member of the governing body of the above-mentioned school.

.....

SIGNATURE OF PROPOSER

SECONDER:

I,,

(Full name)

of

(Residential address)

being a parent of a learner / educator / non-educator of the above-mentioned school, hereby second the above-mentioned proposal.

.....

SIGNATURE OF SECONDER

CANDIDATE:

I,,

(Full name)

of

(Residential address)

hereby declare that I-

- (a) accept the above-mentioned nomination; and
- (b) am not disqualified from being a member of a governing body contemplated in paragraph 3 of the "Election Rules" (see Annexure A).

.....

SIGNATURE OF CANDIDATE

OR

(IF PROPOSED AT NOMINATION AND ELECTION MEETING AND NOT PRESENT TO COMPLETE THE NOMINATION FORM)

I,,

(Full name)

declare that written proof to my satisfaction has been submitted that the above-mentioned candidate, who is not present at the nomination and election meeting to complete the nomination form, will, if elected, be willing to serve as a member of the governing body.

.....

SIGNATURE OF SCHOOL ELECTORAL OFFICER

This nomination is accepted / rejected.

(Delete which is not applicable.)

.....

DATE

SIGNATURE OF SCHOOL ELECTORAL OFFICER