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ISIFUNDAZWE SAKWAZULU-NATALI

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18 FEBRUARY 2021  
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No: 2251

**PART 1 OF 2**

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HELPLINE**

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DEPARTMENT OF HEALTH

**Prevention is the cure**

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**Contents**

<i>No.</i>		<i>Gazette No.</i>	<i>Page No.</i>
	<b>PROVINCIAL NOTICES • PROVINSIALE KENNISGEWINGS</b>		
3	South African Schools Act (84/1996): Composition and election of members of governing bodies of Public Schools for Learners with Special Education Needs.....	2251	3
4	South African Schools Act (84/1996): Notice relating to election of members of governing bodies for Public Ordinary Schools (excluding Schools for Learners with Special Education Needs).....	2251	70
5	KZN Land Administration and Immovable Asset Management Act (2/2014): Elangeni TVET College .....	2251	136
6	KZN Land Administration and Immovable Asset Management Act (2/2014): A portion of Erf 2382, Kloof Extension 11, Registration Division FT.....	2251	137
7	KZN Land Administration and Immovable Asset Management Act (2/2014): Erf 6069, Pietermaritzburg, Registration Division FT .....	2251	138

## PROVINCIAL NOTICES • PROVINSIALE KENNISGEWINGS

## PROVINCIAL NOTICE 3 OF 2021

## SOUTH AFRICAN SCHOOLS ACT, 1996 (ACT NO. 84 OF 1996)

COMPOSITION AND ELECTION OF MEMBERS OF GOVERNING BODIES  
OF PUBLIC SCHOOLS FOR LEARNERS WITH SPECIAL EDUCATION NEEDS

I, Kwazikwenkosi I. Mshengu, Member of the Executive Council responsible for Education in the Province of KwaZulu-Natal have, in terms of Sections 24 and 28 of the South African Schools Act, 1996 (Act No. 84 of 1996 ("the Act)) determined matters relating to the composition and election of school governing bodies of Public Schools for Learners with Special Education needs as contained in this schedule. In terms of Section 24(3) of the Act, all interested parties are hereby called upon to make written submissions to the MEC in terms of Section 24(2) of the Act on the determination by the MEC in this notice. The submissions must be made and forwarded within thirty (30) days from date of publication hereof, to the MEC in the following manner:

**For the attention of:** Mr N Mthethwa

**By email:** [nhlanhla.mthethwa@kzndoe.gov.za](mailto:nhlanhla.mthethwa@kzndoe.gov.za); or **hand delivered to:** Room 810, 8<sup>th</sup> Floor, ABSA Building, 194 Langalibalele Street, Pietermaritzburg, 3200

## SCHEDULE

## Definitions

1. In this notice any word or expression to which a meaning has been assigned in the Act shall have that meaning unless the context indicates otherwise -

**"Act"** means the South African Schools Act, 1996 (Act No. 84 of 1996) as amended;

**"Assistant School Electoral Officer"** means a person employed by the Department or the governing body who is appointed by the School Electoral Officer to assist during elections but who must not be the principal of the school where elections are being held nor be appointed as an electoral officer in any other school;

**"CNS system"** means the candidate nominations system which is a secure electronic system that is used for the electronic submission of information and documents contemplated in this notice;

**"closed meeting"** means a meeting open only to -

- (a) parents for the election of parents, if reasonably practicable;
- (b) educators for the election of educators;
- (c) members of staff for the election of members of staff; and
- (d) learners from the representative council of learners, if reasonably practicable;

**"combined school"** means a public school which enrolls learners from foundation phase to senior phase or senior phase to further education and training phase or foundation phase to further education and training phase;

**"co-opted members"** means -

- (a) members co-opted without voting powers to assist the governing body in discharging its functions;

- (b) the owner of the private property on which a public school is situated and who does not have voting powers; and
- (c) members with voting powers co-opted pending the by-election, to replace exiting parent members who have not completed their term of office;

**"day"** means a calendar day including Saturdays, Sundays and Public Holidays;

**"Department"** means the KwaZulu-Natal Department of Education;

**"District Electoral Officer"** means a senior District official at a District office responsible for overseeing and managing the election process in the district;

**"Educator"** means any person who teaches, educates or trains other persons or who provides professional educational services at a public school including professional therapy and educational psychological services but does not include a teacher assistant, a teacher aid or a person who is appointed to exclusively perform extra-curricular duties;

**"e-election"** means a school governing body election in which electronic means are used in one or more stages of the election process;

**"e-voting"** means an e-election that involves the use of an electronic process to cast a vote;

**"e-voting station"** means the voting station that is used for an e-election and which is established at a place determined by the School Electoral Officer;

**"e-voting system"** means a process which uses the hardware and software of electronic systems to nominate and vote for a candidate remotely or virtually from a selection of candidates in an election;

**"election day"** means a full day set aside by the school for purposes of conducting the election of a school governing body instead of holding an election meeting and which constitutes a deviation;

**"election meeting"** means -

- (a) four separate election meetings held exclusively for the nomination and election of parents only, educators only, members of staff only who are not educators and learners from the representative council of learners only, as the case may be and which may include an e-election; and
- (b) a by-election meeting;

**"election monitors"** means officials or stakeholders selected from the Provincial or District electoral task teams and approved by the Head of Department to monitor governing body elections;

**"electronic ballot box"** means the electronic means by which the votes are stored after it is cast by voters and pending the counting process;

**"first meeting"** means a meeting held exclusively for the election of office bearers after the completion of the election of members into the governing body;

**"franchise"** means the right to vote for:

- (a) parents of the parent component, if reasonably practicable;

- (b) educators of the educator component;
- (c) member of staff of the member of staff component; or
- (d) RCL Member of the learner component if reasonably practicable;

**"Head of Department"** means the Head of the Department of Education in the Province of KwaZulu- Natal;

**"member"** means a member of the governing body;

**"member of staff"** means a person appointed according to the Public Service Act, 1994 (Act No.103 of 1994) or the South African Schools Act, 1996 (Act No. 84 of 1996) as amended who is not an educator at a school and also includes an employee of a service provider or any person appointed in terms of a state approved process who is based at the school for a period of not less than twelve (12) months;

**"Member of the Executive Council"** means the Member of the Executive Council responsible for education in the Province of KwaZulu-Natal;

**"parent"** means –

- (a) the biological or adoptive parent or legal guardian of a learner;
- (b) the person legally entitled to custody of a learner; or
- (c) the person who undertakes to fulfil the obligations of a person referred to in paragraphs (a) and (b) towards the learners' education at school;

**"personal protective equipment (PPE)"** means the equipment used to protect people against the COVID-19 virus or any other similar pandemic;

**"POPIA"** means the Protection of Personal Information Act, 2013 (Act No. 4 of 2013);

**"principal"** means an educator appointed or acting as the head of a public school responsible for the professional management and administration of a school;

**"Provincial Electoral Officer"** means a senior Provincial official at a Provincial office responsible for overseeing and managing the election process in the Province;

**"public school"** means a public school for learners with special education needs;

**"remote e-voting"** means an e-voting process which could occur at the school or from any other place where the casting of votes are done via a device and does not use hard copies of ballot papers in the voting process;

**"representative council of learners" (RCL)** means a representative council of learners established in terms of section 11 of the Act;

**"School Electoral Officer"** means a school principal, acting principal or an officer, who is not employed at the school, appointed by the Head of Department to conduct school governing body elections; and

**"voter"** means a parent in the parent component, an educator in the educator component, a member of staff in the member of staff component and a learner from the representative council of learners' component.

### Composition of Governing Bodies for Public Schools

2. (1) The membership of the governing body of a public school comprises the following members -
  - (a) elected members;
  - (b) the principal by virtue of his or her official capacity; and
  - (c) appointed members, if reasonably practicable.
- (2) The elected members of a governing body referred to in sub paragraph (1) (a) comprises the following -
  - (a) parents of learners at the school, if reasonably practicable;
  - (b) educators at the school;
  - (c) member of staff; and
  - (d) learners from the eighth grade or higher at the school elected from the RCL, if reasonably practicable.
- (3) The following shall be eligible for appointment as members of a governing body-
  - (a) representatives of a sponsoring body or bodies, if applicable;
  - (b) representatives of organisations of parents of learners with special needs, if applicable;
  - (c) representatives of organisations of disabled persons, if applicable;
  - (d) disabled person or persons appointed by disabled persons within the community, if applicable;
  - (e) expert or experts in appropriate fields of special needs education.
- (4) The number of appointed members may be from any category depending on the circumstances and needs of the school, however the number of appointed members must not exceed five (5).
- (5) The number of parent members, educator members, member of staff and learner members of a governing body must, depending on the type and grading of the school concerned, comply with Schedule A of this notice.
- (6) Before any annual meeting for the election of office bearers, the governing body must determine if there has been an increase or decrease in learner enrolment as contemplated in schedule A. and if there has been –
  - (a) an increase in the enrolment which results in an additional vacancy in the governing body, such vacancy must only be declared if the increase in the learner enrolment is 10% percent or more; and
  - (b) (i) if there has been a decrease in learner enrolment by 10% or more and such decrease requires one or more educators and one or more learners from the RCL to vacate the position in the governing body, the educator (or educators, as the case may be) and learner (or learners as the case may be) from the RCL who received the least number of votes shall vacate the position; or  
(ii) if members were duly elected where no voting occurred, the component affected by the decrease in enrolment must by secret ballot determine who will vacate the position in the governing body.
- (7) The increase or decrease in learner enrolment will result in either a vacancy in the parent component or a member of the parent component vacating his or her position on the governing body.

### Term of Office

3. (1) A governing body is elected for a period of three (3) years unless otherwise directed by the Member of the Executive Council.
- (2) The Member of the Executive Council shall determine the term of office of governing bodies of all schools.

- (3) If the governing body has –
  - (a) six (6) months or less before the expiry of its term of office, the Member of the Executive Council may, on reasonable grounds and notwithstanding such period, direct that elections be held on a date determined by him or her; or
  - (b) more than six (6) months before the expiry of its term, the Member of the Executive Council or his or her delegate may, after consultation with the governing body concerned determine a date when elections must be held, notwithstanding the unexpired period of its term of office.
- (4) Subject to Clauses 2(2) and 3(3), all members excluding learners elected from a representative council of learners in terms of Clause 2(2) (d) are elected for a term of three (3) years.
- (5) The term of office of a governing body member who is a learner elected in terms of Clause 2 (2) (d) is one (1) year.
- (6) Subject to Sub-Clause 3(3), a member of a governing body holds office until the expiry of the term of office of the governing body or the exiting of a member who has demised or is no longer eligible to be a member of the governing body.
- (7) Should the Head of Department determine on reasonable grounds that a governing body has ceased to perform a function in terms of the Act, the Head of Department may withdraw its functions and –
  - (a) appoint sufficient persons to carry out all such functions or one or more of such functions of the governing body for a period not exceeding three (3) months;
  - (b) may extend the period referred to in Sub-Clause (7)(a) for periods not exceeding three (3) months at a time, which combined period shall not exceed one (1) year; and
  - (c) must ensure that a governing body is elected within one (1) year after the appointment of the persons referred to in Sub-Clause 7(a).
- (8) Subject to Sub-Clause 5, a member of a governing body may be re-elected or co-opted, as the case may be, after the expiry of his or her term of office.

#### **Membership of a Governing Body**

4. (1) A governing body of a school for learners with special needs education consists of the following members –
  - (a) parents of learners enrolled at the school for which a governing body is being elected, comprising one more parent than the combined total number of members with voting rights referred to in sub-Clauses (1) (b), (c), (d), if applicable;
  - (b) an educator or educators, depending on the learner enrolment at the school as reflected in Schedule A hereto;
  - (c) one member of staff elected by the members of staff employed at the school for which a governing body is being elected;
  - (d) learners, if reasonably practicable, elected by members of the RCL from the RCL in a school with grade eight or higher, the number of learners elected will be determined in accordance with Schedule A;
  - (e) the principal, representing the Head of Department in a school in his or her official capacity;
  - (f) a member or members representing sponsoring bodies financing the school, if applicable;
  - (g) a member or members representing an organisation or organisations of parents of learners with special education needs, if applicable;
  - (h) a member or members representing an organisation or organisations of relevant disabled persons, if applicable;
  - (i) a member or members representing disabled persons within the community, if applicable; and

- (j) a member or members representing experts in the field of special needs education.
- (2) A governing body of a public school situated on private property may co-opt, without voting rights, the owner of the private property occupied by the school or the nominated representative of such owner.

### Eligibility

5. (1) A person will not be eligible to be a member of a governing body if he or she -
- (a) is mentally ill and has been declared as such by a competent court;
  - (b) is an unrehabilitated insolvent;
  - (c) has been found guilty of an offence and sentenced to imprisonment by a court of law either in South Africa or in any other country without the option of a fine for a period exceeding six(6) months unless the period of imprisonment has expired three(3) years prior to the date of his or her nomination;
  - (d) has been declared to be unsuitable to work with children as stipulated in terms of the Children's Act, 2005 (Act No.38 of 2005), as amended or the Sexual Offences and Related Matters Amendment Act, 2007 (Act No.32 of 2007);
  - (e) has informed the School Electoral Officer that his or her name appears in the National Child Protection Register as referred to in the Children's Act, 2005 (Act No.38 of 2005), as amended or if this information was brought to the attention of the School Electoral Officer and such information was verified;
  - (f) no longer falls within the category of members that he or she represented at the time of his or her election;
  - (g) in the case of an educator, been found guilty of misconduct and received a sanction of:
    - (i) a fine;
    - (ii) suspension without pay;
    - (iii) demotionif appointed in terms of the Employment of Educators Act No. 84 of 1996;
  - (h) in the case of a member of staff, been found guilty of misconduct and received a sanction of:
    - (i) a fine;
    - (ii) suspension without pay,
    - (iii) demotionif appointed in terms of the Public Service Act No. 103 of 1994;
  - (i) had his or her membership terminated by the Head of Department in terms of Section 18A of the Act or any other applicable legislation.
- (2) A parent who is employed at the school either as an educator or a member of staff is not eligible to represent parents on the governing body.
- (3) The principal must -
- (a) at all times ensure that the governing body is properly constituted in terms of this Notice.
  - (b) in writing, within five (5) days of becoming aware that a member is not eligible, inform the Circuit Manager of a member who is no longer eligible as a member of the governing body.
- (4) A member of the governing body must declare to the school principal his or her ineligibility as soon as he or she becomes aware thereof.



- (5) Upon receiving the information in terms of Sub-Clauses (3) and (4) above, the Circuit Manager in charge of the school concerned, must in writing and within five (5) days of receipt of the information, inform the District Electoral Officer of a member who is no longer eligible as a member of the governing body
- (6) The District Electoral Officer must -
  - (a) within five (5) days of receipt of the information referred to in Sub-Clause (5) verify the information received;
  - (b) if the information is verified, inform the member in writing that he or she is no longer eligible as a member of the governing body; and
  - (c) ensure that he or she vacates his or her seat.

#### **Appointment of Provincial Electoral Officer**

6. (1) The Head of Department must appoint, in writing, a Provincial Electoral Officer, a Deputy Provincial Electoral Officer and Assistant Provincial Electoral Officers.
- (2) The Provincial Electoral Officer must -
  - (a) ensure that the Provincial Notice is promulgated timeously;
  - (b) ensure that there is adequate advocacy of the election;
  - (c) administer the appointment of one or more officers in the service of the Department to assist during the election as Assistant Provincial Electoral Officers;
  - (d) ensure that there is compliance with legislation and procedures in respect of the elections;
  - (d) co-ordinate the resources to conduct efficient and fair governing body elections;
  - (e) ensure that materials and procedures for the training of district and School Electoral Officers and teams are in place and training takes place as planned;
  - (f) develop and provide templates of all documents required for the elections;
  - (g) resolve disputes relating to the elections which could not be resolved at school or district level;
  - (h) compile an election schedule for all schools in the Province;
  - (i) monitor and evaluate the election process in the Province;
  - (j) consolidate a provincial database of governing bodies on taking office;
  - (k) conduct investigations as directed by the Head of Department; and
  - (l) monitor the induction of newly-elected governing body members;
- (3) The Deputy Provincial Electoral Officer and the Assistant Provincial Electoral Officer assist the Provincial Electoral Officer in the performance of his or her functions and duties.

