

**NOTICE NO 8
PROVINCIAL GAZETTE NO 259**

MPUMALANGA SCHOOL EDUCATION ACT, 1995 (ACT No. 8 OF 1995)

**REGULATIONS RELATING TO GOVERNING BODIES FOR PUBLIC SCHOOLS FOR
LEARNERS WITH SPECIAL EDUCATION NEEDS**

The member of the Executive Council has, under section 105, read with sections 24 (5), 25 (3) and 28, of the Mpumalanga School Education Act, 1995 (Act No. 8 of 1995), made the regulations contained in the Schedule hereto.

**SCHEDULE
Chapter 1**

DEFINITIONS AND APPLICATION OF REGULATIONS

Definitions

1. In these regulations any expression to which a meaning has been assigned in the Act shall bear such meaning, and unless the context indicates otherwise -

- (i) "**circuit manager**" means an officer of the Department who is in control of education in any educational circuit determined by the Member of the Executive Council;
- (ii) "**district head**" means the officer of the Department responsible for the administration of education in a particular educational district;
- (iii) "**educator**" means an educator as defined in the Educators Employment Act, 1994 (Proclamation No. 138 of 1994);
- (iv) "**educator member**" means an educator employed at a school who has been elected to the governing body in terms of these regulations;
- (v) "**learner**" means a person officially enrolled at a public school for special education needs;
- (vi) "**learner member**" means a learner who has been elected to a governing body in terms of these regulations;
- (vii) "**member**" means a member of a governing body elected in accordance with these regulations;

- (viii) "**nomination form**" means any document which clearly records the fact that a candidate eligible to be elected as a member has been proposed and seconded by persons eligible to do so, and which is signed by the candidate, proposer and seconder, present at a nomination meeting;
- (ix) "**non-educator member**" means a person other than an educator, employed at a school and who has been elected to serve on a governing body in terms of these regulations;
- (x) "**parent member**" means a parent other than an educator, employed at a school and who has been elected to serve on a governing body in terms of these regulations;
- (xi) "**parent**" means-
 - (a) a parent or guardian of a learner;
 - (b) a person legally entitled to custody of a learner; or
 - (c) a person who usually has the care and control of a learner;
- (xii) "**school**" means a public school for learners with special education needs;
- (xiii) "**severely mentally retarded school**" means a public school providing special education for learners with severely mentally handicapped needs;
- (xiv) "**mildly mentally retarded school**" means a public school providing special education for learners with mildly mentally handicapped needs.
- (xv) "**a school for the physically disabled**" means a public school which makes provision for the needs of physically disabled learners.
- (xvi) "**child care school**" means a school which is maintained for the admission, care, education and training of learners under this Act. Child Care Act, 1983 (Act No. 74 of 1983).
- (xvii) "**reformatory school**" is a school which is maintained for the admission, care and training of learners who are referred to or transferred under The Criminal Procedure Act, 1977.
- (xviii) "**sponsoring body**" means a body which assist the school in a financial way.

(xix) "**expert**" means a person with special training and ability to assist the governing body with its functions;

(xx) "**the Act**" means the School Education Act, (Mpumalanga), 1995 (Act No. 8 of 1995).

Application of regulations

2. These regulations shall apply to governing bodies of public special schools within the Province.

Principles underpinning governance of schools

3. The following principles shall underpin the governance of schools in the province:

(a) Every person shall have the right to basic education and to equal access to schools and centres of learning;

(b) no learner or educator shall be unfairly discriminated against by the Department or by a school on the grounds of race, colour, sex, sexual orientation, gender, class, disability, belief, conscience, religion, culture or language;

(c) there shall be a duty on the Department to foster the advancement of persons or groups or categories of persons previously disadvantaged by unfair discrimination, in order to enable their full and equal enjoyment of educational rights;

(d) all learners and educators shall be protected from all forms of abuse at schools and centres of learning;

(e) every learner and educator shall have the right to freedom of conscience, religion, thought, belief, opinion, speech and expression and the education process shall promote a culture of tolerance;

(f) the Department shall respect the rights and duties of parents, to provide direction to their children regarding the rights referred to in paragraph (e), in the exercise of their rights as learners, in a manner consistent with the evolving capacity of the children concerned;

(g) every learner and educator shall have the right to freedom of association and to assemble, demonstrate and present petitions, peacefully and unarmed without infringing on the rights of others;

(h) every person shall have the right of access to all information held by the Department or the governing body of a school in so far as such information is required for the exercise or protection of his or her rights;

(i) in setting up school governing structures, consideration shall be given to addressing the imbalances of the past by the election of school governing bodies whose racial and gender mix reflect that of the school community;

(j) state involvement in school governance should be limited to the minimum level required for legal accountability;

(k) the powers of governing bodies should reflect their capacity to render effective service;

(l) the professional administration of a school falls within the ambit of the principal and his or her staff; and

(m) the function of the governing body of a school shall be to enhance the quality of education for all learners, within the parameters of policy established by the national and provincial departments of education in terms of their legal responsibilities and competencies.

Chapter 2

COMPOSITION OF GOVERNING BODIES

Types of schools and composition of governing bodies for learners with special education needs

4. A Governing body of a public school for learners with special education needs consists of not more than 12 members distributed according to the following type of school:

Schools for severely and mildly mentally retarded

(1) A governing body of schools for severely and mildly mentally retarded shall consist of:

(a) The principal of the school concerned shall be an ex-officio member.

(b) A minimum of three parents shall be elected as members by the parents of the learners concerned. One of the three can be a parent from a parent organisation

(c) One educator on the personnel of the school shall be elected as a member by the educators at the school.

(d) One member of the staff who is not an educator shall be elected as a member by non-educators employed at the school.

- (e) One representative of each sponsoring body of the school by the governing body, if applicable.
- (f) A maximum of three experts, e.g. in the appropriate fields of special needs education by the parents of the learners concerned.

Schools for physically disabled

(2) A governing body of schools for physically disabled shall consist of:

- (a) The principal of the school concerned shall be an ex-officio member.
- (b) Three parents shall be elected as members by the parents of the learners of that school.
- (c) One educator on the staff shall be elected as a member by the educators at that school.
- (d) One member of the staff who is not an educator shall be elected by non-educators employed at that school.
- (e) One learner in the eighth grade or higher shall be elected by the representative council of learners of that school.
- (f) One member of the sponsoring bodies of the school concerned shall be elected by the governing body.
- (g) One member shall be elected as a representative by the governing body of organisations of parents of learners with special education needs, if applicable.
- (h) One member shall be elected by the governing body as a representative of an organisation of disabled persons, if applicable.
- (i) One disabled person shall be elected as a member by the parents of the learners of that school.
- (j) Not more than two experts in the field of physical disabled shall be elected as members by the parents of the learners of that school.

Reformatory and Child Care Schools

(3) A governing body for reformatory and child care schools shall consist of:

- (a) The principal of the school concerned shall be an ex-officio member.
- (b) One educator on the personnel of the school shall be elected as a member by the educators at the school.
- (c) One member of the staff who is not an educator shall be elected as a member by non-educators employed at the school.
- (d) The following experts in appropriate fields of special education needs: The Commissioner of Child Welfare for the district in which the school is situated, the welfare worker as head of the district office to serve ex-officio in the governing body at the request of the MEC for Education.
- (e) Five representatives of the local community, appointed by the MEC.

