



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

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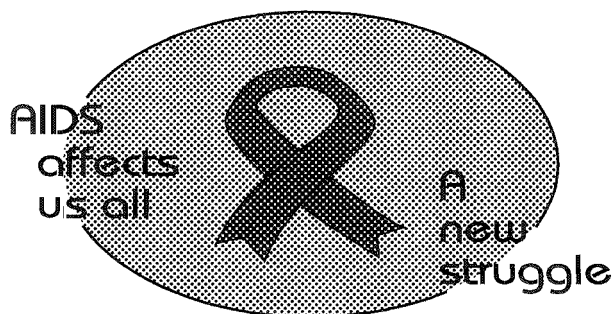
**Vol. 3**

**PIETERMARITZBURG,**

29 MAY 2009  
29 MEI 2009  
29 KU NHLABA 2009

**No. 283**

**We all have the power to prevent AIDS**



**AIDS  
HELPLINE**

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DEPARTMENT OF HEALTH

**Prevention is the cure**

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**PROVINCIAL NOTICE—PROVINSIALE KENNISGEWING—IZAZISO ZESIFUNDAZWE**

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No. 98

29 May 2009

**SOUTH AFRICAN SCHOOLS ACT, 1996 (ACT NO. 84 OF 1996)****NOTICE RELATING TO THE  
MINIMUM REQUIREMENTS OF A CONSTITUTION OF GOVERNING BODIES OF PUBLIC  
SCHOOLS**

I, EDWARD SENZO MCHUNU, Member of the Executive Council responsible for Education in the Province of KwaZulu-Natal have, in terms of section 18 of the South African Schools Act, 1996 (Act No. 84 of 1996), determined minimum requirements of Constitutions of governing bodies as it appears in this Schedule.

**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);

“**chairperson**” means the chairperson of a governing body;

“**governing body**” means the duly elected governing body of a public school comprising of elected and co-opted members;

“**non-educator**” means any other member of staff other than an educator;

“**school**” means a public school which enrolls learners in one or more grades from grade R (reception) to grade 12;

“**secretary**” means the person elected as secretary of the governing body or the person who acts in the absence of the elected secretary;

“**Superintendent General**” means the Head of Department of the Department of Education in the Province of KwaZulu-Natal.

**2. Ordinary meetings of a governing body**

(1) A governing body meets at least once during a school term.

(2) The chairperson of a governing body determines the date, time and place of a meeting.

(3) The secretary of a governing body shall, at least 14 days prior to the meeting, notify each member in writing –

(a) of the date, time and place of a meeting; and

(b) the business to be transacted at that meeting.

**3. Urgent meetings**

(1) The chairperson may call a meeting to discuss urgent matters.

(2) The secretary must give at least 24 hours written notice of an urgent meeting.

(3) The only business which may be transacted at an urgent meeting is the business for which the meeting was called.

**4. Extraordinary meetings**

(1) The chairperson may call extraordinary meetings.

(2) The chairperson is obliged to call an extraordinary meeting on the receipt of a written request –

(a) signed by at least three elected members of the governing body setting out the business to be transacted at the meeting; or

(b) of the Superintendent General or his or her delegate setting out the business to be transacted at the meeting

(3) The secretary of a governing body shall, at least 14 days prior to the meeting, notify each member in writing –

(a) of the date, time and place of a meeting; and

(b) the business to be transacted at that meeting.

(4) The only business which may be transacted at an extra-ordinary meeting is the business for which the meeting was called.

**5. Meetings at short notice**

(1) Except for urgent meetings, a meeting may be held at a shorter notice than 14 days: provided that –

(a) all members at the meeting agree in writing to a meeting being held despite the

- lack of sufficient notice; or
- (b) the majority of the members present at a meeting called on short notice, pass a motion condoning the lack of adequate notice.

6. **Annual meetings**

- (1) The governing body must at least once a year hold separate meetings with –
- (a) parents;
  - (b) learners;
  - (c) educators; and
  - (d) non-educators.
- (2) The chairperson shall call the annual meeting and shall determine the dates, time and place of each meeting.
- (3) The secretary shall, at least 14 days prior to each meeting, notify in writing the parents, learners, educators and non-educators as the case may be of –
- (a) the date, time and place of the meeting; and
  - (b) the business to be transacted thereat.
- (4) The purpose of the annual meetings is for the chairperson to provide a report on the activities of the governing body during the reporting year and report on any other matters which may be raised by the participants in that meeting.

7. **Proceedings at meetings**

- (1) Any person, on the invitation of the governing body, may be present at a meeting of the governing body and take part in the discussion, but may not vote and shall leave the meeting when the governing body so decides.
- (2) A governing body may require any staff member of the school concerned to attend a meeting in connection with any matter relating to the functions of the governing body.
- (3) A governing body must determine its own rules relating to its meetings and procedures at meetings. Such rules must not be in conflict with the provisions of the act, and directives issued by the Superintendent General.
- (4) Where a member has a personal interest in any matter under discussion, he or she must recuse himself or herself from the discussion and leave the meeting for the duration of the discussion. If the secretary is required to leave the meeting, the members must nominate a member to act as secretary for the duration of the discussion.
- (5) The non-receipt of a notice, duly dispatched, and the consequent absence of a member from a meeting does not affect the validity of proceedings at such a meeting, provided that the requirements of clause 8 are met.

8. **Quorum**

- (1) The quorum of a meeting is constituted when 50 percent plus 1 member of the governing body with voting powers is present at any meeting.
- (2) If a quorum is not constituted at a properly convened meeting, the meeting shall be adjourned for at least seven days but not more than 14 days.
- (3) The secretary must give at least seven days notice of the adjourned meeting.
- (4) A governing body is entitled to deal with all business on the agenda of an adjourned meeting on the day to which the meeting was adjourned, irrespective of whether a quorum is present or not.

9. **Minutes**

- (1) The secretary of a governing body must record the minutes of every meeting in the language determined by the meeting, in a bound book with fixed numbered pages used exclusively for that purpose.
- (2) The secretary of a governing body must record the following in the minutes of every meeting –
- (a) the names of members present;
  - (b) the names of members who are absent and whether such absence is with or without
  - (c) the core discussions which took place at the meeting; and
  - (d) the decisions taken by the meeting.

- (3) After an ordinary meeting has been constituted, the secretary must read the minutes of the previous ordinary meeting, as well as the minutes of any extra-ordinary meeting or meetings which took place in the interim.
- (4) A meeting adopts the minutes with amendments, if any, as decided by the meeting.
- (5) The approved minutes are confirmed by the signature of the chairperson and by him or her dating the minutes accordingly.
- (6) The minutes of meetings must at all reasonable times be open for inspection by the members, the district manager or the Superintendent General or his or her delegate.
- (7) A principal of a school which has been closed in terms of section 33 of the Act, must within 14 days of closure, hand in all minutes and other documents of the governing body to the district manager concerned for safe-keeping.

**10. Taking of decisions**

- (1) The decisions of the governing body shall be by consensus.
- (2) In instances where there is no consensus and there are divergent views on an issue under discussion the issue must be referred to a vote.
- (3) Where a decision is taken by a majority vote such decision shall be binding on all members of the governing body.
- (4) Where a matter is put to the vote and there is a tie, the chairperson shall have a casting vote.

**11. Access to books and documents**

The Superintendent General, or an official authorized thereto by him or her shall at all times have access to any books, minutes and documents of any governing body.

**12. Delegation of powers**

The Superintendent General may delegate the powers bestowed on him or her in terms of this regulation to an official in the employ of the Department.

**ES MCHUNU**

**Member of the Executive Council of the Province of KwaZulu-Natal responsible for education**

No. 98

29 Mei 2009

**WET OP SUID-AFRIKAANSE SKOLE, 1996 (WET NO. 84 VAN 1996)**

**KENNISGEWING TEN OPSIGTE VAN DIE MINIMUM VEREISTES VAN 'N GRONDWET VAN BEHEERLIGGAME VAN STAATSKOLE**

Ek, EDWARD SENZO MCHUNU, Lid van die Uitvoerende Raad verantwoordelik vir onderwys in die provinsie KwaZulu-Natal het, ingevolge artikel 18 van die Wet op Suid-Afrikaanse Skole, 1996 (Wet No. 84 van 1996), minimum vereistes bepaal vir grondwette van beheerliggame soos vermeld in hierdie bylae.

**BYLAE**

**1. Omskrywings**

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

“**beheerliggaam**” die behoorlik verkose beheerliggaam van 'n staatskool bestaande uit verkose en gekoöpteerde lede;

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

“**sekretaris**” die persoon wat verkies word as sekretaris van die beheerliggaam of die persoon wat optree in die afwesigheid van die verkose sekretaris;

“**skool**” 'n staatskool wat leerders in een of meer graad vanaf graad O (ontvangs) tot graad 12 laat inskryf;

“**superintendent-generaal**” die departementshoof van die Onderwysdepartement in die provinsie KwaZulu-Natal;

“**voorsitter**” die voorsitter van 'n beheerliggaam; en

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

**2. Gewone vergaderings van 'n beheerliggaam**

(1) 'n Beheerliggaam vergader ten minste eenmaal gedurende 'n skooltermyn.

(2) Die voorsitter van 'n beheerliggaam bepaal die datum, tyd en plek van 'n vergadering.

(3) Die sekretaris van 'n beheerliggaam moet, ten minste 14 dae voor die vergadering, elke lid skriftelik in kennis stel van –  
 (a) die datum, tyd en plek van 'n vergadering; en  
 (b) die sake wat by daardie vergadering onderhandel moet word.

**3. Dringende vergaderings**

(1) Die voorsitter kan 'n vergadering belê om dringende aangeleenthede te bespreek.

(2) Die sekretaris moet ten minste 24 uur skriftelike kennisgewing van 'n dringende vergadering gee.

(3) Die enigste sake wat by 'n dringende vergadering onderhandel mag word, is die sake waarvoor die vergadering belê is.

**4. Buitengewone vergaderings**

(1) Die voorsitter kan buitengewone vergaderings belê.

(2) Die voorsitter is verplig om 'n buitengewone vergadering te belê by die ontvangs van 'n skriftelike versoek –

(a) geteken deur ten minste drie verkose lede van die beheerliggaam wat die sake wat by die vergadering onderhandel moet word, uiteensit; of

(b) van die superintendent-generaal of haar of sy afgevaardigde wat die sake wat by die vergadering onderhandel moet word, uiteensit.

(3) Die sekretaris van 'n beheerliggaam moet, ten minste 14 dae voor die vergadering, elke lid skriftelik in kennis stel –

(a) van die datum, tyd en plek van 'n vergadering; en

(b) die sake wat by daardie vergadering onderhandel moet word.

(4) Die enigste sake wat by 'n buitengewone vergadering onderhandel mag word, is die sake waarvoor die vergadering belê is.

**5. Vergaderings op kort kennisgewing**

(1) Buiten dringende vergaderings, kan vergadering op korter kennisgewing as 14 dae gehou word: met dien verstande dat –

(a) alle lede by die vergadering skriftelik instem dat 'n vergadering gehou word ten spyte van die gebrek aan voldoende kennisgewing; of

(b) die meerderheid van die lede teenwoordig by 'n vergadering wat op kort kennisgewing belê is, 'n mosie aanvaar wat die gebrek aan voldoende kennisgewing kondoneer.

**6. Jaarlikse vergaderings**

(1) Die beheerliggaam moet ten minste eenmaal per jaar afsonderlike vergaderings hou met –

- (a) ouers;
  - (b) leerders;
  - (c) opvoeders; en
  - (d) nie-opvoeders.
- (2) Die voorsitter moet die jaarlikse vergadering belê en die datums, tyd en plek van elke vergadering bepaal
- (3) Die sekretaris moet, ten minste 14 dae voor elke vergadering, die ouers, leerders, opvoeders en nie-opvoeders, na gelang van die geval, skriftelik in kennis stel van –
- (a) die datum, tyd en plek van die vergadering; en
  - (b) die sake wat daarby onderhandel moet word.
- (4) Die doel van die jaarlikse vergaderings is dat die voorsitter 'n verslag verskaf aangaande die aktiwiteite van die beheerliggaam gedurende die verslagjaar en verslag doen aangaande enige ander aangeleenthede wat deur die deelnemers in daardie vergadering geopper word.

#### 7. Verrigtinge by vergaderings

- (1) Enige persoon kan, op uitnodiging van die beheerliggaam, teenwoordig wees by 'n vergadering van die beheerliggaam en deelneem aan die bespreking, maar mag nie stem nie en moet die vergadering verlaat wanneer die beheerliggaam aldus besluit.
- (2) 'n Beheerliggaam kan van enige personeelid van die betrokke skool vereis om 'n vergadering by te woon rakende enige aangeleentheid wat verband hou met die funksies van die beheerliggaam.
- (3) 'n Beheerliggaam moet sy eie reëls ten opsigte van sy vergaderings en prosedures by vergaderings bepaal. Sodanige reëls moet nie teenstrydig wees met die bepalings van die Wet en opdragte wat deur die superintendent-generaal uitgereik is nie.
- (4) Wanneer 'n lid 'n persoonlike belang in enige aangeleentheid onder bespreking het, moet hy of sy hom- of haarself onttrek van die bespreking en die vergadering verlaat vir die duur van die bespreking. Indien daar van die sekretaris vereis word om die vergadering te verlaat, moet die lede 'n lid benoem om as sekretaris op te tree vir die duur van die bespreking.
- (5) Die nie-ontvangs van 'n kennisgewing wat behoorlik versend is, en die gevolglike afwesigheid van 'n lid van 'n vergadering beïnvloed nie die geldigheid van verrigtinge by sodanige vergadering nie, met dien verstande dat die vereistes van klousule 8 nagekom word.

#### 8. Kworum

- (1) Die kworum van 'n vergadering word gevorm wanneer 50 persent plus een lid van die beheerliggaam met stemreg by enige vergadering teenwoordig is.
- (2) Indien 'n kworum nie gevorm word by 'n vergadering wat behoorlik belê is nie, moet die vergadering vir ten minste sewe dae, maar nie meer as 14 dae nie, uitgestel word.
- (3) Die sekretaris moet ten minste sewe dae kennisgewing van die uitgestelde vergadering gee.
- (4) 'n Beheerliggaam is daarop geregtig om al die sake op die agenda van 'n uitgestelde vergadering te hanteer op die dag waartoe die vergadering uitgestel is, ongeag of 'n kworum teenwoordig is of nie.

#### 9. Notule

- (1) Die sekretaris van 'n beheerliggaam moet die notule van elke vergadering notuleer in die taal wat deur die vergadering bepaal word, in 'n gebinde boek met vaste genommerde bladsye wat uitsluitlik vir daardie doel gebruik word.
- (2) Die sekretaris van 'n beheerliggaam moet die volgende in die notule van elke vergadering notuleer –
- (a) die name van lede teenwoordig;
  - (b) die name van lede wat afwesig is en hetsy sodanige afwesigheid met of sonder verlof is;
  - (c) die kernbesprekings wat by die vergadering plaasgevind het; en
  - (d) die besluite wat deur die vergadering geneem is.
- (3) Nadat 'n gewone vergadering gevorm is, moet die sekretaris die notule van die vorige gewone vergadering, asook die notule van enige buitengewone vergadering of vergaderings wat in die tussentyd plaasgevind het, lees.
- (4) 'n Vergadering aanvaar die notule met wysigings, indien enige, soos besluit deur die vergadering.
- (5) Die goedgekeurde notule word bevestig deur die handtekening van die voorsitter en deur sy of haar aanbring van die datum.
- (6) Die notule van vergaderings moet op alle redelike tye toeganklik wees vir inspeksie deur die lede, die distriksbestuurder of die superintendent-generaal of sy of haar afgevaardigde.
- (7) 'n Hoof van 'n skool wat gesluit is ingevolge artikel 33 van die Wet, moet binne 14 dae na sluiting, alle notules en ander dokumente van die beheerliggaam aan die betrokke distriksbestuurder oorhandig vir veilige bewaring.

**10. Neem van besluite**

- (1) Die besluite van die beheerliggaam moet deur konsensus geneem word.
- (2) In gevalle waar daar geen konsensus is nie en waar daar uiteenlopende menings rakende 'n kwessie onder bespreking is, moet die kwessie vir stemming verwys word.
- (3) Wanneer 'n besluit geneem word deur 'n meerderheidstem, is sodanige besluit bindend vir alle lede van die beheerliggaam.
- (4) Wanneer daar oor 'n aangeleentheid gestem word en daar 'n staking van stemme is, het die voorsitter 'n beslissende stem.

**11. Toegang tot boeke en dokumente**

Die superintendent-generaal, of 'n beampte wat deur hom of haar daartoe gemagtig is, moet ten alle tye toegang hê tot enige boeke, notules en dokumente van enige beheerliggaam.

**12. Delegering van bevoegdhede**

Die superintendent-generaal kan die bevoegdhede wat aan hom of haar verleen is kragtens hierdie regulasie aan 'n beampte in diens van die Departement delegeer.

**ES MCHUNU**

**Lid van die Uitvoerende Raad van die provinsie KwaZulu-Natal verantwoordelik vir onderwys**



No. 98

29 kuNhlaba 2009

**UMTHETHO WEZIKOLE WASENINGIZIMU AFRIKA, 1996 (UMTHETHO NO. 84 KA 1996)****ISAZISO EZIMAYELANA NEZIDINGO OKUMELE OKUNGENANI ZIBE KHONA KUMTHETHOSISEKELO WEZIGUNGU EZILAWULA IZIKOLE ZIKAHULUMENI**

Mina, EDWARD SENZO MCHUNU, iLungu loMkhandlu oPhethe elibhekele ezeMfundo esiFundazweni saKwaZulu-Natali, ngokwesigaba 18 soMthetho weziKole waseNingizimu Afrika, 1996 (uMthetho No. 84 ka 1996), senginqume izidingo okumele okungenani zibe khona kwiMithethosisekelo yezigungu ezilawulayo njengoba kuvela kulolu Hlelo.