#### **Appointment of District Electoral Officers**

7. (1) The Head of Department must appoint, in writing, a District Electoral Officer, a Deputy District Electoral Officer and assistant District Electoral Officers.
- (2) The District Electoral Officer must -
  - (a) administer the appointment of one or more officers in the service of the Department to assist during the election as assistant District Electoral Officer;
  - (b) co-ordinate the election process in the district;
  - (c) administer the appointment of School Electoral Officers;
  - (d) ensure compliance with the election process;
  - (e) advise the School Electoral Officers on the proposed strategy and implementation of the election in the district and see to it that the process is conducted as agreed;

- (f) compile a management plan to implement the Provincial Notice;
  - (g) ensure that each school has an electoral officer in line with Provincial Notice and that the school electoral teams are established;
  - (h) ensure that all election officials working at school level are adequately trained and are aware of what their roles and responsibilities entail;
  - (i) ensure that all electoral officers receive the Provincial election notice and other documents in good time;
  - (j) ensure that election advocacy is conducted as planned;
  - (k) ensure that the entire election process is monitored;
  - (l) ensure that the names and contact details of the persons elected to governing bodies are completed on the relevant forms and submitted by the principal to the District office within seven (7) days of the elections taking place;
  - (m) ensure that the relevant Data Form is received from the school principal and submitted to the district within seven (7) days of the first meeting at which the office bearers are elected;
  - (n) resolve disputes related to the decisions which could not be resolved at school level;
  - (o) develop a data base of newly elected governing bodies and submit the data base to the Provincial Election Coordinator; and
  - (p) compile a written district report on elections and submit it to the Provincial Coordinator.
- (3) The Deputy District Electoral Officer and the Assistant District Electoral Officer will assist the District Electoral Officer in the performance of his or her functions;
- (4) The Deputy District Electoral Officer and Assistant District Electoral Officers may provide advice to the District Electoral Officer on any issue relating to the elections.

#### **Appointment of School Electoral Officers**

8. (1) The Head of Department must appoint, in writing, a School Electoral Officer for the election of parents, educators, members of staff and for learners from the representative council of learners as members of a governing body of a public school.
- (2) A principal shall not be appointed as School Electoral Officer in the school where he or she is employed.
- (3) The School Electoral Officer must appoint in writing one or more officers or educators in the service of the Department or employed by the school governing body to assist at the elections as assistant electoral officers.
- (4) The School Electoral Officer shall, for the duration of the term of office of the elected school governing body, preside over all election meetings including by-elections and elections for office-bearers. In exceptional circumstances, should the School Electoral Officer not be available to preside over any election meeting, the Head of Department shall appoint in writing a School Electoral Officer for that particular election meeting.
- (5) The School Electoral Officer and the assistant School Electoral Officer shall not be a candidate, nor a proposer or seconder of a candidate;
- (6) The duties of a School Electoral Officer are, *inter alia* to -
- (a) in consultation with the school principal ensure that a notice giving details of the date, time and venue of the nomination and election meeting is prepared and dispatched by the school principal;
  - (b) ensure that there is a suitable venue for the nomination and election meeting;

- (c) ensure that the school election team knows the electoral process to be followed and complies with relevant legislation;
  - (d) intervene and resolve any disputes on the day of election; and
  - (e) submit election results to the district office.
- (7) Should an election be held during a national pandemic which is regulated by the National Disaster Management Act, 2002 (Act No. 57 of 2002) and Regulations relating thereto, the School Electoral Officer must ensure that all regulated protocols are adhered to in conducting the elections and all matters related thereto.

### **Acceptable Standard of Conduct for the Provincial, District and School Electoral Officers**

9. (1) Notwithstanding the acceptable standard of conduct, powers and duties provided for in the Act as well as other relevant legislation and policies, the Provincial, District and School Electoral Officers must -
- (a) act honestly and with dignity;
  - (b) act in an unbiased way;
  - (c) be familiar with the election process and applicable legislation;
  - (d) carry out the election in terms of the provincial prescripts;
  - (e) co-operate with school managers and line management;
  - (f) manage the voting process in a fair and just manner;
  - (g) deal with difficulties that may arise with courtesy;
  - (h) be polite and diligent;
  - (i) not exceed his or her mandate; and
  - (j) ensure that the prescripts of the Protection of Personal Information Act No. 4 of 2013 are adhered to at all times when processing personal information;
- (2) An electoral officer must sign an oath or affirmation of confidentiality in a format determined by the Head of Department before he or she performs the duties of an electoral officer.
- (3) The conduct of employees of the Department who are appointed as electoral officers is regulated by the relevant departmental legislation and policies applicable to their employment.

### **Voters' Roll**

10. (1) The principal must prepare a separate voters' roll for each of the following -
- (a) parents;
  - (b) educators;
  - (c) members of staff; and
  - (d) learners from the representative council of learners;
- (2) The voter's roll must be prepared as follows -
- (a) the voters' roll for parents must be prepared from the school admission register. Eligible voters are those persons appearing in the admission register or who can show proof that they are parents as defined in the Act. Only two (2) parents per learner are eligible to vote;
  - (b) the voters' roll for educators must consist of all educators employed at the school;
  - (c) the voters' roll for members of staff must consist of all members of staff employed at the school; and
  - (d) the voters' roll for learners must consist of all members of the RCL.

- (3) The following guidelines must be taken into consideration by the principal in determining proof of parenthood in respect of the person who undertakes to fulfil the obligations of the biological, adoptive, legal guardian or the person entitled to custody of a learner in circumstances when the above-mentioned are still alive –
- (a) the reasons for the person undertaking to fulfil the obligations of the abovementioned;
  - (b) who the learner resides with;
  - (c) where the home of the persons who undertakes to fulfill the obligations of the biological, adoptive, legal guardian or the person entitled to custody is situated;
  - (d) the proximity of the home of the persons referred to in Sub-Clause (3)(c) above to that of the school;
  - (e) the obligations referred to above must extend beyond financial obligations and consideration must be given to the obligation towards the learners' education and the day to day care and support of the learner;
  - (f) the overall involvement and responsibility of the person who undertakes to fulfil the obligations of the persons referred to in Sub-Clause (3)(c) above to that of the learner;
  - (g) should the learner have other siblings in the school then consideration must be given to who assumes parenthood of the other siblings. The information provided in respect of the other siblings must be compared with the information provided for the learner concerned;
  - (h) the relationship of the person who undertakes to fulfil the obligations towards the learner;
  - (i) the school principal must undertake reasonable investigation within the community to ascertain who the community regards as being the parent;
  - (j) any other reasonable explanation for the person undertaking to fulfil the obligations of the person referred to above;
  - (k) each case must be dealt with on its merits and the school principal must ensure that there is consistency in decisions taken when accepting any person as a parent.
- (4) The principal of the school must at least fourteen (14) days prior to the election meeting, cause a letter together with the relevant forms to be sent with the learners to their parents, notifying them about the election meeting and inviting them to inspect the current voters' roll and to update their information at the school, if necessary.
- (5) Only the school principal must authorise amendments to the voters' roll.
- (6) All those who nominate or second the nominations and the nominees must be persons who are listed on the voter's roll for their respective constituency of representation on the governing body.
- (7) Any updates and queries relating to the voters' roll must be referred to the principal at least seven (7) days prior to the election date and no queries relating to the voters' roll will be dealt with by the School Electoral Officer on the day of the election.

#### **Notice of a Nomination and Election Meeting**

11. (1) The principal of the school that holds an election meeting must consider the convenience of voters when preparing notices setting out the date, time and place of the nomination and election meeting.
- (2) The election of the educator component, members of staff component and RCL component must precede the election of the parent component.
- (3) At least fourteen (14) days prior to the date of the first election meeting, the principal of the school must send out copies of the notice of the election meeting.
- (4) The principal must ensure that he or she –

- (a) hands a copy of the notice of the election meeting for parents to every learner at the school with a verbal instruction to hand the notice to the learners' parents;
  - (b) hands a copy of the notice of the election meeting of educators to the educators;
  - (c) hands a copy of the notice of the election meeting of members of staff to the members of staff;
  - (d) hands a copy of the notice of the election meeting of the RCL to each member of the RCL;
  - (e) causes copies of such notices to be displayed or posted in a conspicuous place at the school and in suitable and prominent places in the community; and
  - (f) circulates the notices in whatever method that may work for the school community as long as it does not disadvantage members of the school community.
- (5) The principal must ensure –
- (a) that the notices are in the school's language of instruction and where practical in the home language of the learners; and
  - (b) that all parents are encouraged to participate in the election.
- (6) Should a new school be established during the term of the governing body, then the election meeting of the new school must be held within sixty (60) days of the establishment of the school.

### Franchise

12. (1) Every parent whose name appears in the voters roll -
- (a) is entitled to vote for parent members of the governing body; and
  - (b) has one vote in respect of each nominee with a maximum number of votes equal to the number of parent members to be elected.
- (2) Every educator, including the principal, employed at a school-
- (a) is entitled to vote for educator members; and
  - (b) has one vote in respect of each nominee with a maximum number of votes equal to the number of educator members to be elected.
- (3) Every member of staff at the school -
- (a) is entitled to vote for a member of staff; and
  - (b) has one vote.
- (4) If the school has only one member of staff, that member is duly elected to serve in the governing body.
- (5) Every member of a RCL -
- (a) is entitled to vote for learner members; and
  - (b) has one vote in respect of each nominee with a maximum number of votes equal to the number of learner members to be elected.
- (6) Proxy votes are not allowed.

**Quorum for a Nomination and Election Meeting**

13. (1) A quorum of 15 % of voters on the voter's roll must be constituted prior to proceeding with the nomination and election meeting.
- (2) If a quorum referred to in Sub-Clause (1) is not constituted, the -
- (a) meeting must be adjourned and a second meeting be rescheduled for another day not less than seven (7) days but not more than fourteen (14) days from the day on which the meeting was adjourned; and
  - (b) principal of the school must adhere to the procedure stipulated in Clause 11(4) (a)-(f).
- (3) The written nominations received prior to the adjourned meeting will in addition to any other new written nominations be considered at the rescheduled meeting.
- (4) The notice in respect of the second meeting must state that no quorum is required for the second meeting.

**Nominations for an Election Meeting**

14. (1) The School Electoral Officer must appoint in writing an Assistant School Electoral Officer to act as secretary of the meeting and to record the minutes of the proceedings.
- (2) Except for election monitors and the Assistant School Electoral Officers, the School Electoral Officer must not allow any person who is not eligible as a voter to attend a meeting or allow the election of a person who is not qualified as a candidate in terms of Clause 2.
- (3) The School Electoral Officer must request voters to provide proof of identification in the form of a South African identity document or identity card, a valid passport or proof of temporary or permanent residence for non-South African citizens.
- (4) Before proceeding with the election of members of a governing body, the School Electoral Officer must bring the following to the attention of voters -
- (a) that the term of office of the current school governing body has expired and members have been officially notified;
  - (b) that the election meeting is a closed meeting;
  - (c) that the provisions of Clause 5, renders a person ineligible for membership to a governing body;
  - (d) the number of persons to be elected;
  - (e) that every nomination must be seconded by a parent, educator, member of staff or a learner from the RCL, as the case may be, who is entitled to vote;
  - (f) that, during nominations voters must take into account representivity and must ensure that nominations are representative of gender, race and wherever possible include nominations of persons with disabilities;
  - (g) that a voter has one vote for each vacancy to be filled;
  - (h) that voting is by secret ballot; and
  - (i) that a grievance procedure exists as contemplated in Clause 29.
- (5) During the nomination period the School Electoral Officer must –
- (a) determine and allocate the time for nominations;
  - (b) inform the voters of the time allocated;
  - (c) allow sufficient time for the nomination of candidates during the nomination phase; and

- (d) indicate that the time for nominations has lapsed.
- (6) A person may be nominated in absentia, provided the –
- (a) proposer and seconder of the nominated person are present at the meeting and must complete a nomination form; and
  - (b) nominated person sends written confirmation of acceptance of the nomination to the principal.
- (7) A nomination form duly completed by the proposer, seconder and the nominee must have been received by the School Electoral Officer within seven (7) days and not less than 24 hours prior to the commencement of the meeting.
- (8) At the election meeting, a candidate may be nominated verbally by -
- (a) a parent of a learner enrolled at the school for a vacancy in terms of Clause 4(a);
  - (b) an educator employed at the school concerned for a vacancy in terms of Clause 4(b);
  - (c) a member of staff employed at the school concerned for a vacancy in terms of Clause 4(c);
  - (d) a learner from the RCL in terms of Clause 4(d), as the case may be,
- provided that another parent, educator, member of staff or a learner from RCL, as the case may be, seconds the proposal and the person nominated indicates to the meeting verbally or in writing if he or she is absent, that he or she is prepared to serve as a member of the governing body, if elected.
- (9) A School Electoral Officer must –
- (a) allow a person who nominated a candidate an opportunity to introduce the candidate to the meeting and give reasons for the nomination; or
  - (b) allow a nominated candidate to introduce himself or herself to the meeting.
- (10) During the nominations, the School Electoral Officer must consider the nominations and reject the nomination of any candidate who –
- (a) has not been nominated in accordance with Clause 14;
  - (b) is not eligible in terms of Clause 5; or
  - (c) has not completed the nomination form unless written proof has been submitted by the candidate to the School Electoral Officer that such nominee will be willing to serve as a member of the governing body and that he or she meets the eligibility requirements.
- (11) The School Electoral Officer must announce the names of the nominees whose nominations have been accepted and cause nomination forms to be duly completed.
- (12) If the total number of nominees whose nominations have been accepted –
- (a) is less than the number of members required in respect of the category concerned, a new meeting at which new additional nominees must be nominated shall be convened not less than seven (7) days but not more than fourteen (14) days;
  - (b) is equal to the number of members required in respect of the category concerned, the electoral officer must declare every accepted nominee to be duly elected; or

- (c) exceeds the number of vacancies, the School Electoral Officer must, immediately after the closing of the nominations, write down the names of the candidates on a suitable board or any other surface that is clear and visible to everyone in attendance at the meeting and prepare ballot papers.
- (13) In a school where there is one member of staff, the School Electoral Officer must inform that member of staff that he or she is duly elected to the governing body and must ensure that the necessary election forms are completed.

### Voting at the Election Meeting

15. (1) Each voter has one vote for each vacant position to be filled on the governing body.
- (2) The School Electoral Officer must prepare ballot papers and must:
- (a) ensure that every ballot paper has the school stamp on it or some other distinguishing feature which prevents the ballot papers from being tampered with; and
  - (b) explain the voting process, the maximum number of nominees to be voted for as well as how to record the voting either by marking with a cross(x), using numbers or by writing names.
- (3) A voter present must indicate the name or names of the candidate or candidates preferred by him or her on the ballot paper provided by the School Electoral Officer in terms of Sub-Clause (2)(b).
- (4) A person with a right to vote must record his or her vote on the ballot paper in secrecy and deposit the folded ballot paper in a box or other closed container provided for this purpose.
- (5) A person who is unable to mark his or her vote on the ballot paper as contemplated in Sub-Clause (3), may make a verbal request for assistance from the School Electoral Officer or the assistant School Electoral Officer to mark, next to the appropriate candidate, his or her vote on the ballot paper.
- (6) The School Electoral Officer, in the presence of the assistant School Electoral Officer, must assist any person with a disability or any person who is for whatever reason unable to mark his or her vote.
- (7) The request for assistance and the completion of the ballot paper contemplated in Sub-Clause (5) shall be done in private in an area identified by the School Electoral Officer for that purpose but within the area in which the voting is taking place.
- (8) Should a ballot paper be erroneously spoilt whilst a person is casting his or her vote, the electoral officer must-
- (a) issue the person with a new ballot paper with the same number as the spoilt ballot paper and indicate the word "*duplicate*" on the new ballot paper;
  - (b) retain the spoilt ballot paper and clearly mark "*spoilt*" on it;
  - (c) record all spoilt ballot papers on the relevant template; and
  - (d) retain the record of spoilt ballot papers and the ballot papers with other election documents
- (9) The School Electoral Officer must reject a ballot paper –
- (a) which is without the school stamp or distinguishing feature as contemplated in Sub-Clause 2(a);
  - (b) with more crosses (x) recorded than the number of vacancies on the governing body;
  - (c) with the name of a person or persons not nominated; or
  - (d) which is completed in such a way that it is uncertain as to which nominee or nominees a vote was recorded for.



