

PROVINCIAL NOTICE

The following Provincial Notice is published for general information.

DR H.C. MALILA,
DIRECTOR-GENERAL

Provincial Legislature Building,
Wale Street,
Cape Town.

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Die volgende Provinsiale Kennisgewing word vir algemene inligting gepubliseer.

DR H.C. MALILA,
DIREKTEUR-GENERAAL

Provinsiale Wetgewer-gebou,
Waalstraat,
Kaapstad.

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Esi saziso silandelayo sipapashelwe ukunika ulwazi ngokubanzi.

GQIR H.C. MALILA,
MLAWULI-JIKELELE

ISakhiwo sePhondo,
Wale Street,
eKapa.

PROVINCIAL NOTICE

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**WESTERN CAPE PROVINCIAL SCHOOL EDUCATION ACT, 1997 (ACT 12 OF 1997)
REGULATIONS RELATING TO THE MANAGEMENT AND CONTROL OF HOSTELS AT
PUBLIC SCHOOLS: AMENDMENT, 2022**

The Provincial Minister of Education in the Western Cape, under section 63(1)(a), (cE), (d) and (e), read with sections 24(1)(a) and 45(9), of the Western Cape Provincial School Education Act, 1997 (Act 12 of 1997), and section 9(3) of the South African Schools Act, 1996 (Act 84 of 1996), has made the regulations set out in the Schedule.

SCHEDULE**Definitions**

1. In these regulations “the Regulations” means the Regulations relating to the Management and Control of Hostels at Public Schools and the Control over the Immovable Property and Equipment under the Western Cape Education Department, as published under Provincial Notice 361/2012 dated 28 November 2012.

Amendment of regulation 1 of the Regulations

2. Regulation 1 of the Regulations is amended—

(a) by the insertion before the definition of “district hostel coordinator” of the following definition:

“**disciplinary committee**’ means a committee established by the governing body of a public school in terms of section 23 of the Act to deal with disciplinary matters;”;

(b) by the insertion after the definition of “district hostel coordinator” of the following definition: “**expulsion**’ means the permanent prohibition of a hostel boarder by the Head of Department—

(a) from living in a particular hostel; or

(b) from living in a particular hostel and attending a particular public school,

after following the process in terms of these regulations, and **expel**’ has a corresponding meaning;”;

- (c) by the insertion after the definition of “provincial hostel coordinator” of the following definition:
- “**‘Regulations relating to Disciplining, Suspension and Expulsion of Learners at Public Schools in the Western Cape’** means the Regulations relating to Disciplining, Suspension and Expulsion of Learners at Public Schools in the Western Cape, as published under Provincial Notice 365/2011 dated 15 December 2011, as may be amended from time to time;”;
- (d) by the deletion after the definition of “supervisor” of the word “and”; and
- (e) by the insertion after the definition of “supervisor” of the following definition:
- “**‘suspension’** means the temporary prohibition of a hostel boarder by the governing body or Head of Department—
- (a) from living in a particular hostel; or
- (b) from living in a particular hostel and attending a particular public school,
- and **‘suspend’** has a corresponding meaning;”.

Insertion of regulation 1A of the Regulations

3. The following regulation is inserted in the Regulations after regulation 1:

“Application of regulations

1A. These regulations apply to all hostels at public schools in the province.”.

Amendment of regulation 6 of the Regulations

4. Regulation 6 of the Regulations is amended by the addition of the following sub-regulation:
- “(3) The Head of Department must perform all functions assigned to the Head of Department by these regulations.”.

Amendment of regulation 8 of the Regulations

5. Regulation 8 of the Regulations is amended—
- (a) by the substitution for paragraph (a) of sub-regulation (1) of the following paragraph:
- “(a) establish a hostel committee in terms of section 23(1) of the Act;”;
- and
- (b) by the insertion after paragraph (a) of sub-regulation (1) of the following paragraph:
- “(aA) perform all functions assigned to it by these regulations; and”.

