

GN 975 of 20 August 2004: Regulations relating to Safety Measures at Independent Schools

DEPARTMENT OF EDUCATION

I, Grace Naledi Mandisa Pandor, Minister of Education, after consultation with the Council of Education Ministers and in terms of section 61 (a) of the South African Schools Act, 1996 (Act No. 84 of 1996), hereby publish the regulations relating to safety measures at independent schools, set out in the Schedule.

(signed)

GRACE NALEDI MANDISA PANDOR, MP

Minister of Education

Date: 20 July 2004

SCHEDULE

ARRANGEMENT OF REGULATIONS

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1. Definitions.—In these Regulations, any word or expression to which a meaning has been assigned in the Act, has that meaning and, unless the context indicates otherwise—

“dangerous object” means—

- (a) any explosive material or device;
- (b) any firearm or gas weapon;
- (c) any article, object or instrument that may be employed to cause bodily harm to a person or damage to property, or to render a person temporarily paralysed or unconscious; or
- (d) any object that the Minister may, by notice in the *Gazette*, declare to be a dangerous object for the purposes of these regulations,

unless such objects are used for educational purposes;

“HOD” means the Head of the Education Department in a province;

“illegal drug” means any unlawful intoxicating or stupefying substance;

“independent school premises” includes a building, structure, hall, room, office, convenience, piece of land or enclosure that is under the control of an independent school and to which a member of the public has a right of access or is usually admitted, or to which he or she may be admitted;

“owner” means a person in whose name an independent school is registered in terms of section 46 of the South African Schools Act, 1996 (Act No. 84 of 1996).

2. Scope of application.—These regulations apply to all independent schools.

3. Application of other laws.—Notwithstanding the provisions of these Regulations, an independent school is not exempted from complying with the provisions of any other applicable law, and these Regulations are intended to supplement such applicable laws.

4. Violence- and drug-free independent schools.—(1) All independent schools are hereby declared drug-free and dangerous-object-free zones.

(2) No person may—

- (a) allow any dangerous object in independent school premises;
- (b) carry any dangerous object in independent school premises;
- (c) store any dangerous object in independent school premises, except in officially designated places identified by the principal;

- (d) possess illegal drugs in independent school premises;
 - (e) enter independent school premises while under the influence of alcohol or an illegal drug;
 - (f) cause any form of violence or disturbance that can negatively impact on any independent school activities;
 - (g) wittingly condone, connive in, hide, abet someone in, or encourage, the possession of dangerous objects or refuse, fail or neglect to report the sighting or presence of any dangerous object to the principal or police as soon as possible;
 - (h) directly or indirectly, cause harm to anyone who exposes a person who is trying to hamper the prevention of dangerous activities or the prevention of the presence of dangerous objects.
- (3) A police official or, in his or her absence, the principal or his or her delegate may, without a warrant—
- (a) search any independent school premises if he or she has a reasonable suspicion that a dangerous object or illegal drugs may be present in the independent school premises in contravention of the regulations;
 - (b) search any person present in the independent school premises if he or she has a reasonable suspicion that such a person has in his or her possession a dangerous object or illegal drugs; and
 - (c) seize any dangerous object or illegal drugs present in independent school premises or on the person who is in contravention of these regulations.

5. Access to independent school premises.—(1) Subject to the Constitution, laws of the country and national and provincial policies, the owner or principal of an independent school may, for such periods as may be necessary

- (a) take such steps as he or she may consider necessary for the safeguarding of the independent school premises, as well as for the protection of the people therein; and
- (b) direct that the school may be entered only in accordance with the provisions of subregulation (2).