- (10) After all the voters have cast their votes, the School Electoral Officer and the Assistant School Electoral Officers must count the votes in the presence of three (3) observers appointed by those attending the meeting to observe the counting process.
- (11) In the case of a tie between candidates after another voting session, the School Electoral Officer must break the deadlock by tossing a coin and the winner shall be determined by deciding on either heads or tails.
- (12) The School Electoral Officer must announce the results during the election meeting and declare the candidates who have secured the most votes as the elected members of the governing body.
- (13) The number of votes a person secures in this election does not determine the outcome of the election of office bearers elected in terms of Clause 17.
- (14) The School Electoral Officer must direct the learners to Section 32 of the Act which outlines the status of minors on the governing body.

### **Appointment of Members**

16. (1) The principal must, twenty one (21) days before the election date, submit to the District Electoral Officer the annexure indicating the composition of the governing body as contemplated in schedule A.
- (2) The principal must, fourteen (14) days before the election date send a written invitation to the following organisations or persons inviting them to attend a meeting to appoint representative members in accordance with Clause 4 (g) to (i) –
  - (a) representatives of a sponsoring body or bodies, if applicable;
  - (b) representatives of organisations of parents of learners with special needs, if applicable;
  - (c) representatives of organisations of disabled persons, if applicable;
  - (d) disabled person or persons appointed by disabled persons within the community, if applicable;
  - (e) expert or experts in appropriate fields of special needs education.
- (3) The School Electoral Officer must chair the meeting and conduct the proceedings at the meeting referred to in Sub-Clause (2).
- (4) At the meeting, the School Electoral Officer must direct that –
  - (a) organisations present at the meeting, identify representatives to serve in the governing body in terms of the Annexure referred to in Sub-Clause (1);
  - (b) the organisation furnish him or her with the full particulars of the appointed person including the name, address, contact numbers and email address;
  - (c) should an appointed member cease to be a member of the organisation, the organisation must, in writing-
    - (i) inform the governing body of the status of the member;
    - (ii) withdraw the appointment;
    - (iii) simultaneously appoint a representative; and
    - (iv) furnish the name and full particulars referred to in Sub-Clause (4)(b) above.
- (d) more than one expert may be appointed depending on the needs of the school;

- (5) The meeting referred to in Sub-Clause (2) above must precede the parents' election meeting.
- (6) The total number of members of members appointed in terms of Sub-Clause (2) must not exceed five (5).
- (7) On receipt of the details of appointees in terms of Sub-Clause 16(2) and after satisfying himself or herself that an appointee has accepted appointment as a member of a governing body, the School Electoral Officer, must forthwith and in writing inform each appointee of his or her appointment as a member of a governing body.

### **Election of Office Bearers**

17. (1) The School Electoral Officer may convene a meeting solely for the purpose of electing office bearers on the day of the parents' election meeting if –
  - (a) the fourteen (14) days' notice in terms of Clause 11(3) which was issued to parents, educators, members of staff and learners from the RCL included information that the meeting for the election of office bearers would take place on the day of the parent election; and
  - (b) the quorum requirements of the first meeting have been complied with.
- (2) Should the meeting to elect office bearers not be held in terms of Sub-Clause 16(1), the School Electoral Officer must convene the first meeting of the governing body within seven (7) days of the date of the parent election meeting.
- (3) The School Electoral Officer must preside over all meetings convened for the election of office bearers. Prior to the election of office bearers, the School Electoral Officer must make the members of the governing body aware –
  - (a) of the responsibilities of office bearers; and
  - (b) the need to ensure that representivity is taken into consideration in the election of office bearers.
- (4) At the first meeting of a governing body the members must elect by secret ballot a -
  - (a) chairperson;
  - (b) deputy-chairperson;
  - (c) treasurer; and
  - (d) secretary.
- (5) Any member of the governing body elected or appointed in the categories of persons referred to in Clause 4(a), (f), (g), (h), (i) and (j) may serve as the chairperson or deputy chairperson of the governing body.
- (6) The term of office of office bearers is one (1) year.
- (7) Upon the expiry of the term of office of the office bearers the School Electoral Officer must conduct the elections of office bearers for the next term.
- (8) An office bearer may be re-elected after the expiry of the term of office.
- (9) At the request of the governing body, the principal may designate a member of his or her staff to assist the treasurer and secretary of the governing body.
- (10) Where, for any reason, the office of one of the office bearers becomes vacant, the governing body, at the first meeting after the vacancy has occurred, must elect one of its members to fill the vacancy for the unexpired period of his or her predecessor.

- (11) The principal must, within fourteen (14) days after the election and with the consent of the office bearers provide the Head of Department with the details of the new office bearers including names, identity numbers, telephone or cellular phone numbers, fax numbers, addresses and email addresses, as applicable. The information provided will be handled in terms of the prescripts of the POPIA.

### **Hand over Process**

18. (1) Within fourteen (14) days of the election of office bearers, the principal of a school as a representative of the Head of Department in the governing body must manage the hand over process.
- (2) The outgoing office bearers of the school governing body must hand over to the newly-elected office bearers all documents relating to the school governing body.
- (3) An approved handover certificate indicating the minimum documents to be handed over, must be issued and signed by both the outgoing and incoming chairpersons, the principal of the school and the Circuit Manager.
- (4) The Circuit Manager must ensure that all schools he or she is responsible for have conducted the hand over process and all duly completed handover certificates are submitted to the District Electoral Officer within fourteen (14) days of the election of the office bearers.

### **Deviation from the Nomination and Election Process**

19. (1) Should a governing body, for compelling reasons elect not to follow the nomination and election process referred to above, the governing body must apply to the Head of Department for a deviation from the usual nomination and election process and must follow the prescripts in Clause 19(2).
- (2) The governing body may make application for a deviation for either the full day or an e-election.
- (3) The Head of Department will grant such application if the application is fully substantiated and the Head of Department is satisfied that this is the only form of election process to be followed by the school when conducting the current elections.
- (4) A governing body who is granted approval by the Head of Department to deviate from the usual nomination and election process, is not precluded from reverting to the usual nomination and election process when conducting by-elections.

### **Full Day Election**

20. (1) A school may, if there are compelling reasons and by resolution of its governing body decide to hold elections for a full day instead of holding an election meeting if –
- (a) the deviation will promote the best interest of the school community and the school and will allow for maximum participation of voters in the voting process;
- (b) the deviation will not discriminate unfairly against any voter or group of voters;
- (c) sufficient provision is made for the nomination process.
- (2) Where a school governing body opts for a full day election, the principal of the school must –
- (a) at least twenty-one (21) days prior to sending out a notice of election apply in writing to the Head of Department for permission to have an election day;
- (b) provide compelling reasons for opting for a full day's election instead of an election meeting;

- (c) provide proof of the availability of monitors and an electoral team during the entire election day;
  - (d) provide proof of the availability of resources to carry out the nomination process and election process for the entire day; and
  - (e) provide proof that the teaching and learning process at the school will not be interrupted or interfered with due to a full day's election.
- (3) Before granting permission for a full day election to any school, the Head of Department must consider the provisions of Sub-Clause (2) and must satisfy himself or herself that the requirements thereof have been met by the school.
- (4) The decision of the Head of Department must be communicated to the school within fourteen (14) days of receipt of the school's application.
- (5) The School Electoral Officer must, before the Election Day, ensure that –
- (a) the school has written approval from the Head of Department to conduct a full day election;
  - (b) a programme is in place for the election day;
  - (c) all nominees have sent their profiles to the school and these are ready to be posted outside the voting station;
  - (d) the closing time will allow observers as well as the electoral team to travel back home; and
  - (e) at closing time, the school has someone available on the spot for the safe-keeping of all documents used for the elections.

#### **Nominations for the Full Day Election**

21. (1) Where a school has been granted permission by the Head of Department to hold a full day election, the following nomination process must be followed -
- (a) the principal must prepare notices of the nomination meeting and must indicate the date, place and time of the nomination meeting; and
  - (b) the notice of the nomination meeting for parents should be distributed and displayed in prominent places at the school and in the community at least twenty-one (21) days prior to the date of the full day election.
- (2) The principal must ensure that –
- (a) a hard copy of the notice of the nomination meeting and the nomination form is handed to every learner at least twenty one (21) days prior to the proposed full day election with a verbal instruction to hand the notice and the nomination form to their parents; or
  - (b) alternatively, a copy of the notice and the nomination form must be sent to the parents of every learner by post at least twenty one (21) days prior to the date of the full day election; or
  - (c) a combination of the two notification methods is used provided that parents and members of the community are not disadvantaged; and
  - (d) the notice and the nomination form must, where possible, be in the school's language of instruction and in the home language(s) of the learners to ensure maximum participation.
- (3) The notice must inform the parents that the nomination form should be completed and signed by the candidate, the proposer and the seconder and returned to the school fourteen (14) days before the nomination meeting and must include the profile contemplated in Sub-Clause (7).

- (4) During the nomination meeting, the School Electoral Officer must adhere to the Clause relating to the quorum and the nomination process contemplated in Clauses 13 and 14 respectively.
- (5) A candidate may only be nominated and seconded by a person belonging to the same representative membership category to which the candidate belongs.
- (6) The School Electoral Officer must ensure that any person who is eligible to be nominated and who wants to be nominated is free to participate in the nomination process and any such person must submit their profile stating –
  - (a) his or her name and surname;
  - (b) the names and grades of his or her children in the school;
  - (c) his or her occupation and experience or skills;
  - (d) a statement that indicates that he or she qualifies to be a member of a governing body as contemplated in Clause 4; and
  - (e) his or her brief statement stipulating the value he or she can add to the school.
- (7) At the nomination meeting the School Electoral Officer must request profiles from all the nominees.
- (8) After the nominations, the School Electoral Officer must consider the nominations and reject the nomination of any candidate –
  - (a) whose nomination has not been seconded;
  - (b) who is not eligible for election;
  - (c) who has not completed and submitted the nomination form and profile as required; and
  - (d) who has not indicated willingness to serve in the governing body.
- (9) If the total number of nominees is less than the number of members required in the governing body, a notice must be sent to parents and more nominees' names must be requested.
- (10) If the number of nominees is equal to the number of members required in the governing body, the School Electoral Officer must declare all the nominees as duly elected members and indicate that an election day will no longer be necessary.
- (11) The principal must within seven (7) days after the nomination process, notify parents in writing of the outcome of the nomination meeting contemplated in Sub-Clause (10) and inform parents that an election day will no longer be necessary.
- (12) If the number of nominees is more than the number of members required in a governing body, the principal must inform the parents in writing of the names and of the profiles of the candidates whose nominations have been accepted. A full day election must thereafter take place where voting will be by secret ballot.
- (13) The principal must display the nominees' profiles at the venue of the full day election.
- (14) No person shall make attempts to organise the nomination process in such a manner that only the required number of members are nominated in order to avoid the election process and any such act shall be deemed to be an election irregularity as contemplated in Clause 30.

### **Voting at the Full Day Election**

22. (1) Notice of the full day election must be issued to parents fourteen (14) days from the nomination meeting.
- (2) Voting shall be by secret ballot and the following voting process must apply –
- (a) all eligible voters whose names appear on the voters' roll are located and marked off on the voters' roll;
  - (b) voters who require special attention including but not limited to the elderly, disabled or pregnant women are assisted without prejudicing other voters;
  - (c) voters whose names do not appear on the voters' roll for that school will not be allowed to vote;
  - (d) all the voting integrity tasks are performed for each eligible voter who has visited the election venue (i.e. voter's name is marked off on the voters' roll);
  - (e) voters who fail any of the voting integrity checks will not be allowed to vote;
  - (f) all voters must be issued with the correct ballot papers;
  - (g) requests for assistance made by voters who are unable to mark their vote on the ballot papers for whatever reason be attended to promptly;
  - (h) the electoral process is monitored in a manner that provides sufficient information for record keeping and to allow for timely interventions when required;
  - (i) objections from voters are recorded and decided in line with the dispute resolution process;
  - (j) interactions with voters, personnel and any other role-players are inclusive, non-partisan, respecting human dignity and promoting tolerance;
  - (k) potential or actual problems are identified and analyzed in terms of potential impact on the electoral process and possible solutions;
  - (l) resolution of problems is justified by the situations and is suitable for addressing the problems effectively;
  - (m) the manner of problem-solving promotes the smooth running of the election venue upholds the principle of free and fair elections and must not under any circumstances disenfranchise an eligible voter; and
  - (n) the voting process and procedures are open to observers, duly nominated by parents who must monitor the process without interfering with the elections.
- (3) The School Electoral Officer may improvise if there is no official ballot box. The ballot box must be sealed after observers have acknowledged that it is empty.

### **Quorum for a full day Election**

23. (1) The School Electoral Officer must decide the time for the start and close for the casting of votes and must indicate these times in the notice to parents.
- (2) The School Electoral Officer must ensure that the marked ballot papers meet the required 15% quorum in order for counting to proceed.
- (3) If the poll has not reached the required 15% quorum then the counting of the marked ballot papers must not commence. In which event another date for the full day election must be decided upon by the principal of the school and such date must be communicated to the parent body within seven days from the day of the full day election.
- (4) The written nominations received prior to the adjourned full day election will in addition to any other new written nomination be considered at the rescheduled full day election.
- (5) The next full day election must be held within fourteen (14) days from the date of the adjourned election.
- (6) During the second full day election, counting of marked ballot papers must proceed after the voting has closed irrespective of whether a quorum is constituted or not.

**Counting of Ballot Papers**

24. (1) If the 15% poll is met or if it is the second full day election, the School Electoral Officer must ensure that –
- (a) the counting process is open to observers and candidates;
  - (b) all objections to the counting process are recorded accurately;
  - (c) the name of each candidate and the number of votes cast for each candidate is loudly announced to the observers;
  - (d) the form indicating the counted ballot paper form is completed; and
  - (e) the results slip has been signed.
- (2) The School Electoral Officer must reject a ballot paper -
- (a) which is without the school stamp or distinguishing feature;
  - (b) with more crosses(x) recorded than the number of vacancies on the governing body;
  - (c) with the name of a person or persons not nominated; or
  - (d) which is completed in such a way that it is uncertain as to which nominee or nominees a vote was recorded for.
- (3) Where the number of votes recorded for two or more candidates is equal and it affects the result of the poll, the School Electoral Officer shall ascertain, by drawing lots or by the tossing of a coin, in order to break a tie between candidates. This tie-breaker process must be conducted openly and in agreement with the candidates present.
- (4) Where the School Electoral Officer has rejected a ballot paper as contemplated in Sub-Clause (2), an explanation must be given by the School Electoral Officer to all candidates present and he or she must grant the candidates an opportunity to inspect the rejected ballot paper if they so desire.
- (5) Any candidate present may object to the decision of the School Electoral Officer in the counting or rejection process however the School Electoral Officer will take the final decision.
- (6) A record of such objection must be indicated at the back of the ballot paper that is being contested and reflected in the election report by the School Electoral Officer.
- (7) Should there be a dispute that the electoral officer is unable to resolve, the dispute process contemplated in Clause 30 must be followed.
- (8) The School Electoral Officer must announce the results to the candidates and observers present and declare the candidates who have secured the most votes as the elected members of the governing body and officially inform the successful candidates accordingly.
- (9) All documentation relating to the election process must be clearly marked by the School Electoral Officer and he or she must indicate the election date and record the contents thereof and such documentation must be safely kept at the school for at least the duration of the term of office of the governing body.

**Nominations for a Full Day Election under COVID-19 Conditions**

25. (1) Where a school has been granted permission by the Head of Department to hold a full day election under the COVID-19 restrictions, the following nomination process must be followed -

- (a) The principal must prepare notices indicating the start and end date of the nomination period as well as information relating to the nomination including but not limited to the nomination forms and the requirements for provision of profiles and passport size photographs of all nominated candidates;
- (b) The notice of the nomination period for parents should be distributed and displayed in prominent places at the school and in the community at least twenty-one (21) days prior to the date of the full day election.
- (c) The Principal must issue notices of the nomination period together with the nomination forms which must be completed in full by the nominee, the proposer and the seconder.
- (d) All information on the nomination form must be completed and returned to the school fourteen (14) days prior to the election meeting together with the profiles and photograph (if there is no objection to submitting photographs) of the nominated candidates.
- (e) The school principal must keep a register of all nomination documents received and must indicate the date and time of receipt.
- (f) The remaining procedural requirements applicable to a full day nomination meeting as reflected in Clause 21 above will be applicable to the extent it is necessary for the nomination of a candidate under COVID-19 conditions.
- (g) The processing of nominations must be done by the School Electoral Officer and the school election team and either the proposer, seconder or nominee may observe the process.

