



Provincial Gazette;

**NOTICE FOR THE CODE OF CONDUCT OF SCHOOL GOVERNING BODY MEMBERS IN PUBLIC SCHOOLS IN THE LIMPOPO PROVINCE**



Prevention is the cure: AIDS HELPLINE 08000123-22

**Notice of the Code of Conduct for School Governing Bodies in Public Schools in the Limpopo Province**

PROVINCIAL NOTICE

Limpopo Department of Education

**Notice of the Code of Conduct for School Governing Bodies in Public Schools in the Limpopo Province**

I, **Shela Paulina Boshielo**, Member of the Executive Council responsible for Education in the Province of Limpopo have determined notice on the **Code of Conduct for School Governing Bodies** in Public Schools in terms of section 18A of the South African Schools Act 84 of 1996 as amended.

**(Signed)**  
**S.P. Boshielo**  
**Member of Executive Council:**  
**Education**

**07/11/2019**  
**Date**

**1. PREAMBLE**

- 1.1 This is a Code of Conduct for members of a School Governing Body of a public school, determined by the Member of the Executive Council (M.E.C) for Education in Limpopo, in terms of **section 18A** of the South African Schools Act **84 of 1996 as amended**.
- 1.2 The code binds all members of the School Governing Body. Each member of the SGB must abide by its provisions.
- 1.3 The code does not apply to members of committees of the SGB appointed in terms of section **30(1) (b)** of the Act.
- 1.4 The code must be made available to each member of the school governing body.

**2. PURPOSE OF THE CODE**

- 2.1 The purpose of the Code is to regulate the conduct of members of the governing body when performing their roles and functions for and on behalf of the public school
- 2.2 To sets out minimum standards of conduct and behaviour required from members of the school governing body.
- 2.3 The Code is also intended:

- (a) to establish a disciplined and purposeful school environment dedicated to the improvement and maintenance of a quality governance structure at the public school; and
- (b) to provide for the procedure for the suspension or removal of members of the governing body and to safeguard their interests in such proceedings.
- (c) minimum standards of conduct and behaviour required from members of the school governing body.

**3. DEFINITIONS**

Unless the context indicates otherwise, all words in the code of conduct have their ordinary meanings or the meaning given by the South African Schools Act and any other Education Legislation.

**4. LEGAL FRAMEWORK**

**The following laws apply:**

- 4.1 The Constitution of the Republic of South Africa, ACT 108 of 1996 as amended.
- 4.2 The South African Schools Act 84 of 1996 as amended.
- 4.3 The National Education Policy Act 27 of 1996 as amended
- 4.4 The Promotion of Administrative Justice Act, 3 of 2000 (PAJA).
- 4.5 The Northern Province School Education Act No 9 of 1995.
- 4.6 Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 (PEPUDA).
- 4.7 Provincial Regulations for Elections of School Governing Bodies.
- 4.8 Any other relevant Legislation.

**5. GENERAL FUNCTION OF SCHOOL GOVERNING BODY**

- 5.1 To promote the best interests of the school and strive to ensure its development through the provision of quality education for all learners at the school;
- 5.2 Adopt a constitution;
- 5.3 Develop the mission statement of the school;
- 5.4 Adopt a code of conduct for learners at the school;
- 5.5 Support principal, educators and other staff in performance of their professional functions;
- 5.6 Adhere or cooperate to any lawful actions taken by the Member of Executive and Head of Department to address the incapacity of a principal or educator to carry out his/her duties effectively;
- 5.7 Determine times of school day consistent with any applicable conditions of employment of staff at the school;
- 5.8 Determine the choice of school uniform;
- 5.9 Administer and control the school's property, and buildings and grounds occupied by the school but the exercise of this power must not in any manner interfere with or hamper the implementation of a decision made by the Member of the Executive Council or Head of Department in terms of any law or policy;
- 5.10 Allow the reasonable use of the facilities of the school for community, social and school fund-raising purposes, subject to such reasonable and equitable conditions as the governing body may determine, which may include the charging of a fee or tariff which accrues to the school; However the exercise of this power must not in any manner interfere with or hamper the implementation of a decision made by the Member of the Executive Council or Head of Department in terms of any law or policy or departmental directives;
- 5.11 Participation in school committees;
- 5.12 Management of school's finances;
- 5.13 Respect for authority; others; self; property;
- 5.14 Encouraging Parents, learners, educators and other staff at the school to render voluntary services to the school;
- 5.15 Recommend to the Head of Department the appointment of educators at the school, subject to the Employment of Educators Act, 1998 (Act 76 of 1998) and the Labour Relations Act, 1995 (Act 66 of 1995);
- 5.16 Recommend to the Head of Department the appointment of non-educator staff at the school, subject to the Public Service Act, 1994 (Proclamation 103 of 1994), and the Labour Relations Act, 1995 (Act 66 of 1995);
- 5.17 Make sure that Governing Body records such as SGB minutes and other record are available for inspection by departmental officials.
- 5.18 Prepare & Present the annual budget to the parents at an Annual General Meeting;
- 5.19 Send notice at least 30 days before to parents for consideration and approval by a majority of parents present and voting.
- 5.20 Make sure that the budget is available for inspection at the school at least 14 days prior to the meeting.
- 5.21 Establish a school fund & administer it in accordance with prescript issued by the Member of Executive and directions issued by the Head of Department and the school's Finance Policy.
- 5.22 Take all reasonable measures to supplement the resources supplied by the State in order to improve the quality of education provided by the school to all learners at the school.
- 5.23 Keep records of funds received and spent by the school and of its assets, liabilities and financial transactions and by no later than 3 months after the end of each financial year draw up annual financial statements in accordance with the guidelines determined by the Member of the Executive Council.
- 5.24 Appoint a person registered as an auditor in terms of the Auditing Profession Act, 2005 to audit the records and financial statements.
- 5.25 Submit to the Head of Department, within six months after the end of each financial year, a copy of the annual financial statements, audited or examined.
- 5.26 Consider that the financial year commences on 1st day of January and ends on the last day of December of each year.
- 5.27 Ensure that no party-political activities are conducted at school during school time thus protecting teaching and learning time for learners and teachers.