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

Kulesi saziso noma yiliphi igama noma isethulo esincazelo yaso ibhaliwe eMthethweni siyokuba naleyo ncazelo ngaphandle uma ingqikithi isho okwehlukile –  
 “**uMthetho**” kusho uMthetho weziKole waseNingizimu Afrika, 1996 (uMthetho No. 84 ka 1996);  
 “**usihlalo**” kusho usihlalo wesigungu esilawulayo;  
 “**isigungu esigungu esilawulayo**” kusho isigungu esilawulayo sesikole sikahulumeni esikhethwe ngendlela efanele esihlanganise amalungu akhethiwe nangeziwe;  
 “**ongesiyena uthisha**” kusho noma iliphi ilungu labasebenzi ngaphandle kukathisha;  
 “**isikole**” kusho isikole sikahulumeni esifunda abafundi ebangeni elilodwa noma ngaphezulu kusuka ebangeni R (kwabaqalayo) kuya ebangeni 12;  
 “**unobhala**” kusho umuntu okhethwe njengonobhala wesigungu esilawulayo noma umuntu obambile uma unobhala okhethiwe engekho; futhi  
 “**uNsumpa-Jikelele**” kusho iNhloko yoMnyango eMnyangweni wezeMfundo esiFundazweni saKwaZulu-Natali.

**2. Imihlangano eyejwayelekile yesigungu esilawulayo**

- (1) Isigungu esilawulayo sihlalanga okungenani kanye ngethemu eyodwa yesikole.
- (2) Usihlalo wesigungu esilawulayo unquma usuku, isikhathi kanye nendawo yomhlangano.
- (3) Unobhala wesigungu esilawulayo, kusasele okungenani izinsuku eziyi-14 kubanjwe umhlangano, uyokwazisa ilungu ngalinye ngokubhalwe phansi –
  - (a) usuku, isikhathi kanye nendawo yomhlangano; kanye
  - (b) nodaba oluzokube ludingidwa kulowo mhlangano.

**3. Imihlangano ephuthumayo**

- (1) Usihlalo angabiza umhlangano ukuzodingida izindaba eziphuthumayo.
- (2) Unobhala angakhipha isaziso samahora okungenani angama-24 esibhaliwe somhlangano ophuthumayo.
- (3) Udaba okuyilona kuphela olungakhulunywa emhlanganweni ophuthumayo yilolo umhlangano ophuthumayo obizelwe lona.

**4. Imihlangano engavamile**

- (1) Usihlalo angabiza imihlangano engavamile.
- (2) Usihlalo ubophezelekile ukubiza umhlangano ongavamile uma ethola isicelo esibhalwe phansi –
  - (a) esisayinwe okungenani amalungu amathathu akhethiwe esigungu esilawulayo esisho udaba okuyokhulunywa ngalo emhlanganweni; noma
  - (b) sikaNsumpa-Jikelele noma lowo omele uNsumpa Jikelele sibeka udaba okuyokhulunywa ngalo emhlanganweni.
- (3) Unobhala wesigungu esilawulayo, okungenani kusasele izinsuku eziyi-14 kubanjwe umhlangano, uyokwazisa ilungu ngalinye ngokubhalwe phansi –
  - (a) usuku, isikhathi nendawo yomhlangano; kanye
  - (b) nodaba oluyodingidwa emhlanganweni.
- (4) Udaba okuyilona kuphela olungadingidwa emhlanganweni ongavamile wudaba lowo mhlangano obizelwe lona.

**5. Imihlangano yesaziso esifushane**

- (1) Ngaphandle uma kuwumhlangano ophuthumayo, umhlangano ungabanjwa uma kukhishwe isaziso esifushane ukunesezinsuku eziyi-14 kuncike ekutheni –
  - (a) wonke amalungu emhlanganweni ayavuma ngokubhalwe phansi ukuthi kubanjwe umhlangano nakuba kube nesaziso esifushane; noma
  - (b) iningi lamalungu akhona emhlanganweni obizwe ngesaziso esifushane, liyayiphasisa imbanga eyenze kwangaba khona isaziso esenele.

**6. Imihlangano yaminyaka yonke**

- 1) Isigungu esilawulayo kumele okungenani kanye ngonyaka sibambe imihlangano ehlukene –
  - (a) nabazali;
  - (b) nabafundi;
  - (c) nothisha; kanye
  - (d) nabangesibona othisha.
- (2) Usihlalo uyobiza umhlangano wonyaka futhi uyonquma usuku, isikhathi nendawo yomhlangano ngamunye.
- (3) Unobhala, okungenani kusasele izinsuku eziyi-14 kubanjwe umhlangano, uyokwazisa ngokubhalwe phansi abazali, abafundi, othisha kanye nabangesibona othisha njengoba kungaba njalo -
  - (a) usuku, isikhathi nendawo yomhlangano; kanye
  - (b) nodaba oluyodingidwa lapho.
- (4) Inhloso yemihlangano yaminyaka yonke ukuthi usihlalo ahlinzeke umbiko mayelana nemisebenzi yesigungu esilawulayo kulowo nyaka wokubika kanye nombiko nganoma yiluphi udaba olungaphakanyiswa ngababambe iqhaza kulowo mhlangano.

**7. Inqubo yemihlangano**

- (1) Noma yimuphi umuntu, omenywe yisigungu esilawulayo, angaba khona emihlanganweni yesigungu esilawulayo futhi abambe iqhaza ezingxoxweni, kodwa angeke avote futhi uyoshiya umhlangano uma isigungu esilawulayo sinquma kanjalo.
- (2) Isigungu esilawulayo singabiza noma yiliphi ilungu labasebenzi besikole ukuba libe khona emhlanganweni mayelana nanoma yiluphi udaba oluthinta imisebenzi yesigungu esilawulayo.
- (3) Isigungu esilawulayo kumele sinqume imithetho yaso emayelana nemihlangano yaso kanye nezinqubo eziyosebenza emihlanganweni. Leyo mithetho akumele ishaysane nezinhlinzeko zomthetho, kanye nemiyalelo ekhishwe nguNsumpa-Jikelele.
- (4) Lapho ilungu linokuthinteka ngqo kunoma yiluphi udaba oludingidwayo, kumele lizihoxise lona ezingxoxweni futhi lishiye umhlangano ngaleso sikhathi sokudingidwa kwalolo daba. Uma unobhala kudingeka ukuba ashiye umhlangano, amalungu kumele aphakamise ilungu elizobamba njengonobhala ngaleso sikhathi sokudingidwa kwalolo daba.
- (5) Ukungasitholi isaziso, ebesithunyelwe ngendlela efanele, kanye nokungafinyeleli kwelungu emhlanganweni okulandela lapho akuvimbi ukuba semthethweni kokunqunywe kulowo mhlangano, kuncike ekutheni izidingo zesigaba somthetho 8 kuhlangatshezwene nazo.

**8. Isibalo sabangabamba umhlangano**

- (1) Isibalo sabangabamba umhlangano sakhiwa ngamaphesenti angama-50 kanye nelungu elilodwa lesigungu elinamandla okukhetha kumele libekhona kunoma imuphi umhlangano.
- (2) Uma isibalo sabangabamba umhlangano singaphelele kunoma yimuphi umhlangano obizwe ngendlela efanele, umhlangano kumele uhlehliselwe ezinsukwini okungenani eziyisikhombisa kodwa zingeqi kweziyi-14.
- (3) Unobhala kumele anikeze okungenani isaziso sezinsuku eziyisikhombisa somhlangano ohlehlisiwe.
- (4) Isigungu esilawulayo sibophezelekile ukuba sibhekane nazo zonke izindaba ezisohlelweni lomhlangano ohlehlisiwe ngosuku ohlehliselwe kulona, kungakhathaleki ukuthi isibalo sabangabamba umhlangano sipelele noma cha.

**9. Amaminithi**

- (1) Unobhala wesigungu esilawulayo kumele aqophe wonke amaminithi ayo yonke imihlangano ngolimi olunqunywe emhlanganweni, ebhukwini elicacile elinamakhasi anezinombolo ezifanele elisetshenziselwa kuphela leyo nhloso.
- (2) Unobhala wesigungu esilawulayo kumele aqophe la maminithi alandelayo kunoma yimuphi umhlangano:
  - (a) amagama amalungu akhona;
  - (b) amagama amalungu angekho nokuthi ukuphutha kwawo kubikiwe noma akubikiwe;
  - (c) izingxoxo ezibalulekile ezibe khona emhlanganweni; kanye
  - (d) nezinqumo ezithathwe emhlanganweni.
- (3) Ngemuva kokubanjwa komhlangano ojwayelekile, unobhala kumele afunde amaminithi omhlangano ojwayelekile owedlule, kanye namaminithi anoma yimuphi umhlangano ongavamile oke wabanjwa okwesikhashana.
- (4) Umhlangano wemukela amaminithi anezichibiyelo, uma zikhona, njengoba kunqume umhlangano.

- (5) Amaminithi agunyaziwe aqinisekiswa ngokuthi kusayine usihlalo nokuthi awabhale usuku ngendlela efanele.
- (6) Amaminithi omhlangano owedlule kumele, ngazikhathi zonke uma kufanele, avuleleke ekutheni abhekwe ngamalungu, imenenja yesifunda kanye noNsumpa-Jikelele noma ojutshwe nguye.
- (7) Uthishanhloko wesikole esivalwe engokwesigaba 33 soMthetho, kumele ezinsukwini eziyi-14 isikole sivaliwe, ahambise amaminithi kanye nezinye izincwadi zesigungu esilawulayo kwimenenja yesifunda ethintekayo ukuze iwagcine kahle.

**10. Ukuthathwa kwezinqumo**

- (1) Izinqumo zesigungu esilawulayo kumele kube ngokuvunyelwene ngazo.
- (2) Lapho kungekho ukuvumelana futhi kunemibono ehlukahlukene mayelana nodaba oludingidwayo udaba kumele ludluliselwe ekutheni kuvotwe.
- (3) Lapho isinqumo sithathwe ngenxa yevoti leningi leso sinqumo siyobophezela wonke amalungu esigungu esilawulayo.
- (4) Lapho udaba luvotelwe kwaba nokulingana kwamavoti, usihlalo uyofaka ivoti elinqumayo.

**11. Ukutholakala kwamabhuku nezincwadi**

UNsumpa-Jikelele, noma isikhulu esigunyazwe nguyena siyokwazi ukuthola noma yimaphi amabhuku, amaminithi kanye nezincwadi zesigungu esilawulayo.

**12. Ukudluliselwa kwamandla**

UNsumpa-Jikelele angadlulisela amandla awathweswe ngokwalo mthethonqubo esikhulwini esiqashwe uMnyango.

**ES MCHUNU**

**iLungu loMkhandlu oPhethe esiFundazweni saKwaZulu-Natali elibhekele ezemfundo**

No. 99

29 May 2009

**SOUTH AFRICAN SCHOOLS ACT, 1996 (ACT NO. 84 OF 1996)**

**NOTICE RELATING TO ELECTION OF MEMBERS OF GOVERNING BODIES  
FOR PUBLIC ORDINARY SCHOOLS  
(EXCLUDING SCHOOLS FOR LEARNERS WITH SPECIAL EDUCATION NEEDS)**

I, EDWARD SENZO MCHUNU, Member of the Executive Council responsible for education in the Province of KwaZulu-Natal, have determined matters relating to governing bodies as it appears in this Schedule in terms of section 28 of the South African Schools Act, 1996 (Act No. 84 of 1996).

**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;

“**closed meeting**” means a meeting open only to –  
parents for the election of parents;

- (a) educators for the election of educators;
- (b) non-educators for the election of non-educators; and
- (c) learners from the representative council of learners;

“**co-opted members**” means members –

- (a) without voting powers co-opted for their expertise; and
- (b) with voting powers co-opted to replace departing members who have not completed their term of office;

“**day**” means calendar day;

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

“**election meeting**” means –

- (a) four separate election meetings held exclusively for the nomination and election of parents only, educators only, non-educators only and learners from the representative council of learners only, as the case may be; and
- (b) a by-election meeting;

“**election monitors**” means officials or community leaders selected by the provincial or district electoral task team and approved by the Superintendent-General as observers, supervisors or overseers of election;

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

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

“**non-educator**” means any employee at the school other than an educator;

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

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

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

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

**2. Membership of a governing body**

(1) A governing body consists of –

- (a) parents of learners enrolled at the school for which a governing body is being elected, comprising one more parent than the combined total number of members with voting rights referred to in clause 2(1)(b), (c), (d) and (e) hereunder;
- (b) one educator elected by the educators employed at the school for which a governing body is being elected if there are four or less educators employed at the school concerned or two educators if there are five or more educators employed at the school concerned;
- (c) one non-educator elected by the non-educators employed at the school for which a governing body is being elected if there are four or less non educators employed at the school concerned or two or more non educators if there are five or more non educators employed at the school concerned;
- (d) two learners elected from amongst the learners of the representative council of learners in a school with grade eight or higher;
- (e) the principal, in his or her official capacity; and
- (f) co-opted members, if any.

- (2) The number of persons co-opted in terms of section 23(6) of the Act may not exceed five.

### 3. Term of office

- (1) A governing body is elected for a period of three years unless otherwise directed by the Member of the Executive Council.
- (2) The Member of the Executive Council shall determine the election period for all schools.
- (3) If the governing body has –
- (a) six months or less before the expiry of its term of office, the Member of the Executive Council may, notwithstanding such period, direct that elections be held on a date determined by him or her; or
  - (b) more than six months, the Member of the Executive Council may, after consultation with the governing body concerned determine a date when elections shall be held notwithstanding the unexpired period of its term of office.
- (4) Subject to clause 4(2), all members excluding learners elected from a representative council of learners in terms of clause 2(1)(d) are elected for a term of three years.
- (5) The term of office of a governing body member who is a learner elected in terms of clause 2(1)(d) is one year.
- (6) Subject to clauses 4 and 18, a member of a governing body holds office until the expiry of the term of office of the governing body.
- (7) Should the Superintendent-General determine on reasonable grounds that a governing body has ceased to perform allocated functions in terms of the Act or has failed to perform one or more of such functions, the Superintendent-General may withdraw functions and –
- (a) shall appoint sufficient persons to carry out all such functions or one or more of such functions of the governing body for a period not exceeding three months;
  - (b) can extend the period referred to in sub clause 7(a) for periods not exceeding three months at a time which combined period shall not exceed one year;
  - (c) must ensure that a governing body is elected within one year after the appointment of the person referred to in sub clause 7(a).
- (8) Subject to clause 4, a member of a governing body may be re-elected or co-opted as the case may be after the expiry of his or her term of office.

### 4. Composition and eligibility

- (1) The following shall be eligible for election as members of a governing body –
- (a) parents of learners at the school;
  - (b) educators employed at the school;
  - (c) non-educators employed at the school; and
  - (d) learners from the representative council of learners attending grade eight or higher at the school.
- (2) No person may be elected as a member of a governing body if he or she –
- (a) has been convicted of an offence and sentenced to more than 12 months' imprisonment without the option of a fine either in the Republic or outside the Republic, if the conduct constituting the offence would have been an offence in the Republic, no one may be regarded as having been sentenced until –
    - (i) an appeal against the conviction or sentence has been determined; or
    - (ii) the time for an appeal has expired, provided that a disqualification under this paragraph ends five years after the sentence has been completed;
  - (b) is of unsound mind and has been declared so by a competent court;
  - (c) is an unrehabilitated insolvent;
  - (d) is a parent but not a South African citizen or not in possession of a permanent resident permit unless permitted by the Superintendent-General;
  - (e) is a parent but no longer has a child enrolled at the school; and
  - (f) is a learner who is not a member of the representative council of learners.
- (3) A member vacates his or her office if he or she –
- (a) does not meet the requirements set out in the clause 4;
  - (b) resigns;
  - (c) is a member elected in terms of clause 2(1)(a) and no longer has a child enrolled as a learner at the school;
  - (d) is a member elected in terms of clause 2(1)(b) or (c) and his or her employment is terminated, or he or she is transferred or seconded away from the school concerned;
  - (e) is deceased;
  - (f) is a member elected in terms of clause 2(1)(d) and he or she no longer attends the school concerned;

- (g) has been absent without leave from two consecutive ordinary meetings of the governing body; or
- (h) is no longer a member of the representative council of learners.

**5. Appointment of provincial electoral officers**

- (1) The Superintendent-General must appoint in writing a provincial electoral officer, a deputy provincial electoral officer and assistant electoral officers.
- (2) The provincial electoral officer must –
  - (a) ensure that there is adequate publicity of the election;
  - (b) administer the appointment of one or more officers in the service of the Department to assist at the election as assistant provincial electoral officers;
  - (c) ensure that there is compliance with provincial legislation in respect of the elections;
  - (d) compile an election schedule for all schools in the Province;
  - (e) monitor the induction of newly-elected governing body members; and
  - (f) conduct investigations as directed by the Superintendent-General.
- (3) The deputy provincial electoral officer and the assistant provincial electoral officers assist the provincial electoral officer in the performance of his or her functions.

**6. Appointment of district electoral officers**

- (1) The Superintendent-General must appoint in writing a district electoral officer, a deputy district electoral officer and assistant district electoral officers.
- (2) The district electoral officer must –
  - (a) administer the appointment of one or more officers in the service of the Department to assist at the election as assistant district electoral officer;
  - (b) administer the appointment of school electoral officers;
  - (c) publicise an election schedule for all schools in the district;
  - (d) ensure compliance with the election process;
  - (e) ensure that every school has a valid voters' roll;
  - (f) develop and administer the database of all newly elected governing body members in the district and make the data available to the Department;
  - (g) ensure that the newly elected governing body members are inducted within three months of being elected; and
  - (h) resolve disputes relating to the school governing elections in terms of clause 16.
- (3) Except for resolving disputes as provided in clause 6(2)(h), the deputy district electoral officer and the assistant district electoral officers will assist the district electoral officer in the performance of all other functions.
- (4) The deputy district electoral officer and assistant district electoral officers may provide advice to the district electoral officer on any issue relating to the elections.