#### **Election state of readiness under COVID-19 Conditions**

**26. (1)** Once it has been decided to continue with voting during the COVID-19 pandemic the school principal must ensure that –

- (i) a health official/professional from a local clinic that is attached to the school is present for the full day at each voting station.
- (ii) as far as reasonably possible encourage parents of learners who are health care professionals to avail themselves to assist and support the school during the elections;
- (ii) parents who assist the school are made aware that they would have voting rights as all other parents.

**(2)** The SGB Elections will support COVID-19 regulations by ensuring the following requirements:

- (a) That the number of people allowed in terms of the level of lockdown applicable at the time of the election is allowed at the voting station at any given time and that the prevailing prescripts regulating meetings during the applicable level of lockdown apply;
- (b) The Election team should be no more than five (5) people and the team does not form part of the allowed number of people in terms of the applicable level of lockdown referred to in Sub-Clause (a) above;
- (c) The election team is required to wear PPE which must include masks, visors and gloves;
- (d) All equipment necessary for the elections must be thoroughly disinfected in the morning of the full day election prior to the arrival of voters;
- (e) A person must be stationed at the entrance of every voting station to screen and check the temperature of every person that enters the voting area including the election team.
- (f) There must be prescribed social distancing and every person must at all times observe the 1 and half to 2m distance;
- (g) There must be hand sanitizers at the entrance of the voting station and the screener or any other person must ensure that at the entrance to the voting area, the hands of all people are sanitized;
- (h) No person shall enter without wearing a face mask or any other covering that ensures that the nose and mouth area of the face is covered to minimize the spread of the COVID-19 virus;



- (i) The voting booth is sanitized after every person has cast a vote;
  - (j) The election meeting except the counting must not go beyond the time prescribed for the conducting of meetings in terms of the prescripts applicable to meeting at the appropriate level of lockdown;
  - (k) Only the voter must be allowed into the voting area and must be requested to leave immediately after the vote is cast;
  - (l) Any person not observing the above COVID 19 requirements at the entrance must not be allowed into the voting area and should any person not observe the requirements whilst in the voting area, such person must immediately be requested to leave the voting area;
  - (m) In as much as the requirements stipulated in Sub-Clause (a) to (l) have been included, the requirements applicable to the level of lockdown will always apply.
- (3) The duties of a Provincial Election Officer in relation to COVID-19 compliance amongst others are to:
- (a) ensure that the relevant COVID-19 requirements are made part of all election processes and included in all notices regulating the conducting of elections;
  - (b) ensure that every District Electoral Officer is trained on COVID-19 Regulations;
  - (c) make COVID-19 Regulations available to all District Electoral Officers;
  - (d) ensure that prior to the election period all Districts are supplied the necessary PPEs.
  - (e) ensure that all Provincial Monitoring Instruments required for the election are compliant with the COVID-19 requirements; and
  - (f) hold District Electoral Officers accountable for failure to comply with COVID-19 requirements.
- (4) The duties of a District Electoral Officer in relation to COVID-19 compliance amongst others are to:
- (a) ensure that all School Electoral Officers are trained on COVID-19 Regulations;
  - (b) make COVID-19 Regulations available to all schools within his or her district;
  - (c) ensure that District Monitoring Instruments for SGB Elections comply with the COVID-19 requirements;
  - (d) hold School Electoral Officers accountable for failure to comply with any COVID-19 requirement;
  - (e) ensure that seven (7) days prior to the election, schools complete and hand in the necessary forms to the Circuit Manager responsible for the school indicating the state of readiness of the school with regard to COVID-19 requirements;
  - (f) ensure that any school that is not compliant with the COVID-19 requirement is given written notification prohibiting the school from continuing with the election until the school is COVID-19 compliant;
  - (g) compile a database of all schools that are not ready to conduct the elections and submit the list of all these schools to the Provincial Election Officer; and
  - (h) take all the necessary steps to assist schools to be COVID-19 compliant.
- (5) The duties of a School Electoral Officer in relation to COVID-19 compliance amongst others is to:
- (a) request that the school he is responsible to conduct elections at, provides evidence fourteen (14) days prior to the election that it is COVID-19 compliant and will be ready to proceed;
  - (b) ensure that the School Election Team is trained on COVID-19 Regulations;
  - (c) ensure that the School Election Team is knowledgeable with all COVID-19 requirements;
  - (d) ensure that the School Election Team has all the required PPEs for the SGB Elections;
  - (e) make each member of the School Electoral Team accountable for complying with COVID-19 requirements;
  - (f) develop a report of the state of readiness of the voting site and submit it to the District Election Coordinator fourteen (14) days prior to the election day; and
  - (g) acquaint himself/herself with all COVID-19 Regulations;

- (h) ensure that the school principal of the school conducts the necessary enquiries seven (7) days prior to the election to ensure that all nominated candidates are eligible;
- (i) ensure that consent is obtained in writing from all nominees in accordance with the requirements of the POPIA to display the profiles and photographs in a conspicuous area within the voting area;
- (j) ensure that all necessary social distancing protocols are observed at all times;
- (k) ensure that only the number of people allowed in the voting area at any given time is in accordance with the number of people allowed in terms of the appropriate level of lockdown applicable at the time of the election;
- (l) ensure that not more than five (5) election officials are in the voting area at any given time;
- (m) ensure that all voters leave the voting area immediately after their vote is cast and that only the nominated candidates remain for the counting of the votes;
- (n) ensure that prior to the counting the necessary quorum as required in this notice is met. Should the required quorum not be met then the school electoral officer will request the school principal to schedule another date for voting.

**Necessary safety equipment at each Voting Station:**

**27. (1) Each voting station must have the following safety equipment –**

- (a) at least one (1) thermometer in good working condition;
- (b) hand sanitizers;
- (c) liquid soap;
- (d) hand gloves for COVID-19 protection;
- (e) running water from a tap or a tank;
- (f) at least 50 spare disposable masks;
- (g) paper towel;
- (h) bins at convenient and visible positions inside the voting room;
- (i) a copy of the COVID-19 Regulations made visible to all voters within the voting area;
- (j) provision for the election to continue should there be a power failure or load shedding.

**28. EVOTING**

**(1) E-election process**

- (1) The school principal must make an application to the Head of Department to conduct an election via evoting.
- (2) The application must be fully motivated and relevant documentary proof in support of the application must be submitted to the Head of Department.
- (3) The application will only be considered once the Head of Department is satisfied that –
  - (a) A survey of the school has been taken and the majority of the voters reflected on the voters roll confirms that they are amenable to the evoting process;
  - (b) The school has infrastructure available to assist parents who do not have the means to participate in the evoting process;
  - (c) provision has been made to accommodate parents that require assistance with the process;

- (d) no parent is prejudiced by the school opting for the e-voting process;
- (e) that the school electoral team has the capacity to handle the e-voting process;
- (f) That school uses a system that will safeguard and immediately store the information as soon as the vote is cast.

**(2) E-voting – Operational requirements**

- (1) The nomination of members must take place in accordance with the procedures set out in this notice relating to the nominations for a full day election. The nomination must be submitted electronically on the CNS system.
- (2) The School Electoral Officer must establish an e-voting station where the e-voting can take place.
- (3) The e-voting and remote e-voting must be held on the date and at the time and place as determined by the School Electoral Officer.
- (4) The principal must at least fourteen (14) days prior to the date of the e-election:
  - (a) Inform the voters, in clear and simple language, of the way in which the e-election will take place, and any steps a voter may have to take in order to participate and vote; and
  - (b) Provide an official list of the software to be used in the e-election. At the very least it shall indicate the software used and a brief description.
- (5) Remote e-voting may not start at an earlier time than the opening of the e-voting station at the school. Remote e-voting shall not continue after the end of the voting period at the e-voting station at the school.
- (6) Before any e-voting takes place, the School Electoral Officer shall satisfy himself or herself that the e-voting system is working efficiently and correctly and that the necessary security measures referred to in this notice is in place.
- (7) For every e-voting channel, support and guidance arrangements on voting procedures shall be set up for, and be available to, the voter. In the case of remote e-voting, such arrangements shall also be available through a different, widely available communication channel.
- (8) The School Electoral Officer shall ensure that:
  - (a) the relevant software and services can be used by all voters;
  - (b) users are supplied, whenever required and possible, with additional facilities, such as special interfaces or other equivalent resources, such as personal assistance.
- (9) There must be equality in the manner of presentation of all voting options on the device used for casting an electronic vote.
- (10) A list of the nominees which must stipulate at least:
  - (a) his or her name;
  - (b) the grade/s of his or her child/children in the school;
  - (c) occupation and experience or skills; and
  - (d) vision for the school.

and must be made available and be presented with equality on all the e-voting systems and shall also be made publicly available by other means before the e-voting date.

- (11) The School Electoral Officer must ensure that the e-voting system presents an authentic ballot to the voter. In the case of remote e-voting, the voter shall be informed about the means to verify that a connection to the official server has been established and that the authentic ballot has been presented.

**(3) Technical requirements of the e-voting system**

- (1) In order to ensure democratic elections, the voter interfaces of e-voting systems must be usable and understandable all voters.
- (2) The e-voting system must verify the eligibility of the voter before the vote can be cast.
- (3) The e-voting system shall authenticate the voter and shall ensure that only the appropriate number of votes per voter are cast and stored in the electronic ballot box.
- (4) The e-voting system shall ensure that the voter's choice is accurately represented in the vote and that the sealed vote enters the electronic ballot box.
- (5) The e-voting system shall maintain the availability and integrity of the votes. It shall also maintain the confidentiality of the votes and keep them sealed until the counting process.
- (6) After the end of the e-voting period, no voter shall be allowed to gain access to the e-voting system.
- (7) The e-voting system shall contain measures to preserve the availability of its services during the e-voting process. It shall resist, in particular, malfunction or breakdowns.
- (8) The School Electoral Officer shall appoint at least one person, on grounds of expertise, who will have access to the central infrastructure of the electronic platform and the election data. Critical technical activities shall be carried out by this person. As far as possible, such activities shall be carried out outside election periods.
- (9) The counting process shall:
  - (a) Accurately count the votes and the counting of votes shall be reproducible;
  - (b) Maintain the availability and integrity of the electronic ballot box and the output of the counting process for the duration of the term of office of the SGB;
  - (c) Provide the ability to cross-check and verify the correct operation of the e-voting and the accuracy of the result, to detect voter fraud, multiple votes by the same voter and to prove that all counted votes are authentic and that all votes have been counted;
  - (d) Provide the ability to verify that an e-election has complied with the applicable legal provisions, the aim being to verify that the results are an accurate representation of the authentic votes.
- (10) Consideration shall be given, when developing new products, to their compatibility with existing ones, including those using technologies designed to help people with disabilities.

### Application of this Notice

29. Unless otherwise specifically provided for in this notice all other matters provided for in this notice relating to the election meeting of governing bodies shall be applicable to schools that decide on a full day election.

### Dispute Resolution

30. (1) The School Electoral Officer shall decide on all matters concerning the nomination and election of nominees in terms of all the categories.
- (2) All disputes related to the election process must be reported to the School Electoral Officer.
- (3) The School Electoral Officer shall attempt to resolve all disputes in a fair and just manner. His or her decision during the election is final.
- (4) A voter or person who was a candidate in a governing body election who is dissatisfied with the decision of the School Electoral Officer may lodge a grievance in writing with the District Electoral Officer within seven (7) days of the election meeting if there is an allegation that the prescribed procedures were not followed during the election process.
- (5) (a) If a voter or person who was a candidate in the governing body election has any knowledge or information of any irregularities relating to the elections he or she may within seven (7) days of the elections, inform the District Electoral Officer in writing of the irregularities;
- (b) Should any complaint be, for any reason, lodged out of the seven (7) day period but within ninety (90) days of the election, the District Electoral Officer must investigate the complaint and take appropriate action;
- (c) Any complaint received after the expiry of the ninety (90) days will only be investigated and dealt with by the District Director if he or she is instructed by the Head of Department to do so;
- (6) Upon receipt of the complaint, grievance or information relating to irregularities, the District Electoral Officer must appoint his Deputy or Assistant District Electoral Officer to conduct an investigation within fourteen (14) days and make a recommendation to him or her.
- (7) The District Electoral Officer may, after investigation declare an election invalid and may call for re-election if he or she is satisfied that -
- (a) the prescribed procedures were not followed; or
- (b) irregularities were committed during the election process; and
- (c) the outcome of the election would have been different had the irregularities not been committed or had the prescribed procedures been followed;
- (8) If any voter or person who was a candidate in the governing body election is aggrieved by the decision of the District Electoral Officer, he or she may appeal against such decision to the Head of Department within fourteen (14) days of receipt of the decision of the District Electoral Officer.

- (9) The Head of Department must -
- (a) within seven (7) days of receipt of the appeal, refer the appeal to the Provincial Electoral Officer;
  - (b) request the Provincial Electoral Officer to investigate and prepare a report with recommendations within fourteen (14) days of the appeal having being referred to the Provincial Electoral Officer; and
  - (c) consider the recommendations in the report contemplated in Sub-Clause (9)(b), make a finding and communicate his or her decision in writing to the appellant and to the District Electoral Officer within fourteen (14) days of receiving the report from the Provincial Electoral Officer.
- (10) The decision of the Head of Department shall be final.

### **Procedure after the Election**

31. (1) After the election of members of a governing body, the principal must –
- (a) within seven (7) days of the election meeting, notify in writing, each elected member of his or her election and such notification must be sent by fax, post, e-mail or be hand delivered;
  - (b) notify the District Electoral Officer on the prescribed form in writing of the details of the election, including the date of election, names, identity numbers, telephone numbers, fax numbers and addresses of all elected members. The consent to submit such information of all elected member must be obtained prior to submission;
  - (c) place all documents including ballot papers used at such elections, in envelopes and seal the envelopes;
  - (d) ensure the safe keeping and confidentiality of all documents relating to the election for at least the duration of the term of office of the governing body;
  - (e) submit to the District Director copies of all election documents for safe keeping for the duration of the term of office of the governing body;
  - (f) submit to the District Director either an undisputed election declaration or declaration detailing disputes on the prescribed Election Declaration Form; and
  - (g) inform the District Director of any changes in membership of the governing body within fourteen (14) days of those changes being effected to ensure that the database is up to date;
- (2) (a) The Principal and the District Director shall ensure that all personal information contained in the election documents and other documents relating to the governing body members is safely and confidentially retained with the necessary safeguards in place to ensure the protection of personal information contained in the aforesaid documents;
- (b) The database of information must only be retained for the period the member is part of the governing body and must not be used for purposes of further processing without the consent of the individuals;
  - (c) All personal information must be stored in lockable cupboards.

**By-Election**

32. (1) A vacancy occurs in a governing body if a member –
- (a) resigns in writing;
  - (b) is deceased;
  - (c) becomes disqualified as contemplated in Clause 5;
  - (d) absents himself or herself from two (2) or more consecutive ordinary meetings of the governing body without tendering a written apology for being absent, provided the notification of the meeting was properly communicated to the member;
  - (e) is removed from office in accordance with provisions contained in a code of conduct contemplated in section 18A of the Act;
  - (f) no longer falls within the category of members that he or she represented at the time of the election;
- (2) A vacancy must be declared if there is an increase in the learner enrolment by 10% or more as contemplated in Clause 2(4)(a).
- (3) A by-election must be held whenever –
- (a) the number of parent members of a governing body is reduced to a number equal to or less than the total of the other members of the governing body;
  - (b) the number of members of a governing body is reduced to a number less than the quorum referred to in Clause 13(1); or
  - (c) a member of the category of members of a governing body referred to in Section 24 of the Act is no longer represented on a governing body.
- (4) The School Electoral Officer must conduct a by- election within ninety (90) days of the vacancy arising.
- (5) If the number of parents at any stage is not one more than the combined total of other members with voting rights, the governing body must, pending the by-election, temporarily co-opt parents with voting rights.
- (6) If a vacancy arises more than six months before the expiry of the term of office of a governing body, the School Electoral Officer must conduct a by- election following procedures stipulated in Clause 11.
- (7) If a vacancy arises less than ninety days before the expiry of the term of office of a governing body as a result of the exiting of a parent member from the governing body, the remaining members of the governing body must co-opt a person to fill the vacancy for the remainder of the term of office of the governing body.
- (8) A co-opted member representing the parent component referred to in Sub-Clause (7) above assumes the voting rights of the exiting member.
- (9) A member elected in accordance with this paragraph remains in office for the unexpired of office of his or her predecessor providing they are still eligible.