Amendment of regulation 11 of the Regulations

6. Regulation 11 of the Regulations is amended by the insertion after paragraph (e) of sub-regulation (1) of the following paragraph:
- “(eA) notify the principal as contemplated in regulation 18D(1)(a) of an allegation of serious misconduct against a hostel boarder, and may make recommendations to the principal and governing body on hostel discipline in general or a specific disciplinary matter;”.

Amendment of regulation 13 of the Regulations

7. Regulation 13 of the Regulations is amended by the substitution for sub-regulation (5) of the following sub-regulation:

“(5) The governing body must establish a disposal committee to implement the procedure and policy regarding the disposal of fixed assets.”.

Repeal of regulation 18 of the Regulations

8. Regulation 18 of the Regulations is repealed.

Insertion of regulations 18A, 18B, 18C, 18D, 18E, 18F, 18G, 18H, 18I, 18J, 18K, 18L, 18M and 18N in the Regulations

9. The following regulations are inserted in the Regulations before regulation 19:

“Code of conduct

18A. (1) The governing body must adopt a code of conduct for hostel boarders at the hostel after consultation with the hostel boarders, parents of the hostel boarders, officers and members of staff of the hostel.

(2) The code of conduct must be aimed at establishing a disciplined and purposeful hostel environment.

(3) The code of conduct may not be in conflict and must be read with the code of conduct of the school adopted in terms of section 8 of the South African Schools Act.

Conduct at hostels

18B. Sections 45A and 46A of the Act apply, with the necessary changes, to hostel boarders, and every reference to—

- (a) a learner must be construed as a reference to a hostel boarder;
- (b) a school must be construed as a reference to a hostel; and
- (c) the code of conduct contemplated in section 45(1) of the Act must be construed as a reference to the code of conduct of the school or the code of conduct of the hostel.

Serious misconduct by hostel boarder

18C. Subject to the provisions of the South African Schools Act, a hostel boarder, while at a hostel or participating in a hostel activity, who—

- (a) brings onto the hostel premises or to a hostel activity or uses, threatens to use, has in his or her possession, sells or distributes a dangerous object;
- (b) brings onto the hostel premises or to a hostel activity, uses, has in his or her possession, sells, distributes or, in the circumstances contemplated in section 45A(9) of the Act, tests positive for alcoholic liquor or an illegal drug;
- (c) commits an act of bullying, assault, theft, arson, malicious damage to property or another criminal offence, or threatens to commit such an act;

- (d) uses hate speech, makes himself or herself guilty of victimisation, intimidation, racism, sexism or harassment, possesses or distributes pornographic material or engages in any act of public indecency;
 - (e) disrespects, violates the rights of, endangers the safety of, threatens or verbally abuses fellow hostel boarders, fellow learners, officers or members of staff or visitors at the school or the hostel;
 - (f) vandalises, destroys or defaces hostel infrastructure or property;
 - (g) commits an act of gross insubordination;
 - (h) with the intention of enabling himself or herself or any other person to gain an unfair advantage, has in his or her possession, uses, distributes or trades any unauthorised copy of a test or examination question paper, or cheats or bribes or attempts to bribe any person in respect of any test or examination;
 - (i) disrupts the hostel programme or threatens to commit such an act;
 - (j) falsely identifies himself or herself, or knowingly and wilfully supplies false information or falsifies documentation, to gain an unfair advantage at the hostel, or commits any other act of fraud;
 - (k) conducts or participates in any initiation practice against a fellow learner or a fellow hostel boarder;
 - (l) contravenes any law;
 - (m) contravenes the code of conduct of the school or the code of conduct of the hostel; or
 - (n) conducts himself or herself, in the opinion of the governing body, in a disgraceful, improper or unbecoming manner,
- may be guilty of serious misconduct.

Investigation of alleged serious misconduct

18D. (1)(a) Where the hostel committee obtains information that the alleged conduct of a hostel boarder may constitute serious misconduct contemplated in regulation 18C, the hostel committee must notify the principal in writing.

(b) Any person who knows, believes or suspects on reasonable grounds that a hostel boarder has committed an act of serious misconduct contemplated in regulation 18C may notify the principal.