**7. Appointment of school electoral officers**

- (1) The Superintendent-General must appoint in writing a school electoral officer for the election of parents, educators, non-educators and for learners from the representative council of learners as members of a governing body.
- (2) A principal shall not be appointed as school electoral officer in a school where he or she is employed.
- (3) The school electoral officer must appoint in writing one or more officers or educators in the service of the Department or employed by the school governing body to assist at the elections as assistant electoral officers.
- (4) The school electoral officer shall preside at all election meetings.
- (5) The school electoral officer and the assistant school electoral officer shall not be a candidate, a proposer or seconder of a candidate.

**8. Oath or affirmation of confidentiality**

All electoral officers must sign an oath or affirmation of confidentiality in a form determined by the Superintendent-General before he or she acts in such capacity.

**9. Notice of an election meeting**

- (1) The principal of the school concerned shall –
  - (a) determine a date, time and place for an election meeting; and
  - (b) prepare a notice setting out the date, time and place of the election meeting.
- (2) At least 21 days prior to the date of the election meeting, the principal of the school concerned must

- (a) hand a copy of the notice of the election meeting to every learner at the school concerned with an oral instruction to hand the notice to his or her parent(s) or send a copy of such notice to the parents by post;
  - (b) hand a copy of such notice to the educators and non-educators;
  - (c) cause a copy of such notice to be posted in a conspicuous place at the school concerned and at any other suitable and prominent place; and
  - (d) hand a copy to each member of the representative council of learners.
- (3) In case of a new school, the election meeting must be held within 60 days of the establishment of the school.

#### 10. Voters' roll

- (1) The principal must prepare a separate voters' roll for each of the following –
  - (a) parents;
  - (b) educators;
  - (c) non-educators;
  - (d) learners from the representative council of learners.
- (2) The principal must prepare the voters' roll using the –
  - (a) learner admission book for parents;
  - (b) time book for educators;
  - (c) time book for non-educators; and
  - (d) register of the learners from the representative council of learners;
- (3) The principal must at least 21 days prior to elections, cause a letter to be sent with the learners, inviting parents to update their information in the school admission book for the purposes of compiling a voters' roll.
- (4) At least 14 days prior to the election meeting, the principal must allow potential voters to inspect the voters' roll.
- (5) Any complaint relating to the voters' roll must be referred to the principal at least seven days prior to the election date.

#### 11. Election meetings

- (1) Separate election meetings must be held for –
  - (a) parents;
  - (b) educators;
  - (c) non-educators; and
  - (d) learners from the representative council of learners.
- (2) The school electoral officer must appoint an assistant school electoral officer to act as secretary to the meetings and to record the minutes of the proceedings.
- (3) Except for election monitors and the assistant school electoral officer, the school electoral officer must not allow any person who is not qualified as a voter to attend a meeting or allow the election of a person who is not qualified as a candidate in terms of clause 4.
- (4) The school electoral officer must request voters to provide proof of identification in the form of a South African identity document or a valid passport.
- (5) Before proceeding with the election of members of a governing body, the school electoral officer must direct the attention of voters to the following –
  - (a) that the term of office of the current school governing body has expired and members have been officially notified;
  - (b) that the election meeting is a closed meeting;
  - (c) the provisions of clause 4 which renders a person ineligible for membership to a governing body;
  - (d) the number of persons to be elected;
  - (e) every nomination must be seconded by a parent, educator, non-educator or a learner of the representative council of learners, as the case may be, who is entitled to vote;
  - (f) that during nominations, voters must take into account representativity and must ensure that nominations are representative of gender, race and wherever possible include nominations of persons with disabilities;
  - (g) that a voter has one vote for each vacancy to be filled;
  - (h) that voting is by secret ballot; and
  - (i) that a grievance procedure exists for those dissatisfied with the election process or outcome.

#### 12. Quorum for an election meeting

- (1) A quorum of 15 percent of voters on the voter's roll must be constituted prior to any election being held.

- (2) If a quorum referred to in sub-clause (1) is not constituted, the meeting must be adjourned for at least 14 days but not later than 21 days.
- (3) In the event of an adjourned election meeting, the school electoral officer must proceed with the subsequent meeting irrespective of whether a quorum is constituted or not.

### 13. Nominations

- (1) The school electoral officer must determine the time allowed for the nomination of candidates during the nomination phase and must inform the voters accordingly.
- (2) A person may be nominated in absentia provided the –
  - (a) proposer and seconder of the nominated person are present at the meeting; and
  - (b) nominated person sends written confirmation of acceptance of nomination.
- (3) A candidate may be nominated in writing or verbally by –
  - (a) a parent of a learner enrolled at the school for a vacancy in terms of clause 2(1)(a);
  - (b) an educator employed at the school concerned for a vacancy in terms of clause 2(1)(b);
  - (c) a non-educator employed at the school concerned for a vacancy in terms of clause 2(1)(c); or
  - (d) a learner from the representative council of learners in terms of clause 2(1)(d), provided that another parent, educator, non-educator or a learner from the representative council of learners, as the case may be, seconds the proposal and the person nominated indicates to the meeting verbally or in writing if he or she is absent, that he or she is prepared to serve as a member of the governing body, if elected.
- (4) The proposer and the seconder of a candidate must be in attendance at an election meeting.
- (5) A school electoral officer must –
  - (a) allow a person who nominated a candidate an opportunity to introduce the candidate to the meeting and give reasons for the nomination; or
  - (b) allow a nominated candidate to introduce him or herself to the meeting.
- (6) During the nominations, the school electoral officer must consider the nominations and reject the nomination of any candidate who –
  - (a) has not been nominated in accordance with clause 13(2) and 13(3); or
  - (b) is ineligible in terms of clause 4.
- (7) If the number of persons nominated exceeds the number of vacancies, the school electoral officer must immediately after the closing of the nominations, write down the names of the candidates on a suitable board or any other surface that is clear and visible to everyone in attendance at the meeting.
- (8) If the number of persons nominated is equal to the number of vacancies, the school electoral officer must declare the nominated persons duly elected.

### 14. Voting

- (1) Each voter has one vote for each vacant position to be filled on the governing body.
- (2) The school electoral officer must request the voters present to mark with a cross (x) against the names of the candidates preferred by them on the ballot papers provided by the school electoral officer.
- (3) A person who is unable to mark his or her vote on the ballot paper in clause 14(2) above may make a verbal request for assistance to the school electoral officer or the assistant school electoral officer to mark next to the appropriate candidate, his or her vote on the ballot paper.
- (4) The school electoral officer shall assist any disabled person.
- (5) The request for assistance and the completion of the ballot paper in accordance with the request referred to in clause 14(3) shall be done in private in an area identified by the school electoral officer for that purpose but within the area in which the voting is taking place.
- (6) The school electoral officer must reject ballot papers with –
  - (a) more crosses(x) than the number of vacancies on the governing body; or
  - (b) the name of a person or persons not nominated.
- (7) After all the voters have cast their votes, the school electoral officer and the assistant school electoral officers must count the votes in the presence of three observers appointed by those attending the meeting, to observe the counting process.
- (8) In the case of an equality of votes for two or more candidates for the last place or places on the list of candidates, the school electoral officer must request the voters to indicate the preferred candidate from those with equal votes by following the procedure set out in this clause.
- (9) The school electoral officer must announce the result during the election meeting and declare the candidates who secured the most votes as the elected members of the governing body.
- (10) The number of votes a person secures in this election does not determine the outcome of the election of office bearers elected in terms of clause 15.



**15. Election of Office Bearers**

- (1) The school electoral officer may convene a meeting solely for the purpose of electing office bearers on the day of the parent election meeting if –
  - (a) the election of educators, non-educators and learners had taken place prior to the parent election;
  - (b) the 21 days notice in terms of clause 9(2) was issued to parents, educators, non-educators and learners from the representative council of learners informing them that the meeting for the election of office bearers would take place on the day of the parent election; and
  - (c) the quorum requirements at the meeting have been complied with.
- (2) Should the meeting to elect office bearers not be held in terms of clause 15(1) then the school electoral officer must convene the first meeting of the governing body within 21 days of the date of the parent election meeting.
- (3) The school electoral officer presides at any meeting convened for election of office bearers.
- (4) At the first meeting of a governing body the members must elect by secret ballot –
  - (a) a chairperson;
  - (b) a vice-chairperson;
  - (c) a treasurer; and
  - (d) a secretary.
- (5) Only a parent member, not employed at the school is eligible for the position of chairperson or vice chairperson of the governing body.
- (6) The term of office of office bearers is one year.
- (7) The principal may designate a member of his or her staff to assist the treasurer and secretary of the governing body.
- (8) Where for any reason the office of one of the office bearers becomes vacant, the governing body, at the first meeting after the vacancy has occurred, must elect one of its members to fill the vacancy for the un-expired period of his or her predecessor.
- (9) An office bearer may be re-elected after the expiry of the term of office.
- (10) The principal must inform the Superintendent-General of any change in office bearers and must provide him or her with the details of the new office bearers including names, identity numbers, telephone numbers, fax numbers and addresses.

**16. Dispute Resolution**

- (1) A voter or person who was a candidate in a governing body election may lodge his or her complaint or grievance in writing with the district electoral officer within seven days of the election meeting if the prescribed procedures were not followed during the election meeting.
- (2) Any person who has any knowledge or information of any irregularities relating to the elections may within seven days of the elections inform the district electoral officer in writing of the irregularities.
- (3) Upon receipt of the complaint, grievance or information of irregularities, the district electoral officer must appoint his deputy or assistant district electoral officer to conduct an investigation and make a recommendation to him or her.
- (4) The district electoral officer may after investigation, declare an election invalid and may call for re-election if he or she is satisfied that –
  - (a) the prescribed procedures were not followed; and
  - (b) the outcome of the election would have been different had the prescribed procedures been followed; or
  - (c) irregularities were committed during the election process.
- (5) Any person aggrieved by the decision of the district electoral officer may appeal against such decision to the Superintendent-General within 14 days of receipt of the decision of the district electoral officer.
- (6) The Superintendent-General must –
  - (a) within 7 days of receipt of the appeal refer the appeal to the provincial electoral officer;
  - (b) request the provincial electoral officer to investigate and prepare a report with recommendations within 14 days of the appeal being referred to the provincial electoral officer; and
  - (c) consider the report referred to in 6(b), make a finding and communicate his or her decision in writing to the appellant and to the district electoral officer within 14 days of receiving the report from the provincial electoral officer.
- (7) The decision of the Head of Department shall be final.
- (8) Pending the outcome of the dispute, the Superintendent-General must appoint sufficient persons to perform the functions of the governing body for a period not exceeding three months.

**17. Procedure after the election**

- (1) After the election of members of a governing body, the school electoral officer must –
  - (a) notify in writing each elected member of his or her election and such notification must be sent by post, e-mail or hand delivered;
  - (b) place all documents, including ballot papers used at such elections in envelopes and seal the envelopes;
  - (c) keep the envelopes in safe custody for the duration of the term of office of the governing body;
  - (d) notify the district electoral officer in writing of the details of the election including the date of election, names, identity numbers, telephone numbers, fax numbers and addresses of all elected members.

**18. By-election**

- (1) If a vacancy arises as a result of the departure of any member of a governing body before the expiry of the governing body's term of office or the member's term of office, the school electoral officer must officiate at the election of a new member to replace the departing member.
- (2) If a vacancy arises more than six months before the expiry of the term of office of a governing body, the school electoral officer must conduct a by-election following the procedures set out in clauses 9 to 14.
- (3) The school electoral officer shall arrange an election meeting within 90 days of a vacancy arising and pending the by-election the governing body may co-opt members.
- (4) If a vacancy arises less than six months before the expiry of the term of office of a governing body as a result of the departure of a member –
  - (a) the remaining members must co-opt, by majority vote, a person or persons to fill the vacancy or vacancies for the remainder of the period of office of the governing body; and
  - (b) the parent, educator, non-educator and learner component must recommend names of at least three eligible persons who can be co-opted into the governing body and the governing body must co-opt from the recommended names.
- (5) A co-opted member referred to in sub-clauses (3) and (4) assumes the voting rights of the departing member, if any.

**19. Dissolution of a governing body**

- (1) The Member of the Executive Council may dissolve a governing body by notice in the *Provincial Gazette* if –
  - (a) the school is closed or partly disestablished;
  - (b) owing to the merger of schools or the division of a school or other re-organisation of school facilities, he or she is of the opinion that the governing body is no longer representative of the community for which a school has been established.
- (2) Upon consideration of a motion of no confidence passed by not less than 15 percent of parents on the parents' voters' roll at a general meeting of parents, the Member of the Executive Council may dissolve a governing body.

**20. Delegation of Powers**

The Superintendent-General may delegate the powers bestowed on him or her in terms of this notice to an official in the employ of the Department.

**21. Repeal of notice**

Provincial Notice No. 716 of 2006 published on 4 May 2006 is hereby repealed.

**ES MCHUNU**

**Member of the Executive Council of the Province of KwaZulu-Natal responsible for education**

No. 99

29 Mei 2009

**WET OP SUID-AFRIKAANSE SKOLE, 1996 (WET NO. 84 VAN 1996)**

**KENNISGEWING TEN OPSIGTE VAN VERKIESING VAN LEDE VAN BEHEERLIGGAME  
VIR GEWONE STAATSKOLE  
(UITSLUITEND SKOLE VIR LEERDERS MET SPESIALE ONDERWYSBEHOEFTE)**

Ek, EDWARD SENZO MCHUNU, Lid van die Uitvoerende Raad verantwoordelik vir onderwys in die provinsie KwaZulu-Natal het aangeleenthede bepaal wat verband hou met beheerliggame soos vermeld in hierdie bylae ingevolgt artikel 28 van die Wet op Suid-Afrikaanse Skole, 1996 (Wet No. 84 van 1996).

**BYLAE**

**1. Omskrywings**

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

“**dag**” kalenderdag;

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

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

“**gekoöpteerde lede**” lede –

(a) sonder stembevoegdheede gekoöpteer vir hul kundigheid; en

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

“**geslote vergadering**” 'n vergadering wat slegs oop is vir –

(a) ouers vir die verkiesing van ouers;

(b) opvoeders vir die verkiesing van opvoeders;

(c) nie-opvoeders vir die verkiesing van nie-opvoeders; en

(d) leerders van die verteenwoordigende raad van leerders;

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

“**lid van die Uitvoerende Raad**” die lid van die Uitvoerende Raad verantwoordelik vir onderwys in die provinsie KwaZulu-Natal;

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

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

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

“**superintendent-generaal**” die departementshoof van die Onderwysdepartement in die provinsie KwaZulu-Natal;

“**verkiesingsmonitors**” beamptes of gemeenskapsleiers gekies deur die provinsiale of distriksverkiesingtaakspan en goedgekeur deur die superintendent-generaal as waarnemers, toesighouers of opsieners van die verkiesing;

“**verkiesingsvergadering**” –

(a) vier afsonderlike verkiesingsvergaderings gehou uitsluitlik vir die benoeming en verkiesing van slegs ouers, slegs opvoeders, slegs nie-opvoeders en slegs leerders uit die verteenwoordigende raad van leerders, na gelang van die geval; en

(b) 'n tussenverkiesingsvergadering; en

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

**2. Lidmaatskap van 'n beheerliggaam**

(1) 'n Beheerliggaam bestaan uit –

(a) ouers van leerders wat by die skool ingeskryf is waarvoor 'n beheerliggaam verkies word, bestaande uit een meer ouer as die gekombineerde totale aantal lede met stemreg vermeld in klousule 2(1)(b), (c), (d) en (e) hieronder;

(b) een opvoeder verkies deur die opvoeders in diens van die skool waarvoor 'n beheerliggaam verkies word indien daar vier of minder opvoeders in diens van die betrokke skool is of twee opvoeders indien daar vyf of meer opvoeders in diens van die betrokke skool is;

(c) een nie-opvoeder verkies deur die nie-opvoeders in diens van die skool waarvoor 'n beheerliggaam verkies word as daar vier of minder nie-opvoeders in diens is, of twee of meer nie-opvoeders indien daar vyf of meer nie-opvoeders by die skool in diens is,

(d) twee leerders verkies uit die leerders van die verteenwoordigende raad van leerders in 'n skool met graad agt of hoër;

- (e) die skoolhoof, in sy of haar amptelike hoedanigheid; en
  - (f) gekoöpteerde lede, indien enige.
- (2) Die aantal persone gekoöpteer ingevolge artikel 23(6) van die Wet mag nie vyf oorskry nie.

### 3. Ampstermyn

- (1) 'n Beheerliggaam word verkies vir 'n tydperk van drie jaar tensy die lid van die Uitvoerende Raad anders gelas.
- (2) Die Lid van die Uitvoerende Raad bepaal die verkiesingstydperk vir alle skole.
- (3) Indien die beheerliggaam –
- (a) ses maande of minder het voor die verstryking van sy ampstermyn, kan die lid van die Uitvoerende Raad, ondanks sodanige tydperk, gelas dat 'n verkiesing gehou word op 'n datum soos deur hom of haar bepaal; of
  - (b) meer as ses maande het, kan die lid van die Uitvoerende Raad, na oorlegpleging met die betrokke beheerliggaam, 'n datum bepaal wanneer 'n verkiesing gehou moet word ondanks die onverstreke tydperk van sy ampstermyn.
- (4) Onderhewig aan klousule 4(2), word alle lede, uitsluitend leerders verkies uit 'n verteenwoordigende raad van leerders, ingevolge klousule 2(1)(d) verkies vir 'n termyn van drie jaar.
- (5) Die ampstermyn van 'n lid van die beheerliggaam wat 'n leerder is, verkies ingevolge klousule 2(1)(d), is een jaar.
- (6) Onderhewig aan klousules 4 en 18, beklee 'n lid van 'n beheerliggaam die amp tot die verstryking van die ampstermyn van die beheerliggaam.
- (7) Indien die superintendent-generaal op redelike gronde bepaal dat 'n beheerliggaam opgehou het om toegewese funksies ingevolge die Wet te verrig of versuim het om een of meer of sodanige funksies te verrig, kan die superintendent-generaal funksies onttrek en –
- (a) moet hy of sy voldoende persone aanstel om alle sodanige funksies of een of meer sodanige funksies van die beheerliggaam vir 'n tydperk wat nie drie maande oorskry nie, te verrig;
  - (b) kan hy of sy die tydperk vermeld in subklousule 7(a) verleng met tydperke wat nie drie maande op 'n keer oorskry nie welke gekombineerde tydperk nie een jaar sal oorskry nie;
  - (c) moet hy of sy verseker dat 'n beheerliggaam verkies word binne een jaar na die aanstelling van die persoon vermeld in subklousule 7(a).
- (8) Onderhewig aan klousule 4, kan 'n lid van 'n beheerliggaam herverkies of gekoöpteer word na gelang van die geval na die verstryking van sy of haar ampstermyn.