**Governing body serving two or more schools**

33. (1) A Member of the Executive Council may determine that the governance of two or more public schools must vest in a single governing body if it is in the best interest of education at the schools in question.
- (2) The Member of the Executive Council may not act under subsection (1) unless he or she has -

- (a) given notice in the Provincial Gazette of his or her intention to act as such;
- (b) given interested parties an opportunity to make written submissions within a period of not less than thirty (30) days; and
- (c) considered all such suggestions.

#### **Disqualification or Removal of a Member of a Governing Body**

34. (1) A member of the governing body who, after following due process was found guilty of an act of misconduct as contemplated in the Provincial Code of Conduct for members of governing bodies in terms of Section 18 A of the Act must be disqualified or removed from the governing body.
- (2) In order to disqualify or remove a member the due process as contemplated in the Code of Conduct referred to in Sub-Clause (1) above must be followed.

#### **Dissolution of a Governing Body**

35. (1) The Member of the Executive Council may dissolve a governing body if –
- (a) the school is dysfunctional, closed, partly disestablished, is a health risk or may affect the safety of any person at such a school;
  - (b) a merger, closure, division of a school or any other re-organisation of the school occurs;
  - (c) he or she, after taking all facts into consideration is of the view that the governing body is no longer representative of the community for which a school has been established; or
  - (d) due to poor governance, the school is rendered dysfunctional and the process of teaching and learning can no longer be undertaken at the school.
- (2) Upon consideration of a motion of no confidence passed by not less than 15 % of parents on the parents' voters' roll at a general meeting of parents, the Member of the Executive Council may dissolve a governing body.
- (3) The Member of the Executive Council may dissolve any school governing body that has rendered a school ungovernable, dysfunctional, or for any other reason that he or she deems fit and in the interest of education in the Province.
- (4) The Member of the Executive Council may not dissolve a governing body, unless he or she has –
- (a) notified the school governing body concerned of his or her intention to dissolve the governing body;
  - (b) granted the school governing body the opportunity to make representations as to why he or she should not dissolve the governing body; and
  - (c) duly considered such representations.



**Delegation of Powers**

36. The Head of Department may delegate, in writing, the duties, functions and powers bestowed upon him or her in terms of this notice to an official in the employment of the Department.

**Repeal of Notice**

37. Provincial Notice No.118 published in the KZN Provincial Gazette No 1895 on 9 November 2017 is hereby repealed.

**KWAZIKWENKOSI I MSHENGU**

**Member of the Executive Council of the Province of KwaZulu-Natal  
Responsible for Education**

**SCHEDULE A****COMPOSITION OF GOVERNING BODY OF PUBLIC SCHOOLS FOR LEARNERS WITH SPECIAL EDUCATION NEEDS BY TYPE AND LEARNER ENROLMENT**

The total number of appointed members must not exceed 5. These will be determined by the school in relation to the circumstances of the school.

Type of School	Learner Enrolment at the School	Principal	Number of Educator Members	Number of Learner Members, If reasonably practical	Number of Staff Members	Number of Parent Members reasonably practical	Members appointed per applicable category as contained in Section 24	Total Number of Members
Primary School	1 to 49	1	2	0	1	5	5	14
Primary School	150 and more	1	3	0	1	6	5	16
Secondary School	1 to 49	1	2	1	1	6	5	16
Secondary School	150 and more	1	3	2	1	8	5	20
Combined School	1 to 49	1	2	2	1	7	5	18
Combined School	150 and more	1	3	2	1	8	5	20

**UMTHETHO WEZIKOLE WASENINGIZIMU AFRIKA, 1996 (UMTHETHO NO. 84 KA 1996)  
ISAZISO ESIMAYELANA NOKUQOKWA KWAMALUNGU EZIGUNGU EZILAWULA EZIKOLENI ZIKAHULUMENI  
ZABAFUNDI ABANEZIDINGO EZIKHETHEKILE**

Mina, Kwazikwenkosi I Mshengu, iLungu Lesigungu Esiphezulu elengamele Ezemfundo eSifundazweni saKwaZulu-Natali, ngokwesigaba 24 kanye no 28 soMthetho Wezikole ZaseNingizimu Afrika, ka-1996 (uMthetho uNo. 84 ka-1996), njengoba uchitshiyelwe, ngibeka imigomo ephathelene neziGungu eziLawula Izikole njengoba kuqukethwe kule Sheduli. **Lo mthetho uqagula yonke imigomo ephathelene nokwakheka kanye nokukhethwa kweziGungu eziLawula iziKole zalabo bafundi abanezidingo ezikhethekileyo njengoba kuqukethwe kule Sheduli Ngokwesigatshana 24(3) salo mthetho bonke abafisa ukubamba iqhaza kule saziso bayacelwa ukuba benze izethulo zabo eLungwini lesiGungu esiPhezulu ngokulandela isigatshana 24(2) somthetho. Izethulo kufanele zenziwe zithunyelwe ehhovisi leLungu lesiGungu esiPhezulu zingakapheli izinsuku ezingamashumi amathathu lo mthetho ushicilelwe**

Kubhekiswe ku: Mr DN Mthethwa

Nge e-meyili: [nhlanhla.mthethwa@kzndoe.gov.za](mailto:nhlanhla.mthethwa@kzndoe.gov.za)

Noma uzihambisele wena mathupha kuleli kheli: Room 810, 8<sup>th</sup> Floor, ABSA Building, 194 Langalibalele Street, Pietermaritzburg 3200

**ISHEDULI**

**Izincazelo**

1. Kulesi saziso, noma yiliphi igama noma inkulumo enikezwe incazelo kulo Mthetho iyoba naleyo ncazelo, ngaphandle uma ingqikithi isho okwehlukile –

**“uMthetho”** kushiwo uMthetho weziKole waseNingizimu Afrika, 1996 (uMthetho No. 84 ka 1996) njengoba uchitshiyelwe;

**“uMsizi wesiKhulu Esingamele Ukhetho Esikoleni”** kushiwo umuntu oqashwe uMnyango noma isigungu esilawula isikole oqokwe yisiKhulu Esingamele uKhetho esiKoleni ukuzolekelela ngesikhathi kunokhetho kodwa okungamele kube uthishanhloko waleso sikole okubanjwe kusona ukhetho noma kube umuntu oqokwe njengesikhulu sokhetho kwesinye isikole;

**“CNS system”** kushiwo uhlelo lokuqokwa kwalabo abazongenela ukhetho, okuwuhlelo oluphephile lwezobuchwepheshe olusetshenziselwa ukuthunyelwa kwemininingwane nemibhalo ngobuxhakaxhaka bezobuchwepheshe njengoba kushiwo kulesi saziso;

**“umhlangano ovalekile”** kushiwo umhlangano ovuleleke kuphela –

- (a) kubazali uma kuwukhetho lwabazali;
- (b) kothisha uma kuwukhetho lothisha;
- (c) ezisebenzini ezingebona othisha uma kuwukhetho lwezisebenzi ezingebona othisha;
- (d) nakubafundi uma kuwukhetho lomkhandlu wabafundi;

**“isikole esihlanganise amabanga”** kushiwo isikole sikhulumeni esamukela abafundi kusukela emabangeni aphansi kuya kwaphezulu noma emabangeni aphezulu kuya emabangeni okuqeqeshelwa umsebenzi noma kusukela emabangeni aphansi kuya kwaphezulu nakwawokuqeqeshelwa umsebenzi;

**“amalungu afakwe esigungwini ngokwamakhono awo”** kushiwo –

- (a) amalungu angenawo amandla okuvota afakwe esigungwini ngale kokuba avotelwe ukuze alekelele isigungu ekwenzeni imisebenzi yaso;
- (b) umnikazi womhlaba lapho isikole sakhiwe khona ongenalo igunya lokuvota;
- (c) namalungu anelungelo lokuvota afakwe esigungwini ukuze angene ezikhundleni zalawo aphumayo angabazali angaliqedanga ihlandla lawo kusalindwe ukhetho lokuchibiyela;

**“usuku”** kushiwo usuku lwekhalenda kubandakanya iMigqibelo, iSonto kanye namaHolidi;

**“uMnyango”** kushiwo uMnyango wezeMfundo waKwaZulu-Natali;

**“isiKhulu Esengamele uKhetho LwesiFunda”** kushiwo isisebenzi esiyinhloko ehovisi lesiFunda esengamele ukhetho esiFundeni;

**“uThisha”** kushiwo nanoma yimuphi umuntu ofundisa, noma oqeqesha abanye abantu kumbe ohlinzeka ngezemfundo ngokomsebenzi awufundele esikoleni sika hulumeni kubandakanya ukuhlunyeleliswa kanye nokwelulekwa ngokwengqondo kodwa kungabandakanyi umsizi kathisha, umelekeleli kathisha noma umuntu oqashelwe ukwenza imisebenzi eqondene nezemidlalo ;

**“ukhetho olwenziwa ngobuxhakaxhaka bezobuchwepheshe”** kushiwo ukhetho lwesiGungu esiLawula Isikole lapho kusetshenziswa khona ubuxhakaxhaka bezobuchwepheshe ngesikhathi kunokhetho;

**“ukuvota kusetshenziswa ubuxhakaxhaka bezobuchwepheshe”** kushiwo ukuvota okubandakanya ukusetshenziswa kobuxhakaxhaka bezobuchwepheshe uma kuvotwa;

**“isiteshi sokuvota ngobuxhakaxhaka bezobuchwepheshe”** kushiwo isiteshi sokuvota esisendaweni enqunywe yisiKhulu soKhetho sesiKole esisetshenziselwa ukuvota ngobuxhakaxhaka bezobuchwepheshe;

**“uhlelo lokuvota ngobuxhakaxhaka bezobuchwepheshe”** kushiwo uhlelo olusebenzisa ubuxhakaxhaka bezobuchwepheshe lokuvotela labo abasohlwini lwabazovotelwa;

**“usuku lokhetho”** kushiwo usuku olugcwele olumiswe yisikole lwaba olokuvotelwa kwesiGungu esiLawula Isikole esikhundleni sokubamba umhlangano omaqondana nokhetho, okuwukuphambuka kokujwayelekile.

**“umhlangano wokhetho”** kushiwo –

- (a) imihlangano emine ehluhlukeneyo yokhetho ebanjelwa ukuphakamisa nokukhetha abazali kuphela, othisha kuphela, izisebenzi ezingebona othisha kuphela kanye nabafundi abasemkhandlwini omele abafundi kuphela, kanye
- (b) nomhlangano wokhetho lokuchibiyela;

**“izingqapheli zokhetho”** kushiwo izisebenzi noma izinhlaka okusetshenziswana nazo eziqokwe emathimbeni esiFundazwe noma esiFunda engamele ukhetho ezigunyazwe yiNhloko yoMnyango ukuba zibe yizingqapheli, abaphathi noma abengameli bokhetho lweziGungu zezikole.

**“ibhokisi lokugcina amavoti elisebenza ngobuchwepheshe besimanje”** kushiwo indlela esebenza ngobuchwepheshe yokugcina amavoti ngemuva kokuthi abavoti sebevotile ngesikhathi kusalindwe ukubalwa kwawo;

**“umhlangano wokuqala”** kushiwo umhlangano obanjelwa ukuqokwa kwalabo abazoba sezikhundleni uma sekuqedliwe ukuqokwa kwamalungu esiGungu esiLawula isikole;

**“ilungelo lokuvota”** kushiwo ilungelo lokuvotela –

- (a) abazali esigabeni sabazali;
- (b) othisha esigabeni sothisha;
- (c) izisebenzi ezingebona othisha esigabeni sezisebenzi ezingebona othisha; noma
- (d) amalungu omkhandlu omele abafundi esigabeni sabafundi;

**“iNhloko yoMnyango”** kushiwo iNhloko yoMnyango wezeMfundo esiFundazweni

**“ilungu”** kushiwo ilungu lesigungu esilawula isikole;

**“isiSebenzi esingeyena uthisha”** kushiwo umuntu oqashwe ngokoMthetho weziSebenzi zikaHulumeni, 1994 (uMthetho No. 103 ka 1994) noma ngokoMthetho weziKole waseNingizimu Afrika, 1996 (uMthetho No. 84 ka 1994) njengoba uchitshiyelwe, ongeyena uthisha futhi kuhlenganisa nanoma yimuphi umuntu oqashwe ngendlela egunyazwe uhulumeni osebenza esikoleni isikhathi esingengaphansi kwezinyanga eziyishumi nambili-(12);

**“iLungu Lesigungu Esphezulu”** kushiwo iLungu Lesigungu Esphezulu elingamele Ezemfundo eSifundazweni saKwaZulu-Natali

**“umzali”** kushiwo –

- (a) umzali noma umuntu okhulisa noma umuntu oqokwe ngokomthetho ukunakekela umfundi;
- (b) umuntu ngokomthetho ongunya lokukhulisa umfundi; noma
- (c) umuntu ozinikela ukufeza imisebenzi yomuntu oshiwo ngenhla ezigabeni (a) no (b) ekufundeni komfundi esikoleni;

**“impahla yokuzivikela (PPE)”** kushiwo impahla esetshenziselwa ukuvikela abantu egciwaneni le-Covid-19 nakunoma yiluphi olunye ubhubhane olufanayo;

**“POPIA”** kushiwo i-*Protection of Personal Information Act*, 2013 (uMthetho No. 4 ka 2013);

**“uthishanhloko”** kushiwo uthisha oqokwe noma obambe njengenhloko yesikole owengamele ukuphathwa nokulawulwa ngomthetho kwesikole;

**“isiKhulu soKhetho sesiFundazwe”** kushiwo isisebenzi esiyisikhulu ehhovisi lesiFundazwe esiqondene nokwenganyemelwa kanye nokulawulwa kokhetho esiFundazweni;

**“isikole sikhulumeni”** kushiwo isikole sikhulumeni sabafundi abanezidingo zemfundo ezikhethekileyo;

**“ukuvota ukude kusetshenziswa ezobuchwepheshe”** kushiwo uhlelo lokuvota olungenzeka esikoleni nakunoma iyiphi indawo lapho kuvotwa khona kusetshenziswa ezobuchwepheshe. Kungasetshenziswa ngaphandle kokusebenzisa amaphepha okuvota uma kuvotwa;

**“Umkhandlu wabafundi” (RCL)** kushiwo umkhandlu wabafundi owasungulwa ngokwesigaba 11 soMthetho;

**“isiKhulu Esengamele uKhetho lwesiKole”** kushiwo uthishanhloko wesikole, ibamba likathishanhloko noma isikhulu, abangaqashiwe kuleso sikole, abaqokwe yiNhlolo yoMnyango ukuqhuba ukhetho lweziGungu eziLawula Izikole;

**“umvoti”** kushiwo umzali esigabeni sabazali, uthisha esigabeni sothisha, isisebenzi esingeyena uthisha esigabeni sezisebenzi ezingebona othisha kanye nomfundi esigabeni somkhandlu omele abafundi.