(2) Once notified, the principal must, without delay—

- (a) investigate or cause an investigation to be carried out to determine whether there are grounds to institute disciplinary proceedings; and
- (b) decide whether there is sufficient evidence to institute disciplinary proceedings against the hostel boarder in respect of the alleged serious misconduct.

(3) If the principal decides that there are sufficient grounds to institute disciplinary proceedings against the hostel boarder in respect of the alleged serious misconduct, the principal must, without delay, submit an investigation report to the governing body.

Suspension of hostel boarder as precautionary measure

18E. (1) On receipt of the investigation report from the principal as contemplated in regulation 18D(3), or out of its own volition, the governing body may, on reasonable

grounds and as a precautionary measure, suspend the hostel boarder suspected of serious misconduct—

- (a) from living in the hostel; or
- (b) from living in the hostel and attending the school,

for a period not longer than seven school days, which period may only be extended as contemplated in regulation 18H(2).

(2) The following constitutes reasonable grounds for precautionary suspension:

- (a) the presence of the hostel boarder at the hostel or the school, or the hostel and the school, is likely to—
 - (i) compromise the safety of fellow hostel boarders, fellow learners, officers or members of staff or visitors at the school or the hostel;
 - (ii) result in damage to property; or
 - (iii) cause disruption of the hostel programme or the school programme; or
- (b) the hostel boarder is likely to interfere with witnesses or tamper with evidence.

(3) Before the governing body enforces the suspension in terms of sub-regulation (1), it must—

- (a) inform the hostel boarder and his or her parents of the intended suspension and the reasons therefor; and
- (b) afford the hostel boarder and his or her parents a reasonable opportunity to make representations orally or in writing to the governing body in respect of the intended suspension.

(4) The governing body must report all decisions to suspend and the nature of suspension to the district director, who must keep a register of all suspensions.

Notice of disciplinary proceedings

18F. (1) The governing body must notify the hostel boarder and his or her parents, in writing, that disciplinary proceedings will be instituted against the hostel boarder.

(2) The notice must—

- (a) provide at least five school days' notice of the disciplinary hearing;
- (b) inform the hostel boarder and his or her parents that disciplinary proceedings will be instituted against the hostel boarder;
- (c) contain sufficient particulars of the date, time, place and nature of the alleged serious misconduct to enable the hostel boarder to identify the incident and to respond thereto at the disciplinary hearing;
- (d) contain the date, time and venue of the disciplinary hearing;
- (e) advise the hostel boarder of his or her—
 - (i) right to be accompanied and represented at the hearing by his or her parents or by a representative chosen by his or her parents or appointed by the governing body or disciplinary committee as contemplated in regulation 18H(6);
 - (ii) right to request access to documents or information produced in evidence; and
 - (iii) right to state his or her case, ask questions, cross-examine, lead evidence, call witnesses and produce documentary evidence to clarify issues in respect of the allegation; and
- (f) inform the hostel boarder, where applicable, of the precautionary suspension and the nature of academic support to be provided by the school before the disciplinary hearing and during the period of suspension contemplated in regulation 18E(1).

(3) The principal must give the notice contemplated in sub-regulation (1) to the hostel boarder and cause a copy thereof to be provided to the parents of the hostel boarder.

(4) The governing body must cause a copy of the investigation report contemplated in regulation 18D(3) to be provided to the hostel boarder and the parents of the hostel boarder prior to the commencement of the disciplinary hearing.

Disciplinary committee

18G. (1) The governing body must conduct the disciplinary hearing or establish a disciplinary committee to do so.

(2) If the governing body establishes a disciplinary committee to conduct the disciplinary hearing, the disciplinary committee must—

- (a) comprise at least five persons, of whom at least three must be members of the governing body; and
- (b) be chaired by a member of the governing body designated by the governing body who is not an officer or member of staff at the school or hostel.