5.28. Protect and prevent any initiation practices on school premises, grounds and during school trips.

## 6. CODE OF CONDUCT

### DUTIES AND OBLIGATIONS OF GOVERNING BODY MEMBERS:-

6.1 A governing body member:

- i. must, at all times, act in the best interests of the school in line with his/her fiduciary nature of his/her duties. His/her overriding concern should be the welfare of the school and not the group that elected him or her;
- ii. must pursue any outcomes through members of the School Governing Bodies in the performance of their functions and fulfilment of their obligations as set out in the South African Schools Act, 84 of 1996 as amended

6.2 Every member of a governing body occupies a position of trust towards his or her public school.

6.3 Every member of a governing body has a fiduciary duty to the public school, which requires that the member, at all times, acts:

- i. with fidelity, honesty, integrity and in good faith; and
- ii. in the best interests of the school.

6.4 Members of a governing body are not responsible for the professional management of the public school and must not interfere with the professional management of the public school, which rests with the school principal.

6.5 When making decisions, in his or her capacity as a member of a governing body, a member must:

- i. ensure that they are procedurally fair and supported by reasons;
- ii. act honestly and rationally, and not arbitrarily or capriciously; not conduct himself or herself in a manner that would raise a reasonable suspicion of bias; and
- iii. not be influenced by an ulterior motive or purpose.

6.6 Every member of a governing body must govern the public school:

- i. ethically;
- ii. in accordance with applicable legislation.
- iii. in a manner that provides effective, transparent, and accountable school administration ensuring that decisions are justifiable and legitimate; and
- iv. in a manner that facilitates effective education and learning in public schools.

6.7 Every member of a governing body must:

- i. take all practical steps to ensure that the stakeholders of public schools derive as much educational benefit from public schools as is possible;
- ii. uphold the rights of all learners, parents, educators and other employees and promote their acceptance of responsibility for the organisation and governance of schools;
- iii. uphold the democratic values of the Republic of South Africa;
- iv. seek to redress the imbalances of the past; and
- v. combat all forms of unfair discrimination and intolerance by ensuring that all learners irrespective of race, colour, ethnicity, gender and creed are provided with quality education.

6.8 Members of governing bodies must advance the principles of co-operative government, entrenched in Constitution by ensuring that:

- i. they conduct their activities without impeding nor contradicting the spirit and ethos of the Constitution and national legislation; and
- ii. co-operate with other spheres of government in mutual trust and good faith by
  - (a) fostering friendly relations
  - (b) assisting and supporting one another;
  - (c) informing one another of, and consulting one another on, matters of common interest;
  - (d) co-ordinating their actions with one another;
  - (e) adhering to agreed procedures; and
  - (f) avoiding legal proceedings against one another.

6.9 **Conflict of Interest: Duty of members of governing body to avoid conflicts of interest**

(1) Every member of a governing body must:

- a. take every possible step to avoid a conflict of interest between his or her personal interests and the interests of the school;
- b. not place himself or herself in a position where his or her personal interests could conflict with his or her duties to the public school, and in particular must not:
  - i. use confidential information improperly;
  - ii. accept secret profits, bribes or any other corrupt, or unconscionable benefits;
- c. not use information which is not yet available to the public for his or her own personal benefit; and
- d. disclose to the governing body in writing any conflict of interest that may arise.
- e. not solicit, request or accept a reward or gift in return for favours on any matter before the Governing Body.