### 4. Samestelling en verkiesbaarheid

- (1) Die volgende is verkiesbaar as lede van 'n beheerliggaam –
- (a) ouers of leerders by die skool;
  - (b) opvoeders in diens van die skool;
  - (c) nie-opvoeders in diens van die skool; en
  - (d) leerders uit die verteenwoordigende raad van leerders wat graad agt of hoër by die skool bywoon.
- (2) Geen persoon mag verkies word as 'n lid van 'n beheerliggaam nie indien hy of sy –
- (a) skuldig bevind is aan 'n misdryf en gevonnisd is tot meer as 12 maande gevangenisstraf sonder die keuse van 'n boete hetsy binne die Republiek, of buite die Republiek indien die gedrag wat die misdryf uitmaak 'n misdryf in die Republiek sou wees. Niemand mag beskou word as gevonnisd nie totdat –
    - (i) 'n appèl teen die skuldigbevinding of vonnis vasgestel is; of
    - (ii) die tyd vir 'n appèl verstryk het, met dien verstande dat onbevoegdheid kragtens hierdie paragraaf eindig vyf jaar nadat die vonnis uitgedien is;
  - (b) deur 'n bevoegde hof as ontoerekeningsvatbaar verklaar is;
  - (c) 'n ongerehabiliteerde insolvent is;
  - (d) 'n ouer is, maar nie 'n Suid-Afrikaanse burger is nie of nie in besit is van 'n permanente residensiële permit nie tensy dit deur die superintendent-generaal toegelaat word;
  - (e) 'n ouer is, maar nie meer 'n kind by die skool ingeskryf het nie; en
  - (f) 'n leerder is wat nie 'n lid is van die verteenwoordigende raad van leerders nie.
- (3) (1) 'n Lid ontruim sy of haar amp indien hy of sy –
- (a) nie aan die vereistes voldoen soos uiteengesit in klousule 4 nie;
  - (b) bedank;
  - (c) 'n lid is wat verkies is ingevolge klousule 2(1)(a) en nie meer 'n kind as leerder by die skool ingeskryf het nie.

- (d) 'n lid is wat verkies is ingevolge klousule 2(1)(b) of (c) en sy of haar diens beëindig word, of hy of sy van die betrokke skool af oorgeplaas of gesekondeer word;
- (e) oorlede is;
- (f) 'n lid is wat verkies is ingevolge klousule 2(1)(d) en hy of sy nie meer die betrokke skool bywoon nie;
- (g) afwesig was sonder verlof van twee opeenvolgende gewone vergaderings van die beheerliggaam; of
- (h) nie meer 'n lid van die verteenwoordigende raad van leerders is nie.

#### 5. Aanstelling van provinsiale verkiesingsbeamptes

- (1) Die superintendent-generaal moet 'n provinsiale verkiesingsbeampte, 'n adjunk- provinsiale verkiesingsbeampte en assistentverkiesingsbeamptes skriftelik aanstel;
- (2) Die provinsiale verkiesingsbeampte moet –
  - (a) verseker dat die verkiesing voldoende publisiteit kry;
  - (b) die aanstelling administreer van een of meer beamptes in diens van die Departement om bystand by die verkiesing te verleen as assistent- provinsiale verkiesingsbeamptes;
  - (c) verseker dat provinsiale wetgewing ten opsigte van die verkiesing nagekom word;
  - (d) 'n verkiesingskedule vir alle skole in die provinsie opstel;
  - (e) die intrede van nuutverkose beheerliggaamlede monitor; en
  - (f) ondersoek uitvoer soos gelas deur die superintendent-generaal.
- (3) Die adjunk- provinsiale verkiesingsbeampte en die assistent- provinsiale verkiesingsbeamptes staan die provinsiale verkiesingsbeampte by in die uitvoering van sy of haar pligte.

#### 6. Aanstelling van distrikverkiesingsbeamptes

- (1) Die Superintendent-generaal moet 'n distrikverkiesingsbeampte, 'n adjunkdistrikverkiesingsbeampte en assistentdistrikverkiesingsbeamptes skriftelik aanstel.
- (2) Die distrikverkiesingsbeampte moet –
  - (a) die aanstelling administreer van een of meer beamptes in diens van die Departement om by die verkiesing bystand te verleen as assistentdistrikverkiesingsbeampte;
  - (b) die aanstelling van skoolverkiesingsbeamptes administreer;
  - (c) 'n verkiesingskedule vir alle skole in die distrik bekendstel;
  - (d) nakoming van die verkiesingsproses verseker;
  - (e) verseker dat elke skool 'n geldige kieserslys het;
  - (f) die databasis van alle nuutverkose beheerliggaamlede in die distrik ontwikkel en administreer en die inligting aan die Departement beskikbaar maak;
  - (g) verseker dat die nuutverkose beheerliggaamlede binne drie maande na hul verkiesing intree; en
  - (h) dispute ten opsigte van die skoolbeheerliggaamverkiesing ingevolge klousule 16 oplos.
- (3) Buiten die oplos van dispute soos bepaal in klousule 6(2)(h), moet die adjunkverkiesings-adjunkdistrikverkiesingsbeampte en die assistentdistrikverkiesingsbeamptes die beampte bystaan in die uitvoering van alle ander pligte.
- (4) Die adjunkdistrikverkiesingsbeampte en assistentdistrikverkiesingsbeamptes kan die distrikverkiesingsbeampte van raad dien rakende enige kwessie wat met die verkiesing verband hou.

#### 7. Aanstelling van skoolverkiesingsbeamptes

- (1) Die superintendent-generaal moet 'n skoolverkiesingsbeampte skriftelik aanstel om die verkiesing van ouers, opvoeders, nie-opvoeders en vir leerders uit die verteenwoordigende raad van leerders as lede van 'n beheerliggaam, waar te neem.
- (2) 'n Skoolhoof mag nie aangestel word as skoolverkiesingsbeampte in 'n skool waar hy of sy in diens is nie.
- (3) Die skoolverkiesingsbeampte moet een of meer beamptes of opvoeders in diens van die Departement of in diens van die skoolbeheerliggaam skriftelik aanstel om bystand te verleen by die verkiesing as assistentverkiesingsbeamptes.
- (4) Die skoolverkiesingsbeampte moet by alle verkiesingsvergaderings voorsit.
- (5) Die skoolverkiesingsbeampte en die assistentskoolverkiesingsbeampte mag nie 'n kandidaat, 'n voorsteller of sekondant van 'n kandidaat wees nie.

#### 8. Plegtige verklaring van vertroulikheid

Alle verkiesingsbeamptes moet 'n plegtige verklaring van vertroulikheid teken in 'n vorm soos deur die superintendent-generaal bepaal voordat hy of sy in sodanige hoedanigheid optree.

**9. Kennisgewing van 'n verkiesingsvergadering**

- (1) Die skoolhoof van die betrokke skool moet –
  - (a) 'n datum, tyd en plek vir 'n verkiesingsvergadering bepaal; en
  - (b) 'n kennisgewing voorberei waarin die datum, tyd en plek van die verkiesingsvergadering uiteengesit word.
- (2) Ten minste 21 dae voor die datum van die verkiesingsvergadering moet die skoolhoof van die betrokke skool –
  - (a) 'n afskrif van die kennisgewing van die verkiesingsvergadering aan elke leerder by die betrokke skool oorhandig met 'n verbale instruksie om die kennisgewing aan sy of haar ouer(s) te oorhandig of 'n afskrif van sodanige kennisgewing per pos aan die ouers stuur;
  - (b) 'n afskrif van sodanige kennisgewing aan die opvoeders en nie-opvoeders oorhandig;
  - (c) 'n afskrif van sodanige kennisgewing by 'n opvallende plek by die betrokke skool en by enige ander geskikte en prominente plek opplak; en
  - (d) 'n afskrif aan elke lid van die verteenwoordigende raad van leerders oorhandig.
- (3) In die geval van 'n nuwe skool, moet die verkiesingsvergadering gehou word binne 60 dae na die stigting van die skool.

**10. Kieserslys**

- (1) Die skoolhoof moet 'n afsonderlike kieserslys voorberei vir –
  - (a) ouers;
  - (b) opvoeders;
  - (c) nie-opvoeders; en
  - (d) leerders uit die verteenwoordigende raad van leerders.
- (2) Die skoolhoof moet die kieserslys voorberei deur die –
  - (a) leerdertoelatingsboek vir ouers;
  - (b) tydboek vir opvoeders;
  - (c) tydboek vir nie-opvoeders; en
  - (d) register van die leerders uit die verteenwoordigende raad van leerders, te gebruik.
- (3) Die skoolhoof moet, ten minste 21 dae voor verkiesings, 'n brief saam met leerders stuur waarin ouers uitgenooi word om hul inligting in die skool se toelatingsboek op te dateer vir die doel om 'n kieserslys saam te stel.
- (4) Ten minste 14 dae voor die verkiesingsvergadering, moet die skoolhoof potensiële kiesers toelaat om die kieserslys te inspekteer.
- (5) Enige klagte ten opsigte van die kieserslys moet na die skoolhoof verwys word ten minste sewe dae voor die verkiesingsdatum.

**11. Verkiesingsvergaderings**

- (1) Afsonderlike verkiesingsvergaderings moet gehou word vir –
  - (a) ouers;
  - (b) opvoeders;
  - (c) nie-opvoeders; en
  - (d) leerders uit die verteenwoordigende raad van leerders.
- (2) Die skoolverkiesingsbeampte moet 'n assistentskoolverkiesingsbeampte aanstel om as sekretaris by die vergaderings op te tree en om notule van die verrigtinge te hou.
- (3) Buiten verkiesingsmonitors en die assistentskoolverkiesingsbeampte, moet die skoolverkiesingsbeampte geen persoon wat onbevoeg is as 'n kieser toelaat om 'n vergadering by te woon nie of die verkiesing van 'n persoon wat nie 'n bevoegde kandidaat is ingevolge klousule 4 nie, toelaat nie.
- (4) Die skoolverkiesingsbeampte moet kiesers versoek om bewys van identifikasie te lewer in die vorm van 'n Suid-Afrikaanse identiteitsdokument of 'n geldige paspoort.
- (5) Voordat die verkiesing van lede van 'n beheerliggaam voortgaan, moet die skoolverkiesingsbeampte die kiesers se aandag vestig op die volgende –
  - (a) dat die ampstermyn van die huidige skoolbeheerliggaam verstryk het en lede amptelik in kennis gestel is;
  - (b) dat die verkiesingsvergadering 'n geslote vergadering is;
  - (c) die bepalings van klousule 4 wat 'n persoon onverkiesbaar maak vir lidmaatskap van 'n beheerliggaam;
  - (d) die aantal persone wat verkies moet word;
  - (e) elke benoeming moet deur 'n ouer, opvoeder, nie-opvoeder of 'n leerder van die verteenwoordigende raad van leerders, na gelang van die geval, wat daarop geregtig is om te stem, gesekondeer word;

- (f) dat gedurende benoemings, kiesers verteenwoordiging in ag moet neem en moet verseker dat benoemings verteenwoordigend is van geslag, ras en benoemings van gestremde persone waar moontlik, moet insluit;
- (g) dat 'n kieser een stem het vir elke vakature wat gevul moet word;
- (h) dat stemming deur middel van geheime stembriewe plaasvind; en
- (i) dat 'n grieweprosedure bestaan vir diegene wat ontevrede is met die verkiesingsproses of uitslag.

## 12. Kworum vir 'n verkiesingsvergadering

- (1) 'n Kworum van 15 persent van die kiesers op die kieserslys moet gevorm word voordat enige verkiesing gehou word.
- (2) Indien 'n kworum vermeld in subklousule (1) nie gevorm word nie, moet die vergadering uitgestel word vir ten minste 14 dae maar nie later nie as 21 dae.
- (3) In die geval van 'n uitgestelde verkiesingsvergadering, moet die skoolverkiesingsbeampte voortgaan met die daaropvolgende vergadering ongeag of 'n kworum gevorm word of nie.

## 13. Benoemings

- (1) Die skoolverkiesingsbeampte moet die tyd bepaal wat toegelaat word vir die benoeming van kandidate gedurende die benoemingsfase en moet die kiesers dienooreenkomstig inlig.
- (2) 'n Persoon mag in absentia benoem word, met dien verstande dat die –
  - (a) voorsteller en sekondant van die benoemde persoon teenwoordig is by die vergadering; en
  - (b) benoemde persoon skriftelike bevestiging van aanvaarding van die benoeming stuur.
- (3) 'n Kandidaat mag skriftelik of mondelings benoem word deur –
  - (a) 'n ouer van 'n leerder wat by die skool ingeskryf is vir 'n vakature ingevolge klousule 2(1)(a);
  - (b) 'n opvoeder in diens van die betrokke skool vir 'n vakature ingevolge klousule 2(1)(b);
  - (c) 'n nie-opvoeder in diens van die betrokke skool vir 'n vakature ingevolge klousule 2(1)(c); of
  - (d) 'n leerder uit die verteenwoordigende raad van leerders ingevolge klousule 2(1)(d), met dien verstande dat 'n ander ouer, opvoeder, nie-opvoeder of 'n leerder uit die verteenwoordigende raad van leerders, na gelang van die geval, die voorstel sekondeer en die benoemde, indien hy of sy afwesig is, mondelings of skriftelik vir die vergadering aandui dat hy of sy, indien verkies, bereid is om as 'n lid van die beheerliggaam te dien.
- (4) Die voorsteller en die sekondant van 'n kandidaat moet teenwoordig wees by 'n verkiesingsvergadering.
- (5) 'n Skoolverkiesingsbeampte moet –
  - (a) 'n persoon wat 'n kandidaat benoem die geleentheid bied om die kandidaat aan die vergadering bekend te stel en redes vir die benoeming te gee; of
  - (b) 'n benoemde kandidaat toelaat om hom- of haarself aan die vergadering bekend te stel.
- (6) Gedurende die benoemings, moet die skoolverkiesingsbeampte die benoemings oorweeg en die benoeming afkeur van enige kandidaat wat –
  - (a) nie benoem is ooreenkomstig klousule 13(2) en (3) nie; of
  - (b) ingevolge klousule 4 onverkiesbaar is.
- (7) Indien die aantal persone wat benoem is, die aantal vakatures oorskry, moet die skoolverkiesingsbeampte onmiddellik na die sluiting van die benoemings, die name van die kandidate op 'n geskikte bord of enige oppervlak wat vir almal wat die vergadering bywoon duidelik en sigbaar is, neerskryf.
- (8) Indien die aantal persone wat benoem is, gelyk is aan die aantal vakatures, moet die skoolverkiesingsbeampte die benoemde persone behoorlik verkies verklaar.

## 14. Stemming

- (1) Elke kieser het een stem vir elke vakature wat op die beheerliggaam gevul moet word.
- (2) Die skoolverkiesingsbeampte moet die kiesers wat teenwoordig is, versoek om 'n kruis (x) teenoor die name van die kandidate wat hul verkies op die stembriewe wat deur die skoolverkiesingsbeampte verskaf word, te maak.
- (3) 'n Persoon wat nie in staat is om sy of haar stem op die stembrief in klousule 14(2) bo te maak nie, kan 'n mondelinge versoek om bystand aan die skoolverkiesingsbeampte of die assistentskoolverkiesingsbeampte rig om sy of haar stem teenoor die toepaslike kandidaat op die stembrief te merk.
- (4) Die skoolverkiesingsbeampte moet enige gestremde persoon bystaan.
- (5) Die versoek om bystand en die voltooiing van die stembrief ooreenkomstig die versoek vermeld in klousule 14(3), moet privaat gedoen word in 'n gebied wat vir daardie doel deur

die skoolverkiegingsbeampte aangedui is, maar binne die gebied waarin die stemming plaasvind.

- (6) Die skoolverkiegingsbeampte moet stembriewe met –
  - (a) meer kruise (x) as die aantal vakatures op die beheerliggaam; of
  - (b) die naam van 'n persoon of persone wat nie benoem is nie, afkeur.
- (7) Nadat al die kiesers gestem het, moet die skoolverkiegingsbeampte en die assistentskoolverkiegingsbeamptes die stemme tel in die teenwoordigheid van drie waarnemers wat aangestel is deur diegene wat die vergadering bywoon, om die telproses waar te neem.
- (8) In die geval van 'n staking van stemme vir twee of meer kandidate vir die laaste plek of plekke op die lys van kandidate, moet die skoolverkiegingsbeampte die kiesers versoek om die verkieslike kandidaat aan te dui uit diegene met gelyke stemme deur die prosedure wat in hierdie klousule uiteengesit word, te volg.
- (9) Die skoolverkiegingsbeampte moet die uitslag gedurende die verkiesingsvergadering aankondig en die kandidate wat die meeste stemme gekry het as die verkose lede van die beheerliggaam verklaar.
- (10) Die aantal stemme wat 'n persoon in hierdie verkiesing ontvang, bepaal nie die uitslag van die verkiesing van ampsdraers wat verkies is ingevolge klousule 15 nie.