(3) The principal, hostel boarders at the hostel, learners at the school, and persons having a conflict of interest are not eligible to be members of the disciplinary committee and may not be present when the governing body discusses the report or recommendations of the disciplinary committee, if applicable.

General provisions in respect of disciplinary hearings

18H. (1) A disciplinary hearing of a hostel boarder must be conducted—

- (a) within seven school days after the suspension of such hostel boarder, as contemplated in regulation 18E(1); and
- (b) after at least five school days have passed since notice of the disciplinary hearing was given as contemplated in regulation 18F.

(2) If a disciplinary hearing is not conducted within seven school days after the suspension of the hostel boarder contemplated in regulation 18E(1), the governing body must obtain the approval of the Head of Department for the continuation of the suspension of the hostel boarder.

(3) If the governing body—

- (a) established a disciplinary committee as contemplated in regulation 18G, the disciplinary committee must act in accordance with regulation 18I; or
- (b) did not establish a disciplinary committee, the governing body must act in accordance with regulation 18J.

(4) At the disciplinary hearing the hostel boarder has the rights contemplated in regulation 18F(2)(e).

(5) If the hostel boarder or his or her parents fail to attend the disciplinary hearing without just cause—

- (a) after due notice contemplated in regulation 18F; or
- (b) on a date as agreed upon by the hostel boarder or his or her parents and the governing body,

and after such hearing has been convened a second time, the hearing may be conducted in the absence of the hostel boarder or his or her parents.

(6) If the hostel boarder is not accompanied at the disciplinary hearing by his or her parents or a representative chosen by his or her parents, the governing body or disciplinary committee, as the case may be, must—

- (a) enquire from the hostel boarder regarding the absence of his or her parents;
- (b) inform the hostel boarder of his or her right to have a suitable person appointed by the governing body or disciplinary committee, as the case may be, to assist or represent him or her at the disciplinary hearing, and explain the benefits of such appointment to the hostel boarder; and
- (c) after consultation with the hostel boarder and subject to his or her consent, appoint a suitable person to assist or represent him or her at the disciplinary hearing.

(7)(a) A complainant or witness under the age of 18 years may at a disciplinary hearing be accompanied by his or her parents or a representative chosen by his or her parents.

(b) If it appears to the governing body or disciplinary committee, as the case may be, that testifying at a disciplinary hearing would expose a complainant or witness under the age of 18 years to undue mental stress or suffering, it may appoint a competent person as an intermediary in order to enable such complainant or witness to give his or her evidence through that intermediary.

(c) If an intermediary was appointed as contemplated in paragraph (b)—

- (i) all questions must be put to the relevant complainant or witness through that intermediary; and
- (ii) such intermediary may, unless the governing body or the disciplinary committee, as the case may be, directs otherwise, convey the general purport of any question to the relevant complainant or witness.

(d) If an intermediary was appointed as contemplated in paragraph (b), the governing body or disciplinary committee, as the case may be, may direct that the relevant complainant or witness must give his or her evidence at any place that—

- (i) puts that complainant or witness at ease;
- (ii) is arranged in such a manner that any person whose presence may upset that complainant or witness is outside the sight and hearing of that complainant or witness; and
- (iii) through the medium of any electronic or other devices, enables the governing body or disciplinary committee, as the case may be, and any person whose presence is necessary at the disciplinary hearing, to hear that intermediary as well as that complainant or witness during his or her testimony.

(8) The governing body or disciplinary committee, as the case may be, must be impartial and fair and act without favour or prejudice.

Disciplinary hearings conducted by disciplinary committee

18I. (1) This regulation applies if the governing body established a disciplinary committee as contemplated in regulation 18G.