(2) When a member of a governing body becomes aware that the governing body will be taking a decision in which a member, a member's close family, or associates have an interest, the member must:

- a. declare his or her interest in writing to the Chairperson of the governing body;
- b. ensure that the interest is declared and minuted at the next meeting of the governing body, and any other relevant sub-committee of the governing body; and
- c. recuse himself or herself from any meeting of the governing body or sub-committee of the governing body where the issue is considered

6.10 While executing their duties and functions, members of the governing body may have access to private and confidential information relating to learners, parents, and employees of the public school. A member of the governing body:

- i. must only use such information for the purpose for which it is disclosed;
- ii. must respect privacy and maintain confidentiality in respect of any such information; and
- iii. may not divulge such information except to the extent necessary to enable himself or herself to perform the duties or functions or required by law.

### 6.11 CONTROL AND ADMINISTRATION OF PUBLIC SCHOOL PROPERTY

Every Governing Body member in relation to control and administration of public school property must:

- i. exercise utmost care to ensure the reasonable protection of property of the public school; and
- ii. act with fidelity, honesty, integrity and in the best interest of the public school when administering, controlling and managing the property of the school.

### 6.12 CONTROL AND ADMINISTRATION OF PUBLIC SCHOOL FINANCE

i. Every Governing Body member in relation to control and administration of public school finance must

- ii. adopt a budget annually;
- iii. approve the annual financial statements, upon the recommendation of the Financial Committee;
- iv. open and maintain books of account and establish and administer a school fund;
- v. act with fidelity, honesty, integrity and in the best interest of the public school when administering, controlling and managing the finances of the school;
- vi. seek to prevent any prejudice to the financial interests of the public school;
- vii. take steps to solicit sponsorships, donations or voluntary contributions from individuals and businesses in the community served by the school for the benefit of the public school in order to improve the quality of education provided by the public school to all learners, but subject to the conditions set out in applicable laws;
- viii. take effective and appropriate steps to:
  - ix. prevent irregular, fruitless, and wasteful expenditure, and losses resulting from any criminal conduct, and any expenditure not complying with the policies of the public school; and
  - x. manage the funds of the public school efficiently and economically;
- xi. keep proper records of:
  - xiii. funds received and spent by the school;
  - xiii. assets and liabilities of the school; and
  - xiv. the school's financial transactions.

b. Every Governing Body member must

- i. act with fidelity, care, honesty, integrity, accountability and in the best interests of the school when handling the finances, movable and immovable property of the school;

- ii. pursue the development of sound governance and financial practices, which ensures that every rand spent produces maximum benefits and insists that all school transactions are performed within an ethical and legal framework and,
- iii. not derive personal gain and profit while managing and controlling the finances, property, buildings, grounds and other movable and immovable assets of the school.

6.13 **GOVERNING BODY MEETING:**

**Every Governing Body member in relation to attendance of a meeting must**

- i. Meet at least once every school term
- ii. hold a meeting with all roleplayers [Parentseach of the following constituencies at least once a year:
- iii. report to parents, learners and educators at least once a year
- iv. keep minutes of governing body meetings and make them available for inspection by the provincial Head of Department and any interested person;

**7. COURTESY AND FAIR TREATMENT**

**Every member of a Governing Body:**

- 7.1 must desist from actions that hinder or obstruct any official of the Department or any educator of their school in the performance of his or her functions/duties in terms of the law;
- 7.2 must treat other members of the SGB with respect as having equal status;
- 7.3 has no legal authority to act individually, except when the SGB has given him or her authority to do so or when reporting a misdemeanour to any official of the Department of Education or any investigating agency;
- 7.4 has a duty to act fairly and without prejudice in all instances and to treat others with the necessary respect;
- 7.5 shall not, outside the SGB meeting, undermine decisions taken by the SGB and;
- 7.6 shall not, condone or ignore inappropriate conduct by any other member of the SGB;
- 7.7 shall not, threaten, assault or attempt to assault any member of the SGB or any member of the School.

**8. CONFLICT RESOLUTION**

**If there is conflict in the SGB over SGB matters,**

- 8.1 Such a conflict must be resolved in the SGB by members of the SGB.
- 8.2 Any member of the SGB, who without the agreement of the SGB, involves anybody from outside the SGB in the resolution of the conflict, commits an act of misconduct.
- 8.3 If the SGB is unable to resolve the matter, the matter must be referred to the circuit office.