#### 15. Verkiesing van ampsdraers

- (1) Die skoolverkiegingsbeampte kan 'n vergadering belê uitsluitlik vir die doel om ampsdraers te verkies op die dag van die ouerverkiegingsvergadering indien –
  - (a) die verkiesing van opvoeders, nie-opvoeders en leerders voor die ouerverkieging plaasgevind het;
  - (b) die 21 dae-kennisgewing ingevolge klousule 9(2) uitgereik is aan ouers, opvoeders, nie-opvoeders en leerders uit die verteenwoordigende raad van leerders ter inligting dat die vergadering vir die verkiesing van ampsdraers op die dag van die ouerverkieging sou plaasvind; en
  - (c) die kworumvereistes by die vergadering nagekom is.
- (2) Indien die vergadering om ampsdraers te verkies nie gehou word ingevolge klousule 15(1) nie, moet die skoolverkiegingsbeampte die eerste vergadering van die beheerliggaam binne 21 dae na die datum van die ouerverkiegingsvergadering belê.
- (3) Die skoolverkiegingsbeampte sit voor by enige vergadering wat belê is vir die verkiesing van ampsdraers.
- (4) By die eerste vergadering van 'n beheerliggaam moet die lede deur middel van geheime stembriewe –
  - (a) 'n voorsitter;
  - (b) 'n adjunkvoorsitter;
  - (c) 'n tesourier; en
  - (d) 'n sekretaris, verkies.
- (5) Slegs 'n ouerlid wat nie in diens van die skool is nie, is verkiesbaar vir die posisie van voorsitter of adjunkvoorsitter van die beheerliggaam.
- (6) Die ampstermyn van ampsdraers is een jaar.
- (7) Die skoolhoof kan 'n lid van sy of haar personeel aanwys om die tesourier en sekretaris van die beheerliggaam by te staan.
- (8) Wanneer die amp van een van die ampsdraers om enige rede vakant raak, moet die beheerliggaam, by die eerste vergadering nadat die vakature ontstaan het, een van sy lede verkies om die vakature vir die onverstreke tydperk van sy of haar voorganger te vul.
- (9) 'n Ampsdraer mag herverkies word na die verstryking van die ampstermyn.
- (10) Die skoolhoof moet die superintendent-generaal inlig oor enige verandering in ampsdraers en moet hom of haar voorsien van die besonderhede van die nuwe ampsdraers met inbegrip van name, identiteitsnommers, telefoonnommers, faksnommers en adresse.

#### 16. Oplossing van geskille

- (1) 'n Kieser of persoon wat 'n kandidaat in 'n beheerliggaamverkieging was, kan sy of haar klagte of grief skriftelik by die distrikverkiegingsbeampte inhandig binne sewe dae na die verkiesingsvergadering indien die voorgeskrewe prosedures nie gedurende die verkiesingsvergadering gevolg is nie.
- (2) 'n Persoon wat oor enige kennis of inligting van enige onreëlmatighede ten opsigte van die verkiesing beskik, kan die distrikverkiegingsbeampte binne sewe dae na die verkiesing skriftelik oor die onreëlmatighede inlig.



- (3) By ontvangs van die klagte, grief of inligting oor onreëlmatighede, moet die distrikverkiesingsbeampte sy adjunkdistrikverkiesingsbeampte of assistentdistrikverkiesingsbeampte aanstel om 'n ondersoek te doen en 'n aanbeveling aan hom of haar te maak.
- (4) Die distrikverkiesingsbeampte kan na 'n ondersoek 'n verkiesing ongeldig verklaar en 'n herverkiesing uitroep indien hy of sy tevrede is dat –
  - (a) die voorgeskrewe prosedures nie gevolg is nie; en
  - (b) die uitslag van die verkiesing anders sou gewees het indien die voorgeskrewe prosedures gevolg was; of
  - (c) onreëlmatighede gedurende die verkiesingsproses gepleeg is.
- (5) Enige persoon wat deur die distrikverkiesingsbeampte se besluit nagekom is, kan teen sodanige besluit appelleer aan die superintendent-generaal binne 14 dae na ontvangs van die distrikverkiesingsbeampte se besluit.
- (6) Die superintendent-generaal moet –
  - (a) binne 7 dae na ontvangs van die appèl, die appèl na die provinsiale verkiesingsbeampte verwys;
  - (b) die provinsiale verkiesingsbeampte versoek om die saak te ondersoek en 'n verslag met aanbevelings voor te berei binne 14 dae nadat die appèl na die provinsiale verkiesingsbeampte verwys is;
  - (c) die verslag vermeld in 6(b) oorweeg, 'n bevinding maak en sy of haar besluit skriftelik kommunikeer aan die appellant en aan die distrikverkiesingsbeampte binne 14 dae nadat die verslag van die provinsiale verkiesingsbeampte ontvang is.
- (7) Die besluit van die departementshoof is finaal.
- (8) Hangende die uitslag van die geskil, moet die superintendent-generaal voldoende persone aanstel om die funksies van die beheerliggaam vir 'n tydperk wat nie drie maande oorskry nie, te verrig.

#### 17. Prosedure na die verkiesing

- (1) Na die verkiesing van lede van 'n beheerliggaam, moet die skoolverkiesingsbeampte –
  - (a) elke verkose lid skriftelik van sy of haar verkiesing in kennis stel en sodanige kennisgewing moet per pos of e-pos gestuur word, of met die hand afgelewer word;
  - (b) alle dokumente, insluitend stembriewe wat by sodanige verkiesing gebruik is, in koeverte plaas en die koeverte verseël;
  - (c) die koeverte vir die duur van die ampstermyn van die beheerliggaam in veilige bewaring hou;
  - (d) die distrikverkiesingsbeampte skriftelik in kennis stel van die besonderhede van die verkiesing met inbegrip van die datum van die verkiesing, name, identiteitsnommers, telefoonnommers, faksnommers en adresse van alle verkose lede.

#### 18. Tussenverkiesing

- (1) Indien 'n vakature ontstaan as gevolg van die vertrek van enige lid van 'n beheerliggaam voor die verstryking van die ampstermyn of die lid se ampstermyn, moet die skoolverkiesingsbeampte voorgaan by die verkiesing van 'n nuwe lid om die vertrekkende lid te vervang.
- (2) Indien 'n vakature meer as ses maande voor die verstryking van die ampstermyn van 'n beheerliggaam ontstaan, moet die skoolverkiesingsbeampte 'n tussenverkiesing hou en die prosedures soos uiteengesit in klousules 9 tot 14 volg.
- (3) Die skoolverkiesingsbeampte moet 'n verkiesingsvergadering reël binne 90 dae nadat 'n vakature ontstaan het, en hangende die tussenverkiesing mag die beheerliggaam lede koöpteer.
- (4)
  - (a) Indien 'n vakature minder as ses maande voor die verstryking van die ampstermyn van 'n beheerliggaam as gevolg van die vertrek van 'n lid ontstaan, moet die oorblywende lede deur middel van 'n meerderheidstem, 'n persoon of persone koöpteer om die vakature of vakatures vir die oorblywende deel van die ampstydperk van die beheerliggaam te vul; en
  - (b) Die ouer, opvoeder, nie-opvoeder en leerderkomponent moet name van ten minste drie verkiesbare persone aanbeveel wat tot die beheerliggaam gekoöpteer kan word en die beheerliggaam moet uit die aanbevole name koöpteer.
- (5) 'n Gekoöpteerde lid vermeld in sub-klousules (3) en (4) neem die stemreg van die vertrekkende lid, indien enige, oor.

#### 19. Ontbinding van 'n beheerliggaam

- (1) Die lid van die Uitvoerende Raad kan 'n beheerliggaam ontbind deur middel van kennisgewing in die *Provinsiale Koerant* indien –

- (a) die skool gesluit of deels afgestig is;
  - (b) hy of sy van mening is, as gevolg van die samesmelting van skole of die verdeling van 'n skool of ander herorganisering van skoolfasiliteite, dat die beheerliggaam nie meer verteenwoordigend van die gemeenskap waarvoor 'n skool gestig is nie;
- (2) By oorweging van 'n mosie van wantroue wat aanvaar is deur nie minder nie as 15 persent van die ouers op die ouerkieserslys by 'n algemene vergadering van ouers, kan die lid van die Uitvoerende Raad 'n beheerliggaam ontbind.

**20. Delegering van bevoegdhede**

Die superintendent-generaal kan die bevoegdhede wat ingevolge hierdie kennisgewing aan hom of haar verleen is, aan 'n beampte in diens van die Departement delegeer.

**21. Herroeping van kennisgewing**

Provinsiale Kennisgewing No. 716 van 2006 gepubliseer op 4 Mei 2006 word hiermee herroep.

**ES MCHUNU**

**Lid van die Uitvoerende Raad van die provinsie KwaZulu-Natal verantwoordelik vir onderwys**

No. 99

29 kuNhlaba 2009

**UMTHETHO WEZIKOLE WASENINGIZIMU AFRIKA, 1996 (UMTHETHO NO. 84 KA 1996)****ISAZISO ESIMAYELANA NOKUKHETHWA KWAMALUNGU EZIGUNGU EZILAWULAYO ZEZIKOLE EZEJWAYELEKILE ZIKAHULUMENI (NGAPHANDLE KWEZIKOLE ZABAFUNDI ABANESIDINGO SEMFUNDO EKHETHEKILE)**

Mina , EDWARD SENZO MCHUNU, iLungu loMkhandlu oPhethe elibhekele ezemfundo esifundazweni saKwaZulu-Natali, senginqume ngezinto eziphathelene nezigungu ezilawulayo njengoba kuvela kulolu Hlelo ngokwesigaba 28 soMthetho weziKole waseNingizimu Afrika, 1996 (uMthetho No. 84 ka 1996).

**UHLELO****Izincazelo**

1. Kulesi saziso noma yiliphi igama noma isethulo esincazelo yaso ibhaliwe eMthethweni siyokuba naleyo ncazelo ngaphandle uma ingqikithi isho okwehlukile –
  - “**uMthetho**” kusho uMthetho weziKole waseNingizimu Afrika, 1996 (uMthetho No. 84 ka 1996) njengoba ushicilelwe;
  - “**umhlangano ovalekile**” kusho umhlangano ovuleleke kuphela -
    - (a) kubazali uma kukhethwa abazali;
    - (b) kothisha uma kukhethwa othisha;
    - (c) kwabangesibona othisha uma kukhethwa abangesibona othisha; kanye
    - (d) nakubafundi abasemkhandlwini omele abafundi;
  - “**amalungu engeziwe**” kusho amalungu –
    - (a) angenawo amandla okuvota engezwe ngokobungcweti bawo; kanye
    - (b) nalawo anawo amandla okuvota engezwe ezikhundleni zamalungu ashiye singakapheli isikhathi sawo sokuba sezikhundleni;
  - “**usuku**” kusho usuku lwekhalenda;
  - “**uMnyango**” kusho uMnyango wezeMfundo waKwaZulu-Natali;
  - “**umhlangano wokhetho**” kusho -
    - (a) imihlangano emine eyahlukene ebanjelwe kuphela ukuthi kuphakanyiswe futhi kukhethwe abazali bodwa, othisha bodwa, abangesibona othisha bodwa kanye nabafundi bomkhandlu omele abafundi bodwa, njengoba kungaba njalo; kanye
    - (b) nomhlangano wokhetho lokuchibiyela;
  - “**abaqaphi bokhetho**” kusho izikhulu noma abaholi bomphakathi abaqokwe yithimba lesifundazwe noma lesifunda elibhekele ukhetho baphinde bagunyazwa nguNsumpa-Jikelele njengabaqaphi, njengezinduna noma njengababhekele ukhetho;
  - “**umhlangano wokuqala**” kusho umhlangano obanjelwe kuphela ukuthi kuqokwe abazobamba izikhundla;
  - “**iLungu loMkhandlu oPhethe**” kusho iLungu loMkhandlu oPhethe elibhekele ezemfundo esiFundazweni saKwaZulu-Natali;
  - “**ongesiyena uthisha**” kusho noma yimuphi umsebenzi oqashwe esikoleni ongesiyena uthisha;
  - “**isikole**” kusho isikole esejwayelekile sikahulumeni esifundisa abafundi ebangeni elilodwa noma ngaphezulu kusukela ebangeni R kuya ebangeni le-12;
  - “**isikhulu sokhetho sesikole**” kusho uthishanhlolo, ibamba likathishanhlolo noma isikhulu, esingaqashiwe esikoleni, esiqokwe yiNhloko yoMnyango ukuqhuba ukhetho lwesigungu esilawulayo sesikole;
  - “**uNsumpa-Jikelele**” kusho iNhloko yoMnyango wezeMfundo esiFundazweni saKwaZulu-Natali;
  - “**umvoti**” kusho umzali emkhakheni wabazali, uthisha emkhakheni wothisha, ongesiyena uthisha emkhakheni wabangesibona othisha kanye nomfundi emkhakheni womkhandlu omele abafundi.

**Ubulungu esigungwini esilawulayo**

2. (1) Isigungu esilawulayo siqukethe -
  - (a) abazali babafundi abafunda esikoleni lapho kukhethwa khona isigungu esilawulayo, abangaphezulu ngelungu elilodwa noma ngaphezulu kwesibalo samalungu anelungelo lokuvota okukhulunywe ngawo kwisigaba somthetho 2(1)(b), (c), (d) no (e) ngezansi esehlangene;
  - (b) uthisha oyedwa okhethwe othisha abaqashwe esikoleni okuqokwa kuso isigungu silawulayo uma kunothisha abane noma ngaphansi abaqashwe kuleso sikole, noma othisha ababili uma beyisihlanu noma ngaphezulu othisha abaqashwe kuleso sikole;
  - (c) oyedwa ongesiyena uthisha oqashwe esikoleni okukhethwa kuso isigungu silawulayo; uma bebane abangabona abafundisi noma ngaphansi esikoleni okukhethwa

- kuso noma ababili nomangaphezulu ukungebona abafundisi umabebahlanu nangaphezulu okungebona abafundisi abaqashiwe esikoleni
- (d) abafundi ababili abakhethwe phakathi kwabafundi abasemkhandlwini omele abafundi esikoleni esinebanga lesishiyagalombili noma elingaphezulu;
- (e) uthishanhloko, ngokwesikhundla sakhe; kanye
- (f) namalungu engeziwe, uma ekhona.
- (2) Isibalo sabantu abengeziwe ngokwesigaba 23(6) soMthetho akumele seqe kwabayisihlanu.

### Isikhathi sokuba sesikhundleni

3. (1) Isigungu esilawulayo sikhethelwa iminyaka emithathu ngaphandle uma kunqume iLungu loMkhandlu oPhethe.
- (2) Ilungu loMkhandlu oPhethe liyonquma isikhathi sokubanjwa kokhetho kuzo zonke izikole.
- (3) Uma isigungu esilawulayo –
- (a) sinezinyanga eziyisithupha noma ngaphansi ezisele ngaphambi kokuba kuphele isikhathi saso sokuba sesikhundleni, iLungu loMkhandlu oPhethe, uma lingahambisani nokulinda lesi sikhathi, lingayalela ukuba ukhetho lubanjwe ngosuku olunqunywe yilona; noma
- (b) sinezinyanga ezingaphezulu kwesithupha, iLungu loMkhandlu oPhethe, ngemuva kokubonisana naleso sigungu esilawulayo esithintekayo, linganquma usuku okumele kubanjwe ngalo ukhetho uma lingahambisani nokulinda isikhathi esisasele sokuba sesikhundleni.
- (4) Kuncike kwisigaba somthetho 4(2), wonke amalungu ngaphandle kwabafundi abakhethwe emkhandlwini omele abafundi ngokwesigaba somthetho 2(1) bakhethelwa isikhathi esiyiminyaka emithathu.
- (5) Isikhathi sokuba sesikhundleni selungu lesigungu esilawulayo elingumfundi elikhethwe ngokwesigaba somthetho 2(1)(d) siwunyaka owodwa.
- (6) Kuncike kwizigaba zomthetho 4 no 18, ilungu lesigungu esilawulayo libamba lesi sikhundla kuze kuphele isikhathi sokuba sesikhundleni kwesigungu esilawulayo.
- (7) Uma uNsumpa-Jikelele enquma ngezizathu ezizwakalayo ukuthi isigungu esilawulayo sesiwuphothulile umsebenzi ebesabelwe wona ngokoMthetho noma sehlulekile ukwenza umsebenzi owodwa noma ngaphezulu waleyo misebenzi, uNsumpa -Jikelele angayihoxisa imisebenzi futhi -
- (a) uyoqoka abantu abenele ukuqhuba yonke leyo misebenzi noma owodwa noma ngaphezulu waleyo misebenzi yesigungu esilawulayo isikhathi ezingeqile ezinyangeni ezintathu;
- (b) angelula isikhathi okukhulunywe ngaso kwisigaba somthetho 7(a) isikhathi esingeqile ezinyangeni ezintathu isikhathi ngasinye kodwa singeqi onyakeni owodwa uma sesihlanganisiwe; futhi
- (c) kumele aqinisekise ukuthi isigungu esilawulayo sikhethwa onyakeni owodwa ngemuva kokuqokwa komuntu okukhulunywe ngaye kwisigaba somthetho 7(a).
- (8) Kuncike kwisigatshana somthetho 4, ilungu lesigungu esilawulayo lingaphinde likhethwe noma lingengezwa, uma kungaba njalo, uma sekuphele isikhathi salo sokuba sesikhundleni.