(2) The chairperson of the disciplinary committee must, at the commencement of the disciplinary hearing—

- (a) explain the reasons for the disciplinary hearing;
 - (b) request the charge or charges to be read into the record; and
 - (c) ask the hostel boarder to plead to the charge.
- (3) If the hostel boarder pleads guilty—
- (a) the chairperson of the disciplinary committee must ensure that the hostel boarder knows and understands what he or she is pleading guilty to;
 - (b) the disciplinary committee must be satisfied that the plea was made voluntarily and not under duress; and
 - (c) the chairperson of the disciplinary committee must—
 - (i) read the facts of the matter into the record;
 - (ii) afford members of the disciplinary committee an opportunity to ask questions for clarity;
 - (iii) ask the hostel boarder, representative and parents of the hostel boarder and any other parties, except the members of the disciplinary committee, to leave the room while the disciplinary committee deliberates on a finding to be recommended to the governing body; and
 - (iv) after the disciplinary committee has decided on a finding to be recommended to the governing body, recall the hostel boarder, representative and parents of the hostel boarder and any other parties and inform them of the finding to be recommended to the governing body.
- (4) If the hostel boarder pleads not guilty, the chairperson of the disciplinary committee must—
- (a) request evidence to be adduced in support of the charge, including the calling of the complainant and witnesses;
 - (b) afford the hostel boarder, representative and parents of the hostel boarder the opportunity to put questions to the complainant and witnesses with the purpose of refuting evidence;
 - (c) afford the hostel boarder, representative and parents of the hostel boarder an opportunity to state the hostel boarder's case and to call witnesses;
 - (d) afford members of the disciplinary committee an opportunity to ask questions for clarity;
 - (e) ask the hostel boarder, representative and parents of the hostel boarder and any other parties, except the members of the disciplinary committee, to leave the room while the disciplinary committee deliberates on a finding to be recommended to the governing body; and
 - (f) after the disciplinary committee has decided on a finding to be recommended to the governing body, recall the hostel boarder, representative and parents of the hostel boarder and any other parties, and inform them of the finding to be recommended to the governing body.
- (5) If the disciplinary committee decided to recommend a finding that the hostel boarder is not guilty of serious misconduct, the chairperson of the disciplinary committee must submit a report on the disciplinary hearing, the evidence and the recommendation to the governing body.
- (6) If the disciplinary committee decided to recommend a finding that the hostel boarder is guilty of serious misconduct, the chairperson of the disciplinary committee must—
- (a) ask—
 - (i) the hostel boarder, representative and parents of the hostel boarder; and

- (ii) a representative of the school, whether they wish to make any written or oral representations before a suitable sanction, to be recommended to the governing body, is deliberated on by the disciplinary committee;
 - (b) ask the hostel boarder, representative and parents of the hostel boarder and any other parties, except the members of the disciplinary committee, to leave the room while the disciplinary committee deliberates on a suitable sanction to be recommended to the governing body;
 - (c) after the disciplinary committee, taking all the evidence and representations into account, decided on a suitable sanction contemplated in regulation 18J(7) to be recommended to the governing body, recall the hostel boarder, representative and parents of the hostel boarder and any other parties, and inform them of the sanction to be recommended to the governing body; and
 - (d) submit a report on the disciplinary hearing, the evidence, representations and the recommendation to the governing body.
- (7) The governing body must, taking into account the information submitted to it by the disciplinary committee as contemplated in sub-regulation (5) or (6)(d), as the case may be, decide on a finding and, if it finds the hostel boarder—
- (a) not guilty of serious misconduct, inform the hostel boarder and his or her parents, in writing, of the finding of the governing body; or
 - (b) guilty of serious misconduct—
 - (i) if the disciplinary committee recommended that the hostel boarder be found guilty, decide on a sanction contemplated in regulation 18J(7); or
 - (ii) if the disciplinary committee recommended that the hostel boarder be found not guilty, ask—
 - (aa) the hostel boarder, representative and parents of the hostel boarder; and
 - (bb) a representative of the school, whether they wish to make any written or oral representations on a suitable sanction, and decide on a sanction contemplated in regulation 18J(7), and inform the hostel boarder and his or her parents, in writing, of the sanction imposed.

Disciplinary hearings conducted by governing body

18J. (1) This regulation applies if the governing body did not establish a disciplinary committee as contemplated in regulation 18G.