Chapter 3

ELECTION OF MEMBERS OF THE GOVERNING BODY

Eligibility

5. (1) A person shall be eligible to be a member of a governing body if he or she-
- (a) is not a minor, except in the case of a learner member;
 - (b) is a South African citizen;
 - (c) is not mentally ill;
 - (d) is not an unrehabilitated insolvent;

agrees to accept and abide by the code of conduct for governance structures; and has not been convicted of an offence for which he or she was sentenced to imprisonment without the option of a fine within three years prior to date of his or her election.

(2) Subject to the provisions of subregulation (1) (a) a parent shall be competent to be member of a governing body if he or she is a parent of a legally enrolled learner at the school concerned: Provided that he or she is not employed at the school concerned; (b) an educator shall be competent to be a member of a governing body if he or she is an educator employed as such at the school concerned; a learner shall be competent to be a member of a governing body if he or she is an enrolled learner attending the school concerned; and (d) a non-educator shall be competent to be a member of a governing body if he or she is employed at the school concerned.

Validity of acts of improperly constituted governing bodies

6. (1) Subject to subregulation (3), no act of a governing body shall be invalid merely because the governing body is not properly constituted in accordance with the regulations.

(2) Where a governing body is not properly constituted in accordance with these regulations, the Member of the Executive Council shall give the governing body six months' notice to rectify the defect in its composition.

(3) If, after the expiry of the notice period contemplated in subregulation (2), a governing body is still not properly constituted in accordance with these regulations, no acts which it performs shall be valid until it is properly constituted.

Term of office

7. (1) Subject to subregulations (2) and (3), a member of the governing body other than a learner member shall hold office for a period of three years: Provided that such a member may be re-elected on the expiry of his or her term of office.

(2) The term of office of a learner member shall be one year: Provided that such a member may be re-elected on the expiry of his or her term of office.

(3) The membership of any member of a governing body may be terminated at any time by the Head of Department if the Head of Department is of the reasonable opinion that the conduct or behaviour of the member does not promote the interests of the school or of education.

(4) A member shall vacate his or her office if

(a) he or she submits his or her resignation in writing to the secretary of the governing body concerned;

(b) he or she vacates his or her office for any reason before the expiry of the period concerned; and

(c) he or she, in the case of a learner member, ceases to be a learner of the school concerned.

Removal from office of members of governing bodies

8. (1) The Head of the Department may not act under regulation 8(3) unless he or she has given the member concerned the opportunity to make a representation concerning his or her possible removal from the governing body.

(2) A member who is removed from a governing body under regulation 8(3) may, within the 30 days after receiving notice of his or her removal, appeal to the Member of the Executive Council in writing, setting out the grounds of the appeal.

(3) Pending a decision of the Member of the Executive Council of an appeal lodged under subregulation (2), the member shall not be entitled to participate in any business of the governing body.

(4) The Member of the Executive Council shall consider an appeal contemplated in subregulation (3) and shall confirm or set aside the decision of the Head of the Department.

(5) The Member of the Executive council shall as soon as may be practicable

(a) notify the appellant member of his or her decision; and

(b) provide the appellant member with written reasons for his or her decision.

Reimbursement of members of the governing body

9. (1) Necessary expenses incurred by a member of the governing body in the performance of his or her duties may be reimbursed by the governing body.

(2) No member of the governing body may be remunerated in any way for the performance of his or her duties in terms of these regulations.

Dissolution of governing bodies

10. (1) The head of Department may, on reasonable grounds, dissolve a governing body.

(2) The Head of Department may not take action under subregulation (1) unless he or she has-

(a) informed the governing body of his or her intention to act and the reasons therefore;

(b) granted the governing body 30 days to make representations to him or her regarding such intentions; and

(c) given due consideration to any such representations received.

(3) In case of urgency, the Head of Department may act in terms of subregulation (1) without prior communication to such governing body, if the Head of Department thereafter-

(a) furnishes the governing body with reasons for his or her actions;

(b) gives the governing body 30 days to make representations relating

to such actions; and

(c) duly considers any such representations received.

(4) The Head of Department may, on sufficient reasons, reverse or suspend his or her action in terms of subregulations (1) and (3).

(5) Any person aggrieved by a decision of the Head of Department in terms of this regulation may appeal against the decision to the Member of the Executive Council.

Franchise

11. (1) Every parent of one or more children enrolled as learner or learners at the school concerned, shall be entitled to vote for parent members, expert members, physically disabled members (where applicable) at an election to serve on the governing body of that school which parents shall have one vote each, with a maximum number of votes equal to the number of members to be elected.

(2) A parent's vote may be exercised by a proxy voter who has the written authority of the parent, provided that the parent may not exercise more than one proxy vote.

(3) Every educator, other than the principal, employed as such at the school concerned, shall be entitled to vote at an election of educator members of that school, and shall have one vote, with a maximum number of votes equal to the number of educator members to be elected.

(4) Every member of the representative council of learners at the school concerned, shall be entitled to vote at an election of learner members of that school, and shall have one vote in respect of each candidate, with a maximum number of votes equal to the number of learner members to be elected.

(5) Every member of staff who is not an educator shall be entitled to vote at an election of non-educator members of that school, and shall have one vote in respect of each candidate with a maximum number of votes equal to the number of non-educator members to be elected.

District electoral co-ordinator and electoral officer

12. (1) The district head shall appoint in writing a district electoral co-ordinator, who shall be an officer of the Department, to co-ordinate all electoral activities in a district.

(2) The district head shall appoint in writing one or more persons to act as an electoral officer for the electoral procedure at a particular school.

(3) An electoral officer shall be an officer of the Department, a principal or an educator.

(4) An electoral officer may not be nominated or elected as a member of a governing body of a school for which he or she is the electoral officer.

(5) An electoral officer shall exercise all other powers conferred upon him or her by these regulations and any other law.

(6) The electoral officer shall preside at any meeting held for the purposes of such an election.

NOMINATIONS

Nomination of parent members

13. (1) The electoral officer shall determine a date, time and place for a nomination meeting to be held.

(2) The electoral officer shall prepare a notice of the nomination meeting in the form of Annexure A and at least 20 days prior to the date of the said nomination meeting, provide the principal with sufficient copies of such notice and proxy forms in the form of Annexure F.

(3) The principal shall at least 14 days prior to the date of the nomination meeting-

(a) distribute a copy of the notice and proxy form to every learner at the school with an oral instruction to his or her parent; or

(b) send a copy of such notice and proxy form to the parent by post if he or she deems it expedient.

(4) The electoral officer shall, on the date referred to in subregulation (1), distribute nomination forms in the form of Annexure G to every parent: Provided there is a 10% quorum at the first nomination meeting or all the representation at the second nomination meeting a fortnight later be accepted as a quorum.

(5) Nominations shall be made by proposing a parent during the nomination meeting: Provided that another parent present seconds the nomination and the nomination form duly completed by the proposer, seconder and candidate is lodged with the electoral officer within the time allotted in the nomination meeting by the electoral officer for this purpose.