### Ukwakheka kanye nokufaneleka

4. (1) Laba abalandelayo bafanelekile ukuba bakhethwe njengamalungu esigungu esilawulayo -
- (a) abazali babafundi esikoleni;
- (b) othisha abaqashwe esikoleni;
- (c) okungesibona othisha abaqashwe esikoleni; kanye
- (d) nabafundi abasemkhandlwini omele abafundi abasebangingeni lesishiyagalombili kuyaphezulu ezikoleni
- (2) Akekho umuntu oyokhethwa njengelungu lesigungu esilawulayo uma -
- (a) eke watholakala enecala wagwetshwa izinyanga eziyi-12 ebhadla ejele ngaphandle kokubonelelwa ngokuthi akhokhe inhlawulo okungaba kwiRiphabhulikhi noma ngaphandle kweRiphabhulikhi, uma isenzo sakhe kulelo cala besiyokuba yicala kwiRiphabhulikhi, akekho oyothathwa njengosegwetshiwe kuze kube -
- (i) uyaphendula ngokuthweswa kwakhe icala noma isigwebo sesinqunywe; noma
- (ii) isikhathi sakhe sokuziphendulela sesiphelile, kuncike ekutheni ukuhoxiswa ngaphansi kwale ndima kuyaphela eminyakeni emihlanu ngemuva kokuphuthulwa kwesigwebo;
- (b) emenezelwe yinkantolo esemthethweni njengongaphilile kahle engqondweni;
- (c) ecwile ezikweletini ngokungenakuhlengeka;

- (d) engumzali kodwa engesona isakhamuzi saseNingizimu Afrika noma engenayo imvume yokuhlala ngaphandle uma egunyazwe uNsumpa-Jikelele;
  - (e) engumzali kodwa engasenayo ingane efunda esikoleni; noma
  - (f) engumfundi kodwa engesilona ilungu lomkhandlu omele abafundi.
- (3) Ilungu lingashiya isikhundla salo uma -
- (a) lingahlangabezani nezidingo ezibekwe kwisigaba somthetho 4;
  - (b) lisula;
  - (c) iyilungu elikhethwe ngokwesigaba somthetho 2(1)(a) futhi lingasenayo ingane efunda esikoleni.
  - (d) liyilungu elikhethwe ngokwesigaba somthetho 2(1)(b) noma (c) futhi ukusebenza kwalo sekunqanyuliwe, noma uma lidluliselwe noma lisiselwe kude naleso sikole;
  - (e) lishona;
  - (f) liyilungu elikhethwe ngokwesigaba somthetho 2(1)(d) futhi lingasafundi kuleso sikole;
  - (g) lephuliile ngaphandle kokunikezwa ikhefu emihlanganweni emibili ejwayelekile yesigungu esilawulayo; noma
  - (h) lingaselona ilungu lomkhandlu omele abafundi.

#### Ukuqokwa kwezikhulu zokhetho zesiFundazwe

5. (1) UNsumpa-Jikelele kumele aqoke ngokubhalwe phansi isikhulu sokhetho zesiFundazwe, isekela lesikhulu sokhetho zesiFundazwe kanye nabasizi bezikhulu zokhetho;
- (2) Isikhulu sokhetho zesiFundazwe kumele -
- (a) siqinisekise ukuthi kunokukhangiswa okwanele kokhetho;
  - (b) silawule ukuqokwa kwesikhulu esisodwa noma ngaphezulu esizosebenzela uMnyango esizolekelela okhethweni njengomsizi kwezikhulu zokhetho zesiFundazwe;
  - (c) siqinisekise ukuthi kuyahanjiswa nomthetho wesifundazwe omayelana nokubanjwa kokhetho;
  - (d) sihlanganise uhlelo lokhetho lwazo zonke izikole esiFundazweni;
  - (e) siqaphe ukufundiswa kwamalungu amasha esigungu esilawulayo; futhi
  - (f) siqhube uphenyo njengokuyalela kukaNsumpa-Jikelele.
- (3) Usekelela wesikhulu sokhetho zesiFundazwe kanye nabasizi bezikhulu zokhetho zesiFundazwe basiza isikhulu sokhetho zesiFundazwe ekuqhubeni imisebenzi yaso.

#### Ukuqokwa kwezikhulu zokhetho zezifunda

6. (1) UNsumpa-Jikelele kumele aqoke ngokubhalwe phansi isikhulu sokhetho zezifunda, isekela lesikhulu sokhetho zezifunda kanye nabasizi bezikhulu zokhetho zezifunda.
- (2) Isikhulu sokhetho zezifunda kumele -
- (a) silawule ukuqokwa kwesikhulu esisodwa noma ngaphezulu esizosebenzela uMnyango ukulekelela okhethweni njengomsizi wesikhulu sokhetho zezifunda;
  - (b) silawule ukuqokwa kwezikhulu zokhetho zezikole;
  - (c) sisakaze uhlelo lokhetho lwazo zonke izikole esifundeni;
  - (d) siqinisekise ukuhambisana nohlelo lokhetho;
  - (e) siqinisekise ukuthi zonke izikole zinohlu olusemthethweni lwabavoti;
  - (f) sisungule futhi silawule ibhuku lamalungu amasha aqokelwe esigungwini sokulawula esifundeni futhi senze ukuthi ibhuku litholakale eMnyangweni;
  - (g) siqinisekise ukuthi amalungu amasha akhethelwe esigungwini esilawulayo afundisiwe ngomsebenzi esikhathini esiyizinyanga ezintathu ekhethiwe; futhi
  - (h) sixazulule izinkinga ezimayelana nokhetho lokulawulwa kwezikole ngokwesigaba somthetho 16.
- (3) Ngaphandle kokuxazulula izinkinga njengoba kuhlizekwe kwisigaba somthetho 6(2)(h), isekela tho zezifunda kanye nabasizi bezikhulu zokhetho zezifunda bayosiza isikhulu sokhetho zezifunda ekwenzeni yonke eminye imisebenzi.
- (4) Isekela lesikhulu sokhetho zezifunda kanye nomsizi wesikhulu sokhetho zezifunda bangahlinzeka isikhulu sokhetho zezifunda ngeziluleko mayelana nanoma yiluphi udaba olumayelana nokhetho.

#### Ukukhethwa kwezikhulu zokhetho zezikole

7. (1) UNsumpa-Jikelele kumele aqoke ngokubhalwe phansi isikhulu soMnyango njengesikhulu sokhetho zezikole lapho kukhethwa abazali, othisha, abangesibona othisha kanye nabafundi abasekhandlwini omele abafundi njengamalungu esigungu esilawulayo.
- (2) Uthishanhloko angeke aqokelwe ekubeni yisikhulu sokhetho zezikole esikoleni lapho eqashwe khona.

- (3) Isikhulu sokhetho sesikole kumele siqoke ngokubhalwe phansi isikhulu esisodwa noma ngaphezulu noma othisha abasebenzela uMnyango abaqashwe yisigungu esilawulayo ukulekelela okhethweni njengabasizi bezikhulu zokhetho.
- (4) Isikhulu sokhetho sesikole kumele songamele kuyo yonke imihlangano yokhetho.
- (5) Isikhulu sokhetho sesikole kanye nomsizi wesikhulu sokhetho sesikole angeke baphakanyiswe, bafake izicelo noma bavune ophakanyisiwe.

#### **Isifungo noma isibopho nokugcinwa kwezimfihlo**

8. Zonke izikhulu zokhetho kumele zisayinde isifungo noma isibopho sokugcina izimfihlo kwifomu elinqunywe nguNsumpa-Jikelele ngaphambi zisebenze kulezo zikhundla.

#### **Isaziso somhlangano wokhetho**

9. (1) Uthishanhloko wesikole esithintekayo –
  - (a) uyonquma usuku, isikhathi kanye nendawo okuyobanjelwa kuyo umhlangano wokhetho; futhi
  - (b) uyolungisa isaziso esibeka usuku, isikhathi kanye nendawo yomhlangano wokhetho.
- (2) Okungenani ezinsukwini ezingama-21 ngaphambi kosuku lomhlangano wokhetho, uthishanhloko wesikole esithintekayo kumele -
  - (a) anikeze bonke abafundi esikoleni ikhophi yesaziso somhlangano wokhetho futhi abayalele ngomlomo ukuba bahambise izaziso kubazali babo noma athumele leyo khophi yesaziso kubazali ngeposi;
  - (b) anikezele ngekhophi yaleso saziso kothisha kaye nabangesibona othisha;
  - (c) enze ukuba ikhophi yaleso saziso inanyathiselwe endaweni esobala kuleso sikole esithintekayo nakunoma iyiphi enye indawo efanele nesobala; futhi
  - (d) anikezele ngekhophi elungwini ngalinye lomkhandlu omele abafundi.
- (3) Lapho kuyisikole esisha, ukhetho kumele lubanjwe ezinsukwini ezingama-60 kusungulwe lesi sikole.

#### **Uhlu lwabavoti**

10. (1) Uthishanhloko kumele alungise uhlu lwabavoti ngalunye kule mikhakha elandelayo -
  - (a) abazali;
  - (b) othisha;
  - (c) abangesibona othisha;
  - (d) abafundi abasemkhandlwini omele abafundi.
- (2) Uthishanhloko kumele alungise uhlu lwabavoti esebenzisa -
  - (a) incwadi yokumukelwa komfundi kubazali;
  - (b) incwadi yokuqoshwa kwesikhathi kothisha;
  - (c) incwadi yokuqoshwa kwesikhathi yabangesibona othisha; kanye
  - (d) nerejista yabafundi abasemkhandlwini omele abafundi.
- (3) Uthishanhloko kumele okungenani kusasele izinsuku ezingama-21, enze ukuba kuthunyelwe incwadi nomfundi ukumema abazali ukuba bavuselele ulwazi encwadini yokwemukelwa ngenhloso yokuthi kugcwaliswe uhlu lwabavoti.
- (4) Okungenani kusasele izinsuku eziyi-14 ngaphambi kokuthi kubanjwe umhlangano wokuvota, uthishanhloko kumele avumele labo abangakwazi ukuvota ukuba bahlole uhlu lwabavoti.
- (5) Noma yisiphi isikhalazo esimayelana nohlu lwabavoti kumele sibhekiswe kuthishanhloko kusasele okungenani izinsuku eziyisikhombisa kubanjwe ukhetho.

#### **Imihlangano yokhetho**

11. (1) Kumele kubanjwe imihlangano ehlukeneyo yokhetho -
  - (a) lwabazali
  - (b) lothisha;
  - (c) lwabangesibona othisha; kanye
  - (d) nolwabafundi abasemkhandlwini omele abafundi.
- (2) Isikhulu sokhetho sesikole kumele siqoke umsizi wesikhulu sokhetho sesikole ukuba asebenze njengonobhala emihlanganweni futhi aqophe amaminithi enqubo yemihlangano.
- (3) Ngaphandle kwabaqaphe ukhetho kanye nomsizi wesikhulu sokhetho sesikole, isikhulu sokhetho sesikole akumele sivumele noma imuphi umuntu ongesiyena umvoti ukuba ethamele umhlangano noma sivumele ukuba kukhethwe umuntu ongalungenelanga ukhetho ngokwesigaba somthetho 4.
- (4) Isikhulu sokhetho sesikole kumele sinxuse abavoti ukuba baveze ubufakazi bokuthi bangobani ngokuthi baveze omazisi babo baseNingizimu Afrika noma amapasipoti asemthethweni.

- (5) Ngaphambi kokuqhubeka nokhetho lwamalungu esigungu esilawulayo, isikhulu sokhetho sesikole kumele senze abavoti baqaphele lokhu okulandelayo -
- isikhathi sokuba sesikhundleni samalungu esigungu esilawulayo sesiphelile futhi amalungu asazisiwe ngokusemthethweni;
  - umhlangano wokhetho ungumhlangano ovalekile;
  - izinhlizweko zesigaba somthetho 4 eziveza umuntu ongafanelekile ukuba yilungu lesigungu esilawulayo;
  - isibalo sabantu okumele bakhethwe;
  - noma yikuphi ukuphakanyiswa kumele kwesekwe umzali, uthisha, ongesiyena uthisha, umfundi osemkhandlwini omele abafundi, uma kungaba njalo, ofanelekile ukuba avote;
  - ngesikhathi sokuphakamisana, abavoti kumele babhekelele ukumeleleka futhi kumele baqinisekise ukuthi iziphakamiso zabo zimele ubulili, ibala futhi kumele zibandakanye ukuphakanyiswa kwabantu abanokukhubazeka;
  - umvoti ngamunye unevoti elilodwa esikhaleni somsebenzi okumele sivalwe;
  - kuvotwa ngephepha lokuvota eliyimfihlo; futhi
  - ikhona inqubo yokukhalaza kulabo abangenelisekanga ngenqubo kanye nomphumela wokhetho.

#### Isibalo esivumelekile sabangabamba umhlangano wokhetho

12. (1) Isibalo esivumelekile esingamaphesenti ayi-15 sabavoti abasohlwini lokuvota kumele sibe khona ngaphambi kokuthi kubanjwe noma yiluphi ukhetho.
- (2) Uma isibalo okukhulunywe ngaso kwisigatshana somthetho (1) singahlangani, umhlangano kumele uhlehliselwe okungenani ezinsukwini eziyi-14 kodwa kungeqi ezinsukwini ezingama-21.
- (3) Uma umhlangano wokhetho uhlehliswa, isikhulu sokhetho sesikole kumele siqhubeke nomhlangano olandelayo kungakhathaleki ukuthi isibalo esivumelekile somhlangano siphelele yini.

#### Ukuphakanyiswa

13. (1) Isikhulu sokhetho sesikole kumele sinqume isikhathi esivumelekile sokuthi kuqokwe abazongenela ukuqokwa uma sekusesigabeni sokuphakamisa abantu futhi kumele sazise abavoti ngendlela.
- (2) Umuntu angaphakanyiswa noma engekho kuncike ekutheni -
- omphakamisayo nalowo ovuna lesi siphakamiso bakhona emhlanganweni; futhi
  - ophakanyiswayo uthumela ngokubhaliwe ukwamukela ukuphakanyiswa kwakhe.
- (3) Ongenela ukhetho angaphakanyiswa ngokubhalwe phansi noma ngomlomo -
- ngumzali womfundi ofunda esikoleni ukuba asebenze ngokwesigaba somthetho 2(1)(a);
  - nguthisha oqashwe kuleso sikole ukuba asebenze ngokwesigaba somthetho 2(1)(b);
  - ongesiyena uthisha kodwa oqashwe kuleso sikole ukuba asebenze ngokwesigaba somthetho 2(1)(c); noma
  - ngumfundi osemkhandlwini omele abafundi ngokwesigaba somthetho 2(1)(d), kuncike ekutheni omunye umzali, uthisha, ongesiyena uthisha noma abafundi abasemkhandlwini omele abafundi, njengoba kungaba njalo, bayasivuna isiphakamiso futhi umuntu ophakanyiswayo uyakuveza emhlanganweni ngomlomo noma ngokubhalwe phansi uma engekho, ukuthi ukulungele ukusebenza njengelungu lesigungu esilawulayo, uma ekhethiwe.
- (4) Ofaka isicelo sokuphakamisa ozongenela ukhetho nalowo osivunayo kumele babe khona emhlanganweni wokhetho.
- (5) Isikhulu sokhetho sesikole kumele -
- sinike umuntu ophakamise ozongenela ukhetho ithuba lokuthi ethule lowo amphakamisile emhlanganweni futhi anikeze izizathu zokumphakamisa kwakhe; noma
  - sivumele ophakanyisiwe ukuba azethule yena ngokwakhe emhlanganweni.
- (6) Ngesikhathi sokwenziwa kweziphakamiso, isikhulu sokhetho sesikole kumele semukele iziphakamiso futhi sichithe ukuphakanyiswa komuntu -
- ongakhethwanga ngokuhambisana nesigaba somthetho 13(2) kanye no (3); noma
  - ongavumelekile ngokwesigaba somthetho 4.
- (7) Uma isibalo sabantu abaphakanyisiwe seqa isibalo sezikhala zomsebenzi, isikhulu sokhetho sesikole kumele ngokushesha ngemuva kokuvala ithuba leziphakamiso, sibhale phansi amagama abaphakanyisiwe ebhodini elifanele noma kunoma iyiphi indawo ecacile futhi ebonakalayo kuwo wonke umuntu owethamele umhlangano.
- (8) Uma isibalo sabantu abakhethiwe silingana nezikhala zomsebenzi, isikhulu sokhetho sesikole kumele simemezele abantu abaphakanyisiwe njengasebekhethiwe.

#### Ukuvota

14. (1) Umvoti ngamunye umevoti elilodwa esikhundleni ngasinye okumele sigwaliswe esigungwini esilawulayo.
- (2) Isikhulu sokhetho sesikole kumele sinxuse abavoti abakhona ukuba bafake uphawu lwesiphambano (x) maqondana namagama abaphakanyisiwe ababakhethayo emaphepheni okuvota ayohlinzekwa yisikhulu sokhetho sesikole.
- (3) Umuntu owehlulekayo ukufaka uphawu lwevoti lakhe ephepheni lokuvota elibalulwe kwisigaba somthetho 14(2) ngasenhla angenza isicelo ngomlomo sokuthi alekelelwe esikhulwini sokhetho sesikole noma kumsizi wesikhulu sokhetho ukuze afake eceleni kophakanyiwe amkhethayo ivoti lakhe ephepheni lokuvota.
- (4) Isikhulu sokhetho sesikole siyosiza noma yimuphi umuntu okhubazekile.
- (5) Isicelo sokusizwa kanye nokugcwalisa iphepha lokuvota ngokuhambisana nesicelo okukhulunywe ngaso kwisigaba somthetho 14(3) siyokwenziwa ngasese endaweni ehlonzwe yisikhulu sokhetho sesikole ngenxa yaleyo nhloso kodwa kube sendaweni okubanjelwe kuyona ukhetho.
- (6) Isikhulu sokhetho sesikole kumele singawemukeli amaphepha okuvota -
- (a) afakwe iziphambano (x) eziningi ngaphezu kwezikhala ezikhona esigungwini esilawulayo; noma
- (b) anagama lomuntu noma abantu abaphakanyisiwe;
- (7) Uma bonke abavoti sebewafakile amavoti abo, isikhulu sokhetho sesikole kanye nomsizi wesikhulu sokhetho sesikole kumele babale amavoti akhona bekanye nabaqaphi abathathu abaqokwe yilabo abethamele umhlangano, ukuba baqaphe ukubalwa kwamavoti;
- (8) Uma kuba nokulingana kwamavoti kwababili noma ngaphezulu abaphakanyisiwe endaweni noma ezindaweni ezisekugcineni ohlwini lwabaphakanyisiwe, isikhulu sokhetho sesikole kumele sicele abavoti ukuba bakhombe lowo abamkhethayo kwabaphakanyisiwe kulabo abanamavoti alinganayo ngokulandela inqubo ebekwe kulesi sigaba somthetho;
- (9) Isikhulu sokhetho sesikole kumele simemezele imiphumela emhlanganweni wokhetho bese sidalula abaphakanyisiwe abathole amavoti amaningi njengamalungu aseqokelwe esigungwini esilawulayo.
- (10) Isibalo samavoti atholwe umuntu kulolu khetho asinqumi umphumela wokhetho lwabazokuba sezikhundleni ngokwesigaba somthetho 15.

