



basic education

Department:
Basic Education
REPUBLIC OF SOUTH AFRICA

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To: **Heads of Provincial Education Departments**
CC: **Heads of Provincial Institutional Management and Governance**
Chief Financial Officers
District and Circuit Managers
School Principals and School Governing Bodies

CIRCULAR M2 OF 2018

LEGAL INTERPRETATION FOR SECTION 27 OF THE SASA REGARDING “NECESSARY EXPENSES”

The Department of Basic Education (DBE) sought a legal interpretation from its internal Legal Services regarding Section 27 of the South African Schools Act (SASA) which regulates the reimbursement of members of the School Governing Body (SGB). This was owing to requests submitted to the DBE regarding the interpretation of the term “**necessary expenses**” included in the section. The DBE has taken an initiative to develop Circular M2 of 2018 which is intended to elaborate on the phrase in accordance to the legal opinion as received from Legal Services.

The legal opinion as received is as follows:

“Governing body members perform their school governance duties and functions voluntarily and cannot be remunerated for such work. This is clearly spelt out in Section 27 of the SASA, which provides as follows: “(2) No member of a governing body may be remunerated in any way for the performance of his or her duties”. It would be a different matter if a member of the governing body has incurred **necessary expenses** which could have been incurred by any member of the governing body while performing his/her governance duties”.

Section 27 regulates such a case as follows: “(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.”


In accordance to the opinion received, subsection (1) indicates “that the governing body must consider the expense incurred by the member and make a determination on whether it was necessary to incur the expense. What constitutes a necessary expense would be guided by programmes, projects, meeting schedules and plans proposed by the governing body. In most instances, the expenses that governing body members incur relate to meeting attendance – for instance, the cost of transport and of refreshments outside the school premises. Some governing bodies determine a

budget, or set a limit, for these types of expenses to discourage members from incurring wasteful expenditure”.

“A governing body stands in a position of trust towards the school. This trust creates a duty to act in such a fashion that it cannot be said that a culpable breach of trust has occurred”. You are kindly requested to bring Circular M2 of 2018 to the attention of all District Directors, Circuit Managers, Heads of Provincial Institutional Management and Governance, Chief Financial Officers, School Principals and School Governing Bodies.

All enquiries related to this circular should be directed to the contact details as indicated above. Circular M2 of 2018 is effective immediately upon the date of signature by the Director-General of the DBE.

Yours sincerely


MR HM MWELI
DIRECTOR-GENERAL
DATE: 2018/08/24