(6) The electoral officer shall, at the nomination meeting reject the nomination of any candidate who-

(a) has not been nominated in accordance with subregulation (5); or

(b) is disqualified as contemplated in regulation 5; whereupon the electoral officer shall announce the names of the candidates whose

nominations have been accepted;

(7) If-

- (a) the total number of candidates whose nominations have been accepted as contemplated in subregulation (5), is less than the number of members determined in regulation 4 in respect of the governing body concerned, further nominations shall be called for.
- (b) the total number of candidates is equal to the required number of members determined in terms of regulation 4, the electoral officer shall declare such candidates as duly elected members; and
- (c) the total number of candidates exceeds the required number of members, a poll shall be held in the manner referred to in regulation 19.

Nominations for educator members

14. (1) The electoral officer shall determine a date, time and place for a nomination meeting for the election of educator members.

(2) The electoral officer shall prepare a notice of the nomination meeting in the form of Annexure B and shall distribute a copy of the notice to every educator at the school concerned.

(3) The electoral officer shall, on the date referred to in subregulation (1), distribute nomination forms in the form of Annexure H to every educator: Provided there is a 50% quorum at the nomination meeting.

(4) Nominations shall be made by proposing an educator as a member during the nomination meeting: Provided that another educator present seconds the nomination and a nomination form duly completed by the proposer, seconder and candidate is lodged with the electoral officer. within the time allotted in the nomination meeting by the electoral officer for this purpose.

(5) If-

- (a) the total number of candidates whose nominations have been accepted as contemplated in subregulation (5), is less than the number of members determined in regulation 4 in respect of the governing body concerned, further nominations shall be called for.
- (b) the total number of candidates is equal to the required number of members determined in terms of regulation 4, the electoral officer shall declare such candidates as duly elected members; and

- (c) the total number of candidates exceeds the required number of members, a poll shall be held in the manner referred to in regulation 21.

Nominations for non-educator members

15. (1) The electoral officer shall determine a date, time and place for a nomination meeting for the election of a non-educator member or members.

(2) The electoral officer shall prepare a notice of the nomination meeting in the form of Annexure C and shall distribute a copy of the notice to every non-educator at the school concerned.

(3) The electoral officer shall, on the date referred to in subregulation (1), distribute nomination forms in the form of Annexure I to every non-educator.

(4) Nominations shall be made by proposing a non-educator as a member during a nomination meeting: Provided that another non-educator present seconds the nomination and the nomination form duly completed by the proposer, seconder and candidate is lodged with the electoral officer within the time allotted in the nomination meeting by the electoral officer for this purpose.

(5) Regulation 4 shall not apply in a school where there is only one non-educator, in which event that non-educator shall automatically become a non-educator member.

(6) If the total number of candidates exceeds the required number of members a poll shall be held in the manner referred to in regulation 22.

Nomination for learner members

16. (1) The electoral officer shall determine a date, time and place for a nomination meeting for the election of learner members.

(2) The electoral officer shall prepare a notice of the nomination meeting in the form of Annexure D and shall distribute a copy of the notice to every member of the representative council of learners at the school concerned.

(3) The electoral officer shall on the date referred to in subregulation (1), distribute nomination forms in the form of Annexure J to every member of the representative council of learners: Provided there is 50% quorum at the nomination meeting.

(4) Nominations shall be made by proposing a member of the representative council of learners during the nomination meeting: Provided that another learner present seconds the nomination and a nomination form duly completed by the proposer, seconder and candidate is lodged with the electoral officer within the time allotted in the nomination

meeting by the electoral officer for this purpose.

(5) If the total number of candidates exceeds the required number of members a poll shall be held in the manner referred in regulation 20.

Nominations of experts for schools for severely and mildly mentally retarded learners

17. (1) The electoral officer shall determine a date, time and place for a nomination meeting to be held.

(2) The electoral officer shall prepare a notice of the nomination meeting in the form of Annexure E and at least 20 days prior to the date of the said nomination meeting, provide the principal with sufficient copies of such notice and proxy forms in the form of Annexure Q.

(3) The principal shall at least 14 days prior to the date of the nomination meeting-

(a) distribute a copy of the notice and proxy form to every learner at the school with an oral instruction to his or her parent; or

(b) send a copy of such notice and proxy form to the parent by post if he or she deems it expedient.

(4) The electoral officer shall, on the date referred to in subregulation (1), distribute nomination forms in the form of Annexure K to every parent: Provided there is a 10% quorum at the first nomination meeting, or all the representation at the second nomination meeting a fortnight later be accepted as a quorum.

(5) Nominations shall be made by the parents during a nomination meeting. Provided that another parent present seconds the nomination and the nomination form duly completed by the proposer, seconder and candidate is lodged with the electoral officer within the time allotted in the nomination meeting by the electoral officer for this purpose.

(6) The electoral officer shall, at the nomination meeting reject the nomination of any candidate who-

(a) has not been nominated in accordance with subregulation (5); or

(b) is disqualified as contemplated in regulation 5; whereupon the electoral officer shall announce the names of the candidates whose nominations have been accepted;

(7) If-

- (a) the total number of candidates whose nominations have been accepted as contemplated in subregulation (5), is less than the number of members determined in a form of regulation 4 in respect of the governing body concerned, further nominations shall be called for.
- (b) the total number of candidates is equal to the required number of members determined in regulation 4, the electoral officer shall declare such candidates as duly elected members; and
- (c) the total number of candidates exceeds the required number of members, a poll shall be held in the manner referred to in regulation 24.

Nominations of a disabled person

18. (1) The electoral officer shall determine a date, time and place for a nomination meeting to be held.

(2) The electoral officer shall prepare a notice of the nomination meeting in the form of Annexure R and at least 20 days prior to the date of the said nomination meeting, provide the principal with sufficient copies of such notice and proxy forms in the form of Annexure 5.

(3) The principal shall at least 14 days prior to the date of the nomination meeting -

- (a) distribute a copy of the notice and proxy form to every learner at the school with an oral instruction to his or her parent; or
- (b) send a copy of such notice and proxy form to the parent by post if he or she deems it expedient.

(4) The electoral officer shall, on the date referred to in subregulation (1), distribute nomination forms in the form of Annexure T to every parent: Provided there is a 10% quorum at the first nomination meeting, or all the representation at the second nomination meeting a fortnight later be accepted as a quorum.

(5) Nominations shall be made by the parents during a nomination meeting: Provided that another parent present seconds the nomination and the nomination form duly completed by the proposer, seconder and candidate is lodged with the electoral officer within the time allotted in the nomination meeting by the electoral officer for this purpose.

(6) The electoral officer shall, at the nomination meeting reject the nomination of any candidate who-

- (a) has not been nominated in accordance with subregulation (5); or

(b) is disqualified as contemplated in regulation 5;

whereupon the electoral officer shall announce the names of the candidates whose nominations have been accepted.

(7) If-

(a) the total number of candidates whose nominations have been accepted as contemplated in subregulation (5), is less than the number of members determined in a form of regulation 4 in respect of the governing body concerned, further nominations shall be called for in the manner referred to in subregulation (3);

(b) the total number of candidates is equal to the required number of members determined in or regulation 4, the electoral officer shall declare such candidates as duly elected members; and

(c) the total number of candidates exceeds the required number of members, a poll shall be held in the manner referred to in regulation 25.