#### Ukhetho lwabazongena ezikhundleni

15. (1) Isikhulu sokhetho sesikole singabiza umhlangano ngenhloso yokukhetha abazongena ezikhundleni kuphela ngosuku lomhlangano wokhetho lwabazali uma -
- (a) ukhetho lothisha, lwabangesibona othisha nolwabafundi lubanjwe ngaphambi kokhetho lwabazali;
- (b) isaziso sezinsuku ezingama-21 ngokwesigaba somthetho 9(2) sanikezelwa kubazali, kothisha, kwabangesibona othisha kanye nakubafundi abasemkhandlwini omele abafundi ukubazisa ukuthi umhlangano wokhetho lwabazongena ezikhundleni uzobanjwa ngosuku lomhlangano wokhetho lwabazali; futhi
- (c) kuhanjiswa nezidingo zokuba khona kwesibalo esenele sabantu esingabamba umhlangano.
- (2) Uma umhlangano wokukhetha abazongena ezikhundleni ungabanjwanga njengokulandisa kwesigaba somthetho 15(1) isikhulu sokhetho sesikole kumele sibize umhlangano wokuqala wesigungu esilawulayo ezinsukwini ezingama-21 kusuka osukwini lokubanjwa kokhetho lwabazali.
- (3) Isikhulu sokhetho sesikole sengamela noma imuphi umhlangano obizelwe ukhetho lwabazongena ezikhundleni.
- (4) Emhlanganweni wokuqala wesigungu esiphethe amalungu kumele akhethe ngokusebenzisa iphepha lokuvota eliyimihlo -
- (a) usihlalo;
- (b) usekela kasihlalo;
- (c) umgcinimafa; kanye
- (d) nonobhala
- (5) Yilungu elingumzali kuphela, elingaqashiwe esikoleni elifanelekile esikhundleni sokuba ngusihlalo noma usekela kasihlalo esigungwini esilawulayo.
- (6) Isikhathi sokuba sesikhundleni kwabangena ezikhundleni singunyaka owodwa.
- (7) Uthishanhloko angaqoka ilungu kubasebenzi bakhe ukulekelela umgcinimafa kanye nonobhala wesigungu esilawulayo.
- (8) Uma kwenzeka nganoma yisiphi isizathu kuba nesikhala esikhundleni esisodwa, isigungu esilawulayo, emhlanganweni wokuqala ngemuva kokubela kwesikhala, kumele sikhethe oyedwa emalungwini aso ukuvala lesi sikhala esikhathini esisasele salowo oshiyile.



- (9) Osesikhundleni angaphinde aqokwe kabusha uma kuphela isikhathi sakhe sokuba sesikhundleni.
- (10) Uthishanhloko kumele azise uNsumpa-Jikelele nganoma yiluphi uguquko lwabasezikhundleni futhi kumele amhlinzeke ngemininingwane yalabo abangene ezikhundleni kubandakanya amagama, izinombolo zomazisi, izinombolo zezingcingo, izinombolo zefeksi kanye namakheli.

#### Ukuxazululwa kwezinkinga

16. (1) Umvoti noma umuntu obephakanyisiwe ngenkathi kukhethwa isigungu esilawulayo angathumela isikhalo noma ukungeneliseki kwakhe ngokubhalwe phansi esikhulwini sokhetho sesifunda ezinsukwini eziyisikhombisa ngemuva kokhetho uma izinqubo ezibekiwe zingazange zilandelwe ngesikhathi kunomhlangano wokhetho.
- (2) Noma yimuphi umuntu onanoma yiluphi ulwazi nganoma yikuphi okungazange kuhambe ngendlela mayelana nokhetho angazisa isikhulu sokhetho sesifunda ngokubhalwe phansi ngalokho okungahambanga ngendlela ezinsukwini eziyisikhombisa kudlule ukhetho.
- (3) Uma semukela isikhalo, ukungeneliseki noma ulwazi olumayelana nokungazange kuhambe ngendlela, isikhulu sokhetho sesifunda siyoqoka usekela waso noma umsizi wesikhulu sokhetho sesifunda ukuba aqhube uphenyo futhi enze izincomo kusona.
- (4) Isikhulu sokhetho sesifunda kungathi ngemuva kophenyo, sidalule ukhetho njengolungekho emthethweni futhi singamema ukuba kukhethwe kabusha uma senelisekile ukuthi -
- (a) inqubo ebekiwe ayizange ilandelwe;
- (b) umphumela wokhetho ubuyokwehluka ukube inqubo ebekiwe ibilandeliwe; futhi
- (c) okungahambanga ngendlela kwenziwa ngesikhathi kuqhutshwa ukhetho.
- (5) Noma yimuphi umuntu ongeneliseki yisinqumo sesikhulu sokhetho sesifunda angakhalaza mayelana naleso sinqumo kuNsumpa-Jikelele ezinsukwini eziyi-14 kwemukelwe isinqumo ezivela esikhulwini sokhetho sesifunda.
- (6) UNsumpa-Jikelele kumele -
- (a) ezinsukwini eziyisikhombisa emukele isikhhalazo asidlulisele esikhulwini sokhetho sesiFundazwe.
- (b) acele isikhulu sokhetho sesiFundazwe ukuba siphanye futhi silungise umbiko kanye nezincomo ezinsukwini eziyi-14 kudluliselwe isikhhalazo esikhulwini sokhetho sesifundazwe.
- (c) abheke umbiko okukhulunywe ngawo ku-5(b), athole isixazululo futhi abonisane ngokubhalwe phansi mayelana nesinqumo sakhe nalowo ofake isikhhalazo kanye nesikhulu sokhetho sesifunda ezinsukwini eziyi-14 kwemukelwe umbiko ovela esikhulwini sokhetho sesifundazwe.
- (7) Isinqumo seNhloko yoMnyango siyokuba ngujuqu.
- (8) Ngenkathi kusalindwe umphumela wokuxazululwa kwenkinga, uNsumpa-Jikelele kumele aqoke abantu abafanele ukuqhuba imisebenzi yesigungu esilawulayo isikhathi ezingeqile ezinyangeni ezintathu.

#### Inqubo ngemuva kokhetho

17. (1) Ngemuva kokhetho lwamalungu esigungu esilawulayo, isikhulu sokhetho sesikole kumele -
- (a) sazise ngokubhaliwe ilungu ngalinye elikhethiwe ngokukhethwa kwalo futhi lesa saziso kumele sithunyelwe ngeposi, nge-imeyili noma sihanjiswe ngesandla;
- (b) sigcine zonke izincwadi, kubandakanya amaphepha okuvota asetshenzisiwe kulolo khetho ezimvelophini futhi sivale isimvelophu;
- (c) sigcine isimvelophu endaweni ephephile kuze kuphele isikhathi sokusebenza kwesigungu esilawulayo;
- (d) sazise isikhulu sokhetho sesifunda ngokubhaliwe mayelana nemininingwane yokhetho kubandakanya usuku lokhetho, amagama, izinombolo zomazisi, izinombolo zezingcingo, izinombolo zamafeksi kanye namakheli awo wonke amalungu akhethiwe.

#### Ukhetho lokuchibiyela

18. (1) Uma kuvela isikhala somsebenzi ngenxa yokushiya kwanoma yiluphi ilungu esigungwini esilawulayo singakapheli isikhathi salo sokuba sesikhundleni, isikhulu sokhetho sesikole kumele siqhube ukhetho lwelungu elisha elizongena esikhundleni selungu elishiyile.
- (2) Uma isikhala somsebenzi sivela kusasele izinyanga ezingaphezu kwesithupha ngaphambi kokuthi kuphele isikhathi sokuba sesikhundleni kwesigungu esilawulayo, isikhulu sokhetho sesikole kumele sibambe ukhetho lokuchibiyela ngokulandela izinqubo ezibekwe kwizigaba zomthetho 9 no 14.

- (3) Isikhulu sokhetho sesikole kumele sihlele umhlangano wokhetho ezinsukwini ezingama-90 kuvele leso sikhala somsebenzi futhi ngenkathi kusalindwe ukhetho lokuchibiyela isigungu esilawulayo singengeza amalungu.
- (4) (a) Uma isikhala somsebenzi sivela ngenxa yokushiya kwelungu sekusele ngaphansi kwezinyanga eziyisithupha kuphele isikhathi sokuba sesikhundleni kwesigungu esilawulayo, amalungu asele kumele engeze, ngevoti leningi, umuntu noma abantu abazogcwalisa isikhala noma izikhala kuleso sikhathi esisasele sokusebenza kwesigungu esilawulayo; futhi
- (b) Umkhakha womzali, kathisha, wongesiyena uthisha kanye nowomfundi kumele wenze izincomo ngamagama abantu okungenani abathathu abafanelekile abangakwazi ukwengezwa esigungwini esilawulayo futhi isigungu esilawulayo kumele sengeze kulawo magama anconyiwe.
- (5) Ilungu elengeziwe okukhulunywe ngalo kwizigatshana zomthetho (3) no (4) liqhubeka emalungelweni elungu elishiyayo okuvota, uma ekhona.

#### **Ukuhlakazwa kwesigungu esilawulayo**

19. (1) ILungu loMkhandlu oPhethe lingahlakaza isigungu esilawulayo ngesaziso kwiGazethi yesiFundazwe uma –
- (a) isikole sivaliwe noma ingxenye yaso ihlakazwa;
- (b) sikweleta umdidiyeli wezikole noma isikole sihlukana noma okunye ukuhleleka kabusha kwezinsiza zesikole, uma linombono wokuthi isigungu esilawulayo asisamele umphakathi okusungulwe kuwona isikole;
- (2) Uma kuba nokuvumelana kokungasethembi isigungu esilawulayo okwenziwa yisibalo esingekho ngaphansi kwamaphezanti ayi-15 abazali abasohlwini lwabazali abavotayo emhlanganweni wabazali, iLungu loMkhandlu oPhethe lingasihlakaza isigungu esilawulayo.

#### **Ukudluliselwa kwaMandla**

20. UNsumpa-Jikelele angadlulisela amandla anikezwe wona ngokwalesi saziso esikhulwini esiqashwe uMnyango.

#### **Ukuchithwa kwesaziso**

21. ISaziso sesiFundazwe No. 716 sika 2006 esashicilelwa mhla zi-4 kuNhlaba 2006 ngalokhu siyachithwa.

#### **ES MCHUNU**

**iLungu loMkhandlu oPhethe esifundazweni saKwaZulu-Natali elibhekele ezemfundo**

No. 100

29 kuNhlaba 2009

**SOUTH AFRICAN SCHOOLS ACT, 1996 (ACT NO. 84 OF 1996)**

**COMPOSITION AND ELECTION OF GOVERNING BODIES OF PUBLIC SCHOOLS  
FOR LEARNERS WITH SPECIAL EDUCATION NEEDS**

I, EDWARD SENZO MCUNU, Member of the Executive Council, responsible for education in the Province KwaZulu-Natal, hereby give notice in terms of section 24 of the South African Schools Act, 1996 (Act No. 84 of 1996), that, in order to determine the provisions set out in the Schedule and in terms of section 24(3) of the said Act, interested parties are hereby invited to make written submissions to me within thirty days of the publication of this notice. The submissions must be forwarded to the following address:

THE SUPERINTENDENT-GENERAL  
DEPARTMENT OF EDUCATION  
PRIVATE BAG X9137  
PIETERMARITZBURG  
3200

and marked for the attention of Mr SM Gwala or hand delivered to his office at Suite 123, 1st Floor, 247 Burger Street, Pietermaritzburg 3201.

**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;

“**closed meeting**” means a meeting open only to –

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

“**co-opted members**” means members –

- (a) without voting powers co-opted for their expertise; and
- (b) with voting powers co-opted to replace departing members who have not completed their term of office;

“**day**” means calendar day;

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

“**election meeting**” means –

- (a) four separate election meetings held exclusively for the nomination and election of parents only, educators only, non-educators only and learners from the representative council of learners only, as the case may be; and
- b) a by-election meeting;

“**election monitors**” means officers or community leaders selected by the provincial or district electoral task team and approved by the Superintendent-General as observers, supervisors or overseers of election.

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

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

“**non-educator**” means any employee at the school other than an educator;

“**school**” means a public school which enrolls learners with special education needs in one or more grades from Grade R to Grade 12;

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

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

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

**2. Membership of governing bodies**

(1) The number of members of elected or appointed members of a governing body shall be –

- (a) unless otherwise indicated in the parents column of Annexure A, the number of parents must be one more parent than the combined total of members with voting rights, elected

by parents having one or more children enrolled as learners at the public school concerned;

- (b) unless otherwise indicated in the educators column of Annexure A, one educator elected by the educators employed at the public school concerned if there are four or less educators and two educators if there are five or more educators employed at the public school concerned;
- (c) unless otherwise indicated in the non-educators column of Annexure A, one non-educator elected by non-educators employed at the public school concerned and two non-educators if there are more than five non-educators employed at the public school concerned;
- (d) in the case of a public school with learners in grade eight and higher, unless otherwise indicated in the learners column of Annexure A, two learners elected from the representative council of learners enrolled at the public school concerned;
- (e) unless otherwise indicated in the representatives column of Annexure A, one representative appointed by the sponsoring body or bodies, if applicable;
- (f) unless otherwise indicated in the representatives column of Annexure A, one representative, appointed by an organisation or organisations of parents of learners with special education needs, if applicable;
- (g) unless otherwise indicated in the representatives column of Annexure A, one representative, appointed by an organisation or organisations of relevant disabled persons if applicable;
- (h) unless otherwise indicated in the representatives column of Annexure A, one disabled person appointed by the governing body, if applicable;
- (i) unless otherwise indicated in the representatives column of Annexure A, one expert in an appropriate field of special needs education appointed by the governing body; and
- (j) the principal of the school in his or her official capacity.

### 3. Term of office

- (1) A governing body is elected for a period of three years unless otherwise directed by the Member of the Executive Council.
- (2) The Member of the Executive Council shall determine the election period for all schools.
- (3) If the governing body has –
  - (a) six months or less before the expiry of its term of office, the Member of the Executive Council may, notwithstanding such period, direct that elections be held on a date determined by him or her; or
  - (b) more than six months, the Member of the Executive Council may, after consultation with the governing body concerned determine a date when elections shall be held notwithstanding the unexpired period of its term of office.
- (4) Subject to clause 4(2), all members, excluding learners elected from a representative council of learners in terms of clause 2(1)(d) are elected for a term of three years.
- (5) The term of office of a governing body member who is a learner elected in terms of clause 2(1)(d) is one year.
- (6) Subject to clauses 4 and 19, a member of a governing body holds office until the expiry of the term of office of the governing body.
- (7) Should the Superintendent-General determine on reasonable grounds that a governing body has ceased to perform allocated functions in terms of the Act or has failed to perform one or more of such functions, the Superintendent-General may withdraw functions and –
  - (a) shall appoint sufficient persons to carry out all such functions or one or more of such functions of the governing body for a period not exceeding three months;
  - (b) can extend the period referred to in sub-clause 5(a) for periods not exceeding three months at a time which combined period shall not exceed one year;
  - (c) must ensure that a governing body is elected within one year after the appointment of the person referred to in sub-clause 5(a).
- (8) Subject to clause 4, a member of a governing body may be re-elected or co-opted, as the case may be after the expiry of his or her term of office.

### 4. Composition and eligibility

- (1) The following shall be eligible for election as members of a governing body –
  - (a) parents of learners at the school, if reasonably practicable;
  - (b) educators employed at the school;
  - (c) non-educators employed at the school;
  - (d) learners from the representative council of learners attend grade eight or higher at the school.

- (2) The following shall be eligible for appointment as members of a governing body –
- (a) representative of organisations of disabled persons, if applicable;
  - (b) representatives of a sponsoring body or bodies, if applicable;
  - (c) one expert in an appropriate field of special needs education; and
  - (d) representative of an organisation or organisations of parents of learners with special education needs, if applicable.
- (3) No person may be elected as a member of a governing body if he or she –
- (a) has been convicted of an offence and sentenced to more than 12 months' imprisonment without the option of a fine either in the Republic or outside the Republic, if the conduct constituting the offence would have been an offence in the Republic, no one may be regarded as having been sentenced until –
    - (i) an appeal against the conviction or sentence has been determined; or
    - (ii) the time for an appeal has expired, provided that a disqualification under this paragraph ends five years after the sentence has been completed;
  - (b) is of unsound mind and has been declared so by a competent court;
  - (c) is an unrehabilitated insolvent;
  - (d) is a parent but not a South African citizen or not in possession of a permanent resident permit unless permitted by the Superintendent-General;
  - (e) is a parent but no longer has a child enrolled at the school; and
  - (f) is a learner who is not a member of the representative council of learners.
- (4) A member vacates his or her office if he or she –
- (a) does not meet the requirements set out in the clause 4;
  - (b) resigns;
  - (c) is a member elected in terms of clause 2(1)(a) and no longer has a child enrolled as a learner at the school;
  - (d) is a member elected in terms of clause 2(1)(b) or (c) and his or her employment is terminated, or he or she is transferred or seconded away from the school concerned;
  - (e) is deceased;
  - (f) is a member elected in terms of clause 2(1)(d) and he or she no longer attends the school concerned;
  - (g) has been absent without leave from two consecutive ordinary meetings of the governing body; or
  - (h) is no longer a member of the representative council of learners.