(2) The chairperson of the governing body must, at the commencement of the disciplinary hearing—

- (a) explain the reasons for the disciplinary hearing;
- (b) request the charge or charges to be read into the record; and
- (c) ask the hostel boarder to plead to the charge.

(3) If the hostel boarder pleads guilty—

- (a) the chairperson of the governing body must ensure that the hostel boarder knows and understands to what he or she is pleading guilty;
- (b) the governing body must be satisfied that the plea was made voluntarily and not under duress; and
- (c) the chairperson of the governing body must—
 - (i) read the facts of the matter into the record;

- (ii) afford members of the governing body an opportunity to ask questions for clarity;
 - (iii) ask the hostel boarder, representative and parents of the hostel boarder and any other parties, except the members of the governing body, to leave the room while the governing body deliberates on a finding; and
 - (iv) after the governing body has decided on a finding, recall the hostel boarder, representative and parents of the hostel boarder and any other parties, and inform them of the governing body's finding.
- (4) If the hostel boarder pleads not guilty, the chairperson of the governing body must—
- (a) request evidence to be adduced in support of the charge, including the calling of the complainant and witnesses;
 - (b) afford the hostel boarder, representative and parents of the hostel boarder the opportunity to put questions to the complainant and witnesses with the purpose of refuting evidence;
 - (c) afford the hostel boarder, representative and parents of the hostel boarder an opportunity to state the hostel boarder's case and to call witnesses;
 - (d) afford members of the governing body an opportunity to ask questions for clarity;
 - (e) ask the hostel boarder, representative and parents of the hostel boarder and any other parties, except the members of the governing body, to leave the room while the governing body deliberates on a finding; and
 - (f) after the governing body decided on a finding, recall the hostel boarder, representative and parents of the hostel boarder and any other parties and inform them of the governing body's finding.
- (5) If the governing body decides to find the hostel boarder not guilty of serious misconduct, it must inform the hostel boarder and his or her parents, in writing, of the finding of the governing body.
- (6) If the governing body decides to find the hostel boarder guilty of serious misconduct, the chairperson of the governing body must—
- (a) ask—
 - (i) the hostel boarder, representative and parents of the hostel boarder; and
 - (ii) a representative of the school,
 whether they wish to make any written or oral representations before a suitable sanction is deliberated on by the governing body;
 - (b) ask the hostel boarder, representative and parents of the hostel boarder and any other parties, except the members of the governing body, to leave the room while the governing body deliberates on a suitable sanction; and
 - (c) after the governing body, taking all the evidence and representations into account, decided on a suitable sanction contemplated in sub-regulation (7), recall the hostel boarder, representative and parents of the hostel boarder and any other parties, and inform them of the sanction.
- (7) If the governing body finds the hostel boarder guilty of serious misconduct, it must decide whether—
- (a) the hostel boarder should as a corrective measure be suspended—
 - (i) from living in the hostel; or
 - (ii) from living in the hostel and attending the school,
 for a period not longer than seven school days;

- (b) the expulsion of the hostel boarder—
 - (i) from the hostel; or
 - (ii) from the hostel and from the school, should be recommended to the Head of Department as contemplated in regulation 18K; or
- (c) any other sanction contemplated for serious misconduct in the code of conduct of the school or the code of conduct of the hostel should be imposed on the hostel boarder.

(8) Notwithstanding sub-regulations (3)(c)(iv), (4)(f) and (6)(c), the governing body must inform the hostel boarder and his or her parents in writing of the finding of the governing body and the sanction imposed, if applicable.

Recommendation of expulsion by governing body

18K. (1) If the governing body decides that expulsion is the suitable sanction, the governing body must make a written recommendation to the Head of Department to expel the hostel boarder—

- (a) from the hostel; or
- (b) from the hostel and from the school.

(2) Pending a decision by the Head of Department, the governing body may suspend, or extend the suspension of, the hostel boarder—

- (a) from living in the hostel; or
- (b) from living in the hostel and attending the school,

for a period not longer than 14 school days from the day the recommendation was submitted to the Head of Department.