Poll for parent members

19. (1) The principal of the school shall prepare a list of eligible parent voters and such list shall be made available to the electoral officer.

(2) A poll meeting shall be held at the date, time and place indicated in the notice of the nomination meeting and may be held on the same day as the nomination meeting.

(3) A quorum at the poll meeting shall be 10% of the total number of parents who are eligible to vote, or all the representatives at the second meeting, a fortnight later, be accepted as a quorum.

(4) The poll shall be by secret ballot.

(5) The electoral officer shall issue to each parent eligible to vote, a ballot paper, in a form of Annexure L, on which an official school stamp appears.

(6) The electoral officer shall determine the form of such ballot paper in a manner that the ballot paper shall enable the parent to record his or her vote by making a cross on the ballot paper opposite the names of the candidates for whom he or she votes.

(7) A parent eligible to vote shall record his or her vote on the ballot paper referred to in subregulation (5): Provided that if such parent is on account of illiteracy, blindness or any other physical defect unable thus to record his or her vote, the electoral officer shall,

at the request of the said parent and in the presence of a witness named by the parent concerned, record the vote of such parent on the ballot paper.

(8) The electoral officer shall reject a ballot paper -

- (a) on which the official school stamp referred to in subregulation (5) does not appear;
- (b) which is completed in such a way that it is in the opinion of the electoral officer uncertain for which candidates a vote was recorded.

(9) After rejection of the ballot papers referred to in subregulation 8, the electoral officer shall -

- (a) in the presence of every candidate who wishes to be present, count the votes recorded for every candidate; and
- (b) declare the number of parents determined in regulation 4, as the case may be, in respect of the governing body concerned, for whom the greatest number of votes have been recorded to be duly elected members of the governing body concerned and state the number of votes recorded for every candidate.

(10) Where the number of votes recorded for two or more candidates are equal and it affects the results of the poll, the electoral officer shall ascertain the result with regard to the said candidates by lot to be drawn in such manner as the electoral officer may direct.

Poll for learner members

20. (1) A poll meeting shall be held at the date, time and place indicated in the notice of the nomination meeting and may be held on the same day as the nomination meeting.

(2) The poll shall be by secret ballot.

(3) The electoral officer shall issue to each member of the representative council of learners eligible to vote, a ballot paper, in a form of Annexure N, on which an official school stamp appears.

(4) The electoral officer shall determine the form of such ballot paper in a manner that the ballot paper shall enable the representative council of learners to record his or her vote by making a cross on the ballot paper opposite the names of the candidates for whom he or she votes.

(5) The electoral officer shall reject a ballot paper -

(a) on which the official school stamp referred to in subregulation (3) does not appear;

(b) which is completed in such a way that it is in the opinion of the electoral officer uncertain for which candidates a vote was recorded.

(6) After rejection of the ballot papers referred to in subregulation (3), the electoral officer shall -

(a) in the presence of every candidate who wishes to be present, count the votes recorded for every candidate; and

(b) declare the number of learner members determined in regulation 4, as the case may be, in respect of the governing body concerned, for whom the greatest number of votes have been recorded to be duly elected members of the governing body concerned and state the number of votes recorded for every candidate.

(7) Where the number of votes recorded for two or more candidates are equal and it affects the results of the poll, the electoral officer shall ascertain the result with regard to the said candidates by lot to be drawn in such manner as the electoral officer may direct.

Poll for educator members

21. (1) A poll meeting shall be held at the date, time and place indicated in the notice of the nomination meeting and may be held on the same day as the nomination meeting.

(2) The poll shall be by secret ballot.

(3) The electoral officer shall issue to each educator eligible to vote, a ballot paper, in a form of Annexure M, on which an official school stamp appears.

(4) The electoral officer shall determine the form of such ballot paper in a manner that the ballot paper shall enable the educator to record his or her vote by making a cross on the ballot paper opposite the names of the candidates for whom he or she votes.

(5) The electoral officer shall reject a ballot paper-

(a) on which the official school stamp referred to in subregulation (3) does not appear;

(b) which is completed in such a way that it is in the opinion of the electoral officer certain for which candidates a vote was recorded.

(6) After rejection of the ballot papers referred to in subregulation (3), the electoral officer shall-

- (a) in the presence of every candidate who wishes to be present, count the votes recorded for every candidate; and
- (b) declare the number of educators determined in regulation 4 as the case may be, in respect of the governing body concerned, for whom the greatest number of votes have been recorded to be duly elected members of the governing body concerned and state the number of votes recorded for every candidate.

(7) Where the number of votes recorded for two or more candidates are equal and it affects the results of the poll, the electoral officer shall ascertain the result with regard to the said candidates by lot to be drawn in such manner as the electoral officer may direct.

Poll for non-educator members

22. (1) Poll meeting shall be held at the date, time and place indicated in the notice of the nomination meeting and may be held on the same day as the nomination meeting.

(2) The poll shall be by secret ballot.

(3) The electoral officer shall issue to each non-educator eligible to vote, a ballot paper, in a form of Annexure 0, on which an official school stamp appears.

(4) The electoral officer shall determine the form of such ballot paper in a manner that the ballot paper shall enable the non-educator to record his or her vote by making a cross on the ballot paper opposite the names of the candidates for whom he or she votes.

(5) The electoral officer shall reject a ballot paper-

- (a) on which the official school stamp referred to in subregulation (3) does not appear;
- (b) which is completed in such a way that it is in the opinion of the electoral officer uncertain for which candidates a vote was recorded.

(6) After rejection of the ballot papers referred to in subregulation (3), the electoral officer shall-

- (a) in the presence of every candidate who wishes to be present, count the votes recorded for every candidate; and

(b) declare the number of non-educators determined in regulation 4, as the case may be, in respect of the governing body concerned, for whom the greatest number of votes have been recorded to be duly elected members of the governing body concerned and state the number of votes recorded for every candidate.

(7) Where the number of votes recorded for two or more candidates are equal and it affects the results of the poll, the electoral officer shall ascertain the result with regard to the said candidates by lot to be drawn in such a manner as the electoral officer may direct.

Poll

Election for sponsoring bodies and organisations

23. In the case of organisations and sponsoring bodies contemplated in subparagraphs 4(1)(e), 4(2)(f), 4(2)(g) and 4(2)(h), above the members of the governing body shall elect such organisations and sponsoring bodies who in turn shall each appoint their own representative on the governing body according to their own internal procedures.

Poll of experts for schools for severely and mildly mentally retarded

24. (1) The principal of the school shall prepare a list of eligible parent voters and such list shall be made available to the electoral officer.

(2) A poll meeting shall be held at the date, time and place indicated in the notice of the nomination meeting and may be held on the same day as the nomination meeting.

(3) A quorum at the poll meeting shall be 10% of the total number of parents who are eligible to vote, or all the representatives at the second meeting, a fortnight later, be accepted as a quorum.

(4) The poll shall be by secret ballot.

(5) The electoral officer shall issue to each parent eligible to vote, a ballot paper, in a form of Annexure P, on which an official school stamp appears.

(6) The electoral officer shall determine the form of such ballot paper in a manner that the ballot paper shall enable the parent to record his or her vote by making a cross on the ballot paper opposite the names of the candidates for whom he or she votes.