### Ukubunjwa kweziGungu eziLawula iziKole zikaHulumeni

2. (1) IsiGungu esiLawula Isikole sakhiwa yila malungu alandelayo –
  - (a) amalungu akhethiwe;
  - (b) uthishanhloko ngokwesikhundla sakhe; kanye
  - (c) namalungu aqokiwe, noma lokho okungavumelana nesimo.
- (2) Amalungu akhethiwe esiGungu esiLawula isikole okubhekiswe kuwo ebinzaneni (1)(a) kuba yilawa alandelayo-
  - (a) abazali babafundi baleso sikole, esimweni lapho kunokwenzeka khona.
  - (b) othisha bakuleso sikole;
  - (c) isisebenzi esingeyena uthisha sakuleso sikole; kanye
  - (d) nabafundi bebanga lesishiyagalombili noma ngaphezulu bakuleso sikole abakhethwe eMkhandlwini Omele Abafundi, esimweni lapho kunokwenzeka khona.
- (3) Laba abalandelayo bayofaneleka ukuqokwa njengamalungu esiGungu esiLawula Isikole –
  - (a) Abamele isigungu noma izigungu zabaxhasi, uma zikhona;
  - (b) Abamele izinhlangano zabazali babafundi abanezidingo ezikhethekile, uma zikhona;
  - (c) Abamele izinhlangano zabantu abaphila nokukhubazeka; uma zikhona;
  - (d) umuntu ophila nokukhubazeka noma abantu abaqokwe abantu abaphila nokukhubazeka basemphakathini, uma bekhona;
  - (e) ungoti noma ongoti emikhakheni ethintekayo yezemfundo yabanezidingo ezikhethekile.
- (4) Isibalo samalungu aqokiwe singaba ngesanoma yisiphi esinye isigaba kuncike ezimweni nasezidingweni zesikole, naphezu kwalokho isibalo samalungu aqokiwe akumele seqe emalungwini amahlanu (5).
- (5) Isibalo samalungu angabazali, awothisha, ayizisebenzi ezingebona othisha kanye namalungu abafundi esigungu esilawula isikole kumele sihambisane nezimiso ze Sheduli A yalesi saziso, kuncike ohlotsheni nasesigabeni leso sikole esithintekayo esikusona.
- (6) Ngaphambi kwanoma yimuphi umhlangano wonyaka wokuqokwa kwabazongena ezikhundleni, isigungu esilawula isikole kumele siqume ukuthi isibalo sabafundi abemukeliwe sehlile noma senyukile njengoba kushiwo kuSheduli A, bese kuthi uma –

- (a) isibalo sabafundi abemukeliwe sinyukile okuholetsa ekutheni kuvele esinye isikhala esigungwini esilawula isikole, lesi sikhala kumele simenyezwe kuphela uma isibalo sabafundi abemukeliwe sinyuke ngamaphesenti ayishumi-(10%) noma ngaphezulu; futhi
- (b) (i) isibalo sabafundi abemukeliwe sehle ngamaphesenti-(10%) noma ngaphezulu futhi lokho kwehla kudinga ukuthi uthisha oyedwa noma othisha abangaphezu koyedwa noma umfundi oyedwa noma abangaphezu koyedwa abasemkhandlwini omele abafundi bashiye ezikhundleni zabo esigungwini esilawula isikole, uthisha (noma othisha, njengoba kungaba njalo) kanye nomfundi (noma nabafundi njengoba kungaba njalo) osemkhandlwini noma abasemkhandlwini omele abafundi othole noma abathole amavoti amancane uyoshiya noma bayoshiya esikhundleni; noma
- (ii) uma amalungu ayeqokwe ngendlela efanele lapho kungavotwanga khona, uhlangothi oluthinteka ngenxa yokwehla kwesibalo sabafundi abemukeliwe kumele bavote ngokuyimfihlo ukuthi ubani ozoshiya esikhundleni sesigungu esilawula isikole.
- (7) Ukwenyuka nokwehla kwesibalo sabafundi abemukeliwe kuyoholela ekutheni isikhala esigabeni sabazali noma ilungu esigabeni sabazali lishiye esikhundleni sesigungu esilawula isikole.

### Isikhathi Sokusebenza Kwesigungu Esilawula Isikole

3. (1) Isigungu esilawula isikole siqokelwa isikhathi esiyiminyaka emithathu (3) ngaphandle uma iLungu Lesigungu Esiphezulu likhipha umyalelo owehlukile
- (2) iLungu Lesigungu Esiphezulu liyonquma isikhathi sokusebenza kwezigungu ezilawula izikole kuzo zonke izikole.
- (3) Uma isigungu esilawula isikole –
- (a) sinezinyanga eziyisithupha (6) noma ngaphansi ezisele ngaphambi kokuthi kuphele isikhathi saso sokuba sesikhundleni, iLungu Lesigungu Esiphezulu, ngezizathu ezizwakalayo yize kunqunywe lesi sikhathi, lingayalela ukuthi ukhetho lubanjwe ngosuku ayolunquma; noma
- (b) sinezinyanga ezingaphezu kweziyisithupha (6) ngaphambi kokuthi kuphele isikhathi saso sokuba sesikhundleni, iLungu Lesigungu Esiphezulu noma umuntu ogunyazwe nguye, ngemva kokubonisana naleso sigungu esilawula isikole esithintekayo, anganquma usuku okumele kubanjwe ngalo ukhetho yize kusenesikhathi esisasele sokuthi sibe sesikhundleni.
- (4) Wonke amalungu aqokwe ngokwebinza 2(2) no 3(3), ngaphandle kwabafundi abaqokwe emkhandlwini omele abafundi ngokwesigaba somthetho 2(2)(d) aqokelwa ukusebenza isikhathi esiyiminyaka emithathu (3).
- (5) Isikhathi sokuba sesikhundleni selungu lesigungu esilawula isikole elingumfundi eliqokwe ngokwesigaba somthetho 2(2)(d) siwunyaka owodwa (1).
- (6) Ngokwebinzana 3(3), ilungu lesigungu esilawula isikole liba kuleso sikhundla kuze kuphele isikhathi sokusebenza kwesigungu esilawula isikole noma ilungu selishonile noma lingasafanelekile ukuba yilungu lesigungu esilawula isikole.
- (7) Uma iNhloko yoMnyango inquma ngezizathu ezizwakalayo ukuthi isigungu esilawula isikole sesiyekile ukwenza umsebenzi ebesijutshelwe wona ngokoMthetho, ingayihoxisa imisebenzi yaso bese –

- (a) iqoka abantu abenele ukuba benze owodwa noma ngaphezulu waleyo misebenzi yesigungu esilawula isikole kuleso sikhathi esingeqile ezinyangeni ezintathu (3);
  - (b) ingelula isikhathi okukhulunywe ngaso ebinzaneni 7(a) isikhathi esingeqile ezinyangeni ezintathu isikhawu ngasinye kodwa lesi sikhathi singeqi onyakeni owodwa (1) uma sesihlanganisiwe; futhi
  - (c) kumele iqinisekise ukuthi isigungu esilawula isikole sikhethwa ungakapheli unyaka ngemuva kokuqokwa kwabantu abashiwo ebinzaneni 7(a).
- (8) Kuncike kubinzana 5, ilungu lesigungu esilawula isikole lingaphinde liqokwe noma lengezwe, njengoba kungaba njalo, uma sekuphele isikhathi salo sokuba sesikhundleni.

#### **Ubulungu Esigungwini Esilawula Isikole**

##### **4. (1) Isigungu esilawula isikole sakhiwa yila malungu alandelayo –**

- (a) abazali babafundi abafunda esikoleni okuqokwa kusona isigungu esilawula isikole, esinomzali oyedwa ngaphezulu kwesibalo esiphelele samalungu anelungelo lokuvota esehlangene okukhulunywe ngawo ebinzaneni (1)(b), (c), (d), esimweni lapho kungenzeka khona;
  - (b) uthisha noma othisha, kuye ngesibalo sabafundi abamukeliwe esikoleni njengalokhu kuchaziwe kuShedili A olapha;
  - (c) isisebenzi esisodwa esingeyena uthisha esiqashiwe esikoleni okukhethwa kusona isigungu esilawula isikole;
  - (d) abafundi, esimweni lapho kunokwenzeka khona, abaqokwa amalungu omkhandlu omele abafundi, uma ukhona, esikoleni esinebanga lesishiyagalombili noma elingaphezulu, isibalo sabafundi abayoqokwa siyonqunywa ngokuhambisana neSheduli A;
  - (e) uthishanhloko, omele iNhlolo yoMnyango esikoleni ngokwesikhundla sakhe;
  - (f) ilungu elimele isigungu noma amalungu amele izigungu ezixhasa isikole ngezimali, uma zikhona;
  - (g) ilungu elimele inhlangano noma amalungu amele izinhlangano zabazali babafundi abanezidingo ezikhethekile, uma zikhona;
  - (h) ilungu elimele inhlangano noma amalungu amele izinhlangano zabantu abaphila nokukhubazeka; uma zikhona;
  - (i) ilungu elimele noma amalungu amele abantu abaphila nokukhubazeka basemphakathini, uma bekhona; kanye
  - (j) nelungu elimele noma amalungu amele ongoti emikhakheni efanele yezemfundo yabanezidingo ezikhethekile.
- (2) Isigungu esilawula isikole sikhulumeni esakhiwe endaweni okungeyona ekahulumeni singengeza, umnikazi waleyo ndawo esetshenziswa yisikole noma umuntu oqokwe yilowo mnikazi, ngaphandle kokuthi abe nelungelo lokuvota.

#### **Ukufaneleka Ukuba Yilungu Lesigungu Esilawula Isikole**

##### **5. (1) Umuntu ngeke afaneleke ukuba yilungu lesigungu esilawula isikole uma –**

- (a) engaphilile ngokomqondo ngokusho kwenkantolo efanele;
- (b) ecwile ezikweletini engasenakuhlengeka;



- (c) etholakale enecala futhi wagwetshwa yinkantolo ukuthi aboshwe ngokomthetho waseNingizimu Afrika noma wakwelinye izwe, ngaphandle kokunikwa ithuba lokuthi akhokhe inhlawulo, isikhathi esiyizinyanga eziyisithupha (6) ngaphandle uma sekwaphela iminyaka emithathu (3) adonsa leso sigwebo sokuboshwa ngaphambi kokuthi aqokwe;
- (d) kwakhishwa umyalelo wokuthi ungumuntu ongafanelekile ukusebenza nezingane ngokoMthetho weziNgane, 2005 (uMthetho No. 38 ka 2005), njengoba uchitshiyelwe noma ngokoMthetho wamaCala aPhathelene nezoCansi nokunye okuHambisana Nalokho, 2007 (uMthetho No. 32 ka 2007);
- (e) azise isikhulu soKhethe sesiKole ukuthi igama lakhe lisohlwini lweRejista yokuVikela iziNgane kaZwelonke njengoba kushiwo eMthethweni weziNgane, 2005 (uMthetho No. 38 ka 2005), njengoba uchitshiyelwe noma uma lokho kufike ezindlebeni zesiKhulu soKhethe sesiKole kwase kwaqinisekiswa;
- (f) engasangeni esigabeni samalungu abewamele ngesikhathi eqokwa;
- (g) kuwuthisha, etholakale enecala lokungaziphathi ngendlela efanele wabe esethola isigwebo –
- (i) senhlawulo;
  - (ii) sokumiswa okwesikhashana emsebenzini engaholi;
  - (iii) sokwehliswa esikhundleni (uma eqashwe ngokoMthetho wokuQashwa koThisha, 1996 (uMthetho No. 84 ka 1996);
- (h) kuyisisebenzi esingeyena uthisha, esitholakale sinecala lokungaziphathi ngendlela efanele sabe sesithola isigwebo –
- (i) senhlawulo;
  - (ii) sokumiswa okwesikhashana emsebenzi singaholi;
  - (iii) sokwehliswa esikhundleni (uma siqashwe ngokoMthetho weziSebenzi zikaHulumeni, 1994 (uMthetho No. 103 ka 1994);
  - (iv) exoshwe yiNhloko yoMnyango njengelungu ngokwebinza 18A nanoma yimuphi omunye umthetho osebenzayo.
- (2) Umzali oqashwe esikoleni njengothisha noma njengesisebenzi esingeyena uthisha akakwazi ukumela abazali esigungwini esilawula isikole.
- (3) Uthishanhloko kumele –
- (a) ngaso sonke isikhathi aqinisekise ukuthi isigungu esilawula isikole sibunjwe ngendlela efanele ngokwalesi saziso;
  - (b) ngokubhalwe phansi, ezinsukwini ezinhlanu ethole ulwazi ukuthi ilungu alifanelekile, azise uMphathiweSekethe ngalelo lungu elingasafanelekile ukuba yilungu lesigungu esilawula isikole;
- (4) Ilungu lesigungu esilawula isikole kumele lazise uthishanhloko ngokungafaneleki kwalo ukuba yilungu ngokushesha uma selazi.
- (5) Uma ethola ulwazi ngokwebinzana (3) no (4) ngenhla, uMphathi weSekethe wesikole esithintekayo, kumele ngokubhalwe phansi ezinsukwini ezinhlanu (5) ethole lolo lwazi, azise isikhulu soKhethe sesiFunda mayelana nelungu elingasafanelekile ukuba yilungu lesigungu esilawula isikole.
- (6) Isikhulu soKhethe sesiFunda kumele –

- (a) ezinsukwini ezinhlanu (5) sithole ulwazi olushiwo ebinzaneni (5) siqinisekise lolo lwazi;
- (b) uma ulwazi seluqinisekisiwe, sazise ilungu ngokubhalwe phansi ukuthi alisafanelekile ukuba yilungu lesigungu esilawula isikole; futhi
- (c) siqinisekise ukuthi liyaphuma esihlalweni.

#### **Ukuqokwa kwesikhulu esengamele uKhetho lwesiFundazwe**

6. (1) INhloko yoMnyango kumele iqoke isikhulu esengamele uKhetho lwesiFundazwe neSekela lesikhulu esengamele uKhetho lwesiFundazwe ngokubhalwe phansi.
- (2) Isikhulu esengamele uKhetho lwesiFundazwe kumele –
- (a) siqinisekise ukuthi iSaziso sesiFundazwe sishicilelwa ngesikhathi;
  - (b) siqinisekise ukuthi ukhetho lukhangiswa ngokwanele;
  - (c) siqoke isikhulu esisodwa noma ngaphezulu esisebenzela umnyango ukuze sisize ngokhetho njengomsizi noma njengabasizi besiKhulu esengamele uKhetho lwesiFundazwe;
  - (d) siqinisekise ukuthi kulandelwa umthetho nenqubo efanele maqondana nokhetho;
  - (e) sihlele izinsiza zokuqhuba ukhetho lezigungu ezilawula izikole ngempumelelo nangendlela enobulungiswa;
  - (f) siqinisekise ukuthi izinsiza kanye nenqubo yokuqeqeshwa kweziKhulu ezingamele uKhetho lweziFunda noma lwesiFundazwe nokuthi amathimba ami ngomumo futhi nezinhlelo zokuqeqeshwa ziqhutshwa njengoba kuhleliwe;
  - (g) sihlanganisa futhi sihlizeka yonke imibhalo edingekayo ngokhetho;
  - (h) sixazulula konke ukungaboni ngaso linye okuphathelele nokhetho okungaxazululeki ezingeni lesikole noma lesifunda;
  - (i) sihlanganise isheduli yokhetho yazo zonke izikole zesiFundazwe;
  - (j) siqaphe bese sihlale indlela ukhetho oluqhutshwe ngayo;
  - (k) sihlanganise uhlu lwezigungu ezilawula izikole esiFundazweni uma sezikhethiwe;
  - (l) senze uphenyo njengoba siyalelwe yiNhloko yoMnyango; futhi
  - (m) siqaphe ukuqeqeshwa kwamalungu amasha ezigungu ezilawula izikole.
- (3) ISekela lesikhulu esengamele uKhetho lwesiFundazwe noMsizi wesiKhulu esengamele uKhetho lwesiFundazwe basiza isikhulu esengamele uKhetho lwesiFundazwe ekwenzeni imisebenzi yaso.