(3) Where the governing body recommends expulsion to the Head of Department, it must direct the principal to submit to the Head of Department, within three school days after the decision of the governing body contemplated in regulation 18J(7)(b)—

- (a) the investigation report contemplated in regulation 18D(3);
- (b) the minutes of the meeting at which the decision was taken;
- (c) any written representations submitted by the hostel boarder, parents of the hostel boarder, representative of the hostel boarder and representative of the school; and
- (d) the full record of the disciplinary proceedings by the disciplinary committee or governing body, as the case may be, and the subsequent actions by the governing body, if any.

(4) The combined period of suspension of a hostel boarder by the governing body in terms of—

- (a) regulation 18E(1);
- (b) regulation 18J(7)(a); and
- (c) sub-regulation (2),

may for each disciplinary proceeding against such hostel boarder not exceed 21 school days, unless the governing body obtained the approval of the Head of Department for the continuation of the suspension of the hostel boarder as contemplated in regulation 18H(2).

(5)(a) The Head of Department must consider the recommendation of the governing body and must—

- (i) expel the hostel boarder from the hostel;
- (ii) expel the hostel boarder from the hostel and from the school;

- (iii) impose a suitable sanction on the hostel boarder, after consultation with the governing body, which sanction must be implemented by the governing body; or
- (iv) if the Head of Department decides not to impose a sanction on the hostel boarder, refer the matter back to the governing body for an alternative sanction, other than expulsion, in terms of the code of conduct of the school or the code of conduct of the hostel, which sanction must be implemented by the governing body,

within 14 school days of receipt of the recommendation.

(b) The Head of Department must notify the governing body, the hostel boarder and the parents of the hostel boarder immediately, in writing, of the Head of Department's decision, with the reasons for the decision.

(c) If the Head of Department expels the hostel boarder—

- (i) from the hostel; or
- (ii) from the hostel and from the school,

the notice contemplated in paragraph (b) must include a reference to the right of appeal to the Provincial Minister.

(d) If the Head of Department expels the hostel boarder from the hostel only, such expulsion does not mean that the hostel boarder is also expelled from the school.

Appeal in respect of expulsion

18L. (1) A hostel boarder, or the parents of a hostel boarder, who has been expelled—

- (a) from the hostel; or
- (b) from the hostel and from the school,

may appeal against the decision of the Head of Department by submitting a notice of appeal to the Provincial Minister within 14 school days of receipt of the notice of expulsion from the Head of Department as contemplated in regulation 18K(5)(b).

(2) A copy of the notice of appeal contemplated in sub-regulation (1) must also be submitted to the office of the Head of Department and the chairperson of the governing body.

(3) If the hostel boarder, parents of the hostel boarder, representative of the hostel boarder or representative of the school makes further representations to the Provincial Minister, a copy of the representations must also be submitted to the chairperson of the governing body for its response.

(4) If an appeal in terms of sub-regulation (1) is upheld by the Provincial Minister, the Provincial Minister must ensure that one of the following sanctions is imposed on the hostel boarder within 14 school days of the date on which the appeal was upheld:

- (a) if the Head of Department expelled the hostel boarder from the hostel and the Provincial Minister decides against such expulsion, the Provincial Minister may, after consultation with the governing body, impose a suitable sanction on the hostel boarder, which must be implemented by the governing body;
- (b) if the Head of Department expelled the hostel boarder from the hostel and the school and the Provincial Minister decides against such expulsion from the hostel and the school, the Provincial Minister may, after consultation with the governing body—
 - (i) expel the hostel boarder from the hostel only; or

- (ii) impose a suitable sanction on the hostel boarder, which must be implemented by the governing body; or
- (c) if the Provincial Minister decides not to impose a sanction on the hostel boarder, the Provincial Minister must refer the matter back to the governing body for an alternative sanction, other than expulsion, in terms of the code of conduct of the school or the code of conduct of the hostel.