(7) A parent eligible to vote shall record his or her vote on the ballot paper referred to in subregulation (5): Provided that if such parent is on account of illiteracy, blindness or any other physical defect unable thus to record his or her vote, the electoral officer shall, at the request of the said parent and in the presence of a witness named by the parent concerned, record the vote of such parent on the ballot paper.

(8) The electoral officer shall reject a ballot paper-

- (a) on which the official school stamp referred to in subregulation (5) does not appear;
- (b) which is completed in such a way that it is in the opinion of the electoral officer uncertain for which candidates a vote was recorded.

(9) After rejection of the ballot papers referred to in subregulation (8) the electoral officer shall-

- (a) in the presence of every candidate who wishes to be present, count the votes recorded for every candidate; and
- (b) declare the number of experts determined in regulation 4, as the case may be, in respect of the governing body concerned, for whom the greatest number of votes have been recorded to be duly elected members of the governing body concerned and state the number of votes recorded for every candidate.

(10) Where the number of votes recorded for two or more candidates are equal and it affects the results of the poll, the electoral officer shall ascertain the result with regard to the said candidates by lot to be drawn in such manner as the electoral officer may direct.

Poll of a disabled person for schools for physically disabled

25. (1) The principal of the school shall prepare a list of eligible parent voters and such list shall be made available to the electoral officer.

(2) A poll meeting shall be held at the date, time and place indicated in the notice of the nomination meeting and may be held on the same day as the nomination meeting.

(3) A quorum at the poll meeting shall be 10% of the total number of parents who are eligible to vote, or all the representatives at the second meeting, a fortnight later, be accepted as a quorum.

(4) The poll shall be secret ballot.

(5) The electoral officer shall issue to each parent eligible to vote, a ballot paper, in a form of Annexure U, on which an official school stamp appears.

(6) The electoral officer shall determine the form of such ballot paper in a manner that the ballot paper opposite the names of the candidates for whom he or she votes.

(7) A parent eligible to vote shall record his or her vote on the ballot paper referred to in subregulation (5): Provided that if such parent is on account of illiteracy, blindness or any other physical defect unable thus to record his or her vote, the electoral officer shall, at the request of the said parent and in the presence of a witness named by the parent concerned, record the vote of such parent on the ballot paper.

(8) The electoral officer shall reject a ballot paper-

(a) on which the official school stamp referred to in subregulation (5) does not appear.

(b) which is completed in such a way that it is in the opinion of the electoral officer uncertain for which candidates a vote was recorded.

(9) After rejection of the ballot papers referred to in subregulation (6), the electoral officer shall-

(a) in the presence of every candidate who wishes to be present, count the votes recorded for every candidate; and

(b) declare the number of disabled members determined in regulation 4, as the case may be, in respect of the governing body concerned, for whom the greatest number of votes have been recorded to be duly elected members of the governing body concerned and state the number of votes recorded for every candidate.

(10) Where the number of votes recorded for two or more candidates are equal and it affects the results of the poll, the electoral officer shall ascertain the result- with regard to the said candidates by lot to be drawn in such manner as the electoral officer may direct.

Election of experts for reformatory and child care schools

26. (1) In the case of experts for reformatory and child care schools, the Commissioner of Child Welfare is designated by the Department of Justice at the request of the Member of the Executive Council for Education, Mpumalanga Province.

(2) Likewise the Member of the Executive Council for Education, Mpumalanga Province requests the Department of Health, Wealth and Gender Affairs, Mpumalanga Province, to elect the welfare worker.

Election of representatives of the local community for reformatory and child care schools

27. With regard to the representatives of the broad local community a priority list is

compiled by the ex-officio members which contains their curriculum vitae as well as the community involvement of each candidate. The five representatives are designated by the Member of the Executive Council for Education, Mpumalanga Province, to serve on the governing body.

Procedure after election of governing body members

28. After the election of parent members-

- (a) the electoral officer shall place all documents, including ballot papers, used in the election in envelopes and seal such envelopes;
- (b) the electoral officer shall hand the sealed envelope to the district electoral co-ordinator or any such person as may be designated by him or her, who shall keep the sealed envelopes in safe custody for a period of at least three months from the date of the election;
- (c) the district electoral co-ordinator shall ensure that each elected member is notified in writing of his or her election; and
- (d) the district electoral co-ordinator shall ensure that the principal, circuit manager, the district head and the Head of the Department are notified of the names of the elected members.

Decision of electoral officer

29. The electoral officer shall decide on all matters connected with the nomination of candidates or the poll.

Chapter 4

OFFICE BEARERS AND COMMITTEES OF THE GOVERNING BODIES

Election of office bearers of governing bodies

30. (l) At the first meeting of the governing body, converted as contemplated in regulation 37, the members of the governing body with voting rights, shall elect at least the following office bearers:

- (a) a chairperson;
- (b) a deputy chairperson;
- (c) a treasurer; and
- (d) a secretary.

(2) Office bearers elected in terms of subregulation (1) shall perform such functions and duties as contemplated in these regulations and any other law.

Provisions relating to office bearers

31. (1) Not more than one educator member shall serve as office bearer.

(2) No member of a governing body of a school may hold more than one office in a governing body.

(3) Only a parent member of a governing body who is not employed at the school may serve as a chairperson of such a governing body.

Term of office of office bearers

32. An office bearer shall remain in office for a term not exceeding 12 months from the date of his or her election and may, after the expiry of his or her term of office, be re-elected.

Vacation of office by office bearers

33. Where, in terms of these regulations or for whatever other reason, the office of an office bearer of the governing body becomes vacant, the members of the governing body with voting rights shall, at the next meeting of the governing body, elect one of its members with voting rights other than the principal to fill the vacancy in that office.

Executive committee of governing body

34. (1) The executive committee of a governing body shall consist of all office bearers and the principal in his or her official capacity.

(2) A governing body may assign any of its powers and functions to its executive committee: Provided that the governing body shall not be divested of any power of function which it has assigned to its executive committee and that it may alter or set aside any decision of the executive committee at its first meeting after the decision in question was made.

(3) The quorum for any executive committee meeting shall be three members of the executive committee.

(4) In voting at a meeting of an executive committee, only the chairperson shall have, in addition to his or her deliberate vote, also a casting vote.

(5) Minutes shall be kept of every meeting of the executive committee and decisions taken at such meeting shall be submitted for approval at the first ensuing meeting of the governing body.

Committees of governing bodies

35. A governing body may establish committees and appoint persons who are not members of the governing body to such committees on grounds of expertise, but a member of the governing body must chair each committee.

Functions of executive committees of governing bodies

36. (1) The executive committee shall carry out the mandates of the governing body and shall be accountable to the governing body for all its actions.

(2) The executive committee of a governing body shall meet at least once per month, unless authorised to meet less frequently over any given 12 month period by the governing body.

(3) A quorum of the executive committee shall be a majority of the members of the executive committee.

(4) The district head or circuit manager shall have the right to request and to be furnished with information regarding the time and venue of any meeting of the executive committee, and to attend but not to vote at such a meeting.

(5) Subject to these regulations, an executive committee shall determine its own rules in relation to meetings and procedures at its meetings.