#### **Ukuqokwa kweziKhulu ezengamele uKhetho lweziFunda**

7. (1) INhloko yoMnyango kumele iqoke isikhulu esengamele uKhetho lwesiFunda, iSekela lesikhulu esengamele uKhetho lwesiFunda kanye noMsizi wesiKhulu esengamele uKhetho lwesiFunda ngokubhalwe phansi.
- (2) Isikhulu esengamele uKhetho lwesiFunda kumele –
- (a) siqoke isikhulu esisodwa noma ngaphezulu esisebenzela uMnyango ukuze sisize ngokhetho njengomsizi noma njengabasizi besiKhulu esengamele uKhetho lwesiFunda;
  - (b) sihlele konke okumaqondana nokhetho lwesiFunda;
  - (c) sengamela ukuqokwa kweziKhulu ezengamele uKhetho eziKoleni;
  - (d) siqinisekise ukulandelwa kwenqubo yokhetho;
  - (e) siluleke iziKhulu ezengamele uKhetho eziKoleni ngohlelo oluhlongozwayo kanye nokuqaliswa kokhetho esiFundeni futhi siqinisekise ukuthi uhlelo luqhutshwa ngendlela okuvunyelwenwe ngayo;
  - (f) sakhe uhlelo lokusingatha ukusebenza kweSaziso sesiFundazwe;

- (g) siqinisekise ukuthi isikole ngasinye sinesikhulu esengamele ukhetho ngokuhambisana neSaziso sesiFundazwe nokuthi amathimba okhetho ezikole ayasungulwa;
  - (h) siqinisekise ukuthi zonke izikhulu zokhetho ezisebenza ezikoleni ziqeqeshwe ngokwanele futhi ziyawuqonda umsebenzi wazo neqhaza okumele zilibambe;
  - (i) siqinisekise ukuthi zonke izikhulu zokhetho zithola isaziso sokhetho sesiFundazwe kanye neminye imibhalo ngesikhathi;
  - (j) siqinisekise ukuthi ukhetho lukhangiswa ngokwanele ;
  - (k) siqinisekise ukuthi ukuqhutshwa kokhetho kuqashiwe;
  - (l) siqinisekise ukuthi amagama kanye neminingwane yokuxhumana yabaqokelwe ezigungwini ezilawula izikole kugcwaliswe emafomini afanele futhi athunyelwa ngothishanhloko ehhovisi lesiFunda zingakapheli izinsuku eziyisikhombisa (7) kubanjwe ukhetho;
  - (m) siqinisekise ukuthi iFomu leMininingwane (data form) liyatholakala kuthishanhloko wesikole futhi lithunyelwa ehhovisi lesiFunda zingakapheli izinsuku eziyisikhombisa (7) kubanjwe umhlangano wokuqala okukhethwa kuwona abasezikhundleni;
  - (n) sixazulule ukungaboni ngaso linye okuphathelene nezinqumo ezingaxazululwanga ezingeni lezikole;
  - (o) sihlanganise uhlu lwezigungu ezilawula izikole ezisanda kukhethwa futhi sithumele lolo luhlu esiKhulwini esengamele uKhetho lwesiFundazwe;
  - (p) sihlanganise umbiko obhaliwe wesifunda mayelana nokhetho bese siwuthumela esiKhulwini esengamele uKhetho lwesiFundazwe.
- (3) Isekela lesiKhulu esengamele uKhetho lwesiFunda kanye nomsizi wesikhulu esengamele uKhetho lwesiFunda bayosiza isikhulu esengamele uKhetho lwesiFunda ekwenzeni imisebenzi yaso.
- (4) Isekela lesiKhulu soKhetho sesiFunda kanye nomsizi wesikhulu soKhetho sesiFunda bangaluleka isikhulu esengamele uKhetho lwesiFunda nganoma yiluphi udaba oluphathelene nokhetho.

#### **Ukuqokwa kweziKhulu Ezengamele uKhetho eziKoleni**

8. (1) INhloko yoMnyango kumele iqoke, ngokubhalwe phansi, isikhulu esengamele uKhetho esiKoleni lapho kuzokhethwa, abazali, othisha, izisebenzi ezingebona othisha kanye nabafundi bomkhandlu omele abafundi, njengamalungu esigungu esilawula isikole sikhulumeni.
- (2) Uthishanhloko ngeke aqokwe njengesikhulu esengamele uKhetho esiKoleni aqashwe kuso.
- (3) Isikhulu esengamele uKhetho lwesiKole kumele siqoke ngokubhalwe phansi isikhulu esisodwa noma ngaphezulu noma othisha abasebenzela uMnyango noma abaqashwe yisigungu esilawula isikole ukuthi balekelele njengabasizi besiKhulu esengamele uKhetho esiKoleni.
- (4) Isikhulu esengamele uKhetho esiKoleni siyokwengamela yonke imihlangano kuhlanganisa nokhetho lokuchibiyela kanye nokhetho lwezikhundla, kuze kuphele isikhathi sokuba sesikhundleni kwesigungu esilawula isikole esiqokiwe. Uma kwenzeka, isikhulu esengamele uKhetho esiKoleni singakwazi ukwengamela noma yimuphi umhlangano wokhetho, iNhloko yoMnyango iyoqoka ngokubhalwe phansi isikhulu esengamele uKhetho esiKoleni ukuthi sengamele lowo mihlangano.
- (5) Isikhulu esengamele uKhetho esiKoleni kanye nomsizi wesikhulu esengamele uKhetho esiKoleni ngeke bangenele ukhetho, noma baphakamise noma beseke ukuqokwa kwelungu.
- (6) Imisebenzi yesikhulu esengamele uKhetho esiKoleni, phakathi kokunye –

- (a) ukuxhumana nothishanhloko ukuze siqinisekise ukuthi isaziso esinikeza yonke imininingwane yosuku, isikhathi nendawo yomhlangano wokuphakanyiswa kwabazongenela ukhetho kanye nomhlangano omaqondana nokhetho silungiswa futhi sithunyelwa uthishanhloko wesikole;
  - (b) ukuqinisekisa ukuthi kunendawo efanelekile yokubamba umhlangano wokwenza iziphakamiso nokuqhutshwa kokhetho;
  - (c) ukuqinisekisa ukuthi ithimba lokhetho lesikole liyayazi inqubo yokhetho okumele ilandelwe futhi lihambisana nomthetho ofanele;
  - (d) ukungenelela kanye nokuxazulula noma yikuphi ukungaboni ngaso linye ngosuku lokhetho; kanye
  - (e) nokuthumela imiphumela yokhetho ehhovisi lesiFunda.
- (7) Uma ukhetho lubanjwe ngesikhathi kunesifo esiwubhubhane ezweni lonke esilawulwa yi-*National Disaster Management Act, 2002* (uMthetho No. 57 ka 2002) kanye nemigomo ephathelene nawo, isiKhulu esengamele uKhetho esiKoleni kumele siqinisekise ukuthi yonke imigomo ebekiwe iyalandelwa ngesikhathi kunokhetho kanye nokunye okuphathelene nalokho.

**Iqophelo Elamukelekile LokuziPhatha Kwezikhulu Ezengamele Ukhetho LwesiFundazwe, LweziFunda NolweZikole.**

9. (1) Ngaphandle kokuphambuka emgomweni ojwayelekile wokuziphatha owamukelekile, amandla nemisebenzi okuhlizekelwe eMthethweni kanjalo nakweminye imithetho esebenzayo kanye nenqubomgomo, iziKhulu ezengamele uKhetho lwesiFundazwe, lweziFunda kanye nolweziKole kumele –
- (a) ziziphathe ngokwethembeka nangesithunzi;
  - (b) zingachemi;
  - (c) ziyazi inqubo yokhetho kanye nemigomo esebenzayo;
  - (d) ziqhube ukhetho ngokwemithetho yesifundazwe;
  - (e) zibambisane nabaphathi bezikole kanye nabanye abantu abasebenzisana nabo;
  - (f) zilawule inkambiso yokuvota ngendlela enobulungiswa;
  - (g) zibhekane nezinkinga ezingavela ngenhlonipho;
  - (h) zibe nesizotha futhi zikhuthale;
  - (i) zingenzi okungaphezu kwalokho ezijutshelwe kona; futhi
  - (j) ziqinisekise ukuthi imigomo ye-*Protection of Personal Information Act, 2013* (uMthetho No. 4 ka 2013) iyalandelwa ngaso sonke isikhathi uma kuthathwa imininingwane noma kusatshaliswa ulwazi.
- (2) IsiKhulu esengamele uKhetho kumele sisayine isifungo noma isiqinisekiso sokugcina imfihlo ngendlela enqunye yiNhlolo yoMnyango ngaphambi kokuthi senze imisebenzi yaso njengesikhulu esengamele uKhetho.
- (3) Indlela yokuziphatha kwezisebenzi zoMnyango eziqokwe njengeziKhulu ezengamele uKhetho ilawulwa yimithetho kanye nenqubomgomo efanele yoMnyango.

**Uhlu Lwabavoti**

10. (1) Uthishanhloko kumele ahlele uhlu lwabavoti oluphathelene nalaba abalandelayo –
- (a) abazali;
  - (b) othisha;
  - (c) izisebenzi ezingebona othisha;
  - (d) abafundi abasemkhandlwini omele abafundi.

- (2) Uhlu lwabavoti kumele lwenziwe kanje:
- (a) uhlu lwabavoti lwabazali kumele lususelwe kwirejista yesikole yokwamukela abafundi. Abazali abafanelekile yilabo bazali abavela kwirejista yesikole yokwamukela abafundi noma yilabo abaveza ubufakazi bokuthi bangabazali njengoba kuchaziwe eMthethweni. Abazali ababili (2) kuphela bomfundi ngamunye abafaneleke ukuvota;
  - (b) uhlu lwabavoti lothisha kumele lube nabo bonke othisha abaqashwe kuleso sikole;
  - (c) uhlu lwabavoti lwezisebenzi ezingebona othisha kumele lube nazo zonke izisebenzi ezingebona othisha eziqashwe kuleso sikole;
  - (d) uhlu lwabavoti lwabafundi kumele lube nawo wonke amalungu omkhandlu omele abafundi.
- (3) Le migomo elandelayo kumele uthishanhloko ayilandele ngesikhathi ecubungula ubufakazi bobuzali maqondana nomuntu owenza umsebenzi womzali noma womuntu okhulisa noma womuntu oqokwe ngokomthetho ukunakekela umfundi noma womuntu ngokomthetho onegunya lokukhulisa umfundi uma lowo muntu esaphila –
- (a) izizathu zalowo muntu zokuzibophezela ukwenza imisebenzi yalaba ababalulwe ngenhla;
  - (b) ukubheka ukuthi umfundi uhlala nobani;
  - (c) ukwazi ukuthi likuphi ikhaya lomuntu owenza umsebenzi womzali noma lomuntu okhulisa noma lomuntu oqokwe ngokomthetho ukunakekela umfundi noma lomuntu ngokomthetho onegunya lokukhulisa umfundi;
  - (d) ukusondelana kwamakhaya abantu ababalulwe ebinzaneni 10(3)(c) ngenhla, nesikole;
  - (e) umsebenzi oshiwo ngenhla kumele ube ngaphezu kokunakekela izidingo zomfundi ngokwezezimali kodwa kumele kuqikelelwe nokunakekelwa kwezidingo zomfundi zezemfundo kanye nokwesekwa kwakhe;
  - (f) ukuzinikela kanye nokuzibophezela komuntu owenza umsebenzi wabantu abashiwo ebinzaneni 10(3)(c) ngenhla wokunakekela lowo mfundi;
  - (g) uma kungukuthi umfundi unezinye izingane zakwabo esikoleni kufanele kubhekwe ukuthi ubani owenza imisebenzi yobuzali kulezi ezinye izingane zakwabo.. Imininingwane ehlinzekwe maqondana nalezi ezinye izingane zakwabo kumele iqhathaniswe nale enikeziwe emaqondana nalo mfundi othintekayo;
  - (h) ubudlelwane phakathi komfundi nomuntu onakekela lowo mfundi;
  - (i) uthishanhloko wesikole kumele enze uphenyo olufanele emphakathiniukuqinisekisa ukuthi ubani umphakathi omazi njengomzali womfundi;
  - (j) nanoma iyiphi incazelo ezwakalayo yokuthi kungani lowo muntu enza umsebenzi womuntu oshiwo ngenhla;
  - (k) kufanele kubhekwane nodaba ngalunye ngokucophelela luze lube luyagculisa futhi uthishanhloko kumele aqinisekise ukuthi ukuthatha kwakhe izinqumo kuyefana uma emukela umuntu othile ngokuthi ungumzali.
- (4) Uthishanhloko wesikole kumele okungenani ezinsukwini eziyishumi nane (14) ngaphambi komhlangano wokhetho, aphathise abafundi izincwadi kanye namafomu eziya kubazali, ezibazisa ngomhlangano wokhetho nezibamema ukuthi bazohlola uhlu lwabavoti olukhona bese behlinzeka isikole ngemininingwane yabo esishintshile, uma kunesidingo.
- (5) Uthishanhloko wesikole kuphela ongagunyaza ukuchitshiyelwa kohlu lwabavoti.
- (6) Bonke labo abenza iziphakamiso noma abeseka iziphakamiso kanye nabaphakanyiswayo kumele kube abantu abasohlwini lwabavoti ezigabeni abazimele ngokwahlukana kwazo esigungwini esilawula isikole.
- (7) Noma yiluphi ushintsho noma imibuzo okuphathelene nohlu lwabavoti kumele kudluliselwe kuthishanhloko okungenani ezinsukwini eziyisikhombisa (7) ngaphambi komhlangano wokhetho futhi akukho mibuzo ephathelene nohlu lwabavoti eyophendulwa yisiKhulu esengamele uKhetho lwesiKole ngosuku lokhetho.

**Isaziso Somhlangano Wokuphakamisa Abazongenela Ukhetho Nowokhetho**

11. (1) Uthishanhloko wesikole esizosingatha umhlangano omaqondana nokhetho kumele acabangele abavoti ngesikhathi ebhala izaziso lapho kunqunywa usuku, isikhathi kanye nendawo yomhlangano wokuphakanyiswa kwabazongenela ukhetho.
- (2) Ukuqokwa nokukhethwa kohlaka lothisha, lwezisebenzi ezingebona othisha kanye nolomkhandlu omele abafundi kumele kwenzeke ngaphambi kokhetho lwabazali.
- (3) Uthishanhloko wesikole kumele akhiphe amakhophi esaziso somhlangano wokhetho kusasele okungenani izinsuku eziyishumi nane (14) ngaphambi komhlangano wokuqala omaqondana nokhetho.
- (4) Uthishanhloko kumele aqinisekise ukuthi –
- (a) uthumela ikhophi yesaziso somhlangano wokhetho wabazali babo bonke abafundi basesikoleni sakhe aphinde abatshele ngomlomo ukuthi banike abazali leso saziso;
  - (b) unikeza othisha ikhophi yesaziso somhlangano wokhetho lothisha;
  - (c) unikeza izisebenzi ezingebona othisha ikhophi yesaziso somhlangano wokhetho lwezisebenzi ezingebona othisha;
  - (d) unikeza abafundi abasemkhandlwini wabafundi ikhophi yesaziso somhlangano wokhetho womkhandlu omele abafundi;
  - (e) uqinisekisa ukuthi lawo makhophi ezaziso akhangiswa noma aphanyekwa ezindaweni lapho ezobonwa khona yiwo wonke umuntu, esikoleni nasezindaweni zomphakathi; futhi
  - (f) asabalalise izaziso noma ngayiphi indlela ezohambelana nalowo mphakathi waleso sikole inqobo nje uma ingeke ithikameze amalungelo omphakathi waleso sikole.
- (5) Uthishanhloko kumele aqinisekise ukuthi –
- (a) izaziso zibhalwe ngolimi olusetshenziswa kuleso sikole futhi uma kunokwenzeka zibhalwe nangolimi olusetshenziswa emakhaya abafundi; futhi
  - (b) bonke abazali bayagquguzelwa ukubamba iqhaza okhethweni.
- (6) lapho kunokwenzeka kuba khona isikole esisha esivulwayo ngesikhathi esimaphakathi kokubusa kwezigungu ezilawula izikole, umhlangano wokhetho lwesikole esisha kumele ubanjwe ezinsukwini ezingamashumi ayisithupha (60) leso sikole sivuliwe.

**Ilungelo Lokuvota**

12. (1) Umzali ngamunye ogama lakhe livela ohlwini lokuvota –
- (a) unelungelo lokuvotela abazali abazoba amalungu esigungu esilawulayo;
  - (b) angavotela kanye (1) kuphela lowo ophakanyisiwe ngokwesibalo esibekiwe samavoti esilingana nenani labazali okumele baqokwe.
- (2) Uthisha ngamunye, kuhlenganisa nothishanhloko, oqashwe esikoleni –
- (a) unelungelo lokuvotela amalungu awothisha;
  - (b) angavotela kanye (1) kuphela lowo ophakanyisiwe ngokwesibalo esibekiwe samavoti esilingana nenani lothisha okumele bakhethwe.