Access to education after expulsion

18M. (1) If a hostel boarder who is subject to compulsory school attendance is expelled—

- (a) from the hostel, and the expulsion will have the effect that the hostel boarder will not be able to attend the school; or
- (b) from the hostel and from the school,

the Head of Department must make an alternative arrangement for the placement of the hostel boarder—

- (i) at a public school; or
- (ii) at a public school and its hostel, if the school contemplated in subparagraph (i) is not accessible to the hostel boarder.

(2) If a hostel boarder who is not subject to compulsory school attendance, is expelled—

- (a) from the hostel, and the expulsion will have the effect that the hostel boarder will not be able to attend the school; or
- (b) from the hostel and from the school,

his or her parents may make an alternative arrangement for his or her placement—

- (i) at a school; or
- (ii) at a school and its hostel,

and may request the assistance of the district director with such placement.

(3) If the hostel boarder is expelled—

- (a) from the hostel, and the expulsion will have the effect that he or she will not be able to attend the school; or
- (b) from the hostel and from the school,

and the hostel boarder or his or her parents have appealed in the manner contemplated in regulation 18L, such hostel boarder must, pending the outcome of the appeal, be given access to education in the manner determined by the Head of Department after consultation with the principal.

(4) In determining an alternative arrangement for placement contemplated in sub-regulation (1) or the manner of access to education contemplated in sub-regulation (3), the Head of Department—

- (a) must take reasonable measures to protect the rights of officers, members of staff and visitors at the school concerned and the hostel concerned, if applicable, and other—
 - (i) learners at the school concerned; and
 - (ii) hostel boarders at the hostel concerned, if applicable; and
- (b) may consider an alternative method of providing education to the hostel boarder, which may include any or all of the following:
 - (i) ensuring that the hostel boarder is admitted to—
 - (aa) another school; or

- (bb) another school and its hostel;
 - (ii) requiring the hostel boarder to attend counselling at district level with Specialised Learner and Educator Support or School Psychological Support or School Social Work Support; and
 - (iii) requesting regular progress reports in respect of the counselling contemplated in sub-paragraph (ii) from the relevant support component.
- (5) Any hostel boarder who is expelled—
- (a) from the hostel, and the expulsion will have the effect that he or she will not be able to attend the school; or
 - (b) from the hostel and from the school,

during the last term of a year, must be afforded the opportunity to write the final examinations of that school in that year, and the principal of the school may require the hostel boarder to write the examinations in a venue separate from the learners of the school.

Conflict

18N. If any conflict arises between regulations 18A to 18M and the Regulations relating to Disciplining, Suspension and Expulsion of Learners at Public Schools in the Western Cape, regulations 18A to 18M prevail where a hostel boarder is concerned.”.

Substitution of regulation 21 of the Regulations

10. The following regulation is substituted for regulation 21 of the Regulations:

“Short title and date of commencement

21. These regulations are called the Regulations relating to the Management and Control of Hostels at Public Schools and come into effect on 1 January 2013.”.

Amendment of Arrangement of Regulations

- 11.** The Arrangement of Regulations before regulation 1 of the Regulations is amended—
- (a) by the insertion after the reference to the heading to regulation 1 of the following item:
 - “**1A.** Application of regulations”;
 - (b) by the deletion of the reference to the heading of regulation 18; and
 - (c) by the insertion before the reference to the heading to regulation 19 of the following item:
 - “**18A.** Code of conduct
 - 18B.** Conduct at hostels
 - 18C.** Serious misconduct by hostel boarder
 - 18D.** Investigation of alleged serious misconduct
 - 18E.** Suspension of hostel boarder as precautionary measure
 - 18F.** Notice of disciplinary proceedings
 - 18G.** Disciplinary committee
 - 18H.** General provisions in respect of disciplinary hearings
 - 18I.** Disciplinary hearings conducted by disciplinary committee
 - 18J.** Disciplinary hearings conducted by governing body
 - 18K.** Recommendation of expulsion by governing body

- 18L. Appeal in respect of expulsion
- 18M. Access to education after expulsion
- 18N. Conflict”.

Short title

12. These regulations are called the Regulations relating to the Management and Control of Hostels at Public Schools: Amendment, 2022.