Chapter 5

MEETINGS OF GOVERNING BODIES

Convening of meetings of governing body

37. The first meeting of any governing body shall be convened by the principal concerned, and the date of the meeting shall not be later than three weeks after the date of the commencement of the terms of office of the members: Provided that the holding of the first meeting on a later date may be approved by the circuit manager if he or she sees fit to do so.

First meeting of governing body

38. (1) At the first meeting a governing body shall-

- (a) elect the office bearers as contemplated in regulation 30;
- (b) constitute an executive committee in accordance with regulation 34;
- (c) decide on the length of the period of notice that shall be given for an extraordinary meeting; and

(d) determine the procedure to be followed in connection with notices concerning any extraordinary meeting.

(2) The principal shall inform the circuit manager in writing of the names and addresses of the persons elected as office bearers referred to in subregulation (1).

Meetings of governing bodies

39. (1) Ordinary meetings of a governing body shall be held at least quarterly.

(2) The notices of meetings shall explicitly state the date, time and venue of the meeting and shall be accompanied by an agenda.

(3) Notices of ordinary meetings shall be in writing and shall be posted to or personally handed to the members by the secretary of the governing body on the authority of the chairperson, so as to be in their possession at least eight days before the date of the meeting concerned.

(4) Subject to the provision of regulation 41, the non-receipt of a notice referred to in subregulation (2) and the consequent absence of a member shall not be prejudicial to the validity of the proceedings at such meetings.

(5) Should the chairperson for any reason neglect or fail to convene at least one ordinary meeting during a quarter, the majority of the members of the governing body may at the expiration of a quarter during which no such meeting was held, direct the secretary of the governing body in writing to convene a meeting and to issue notices to all the members in which the date, time and venue of the meeting are stated.

(6) The chairperson may at any time convene an extraordinary meeting if, in his or her opinion, circumstances necessitate such a meeting: Provided that such a meeting shall be convened if a majority of the executive committee requests it.

(7) The chairperson shall convene a meeting of the governing body or of the executive committee of the governing body if the circuit manager or district head concerned requests him or her to do so.

Minutes

40. (1) The minutes of every meeting of a governing body shall be recorded in the language determined by the governing body, by the secretary of the governing body in a book or file which shall be used exclusively for that purpose and which shall be retained in safe custody at the school by the secretary.

(2) The secretary of a governing body shall record the names of the members who are present and who are absent, stating whether such absence is with or without leave, in

the minutes of every meeting.

(3) After an ordinary meeting has been constituted, the minutes of the previous ordinary meeting as well as the minutes of any subsequent extraordinary meeting shall be read and confirmed by the signature of the chairperson: Provided that objections to the minutes shall be raised and dealt with before the minutes are confirmed.

(4) The minutes of a governing body shall be open to inspection at the school at all reasonable times to a member of such body and the circuit manager may request that a copy of the minutes of any meeting be made available to him or her.

Quorum

41. (1) The quorum for any meeting of a governing body shall be at least 50% of the members plus one.

(2) If there is no quorum present at any properly convened meeting, such meeting shall be postponed for at least eight days, but not more than twelve days from the date on which such meeting was convened, and on the day so determined, the meeting which shall be convened in accordance with regulation 39(2) and (3), shall deal with the agenda, irrespective of whether there is a quorum.

Voting

42. (1) All matters discussed at a meeting of a governing body shall be decided by a majority of the members of the governing body who are present by voting.

(2) A member of a governing body shall have one vote when a matter is put to the vote: Provided that, in the event of an equality of votes, the chairperson or the person acting as chairperson in his or her absence shall, in addition to his or her deliberative vote, also have a casting vote.

(3) In respect of every decision, the number of members voting for or against any motion shall be recorded in the minutes, and at the request of any member the chairperson shall direct that the vote of such member be recorded.

(4) When so ruled by the chairperson, voting shall be by ballot.

Annual general meeting of parents

43. (1) A governing body shall, between July and November of each year, convene in accordance with the provisions of these regulations an annual meeting of parents at the school at which-

- (a) the principal and the chairperson of the governing body shall submit a joint written report or separate written reports on the

school for the previous year;

(b) the latest audited financial statements as have been produced in terms of regulation 57 shall be made available;

(c) the budget referred to in regulation 54 shall be presented;

(d) any matter relating to fees referred to in regulation 55 may be discussed; and

(e) any other matters relating to the school may be discussed.

(2) The principal shall at least 30 days prior to the date of the annual general meeting-

(a) distribute a copy of the notice for such meeting to every learner at the school with an instruction to hand it to his or her parents;
or

(b) post a copy of the notice for such meeting to the parents of every learner at the school.

Special general meeting of parents

44. (1) A governing body may convene a special general meeting of parents at the school in accordance with the provisions of this regulation.

(2) A governing body shall convene a special general meeting of parents at the school within 30 days of receipt of a petition signed by at least 15% of parents of learners at the school calling for a special meeting.

(3) The principal shall at least 10 days prior to the date of the special general meeting-

(a) distribute a copy of the notice for such meeting to every learner at the school with an instruction to hand it to his or her parents;
or

(b) post a copy of the notice for such meeting to the parents of every learner at the school.

(4) A special general meeting of parents may deal with any of the matters contemplated in regulation 43.

Ruling of chairperson

45. The ruling of the chairperson on a point of order or procedure shall be binding, unless immediately challenged by a member, in which event such ruling shall be

submitted, without discussion, to the meeting, whose decision shall be final.

Attendance of meetings by non-members and leaving of meetings

46. (1) Subject to these regulations, every meeting of a governing body shall be a closed meeting and no person who is not a member shall be permitted to attend it.

(2) The governing body may decide that a member must absent himself or herself temporarily from the meeting when any matter concerning that member is discussed.

(3) If a governing body considers it necessary, any person who, in the opinion of the governing body, may be able to provide information on any matter falling within the powers of the governing body, such person may attend a meeting for such a period as the governing body may determine.

(4) Any officer authorised thereto by the Head of Department, district head or circuit manager concerned shall have the right to attend any meeting of a governing body in an advisory council capacity or as an observer.

Procedure in respect of vacancies and the absence of members of governing bodies

47. (1) If a member of a governing body-

(a) vacates his or her office as contemplated in regulation 8(4);

(b) dies;

(c) is no longer in terms of regulation 6 qualified to be a member of the governing body;

(d) has been absent without notice or acceptable reason from three consecutive ordinary meetings; or

(e) whose membership has been terminated by the Head of Department as contemplated in regulation 8(3), such a member shall cease to be a member of the governing body concerned.

(2) If the chairperson is absent from a meeting of the governing body, the deputy chairperson shall act as chairperson, and if both the chairperson and the deputy chairperson are absent from a meeting, the governing body shall, from among their members, elect a person to preside at the meeting.

(3) If a member is absent from any ordinary meeting of the governing body, without stating a reason acceptable to the governing body, for his or her absence, the secretary of the governing body shall request him or her, in writing, to state the reason for his or

her absence.

(4) If the office of a member of any governing body has become vacant in terms of subregulation (1), the chairperson shall at the next meeting declare that such vacancy has occurred and shall give the reasons for the vacancy.