(2) No person may, without the permission of the owner or principal, enter any independent school premises in respect of which a direction has been issued under subregulation (1) (a), and, for the purpose of the granting of that permission, the owner or principal may require of the person concerned to—

- (a) furnish his or her name, address and any other relevant information required by the owner or principal;
- (b) produce proof of his or her identity to the satisfaction of the owner or principal, if necessary;
- (c) declare whether he or she has any dangerous object or illegal drugs in his or her possession or custody or under his or her control;
- (d) declare what the contents are of any vehicle, suitcase, attaché case, bag, handbag, folder, envelope, parcel or container of any nature that he or she has in his or her possession or custody or under his or her control, and to show those contents to the owner or principal;
- (e) subject himself or herself, and anything that he or she has in his or her possession or custody or under his or her control, to a search by a person of the same gender or an examination by an electronic device, sniffer dogs or other apparatus in order to determine the presence of any dangerous object or illegal drug; and
- (f) hand to the owner or principal, for examination or for custody until he or she leaves the premises, anything that he or she has in his or her possession or custody or under his or her control.

(3) Without derogation of the provisions of the Trespass Act, 1959 (Act No. 6 of 1959), the owner or principal may at any time remove any person from any independent school premises if—

- (a) that person enters the independent school premises concerned without the permission contemplated in subregulation (2);
- (b) that person refuses or fails to observe any steps contemplated in subregulation (1) (a); and
- (c) the owner or principal considers it necessary for the safeguarding of the independent school premises concerned or for the protection of the people therein.

(4) If it is not practicable to examine or keep in custody, on or in the independent school premises concerned, anything that may be examined or kept in custody under subregulation (2), such object may be removed to a suitable place for that purpose.

6. Exemption of certain persons.—The provisions of regulation 5 do not apply in respect of any member of a police service established by or under any law, a member of the South African Defence Force, the Minister of Education, the Member of the Executive Council responsible for education in a province, or an official of the Department or provincial departments of Education or a member or representative of the South African Council for Educators who is required, in the performance of his or her functions, to enter any independent school premises and who produces proof of his or her identity to the satisfaction of the owner, principal or HOD concerned.

7. Visits to independent schools by public representatives, political office bearers and the media.—

(1) Political office bearers, public representatives and the media have a right to visit independent schools in the interests of public accountability, but this right must be regulated to ensure that schools are not disrupted by such visits, and to avoid the politicisation of such visits. This right is subject to reasonable controls to ensure the proper functioning of education.

(2) The person intending to pay such a visit must, in writing, request permission for the visit and must obtain such permission, in writing, from the owner, principal or HOD prior to the visit. The request must be made at least 30 days before the intended visit, unless there are sound reasons for a shorter notification period. This request must clearly indicate the date, time and purpose of the visit, the names of all participants, and the aspects that they intend to look at. The owner or principal of the independent school must not refuse reasonable access to a person who has such written permission.

(3) In cases where the written permission is granted by the HOD, he or she, before granting such permission, must consult the owner or principal of the independent school to be visited, to determine whether it is feasible for the school to receive such a visit, and whether or not the school programme is likely to be seriously affected by such a visit.

(4) Wherever possible, a representative from the Departmental office should accompany such visitors.

8. Visits to independent schools by parents.—(1) Parents have the right to visit the independent schools that their children attend, but such visits may not disrupt any of the school activities.

(2) Parents are required, prior to the visit, to make an appointment with the principal of the school for a personal meeting with him or her, to state the reason for the visit and to name the persons who may be involved during the visit.

9. General.—(1) All independent schools must display clear signs at the entrance that any person who enters the school may be subjected to a search.

(2) Any person who contravenes these regulations may be removed from the independent school premises.

(3) Independent schools must cooperate with police stations to ensure that visible policing is present during all sporting and cultural events at the school.

(4) Independent schools must encourage governing board members and parents to participate in community policing forums.

(5) Independent schools must develop action plans to counter threats of violence that could have a negative impact on school activities, and to implement regulation 4 (1).

(6) The plans in subregulation (5) must ensure the safety of all learners, staff members and parents during school activities.

(7) Independent schools must engage in advocacy campaigns to communicate to the public the status of the schools concerning the regulations and their right to protection against violence.

(8) The HOD must provide guidelines to assist independent schools in developing the action plans contemplated in subregulations (5) to (7).

10. Short title.—These regulations are called the Regulations Relating to Safety Measures at Independent Schools, and come into operation on the date of publication in the *Government Gazette*.