**9. DUE PROCESS:**

**If a member of the SGB has committed an offence in terms of this code;**

- 9.1 The Head of Department shall lay a charge of misconduct against such a member. If such a member is an educator, and his /her misconduct is a misconduct as defined in terms of the Employment of Educators Act, the Head of Department may direct that disciplinary proceedings be also instituted in terms of that act. If such a member is a member of support staff and his /her misconduct is a misconduct as defined in terms of PSA, the Head of Department may direct that disciplinary proceedings be also instituted in terms of that act.
- 9.2 The charge must be sufficiently detailed to enable the member of the SGB to know and understand the allegations and be able to prepare a detailed defence.
- 9.3 The H.O.D may suspend a member of the SGB accused of having violated a Code of Conduct for a period of 3 months or until the finalization of misconduct proceedings.
- 9.4 The H.O.D shall appoint a Presiding officer and an Initiator.
- 9.5 The respondent member of the SGB shall have the right of representation at the hearing.
- 9.6 Both the H.O.D and the respondent shall adduce evidence including oral evidence, cross examine witnesses of the other party and be allowed to present closing arguments.
- 9.7 If the respondent is found guilty he/she shall be given the opportunity to present mitigating circumstances and the H.O.D will present aggravating circumstances.
- 9.8 If the respondent member absents himself/ herself from the hearing without a just cause, the hearing may proceed without him/her.

**10. SANCTION**

Depending on the seriousness of the offence, the presiding officer may impose one or both of the following sanctions:

- 10.1 Warning
- 10.2 Suspension
- 10.3 Termination of the membership of the SGB.

**11. APPEAL**

A respondent SGB member who is dissatisfied with the outcome of the hearing may appeal to the Member of the Executive Council (**MEC**) within 21 days from the date of receipt of both the findings and the sanction on a prescribed form.

**ANNEXURES 1**

**Form A**

**Notice of Disciplinary Hearing: SGB Members**

School: \_\_\_\_\_  
 Name of SGB Member: \_\_\_\_\_  
 ID number: \_\_\_\_\_  
 Position in the SGB: \_\_\_\_\_  
 SGB Chairperson: \_\_\_\_\_

**A formal disciplinary hearing will be held and you are obliged to be present:**

Date of hearing: \_\_\_\_\_  
 Venue of hearing: \_\_\_\_\_  
 Time of hearing: \_\_\_\_\_  
 Date served: \_\_\_\_\_  
 The charge against you is as follows: \_\_\_\_\_  
 Date of offence: \_\_\_\_\_  
 Nature of offence \_\_\_\_\_

**Suspension from SGB Activities**

You are further advised that you have been suspended from all SGB activities until the hearing has been finalized. During your period of suspension, you will not be permitted on the School premises unless written permission has been given to you by a senior member of school management or SGB Chairperson, or for attending this hearing. Note: The SGB member receives one (1) copy and the signed copy must be kept and filed.

Received By: \_\_\_\_\_ Signature: \_\_\_\_\_ Time \_\_\_\_\_ Date: \_\_\_/\_\_\_/\_\_\_  
 Witness: \_\_\_\_\_ Signature: \_\_\_\_\_ Time \_\_\_\_\_ Date: \_\_\_/\_\_\_/\_\_\_  
 Example

**ANNEXURE 2**

**FORM B**

**PRESCRIBED FORM FOR A SANCTION (FROM A DISCIPLINARY HEARING)**

**To:** \_\_\_\_\_ parent of a learner, \_\_\_\_\_ who is in Grade \_\_\_\_\_ at \_\_\_\_\_ public school.  
**From:** \_\_\_\_\_, presiding officer of the disciplinary hearing on \_\_\_\_\_ (date) at \_\_\_\_\_ (place) at \_\_\_\_\_ (time).  
**Nature of the misconduct** \_\_\_\_\_  
**Findings** (summary notes in a prescribed form)

**Nature of the Sanction** imposed by the Presiding Officer in commensurate with the nature of the misconduct committed by the SGB member:

\_\_\_\_\_

Signature of Presiding Officer  
Contact Details:

Date:

Recourse of SGB member (s): **Note** that you have the right to appeal to the Member of the Executive Council for Education, (**the MEC**), within 21 days if you feel you are **not satisfied** with the above **sanction**.

**ANNEXURE 3**

**Form C**

**PRESCRIBED FORM OF APPEAL:**

Notice of appeal by a member of the School Governing Body to the Member of the Executive Council for Education

I, \_\_\_\_\_, hereby appeal against the FINDINGS and /or SANCTION that have been imposed in terms of the Code of Conduct for SGBs on \_\_\_\_\_ (date) at \_\_\_\_\_ (place) at \_\_\_\_\_ (time).

I a t t a c h a c o p y o f t h e f i n a l o u t c o m e o f t h e e n q u i r y . M y r e a s o n s o f t h e a p p e a l a r e \_\_\_\_\_

The desired outcome of the appeal is:  
\_\_\_\_\_

I wish /do not wish to provide additional evidence not available at the time of the disciplinary proceedings.

Signature of a member of the SGB :

Date :

Contact details :