(5) If the office of a member becomes vacant in terms of subregulation (1), (d) or (e) such vacancy shall be filled in a manner in which such member was elected for the remaining portion of the term of office of the member whose office has become vacant: Provided that if such vacancy occurs within a period of three months before the period of office of a member of the governing body expires, such vacancy may be filled by way of co-option.

(6) The secretary of any governing body shall, immediately after any vacancy has been filled in terms of subregulation (2) or (6), inform the circuit manager concerned - of the name of the member whose office became vacant, the reason for the vacancy and the name and address of the member co-opted or elected to fill such vacancy.

(7) The secretary of any governing body shall without delay, inform a member whose membership was terminated in terms of subregulation (1), (d) or (e) of the termination of his or her membership.

Chapter 6

FUNCTIONS OF GOVERNING BODIES

General

48. (1) In addition to such functions as are conferred on governing bodies by any other law, a governing body shall have the functions conferred on it by this Chapter.

(2) Where the Head of Department decides not to implement a recommendation made by a governing body in terms of a function conferred in this Chapter, it shall provide the governing body with written reasons for its decision.

(3) Subject to the provisions of the Act or any other law, the governance of every school is vested in its governing body.

(4) The professional management of the school shall be undertaken by the principal under the authority of the Head of Department.

(5) A governing body, or a member of a governing body in his or her capacity as a member of a governing body, may not interfere with the professional work of an educator in the performance of his or her duties.

Duties of governing bodies relating to constitution and standing orders

49. (1) A governing body shall draw up its own constitution and standing orders which shall not be contrary to the Act, these regulations, or any other applicable law, and which shall comply with the minimum requirements determined by the Member of the Executive Council by notice in the Provincial Gazette.

(2) A governing body of a school shall submit a copy of its constitution and standing orders to the Head of Department within 90 days of its election.

(3) Until the Head of Department has certified that the constitution and standing orders referred to in subregulation (2) are consistent with the provisions of the Act and these regulations, such constitution and standing orders shall be of no force or effect.

Duties of governing bodies relating to school policy

50. Subject to the Act and the Constitution, a governing body of a school shall-

- (a) determine the language policy of the school;
- (b) issue rules according to which religious observances may be conducted at the school;
- (c) decide upon school rules, which may include the dress code for learners at the school;
- (d) develop and adopt a code of conduct for learners; and
- (e) develop and adopt a code of rights and responsibilities for all sectors within the school.

Duties and functions of governing bodies relating to school development

51. A governing body of a school-

- (a) shall promote the best interests of the school and strive to ensure its development through the provision of quality education for learners at the school;
- (b) shall decide upon the school's mission, goals and objectives, and develop the mission statement of the school;
- (c) shall support the principal, educators and other staff of the school in the performance of their professional functions;
- (d) shall draw up and amend a school development plan;
- (e) shall encourage parents, learners, educators and other staff at the

school to render voluntary services to the school; and

- (f) may establish services and community partnerships related to social, health, recreational, nutritional and transport programmes and other matters which further the objectives of the Act.

Duties and functions of governing body relating to school administration

52. A governing body of a school -

- (a) shall bring to the notice of the Head of Department any matter which concern the school and make recommendations to the Head of Department concerning such matters;
- (b) shall administer and control the school's property and buildings and grounds occupied by the school, including school hostels, if applicable;
- (c) shall determine starting and ending times of the school day consistent with any applicable conditions of employment of staff at the school;
- (d) shall, at the request of the Head of Department, allow reasonable use under fair conditions of the facilities of the school; and
- (e) may allow the reasonable use of facilities of the school for community, social and school fund raising purposes, subject to such reasonable conditions as the governing body may determine, which may include the charging of a fee or tariff which accrue to the school.

Duties and functions of governing bodies relating to school funds and assets

53. A governing body of a school -

- (a) shall strive to raise funds including voluntary contributions to the school in cash or kind for the improvement of the quality of education at school;
- (b) shall establish a school fund and administer it in accordance with directives issued by the Head of Department;
- (c) shall pay, subject to paragraph (d), all the money received by a school, including school fees and voluntary contributions, into the school fund;
- (d) shall open and maintain a banking account;

- (e) shall utilise all money or other goods donated or bequeathed to or received in trust by a school in accordance with the conditions of such donation, bequest or trust: Provided that such conditions are in accordance with the provision of the Act; and
- (f) may only permit the use of the school fund, all proceeds thereof and any assets of the school for -
 - (i) educational purposes, at or in connection with such school;
 - (ii) educational purposes, at or in connection with another public school, by agreement with such other public school and with the consent of the Head of Department;
 - (iii) the performance of the duties and functions of the governing body; or
 - (iv) another educational purpose agreed between the governing body and the Head of Department.

Duties of governing bodies relating to school budget

54. A governing body of a school shall -

- (a) establish budget priorities and prepare an annual budget each year, according to guidelines determined by the Member of the Executive Council, which reflects the estimated income and expenditure of the school for the following financial year; and
- (b) present the budget referred to in paragraph (a), before it is approved by the governing body, to a meeting of parents for consideration and approval by a majority of parents present and voting.

Duties and functions of governing bodies relating to school fees

55. A governing body of a school -

- (a) may, subject to section 39 of the South African Schools Act, 1996 (Act No. 84 of 1996), charge fees at a school in accordance with a resolution adopted by a majority of parents present at a meeting contemplated in regulation 54(b) if such resolution provides for -

- (i) the amount of fees to be charged; and
 - (ii) equitable criteria and procedures for the total, partial or conditional exemption of parents who are unable to pay school fees; and
- (b) may, subject to Section 40 of the South African Schools Act, 1996 (Act No. 84 of 1996), enforce by process of law the payment of school fees by parents who are liable to pay such fees.

Duties of governing bodies relating to financial records and statements

56. A governing body of a school shall -

- (a) keep records of funds received and spent by the school and of its assets, liabilities and financial transactions; and
- (b) as soon as practicable, but not later than three months after the end of each financial year, draw up annual financial statements which indicate, with suitable particulars, money received and expenditure incurred by the school during, and its assets and liabilities at the end of the financial year concerned.

Duties of governing body relating to audit or examination of financial records and statements

57. A governing body of a school shall -

- (a) ensure that the records and financial statements referred to in regulation 56 are audited or examined in terms of the Act;
- (b) submit to the Head of Department, within six months after the end of each financial year, a copy of annual financial statements audited or examined in terms of paragraph (a); and
- (c) at the request of any interested person, make available for inspection the records referred to in subregulation (1), and the audited or examined financial statements referred to in this regulation.

Functions of governing bodies relating to the appointment of educators at the school

58. A governing body of a school may recommend to the Head of Department the appointment of educators at the school, subject to the Educators' Employment Act, 1994 (Proclamation No. 138 of 1994), and the Labour Relations Act, 1995 (Act No. 66

of 1995).

Functions of governing bodies relating to the appointment of non-educators at the school

59. A governing body may apply or a school may recommend to the Head of Department the appointment of non-educator staff at the school, subject to the Public Service Act, 1994 (Proclamation No. 103 of 1994) and the Labour Relations Act, 1995 (Act No. 66 of 1995).