#### 5. Appointment of provincial electoral officers

- (1) The Superintendent-General must appoint in writing a provincial electoral officer, a deputy provincial electoral officer and assistant electoral officers.
- (2) The provincial electoral officer must –
  - (a) ensure that there is adequate publicity of the election;
  - (b) administer the appointment of one or more officers in the service of the Department to assist at
    - (i) the election as assistant provincial electoral officers;
    - (ii) ensure that there is compliance with provincial legislation in respect of the elections;
    - (iii) compile an election schedule for all schools in the Province;
    - (iv) monitor the induction of newly-elected governing body members; and
    - (v) conduct investigations as directed by the Superintendent-General.
- (3) The deputy provincial electoral officer and the assistant provincial electoral officers assist the provincial electoral officer in the performance of his or her functions.

#### 6. Appointment of district electoral officers

- (1) The Superintendent-General must appoint in writing a district electoral officer, a deputy district electoral officer and assistant district electoral officers.
- (2) The district electoral officer must –
  - (a) administer the appointment of one or more officers in the service of the Department to assist at the election as assistant district electoral officer;
  - (b) administer the appointment of school electoral officers;
  - (c) publicise an election schedule for all schools in the district;
  - (d) ensure compliance with the election process;
  - (e) ensure that every school has a valid voters' roll;
  - (f) develop and administer the database of all newly elected governing body members in the district and make the data available to the Department;
  - (g) ensure that the newly elected governing body members are inducted within three months of being elected; and

- (h) resolve disputes relating to the school governing elections in terms of clause 17.
- (3) Except for resolving disputes as provided in clause 6(2)(h), the deputy district electoral officer and the assistant district electoral officers will assist the district electoral officer in the performance of all other functions.
- (4) The deputy district electoral officer and assistant district electoral officers may provide advice to the district electoral officer on any issue relating to the elections.

**7. Appointment of school electoral officers**

- (1) The Superintendent-General must appoint in writing an officer of the Department as school electoral officer for the election of parents, educators, non-educators and for learners from the representative council of learners as members of a governing body.
- (2) A principal shall not be appointed as school electoral officer in a school where he or she is employed.
- (3) The school electoral officer must appoint in writing one or more officers or educators in the service of the Department or employed by the school governing body to assist at the elections as assistant electoral officers.
- (4) The school electoral officer shall preside at all election meetings.
- (5) The school electoral officer and the assistant school electoral officer shall not be a candidate, a proposer or seconder of a candidate.

**8. Oath or affirmation of confidentiality**

All electoral officers must sign an oath or affirmation of confidentiality in a form determined by the Superintendent-General before he or she acts in such capacity.

**9. Notice of an election meeting**

- (1) The principal shall –
  - (a) determine a date, time and place for an election meeting; and
  - (b) prepare a notice setting out the date, time and place of the election meeting.
- (2) At least 21 days prior to the date of the election meeting, the principal must –
  - (a) hand a copy of the notice of the election meeting to every learner at the school with an oral instruction to hand the notice to his or her parent(s) or send a copy of such notice to the parents by post;
  - (b) hand a copy of such notice to the educators and non-educators;
  - (c) cause a copy of such notice to be posted in a conspicuous place at the school concerned and at any other suitable and prominent place; and
  - (d) hand a copy to each member of the representative council of learners.
- (3) In case of a new school, the election meeting must be held within 60 days of the establishment of the school.

**10. Voters' roll**

- (1) The principal must prepare a separate voters' roll for –
  - (a) parents;
  - (b) educators;
  - (c) non-educators; and
  - (d) learners from the representative council of learners.
- (2) The principal must prepare the voters' roll using the –
  - (a) learner admission book for parents;
  - (b) time book for educators;
  - (c) time book for non-educators; and
  - (d) register of the learners from the representative council of learners.
- (3) The principal must at least 21 days prior to elections, cause a letter to be sent with the learner inviting parents to update their information in school admission book for the purposes of compiling a voters' roll.
- (4) At least 14 days prior to the election meeting, the principal must allow potential voters to inspect the voters' roll.
- (5) Any complaint relating to the voters' roll must be referred to the principal at least seven days prior to the election date.

**11. Election meetings**

- (1) Separate election meetings must be held for –
  - (a) parents;
  - (b) educators;
  - (c) non-educators; and
  - (d) learners from the representative council of learners.

- (2) The school electoral officer must appoint an assistant school electoral officer to act as secretary to the meetings and to record the minutes of the proceedings.
- (3) Except for election monitors and the assistant school electoral officer, the school electoral officer must not allow any person who is not qualified as a voter to attend a meeting or allow the election of a person who is not qualified as a candidate in terms of clause 4.
- (4) The school electoral officer must request voters to provide proof of identification in the form of a South African identity document or a valid passport.
- (5) Before proceeding with the election of members of a governing body, the school electoral officer must direct the attention of voters to the following –
  - (a) that the term of office of the current school governing body has expired and members have been officially notified;
  - (b) that the election meeting is a closed meeting;
  - (c) the provisions of clause 4 which renders a person ineligible for membership to a governing body;
  - (d) the number of persons to be elected;
  - (e) every nomination must be seconded by a parent, educator, non-educator or a learner of the representative council of learners, as the case may be, who is entitled to vote;
  - (f) that during nominations, voters must take into account representativity and must ensure that nominations are representative of gender, race and must include nominations of persons with disabilities;
  - (g) that a voter has one vote for each vacancy to be filled;
  - (h) that voting is by secret ballot; and
  - (i) that a grievance procedure exists for those dissatisfied with the election process or outcome.

## 12. Quorum for an election meeting

- (1) A quorum of 15 percent of voters on the voter's roll must be constituted prior to any election being held.
- (2) If a quorum referred to in sub-clause (1) is not constituted, the meeting must be adjourned for at least 14 days but not later than 21 days.
- (3) In the event of an adjourned election meeting, the school electoral officer must proceed with the subsequent meeting irrespective of whether a quorum is constituted or not.

## 13. Nominations

- (1) The school electoral officer must determine the time allowed for the nomination of candidates during the nomination phase and must inform the voters accordingly.
- (2) A person may be nominated in absentia provided the –
  - (a) proposer and seconder of the nominated person are present at the meeting; and
  - (b) nominated person sends written confirmation of acceptance of nomination.
- (3) A candidate may be nominated in writing or verbally by –
  - (a) a parent of a learner enrolled at the school for a vacancy in terms of clause 2(1)(a);
  - (b) an educator employed at the school concerned for a vacancy in terms of clause 2(1)(b);
  - (c) a non-educator employed at the school concerned for a vacancy in terms of clause 2(1)(c); or
  - (d) a learner from the representative council of learners in terms of clause 2(1)(d), provided that another parent, educator, non-educator or a learners from the representative council of learners, as the case may be, seconds the proposal and the person nominated indicates to the meeting verbally or in writing if he or she is absent, that he or she is prepared to serve as a member of the governing body, if elected.
- (4) The proposer and the seconder of a candidate must be in attendance at an election meeting.
- (5) A school electoral officer must –
  - (a) allow a person who nominated a candidate an opportunity to introduce the candidate to the meeting and give reasons for the nomination; or
  - (b) allow a nominated candidate to introduce himself or herself to the meeting.
- (6) During the nominations, the school electoral officer must consider the nominations and reject the nomination of any candidate who –
  - (a) has not been nominated in accordance with clauses 13(2) and (3); or
  - (b) is ineligible in terms of clause 4.
- (7) If the number of persons nominated exceeds the number of vacancies, the school electoral officer must immediately after the closing of the nominations, write down the names of the candidates on a suitable board or any other surface that is clear and visible to everyone in attendance at the meeting.

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

#### 14. Voting

- (1) Each voter has one vote for each vacant position to be filled on the governing body.
- (2) The school electoral officer must request the voters present to mark with a cross (x) against the names of the candidates preferred by them on the ballot papers provided by the school electoral officer.
- (3) A person who is unable to mark his or her vote on the ballot paper in clause 14(2) above may make a verbal request for assistance to the school electoral officer or the assistant school electoral officer to mark next to the appropriate candidate, his or her vote on the ballot paper.
- (4) The school electoral officer shall assist any disabled person.
- (5) The request for assistance and the completion of the ballot paper in accordance with the request referred to in clause 14(3) shall be made in private in an area identified by the school electoral officer for that purpose but within the area in which the voting is taking place.
- (6) The school electoral officer must reject ballot papers with –
  - (a) more crosses(x) than the number of vacancies on the governing body; or
  - (b) the name of a person or persons not nominated;
- (7) After all the voters have cast their votes, the school electoral officer and the assistant school electoral officers must count the votes in the presence of three observers appointed by those attending the meeting, to observe the counting process;
- (8) In the case of an equality of votes for two or more candidates for the last place or places on the list of candidates, the school electoral officer must request the voters to indicate the preferred candidate from those with equal votes by following the procedure set out in this clause.
- (9) The school electoral officer must announce the result during the election meeting and declare the candidates who secured the most votes as the elected members of the governing body.
- (10) The number of votes a person secures in this election does not determine the outcome of the election of office bearers elected in terms of clause 16.

#### 15. Appointed members

- (1) The school electoral officer must, 21 days before the election date, send a written invitation to each organisation which is entitled to representation on a governing body, requesting such organisation to appoint a representative and inform him or her in writing of the name and address of its representatives.
- (2) On receipt of the names of appointees in sub-clause 15(1), and after satisfying himself or herself that an appointee has accepted appointment as a member of a governing body, the school electoral officer must forthwith, in writing, inform each appointee of his or her appointment as member of a governing body.
- (3) At the first meeting of a governing body, the school governing body shall decide on one or more representative to be appointed as member of the governing body to represent organizations of people with disabilities.
- (4) At the first meeting of a governing body, the governing body, unless otherwise provided for in the representatives column of Annexure A, will decide on which specialist in the appropriate field of special needs education will be a member of the governing body.
- (5) Parents may be co-opted as members of the governing body pending the appointment of the representatives as members of the governing body.

#### 16. Election of office bearers

- (1) The school electoral officer may convene a meeting solely for the purpose of electing office bearers on the day of the parent election meeting if –
  - (a) the election of educators, non-educators and learners had taken place prior to the parent election;
  - (b) the 21 days notice in terms of clause 9(2) was issued to parents, educators, non-educators and learners from the representative council of learners informing them that the meeting for the election of office bearers would take place on the day of the parents election; and
  - (c) the quorum requirements at the meeting have been complied with.
- (2) Should the meeting to elect office bearers not be held in terms of clause 15(1) then the school electoral officer must convene the first meeting of the governing body within 21 days of the date of the parent election meeting.
- (3) The school electoral officer presides at any meeting convened for election of office bearers.
- (4) At the first meeting of a governing body the members must elect by secret ballot –
  - (a) a chairperson;
  - (b) a vice-chairperson;



- (c) a treasurer; and
- (d) a secretary.
- (5) Only a parent member, not employed at the school is eligible for the position of chairperson or vice-chairperson of the governing body.
- (6) The term of office of office bearers is one year.
- (7) The principal may designate a member of his or her staff to assist the treasurer and secretary of the governing body.
- (8) Where for any reason the office of one of the office bearers becomes vacant, the governing body, at the first meeting after the vacancy has occurred, must elect one of its members to fill the vacancy for the unexpired period of his or her predecessor.
- (9) An office bearer may be re-elected after the expiry of the term of office.
- (10) The principal must inform the Superintendent-General of any change in office bearers and must provide him or her with the details of the new office bearers including names, identity numbers, telephone numbers, fax numbers and addresses.

#### 17. **Dispute resolution**

- (1) A voter or a person who was a candidate in a governing body election may lodge his or her complaint or grievance in writing with the district electoral officer within seven days of the election meeting if the prescribed procedures were not followed during the election meeting.
- (2) Any person who has any knowledge or information of any irregularities relating to the elections may within seven days of the election inform the district electoral officer in writing of the irregularities.
- (3) Upon receipt of the complaint, grievance or information of irregularities, the district electoral officer must appoint his deputy or assistant district electoral officer to conduct an investigation and make a recommendation to him or her.
- (4) The district electoral officer may after investigation, declare an election invalid and may call for re-election if he or she is satisfied that –
  - (a) the prescribed procedures were not followed and;
  - (b) the outcome of the election would have been different had the prescribed procedures been followed;
  - (c) irregularities were committed during the election process.
- (5) Any person aggrieved by the decision of the district electoral officer may appeal against such decision to the Superintendent-General within 14 days of receipt of the decision of the district electoral officer.
- (6) The Superintendent-General must –
  - (a) within 7 days of receipt of the appeal refer the appeal to the Provincial electoral officer.
  - (b) request the Provincial electoral officer to investigate and prepare a report with recommendations within 14 days of the appeal being referred to the Provincial electoral officer.
  - (c) consider the report referred to in 6 (b), make a finding and communicate his or her decision in writing to the appellant and to the district electoral officer within 14 days of receiving the report from the provincial electoral officer.
- (7) The decision of the Head of Department shall be final.
- (8) Pending the outcome of the dispute, the Superintendent-General must appoint sufficient persons to perform the functions of the governing body for a period not exceeding three months.

#### 18. **Procedure after the election**

After the election of members of a governing body, the school electoral officer must –

- (a) notify in writing each elected member of his or her election and notification must be sent by post, e-mail or hand delivered;
- (b) place all documents, including ballot papers used at such elections in envelopes and seal the envelopes;
- (c) keep the envelopes in safe custody for the duration of the term of office of the governing body;
- (d) notify the district electoral officer in writing of the details of the election including the date of election, names, identity numbers, telephone numbers, fax numbers and addresses of all elected members.

#### 19. **By-election**

- (1) If a vacancy arises as a result of the departure of any member of a governing body before the expiry of the governing body's term of office or the member's term of office, the school electoral officer must officiate at the election of a new member to replace the departing member.

- (2) If a vacancy or vacancies arise more than six months before the expiry of the term of office of a governing body, the school electoral officer must conduct a by-election following the procedures set out in clause 9 to 14.
- (3) The school electoral officer shall arrange an election meeting within 90 days of a vacancy arising and pending the by-election the governing body may co-opt members.
- (4)
  - (a) If a vacancy arises less than six months before the expiry of the term of office of a governing body as a result of the departure of a member, the remaining members must co-opt, by majority vote, a person or persons to fill the vacancy or vacancies for the remainder of the period of office of the governing body; and
  - (b) The parent, educator, non-educator and learner component must recommend names of at least three eligible persons who can be co-opted into the governing body and the governing body must co-opt from the recommended names.
- (5) A co-opted member referred to in sub-clauses (3) and (4) assumes the voting rights, of the departing member, if any.

**20. Dissolution of a governing body**

- (1) The Member of the Executive Council may dissolve a governing body by notice in the *Provincial Gazette* if –
  - (a) the school is closed or partly disestablished;
  - (b) owing to the merger of schools or the division of a school or other re-organisation of school facilities, he or she is of the opinion that the governing body is no longer representative of the community for which a school has been established,
- (2) Upon consideration of a motion of no confidence passed by not less than 15 percent of parents on the parents' voters' roll at a general meeting of parents, the Member of the Executive Council may dissolve a governing body.

**21. Delegation of powers**

The Superintendent-General may delegate the powers bestowed on him or her in terms of this notice to an official in the employ of the Department.

**22. Repeal of Notice**

Notice No. 252 of 1999 published on 30 September 1999 is hereby repealed.

**ES MCHUNU**

**Member of the Executive Council of the Province of KwaZulu-Natal responsible for education**

**PROPOSED MEMBERSHIP OF A GOVERNING BODY FOR A PUBLIC SCHOOL FOR  
LEARNERS WITH SPECIAL NEEDS FOR 2009 ELECTIONS**

District/School	Parents of learners	Educators at school, 2 (If five or more)	Non-educators include 2 (if five or more)	Learners attending 8 grade or higher	Reps of sponsoring bodies, if applicable	Reps of organizations of learners with special needs	Reps of organizations of disabled persons, if applicable	Disabled Persons if applicable	Expert in appropriate fields of special needs education.
<b>Amajuba District</b>									
YWCA Special School	4	1	1	Nil	2	Nil	Nil	Nil	2
Bumbisizwe Special School	6	2	1	Nil	Nil	Nil	Nil	Nil	1
Vumisabelo Special School	5	2	1	Nil	Nil	Nil	Nil	Nil	Nil
Madadeni Special School	4	Nil	Nil	Nil	3	Nil	Nil	Nil	Nil
Tugela Provocational School	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil
Tugela High School	4	2	1	Nil	Nil	Nil	Nil	Nil	2
<b>Empangeni District</b>									
Masisizane Lsen School	4	2	2	Nil	Nil	1	1	1	2

District/School	Parents of learners	Educators at school, 2 (If five or more)	Non-educators include 2( if five or more)	Learners attending 8 grade or higher	Reps of sponsoring bodies, if applicable	Reps of organizations of parents with learners with special needs	Reps of organizations of disabled persons, if applicable	Disabled Persons if applicable	Expert in appropriate fields of special needs education.
Vuleka School	5	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil
Thuthukani Lsen School	3	2	1	Nil	1	Nil	Nil	Nil	1
Zululand Remedial School	8	2	2	Nil	Nil	1	Nil	Nil	6
<b>Ilembe District</b>									
Stanger Training Centre	4	4	2	Nil	1	Nil	Nil	Nil	2
Ethel Mthiyane Special School	4	2	1	Nil	Nil	Nil	Nil	Nil	Nil
<b>Othukela District</b>									
Inkanyezi Training Centre	4	1	1	Nil	Nil	Nil	Nil	Nil	Nil
Mimosadale S.O. I	Nil	1	Nil	Nil	Nil	Nil	Nil	Nil	6
KwaZamokuhle School	5	Nil	Nil	Nil	3	Nil	Nil	Nil	Nil
<b>Pinetown District</b>									