Allocated functions of governing bodies

60. (1) A governing body may apply to the Head of Department in writing to be allocated any of the following functions:

- (a) to determine the admission of the school subject to the Act and to the Constitution;
- (b) to maintain and improve the school's property and buildings and grounds occupied by the school, including school hostels, if applicable;
- (c) to determine the extra-mural curriculum of the school and the choice of subject options in terms of provincial curriculum policy;
- (d) to purchase textbooks, educational materials or equipment for the school;
- (e) to pay services to the school;
- (f) to inquire into written complaints about any member of staff employed at the school, to refer the complaint, together with its findings, to the Head of Department, and to recommend that the Department institute inefficiency or misconduct procedures relating to persons employed at the school; and
- (g) to inquire into written complaints about any learner officially enrolled at the school, to refer the complaint, together with its findings, to the Head of Department and to recommend that the Department institute inefficiency or misconduct procedures relating to learners officially enrolled at the school.

(2) The Head of Department may approve such application either conditionally or unconditionally.

(3) The Head of Department may refuse an application contemplated in subregulation

(1) only if the governing body concerned does not have the capacity to perform such function effectively.

(4) The decision of the Head of Department regarding such application shall be conveyed in writing to the governing body concerned, stating reasons, for such decision.

(5) Any person aggrieved by a decision of the Head of Department in terms of this regulation may appeal to the Member of the Executive Council.

(6) The Member of the Executive Council may, by notice in the Provincial Gazette, determine that some governing bodies may exercise one or more functions without making an application as contemplated in subregulation (1), if

(a) he or she is satisfied that the governing bodies concerned have the capacity to perform such functions effectively; and

(b) there is a reasonable and equitable basis for doing so.

(7) Subject to subregulation (6), no governing body may exercise any of the functions listed in subregulation (1) unless the function has been allocated to it in terms of subregulations (2).

Withdrawal of functions from governing bodies

61. (1) The Head of Department may, on reasonable grounds, withdraw a function from a governing body.

(2) The Head of Department may not take action under subregulation (1) unless he or she has -

(a) informed the governing body of his or her intention to act and the reasons therefor;

(b) granted the governing body 30 days to make representations to him or her regarding such intentions; and

(c) given due consideration to any such representations received.

(3) In case of urgency, the Head of Department may act in terms of subregulation (1) without prior communication to such governing body, if the Head of Department thereafter-

(a) furnishes the governing body with reasons for his or her actions;

(b) gives the governing body 30 days to make representations relating

to such actions; and

(c) duly considers any such representations received.

(4) The Head of Department may, on sufficient reasons, reverse or suspend his or her action in terms of subregulations (1) and (3).

(5) Any person aggrieved by a decision of the Head of Department in terms of this regulation may appeal against the decision to the Member of the Executive Council.

Chapter 7 GENERAL AND TRANSITIONAL PROVISIONS

Reimbursement and financial benefit

62. (1) Necessary expenses incurred by a member of a governing body in the performance of his or her duties may be reimbursed by the governing body.

(2) No member of a governing body or any relative of such member may derive financial benefit by virtue of his or her being a member of such governing body.

(3) A member of a governing body shall withdraw from a meeting of the governing body for the duration of the discussion and decision making on any issue in which the member or any relative of that member has a financial interest in, excluding meetings where general tariffs for reimbursement is contemplated in subregulation (1) are discussed.

Transitional provision relating to existing governing bodies

63. (1) Where a governing body of a school was in existence immediately prior to the commencement of these regulations, its term of office shall be deemed to have ended on the day before the date on which a new governing body for that school is elected in accordance with these regulations.

(2) Until the end of its term of office, a governing body of a school which was in existence immediately prior to the commencement of these regulations, shall continue to be in existence and shall perform all the functions it performed prior to the commencement of these regulations which it can lawfully perform.

Interim provision relating to constitution of governing bodies

64. (1) Until such time as a governing body has drawn up a constitution and standing orders in accordance with regulation 49, the Treasurer and two other members of the governing body selected for that purpose by majority vote of the governing body shall give their written approval for any payment made out of the school fund.

(2) Until such time as a governing body has drawn up a constitution and standing orders in accordance with regulation 49-

- (a) an extraordinary meeting of the governing body may be convened by the Chairperson of the governing body when he or she deems it necessary or when at least four members submit to the Chairperson a written request for such a meeting containing their reasons for this request;
- (b) ordinary and extraordinary meetings of the governing body shall take place after written notice of the meeting has been issued to all members at least seven days prior to the meeting;
- (c) the notice of a meeting of the governing body shall include a list of the matters to be discussed at the meeting;
- (d) a meeting of the governing body shall deal with matters on which prior notice has been given, and may deal with other matters provided that approval of the meeting is obtained;
- (e) any person may attend and speak at a meeting of the governing body provided that approval of the meeting is obtained;
- (f) each member of the governing body has one vote, and at the conclusion of voting, the chairperson of the governing body shall exercise a casting vote if necessary;
- (g) the minutes of any meeting shall be read or taken as read at the opening of the next meeting, and if approved shall be signed by the chairperson and the secretary;
- (h) matters of standing orders and procedures at meetings what are not covered in the Act, in these regulations or in any other law shall be decided by the chairperson; and
- (i) if any member questions a decision referred to in paragraph (h), the matter shall be submitted to a vote.

Repeal of regulations

65. (1) The regulations listed in column one of the Annexure V are hereby repealed to the extent set out in column two of the Annexure V.

(2) All other regulations which are inconsistent with the Act and these regulations are hereby repealed.

Short title

66. These regulations shall be called Governing Body Regulations for Public Schools for learners with Special Education needs, 1997.

PLEASE NOTE!

THE FOLLOWING ANNEXURES CANNOT BE REPRODUCED,
PLEASE CONTACT SABINET ONLINE FOR A PHOTOCOPY.

ANNEXURE A: Standard Notice of Nomination Meeting and Poll for the Election of Parent Members

ANNEXURE B: Standard Notice of Nomination Meeting and Poll for the Election of Educator Members

ANNEXURE C: Standard Notice of Nomination Meeting and Poll for the Election of Non-Educator Members

ANNEXURE D: Standard Notice of Nomination Meeting and Poll for the Election of Learner Members

ANNEXURE E: Standard Notice of Nomination Meeting and Poll for the Election of Experts

ANNEXURE F: Proxy form for the election of a parent member to the governing body

ANNEXURE G: Nomination of parents of learners for election as members of Governing Body

ANNEXURE H: Nomination of educators as members of governing body

ANNEXURE I: Nomination of non-educators as members of governing body

ANNEXURE J: Nomination of members of the Representative Council of Learners as members of governing body

ANNEXURE K: Nomination of experts as members of the governing body

ANNEXURE L: Ballot paper for parent members

ANNEXURE M: Ballot paper for educator members

ANNEXURE N: Ballot paper for learner members

ANNEXURE O: Ballot paper for non-educator

ANNEXURE P: Ballot paper for expert members

ANNEXURE Q: Proxy form for the election of an expert member to the governing body

ANNEXURE R: Standard Notice of Nomination Meeting and Poll for the Election of a disabled person

ANNEXURE S: Proxy form for the election of a disabled person as a member of the governing body

ANNEXURE T: Nomination of a disabled persons for election as member of Governing Body

ANNEXURE U: Ballot paper for a disabled person

ANNEXURE V: Repeal of Regulations\$