- (3) Isisebenzi sasesikoleni esingeyena uthisha –
  - (a) sinelungelo lokuvotela ilungu eliyisisebenzi esingeyena uthisha;
  - (b) sinevoti eilodwa.
- (4) Lapho isikole sinesisebenzi esisodwa (1) kuphela leso sisebenzi sinelungelo lokukhethwa sibe yilungu lesigungu esilawula isikole.
- (5) Ilungu loMkhandlu oMele abaFundi ngalinye –
  - (a) linelungelo lokuvotela amalungu angabafundi;
  - (b) angavotela kanye(1) kuphela lowo ophakanyisiwe ngokwesibalo esibekiwe samavoti esilingana nenani labafundi okumele bakhethwe.
- (6) Akuvumelekile ukuba omunye umuntu avote esikhundleni somunye.

### **Ikhoramu Yomhlangano Wokuphakamisa Amagama Kanye Nowokuvota**

- 13. (1) Ikhoramu engamaphesenti ayishumi nanhlano (15%) yabavoti abasohlwini lwabavoti kumele ihlangane ngaphambi kokuba kuqale umhlangano wokuphakamisa amagama kanye nowokuvota.
- (2) Uma ikhoramu eshiwo ebinzaneni (1) ingahlangani –
  - (a) umhlangano kumele uhlehliswe bese kuhlelwa kabusha umhlangano wesibili ozokuba ngolunye usuku sekwedlule izinsuku eziyisikhombisa (7) kodwa kungabi sekwedlule eziyishumi nane (14) lo mhlango uchihiwe; futhi
  - (b) uthishanhloko wesikole kumele ahambisane nemigomo ebekwe ebinzaneni 11(4)(a)-(f).
- (3) Iziphakamiso ezibhaliwe ezamukelwe ngaphambi kokuchithwa komhlangano ziyobe sezihlanganiswa nanoma yiziphi ezinye ezibhaliwe eziyokwamukelwa emhlanganweni oyohlelwa kabusha.
- (4) Isaziso esimaqondana nomhlangano ohlelwe kabusha kumele sibalule ukuthi ngeke isadingeka ikhoramu kulo mhlango okungowesibili.

### **Ukuphakanyiswa Kwamagama eMhlanganweni Wokhetho**

- 14. (1) Isikhulu esengamele uKhetho esiKoleni kumele siqoke ngokubhalwe phansi lowo ozoba umsizi wesikhulu esengamele uKhetho esiKoleni ukuze abe unobhala emhlanganweni
- (2) Ngaphandle kwezingqapheli zokhetho kanye nabasizi besikhulu esengamele uKhetho esiKoleni, isikhulu esengamele uKhetho esiKoleni akumele sivumele noma yimuphi umuntu ongafanelekile ukuvota ukuthi athamele umhlangano noma ukuqokwa komuntu ongafanelekile ukukhethwa ngokwebinza 2.
- (3) Isikhulu esengamele uKhetho esiKoleni kumele sicele abavoti ukuthi baveze ubufakazi bokuhlonzwa ngokuletha omazisi, amaphasiphothi asemthethweni noma ubufakazi bokuba yisakhamuzi esiwumsinsi noma sesikhashana noma imvume yokuhlala kuleli kulabo abangezona izakhamuzi zaseNingizimu Afrika.
- (4) Ngaphambi kokuqhubeka nokuqokwa kwamalungu esigungu esilawula isikole, isikhulu esengamele uKhetho esiKoleni kumele sazise abavoti lokhu okulandelayo –

- (a) ukuthi isikhathi saleso sigungu esilawula isikole ngaleso sikhathi sesiphelile futhi amalungu asazisiwe ngokusemthethweni;
  - (b) ukuthi umhlangano omaqondana nokhetho ungumhlangano ovalelekile;
  - (c) izimiso zebinza lesihlanu (5) ziveza umuntu ongakufanele ubulungu besigungu esilawula isikole;
  - (d) isibalo sabantu abazoqokwa;
  - (e) ukuthi isiphakamiso ngasinye, kumele sisekwe umzali, uthisha, isisebenzi esingeyena uthisha noma umfundi osemkhandlwini omele abafundi, njengoba kungaba njalo, ongunya lokuvota;
  - (f) ukuthi, ngesikhathi kwenziwa iziphakamiso abavoti kumele baqikelele ukumeleleka futhi baqinisekise ukuthi uma kwenziwa iziphakamiso kunokumeleleka ngokobulili, ngokubuhlanga uma kunokwenzeka futhi zibandakanye ukuphakanyiswa kwabantu abaphila nokukhubazeka;
  - (g) ukuthi umvoti unelungelo (1) lokuvotela isikhundla ngasinye (1) okumele sigcwaliswe;
  - (h) ukuthi ukuvota kuyimfihlo; kanye
  - (i) nokuthi kuvumelekile ukufakwa kwezikhalo njengalokhu kucacisiwe ebinzeni 29.
- (5) Ngesikhathi kwenziwa iziphakamiso isikhulu esengamele uKhetho esiKoleni kumele –
- (a) sinqume futhi sihlele isikhathi sokwenziwa kweziphakamiso;
  - (b) sazise abavoti ngesikhathi esihleliwe;
  - (c) sivumele ukuthi kube nesikhathi esanele sokwenziwa kweziphakamiso zalabo abazongenela ukhetho; futhi
  - (d) sikhombise ukuthi isikhathi sokwenziwa kweziphakamiso sesivaliwe.
- (6) Umuntu angaphakanyiswa engekho, inqobo nje –
- (a) uma lowo omphakamisayo nowesekela isiphakamiso bekhona emhlanganweni futhi kumele agcwalise ifomu lokwenza isiphakamiso; futhi
  - (b) uma ophakanyiswayo ethumelela uthishanhloko isiqiniseko esibhaliwe sokwamukela isiphakamiso.
- (7) Ifomu lokwenza isiphakamiso eligcwaliswe yilowo ophakamisa umuntu, osekelayo kanye nophakanyiswayo kumele lamukelwe yisikhulu esengamele uKhetho esiKoleni kungakapheli izinsuku eziyisikhombisa (7) futhi kungabi ngaphansi kwamahora angamashumi amabili nane (24) ngaphambi kokuqala komhlangano.
- (8) Emhlanganweni omaqondana nokhetho, lowo ongenela ukhetho angaphakanyiswa ngomlomo –
- (a) ngumzali womfundi ofunda esikholeni maqondana nesikhala ngokuhambisana nebinza 4(a);
  - (b) nguthisha oqashwe yisikole esithintekayo maqondana nesikhala ngokuhambisana nebinza 4(b);
  - (c) yisisebenzi esingeyena uthisha esiqashwe yisikole esithintekayo maqondana nesikhala ngokuhambisana nebinza 4(c);
  - (d) ngumfundi osemkhandlwini omele abafundi ngokuhambisana nebinza 4(d), inqobo nje uma omunye umzali, uthisha, isisebenzi esingeyena uthisha noma umfundi osemkhandlwini wabafundi, lokho okunokwenzeka, esekela isiphakamiso. Futhi nomuntu ophakanyisiwe esho emhlanganweni ngomlomo noma ngokubhaliwe uma engekho emhlanganweni, ukuthi ukulungele ukuba yilungu lesigungu esilawula isikole uma eqokwa.
- (9) Isikhulu esengamele uKhetho esiKoleni kumele –
- (a) sinike umuntu ophakamise ozongenela ukhetho ithuba lokumethula emhlanganweni bese ehlinzeka izizathu zokuphakamisa lowo muntu; noma
  - (b) sivumele lowo ophakanyisiwe ukuthi azethule emhlanganweni.



- (10) Ngesikhathi kwenziwa iziphakamiso, isikhulu esengamele uKhetho esiKoleni kumele sicubungule iziphakamiso futhi sichithe noma yisiphi isiphakamiso sanoma yimuphi umuntu–
- ongaphakanyiswa ngokuhambisana nebinza 14;
  - ongafanelekile ngokwebinza 5; noma
  - ongaligcwalisanga ifomu lokwenza isiphakamiso ngendlela, ngaphandle uma lowo omele ukhetho eletha ubufakazi obubhaliwe esikhulwini Esengamele uKhetho esiKoleni obushoyo ukuthi lowo ophakanyisiwe uyazinikela ekubeni yilungu lesigungu esilawula isikole futhi uyahlangabezana nayo yonke imibandela ehambisana nokuba yilungu.
- (11) Isikhulu esengamele uKhetho esiKoleni kumele simemezele amagama abantu abaphakanyisiwe ukuphakanyiswa kwabo okwamukeliwe bese siyabayalela ukuba bagcwalise ngendlela efanelekile amafomu okuphakanyiswa.
- (12) Uma isibalo sesisonke sabaphakanyisiwe, ukuphakanyiswa kwabo sekwamukelwe –
- singaphansi kwesibalo samalungu adingekayo maqondana nesigaba esithintekayo, kumele emva kwezinsuku eziyisikhombisa (7) kodwa zingakapheli eziyishumi nane (14) kubizwe omunye umhlangano lapho kuzoqokwa abaphakanyiswayo bokwengeza;
  - silingana nesibalo samalungu adingekayo maqondana nesigaba esithintekayo, isikhulu esengamele uKhetho kumele simemezele ngokusemthethweni ukuthi bonke abaphakanyisiwe sebefana nabakhethiwe;
  - singaphezu kwesibalo sezikhala, isikhulu esengamele uKhetho esiKoleni kumele, ngokushesha ngemva kokovalwa kokwenziwa kweziphakamiso, sibhale phansi amagama abantu abazongenela ukhetho lapho ezokwazi ukubonwa yiwona wonke umuntu okhona emhlanganweni bese silungisa amaphepha okuvota.
- (13) Esikoleni lapho kunesisebenzi esisodwa esingeyena uthisha, isikhulu esengamele uKhetho esiKoleni kumele sazise leso sisebenzi ukuthi sesiqokelwe esigungwini esilawula isikole futhi kumele siqinisekise ukuthi amafomu okhetho adingekayo ayagcwaliswa.

### Ukuvota Emhlanganweni Omaqondana Nokhetho

15. (1) Umvoti ngamunye uvotela isikhundla ngasinye (1) okumele sigcwaliswe esigungwini esilawula isikole kanye kuphela.
- (2) Isikhulu esengamele uKhetho esiKoleni kumele silungise amaphepha okuvota futhi kumele –
- siqinisekise ukuthi wonke amaphepha okuvota anesitembu sesikole noma okunye okuwuphawu oluyisibonakaliso oluvimbela ukuthi amaphepha okuvota kungenziwa okungafanele kuwona;
  - sichaze inqubo yokuvota, isibalo esilinganisiwe sabantu abaphakanyisiwe abazovotelwa kanjalo nokuthi kuzovotwa kanjani, okungaba ukufaka uphawu oluyisiphambano (x), noma kusetshenziswe izinombolo noma ngokubhala amagama.
- (3) Umvoti okhona kumele akhombise igama lomuntu ongavotelwa amkhethayo noma amagama abantu abangavotelwa abakhethayo ephepheni lokuvota elihlinzekwe yisikhulu esengamele uKhetho esiKoleni ngokwebinzana (2)(b).
- (4) Umuntu onelungelo lokuvota kumele abhale ngokuyimfihlo ivoti lakhe ephepheni lokuvota bese efaka lelo phepha lokuvota eligoqiwe ebhokisini noma kwesinye isiqukathi esivalekile esihlinzekelwe lokho.

- (5) Umuntu ongakwazi ukufaka uphawu ephepheni lokuvota njengoba kuchaziwe ebinzaneni (3), angacela ngomlomo esiKhulwini esengamele uKhetho esiKoleni noma kuMsizi wesiKhulu esengamele uKhetho esiKoleni ukuba alekelelwe ukuze afake uphawu eduze kwalowo amkhethayo ephepheni lokuvota
- (6) IsiKhulu esengamele uKhetho esiKoleni, phambi koMsizi waso, kumele sisize nanoma yimuphi umuntu ophila nokukhubazeka nanoma yimuphi omunye umuntu, ngenxa yanoma yisiphi isizathu ongakwazi ukufaka uphawu lwevoti lakhe.
- (7) Isicelo soziso kanye nokugcwaliswa kwephepha lokuvota okuchazwe ebinzaneni (5) kuyokwenziwa ngasese endaweni isiKhulu esengamele uKhetho esiKoleni esiyihlonzele lokho kodwa kumele ibe ndawonye nalapho kuvotelwa khona.
- (8) Uma iphepha lokuvota lonakala ngephutha ngesikhathi umuntu evota, isiKhulu esengamele uKhetho kumele –
  - (a) sinike lowo muntu iphepha lokuvota elisha elinenombolo efanayo nalelo elonakele bese libhala igama elithi “*impindakabill*” (duplicate) ephepheni lokuvota elisha;
  - (b) sigcine lelo phepha lokuvota elonakele bese sibhala ukuthi “*elonakele*”(spoilt) kulona;
  - (c) sibhale phansi ephepheni eliqondene nalokho wonke amaphepha okuvota onakele lapho kushicilelwa khona;futhi
  - (d) sigcine ubufakazi balawo maphepha okuvota onakele nobamaphepha okuvota nawo wonke amanye amaphepha anemininingwane emaqondana nokhetho
- (9) IsiKhulu esengamele uKhetho esiKoleni singangalamukeli iphepha lokuvota –
  - (a) elingenaso isitembu sesikole noma uphawu oluyisibonakaliso njengoba kuchaziwe ebinzaneni 2(a);
  - (b) elinezimpawu eziyisiphambano ezingaphezu kwesibalo sezikhala ezisesigungwini esilawula isikole;
  - (c) elinegama lomuntu ongaphakanyisiwe noma elinamagama abantu abangaphakanyisiwe; noma
  - (d) eligcwaliswe ngendlela engacacisi ukuthi yimuphi umuntu ophakanyisiwe ovotelwayo noma abantu abaphakanyisiwe abavotelwayo.
- (10) Emva kokuthi bonke abavoti sebevotile, isiKhulu esengamele uKhetho esiKoleni kanye noMsizi waso kumele babale amavoti phambi kwezingqapheli zontathu (3) eziqokwe yilabo abasemhlanganweni ukuba baqaphe ukubalwa kwamavoti.
- (11) Uma kunokulingana kwamavoti emva kwelinye ihlandla lokuvota, isiKhulu esengamele uKhetho esiKoleni kumele sixazulule leso simo ngokuphonsa uhlamvu lwemali phezulu bese kunqunywa ukuthi ubani onqobile ngokuthi uhlamvu lwemali luwele ngakuluphi uhlangothi.
- (12) IsiKhulu esengamele uKhetho esiKoleni kumele simemezele imiphumela ngesikhathi somhlangano wokhetho siphinde simemezele labo abathole amavoti amaningi abazoba amalungu esigungu esilawula isikole.
- (13) Isibalo samavoti umuntu awatholayo kulolu khetho asinqumi umphumela wokhetho lwezikhundla eziqokwe ngokwebinza 17.
- (14) isiKhulu esengamele uKhetho esiKoleni kumele siyalele abafundi ukuba bafunde okuqukethwe isigaba 32 soMthetho ochaza kabanzi ngesimo samalungu asemancane ngokweminyaka esigungu esilawula isikole.

**Ukuqokwa Kwamalungu**

16. (1) Uthishanhloko, kumele athumelele isiKhulu esengamele uKhetho esiKoleni isithasiselo esicacisa ngokwakheka kwesigungu esilawula isikole kusasele izinsuku ezingamashumi amabili nanye (21) ngaphambi kosuku lokhetho, njengoba kubekiwe kuSheduli A.
- (2) Uthishanhloko, kumele athumelele isimemo kusasele okungenani izinsuku eziyishumi nane (14) ngaphambi komhlangano, ameme laba abalandelayo bazoqoka amalungu azobamela njengoba kuchaziwe ebinzaneni 4(g) kuya ku (k) –
- izinhlangotho zabaxhasi, uma zikhona;
  - izinhlangotho zabazali babafundi abanezidingo ezikhethekile zemfundo, uma zikhona;
  - izinhlangotho zabantu abaphila nokukhubazeka, uma zikhona;
  - umuntu ophila nokukhubazeka noma abantu abaqokwe abantu abaphila nokukhubazeka basemphakathini, uma bekhona;
  - ungoti noma ongoti emikhakheni efanele yezemfundo yabanezidingo ezikhethekile.
- (3) Isikhulu esengamele uKhetho esiKoleni kumele sibe ngusihlalo womhlangano futhi siphathe uhlelo lomhlangano obalulwe ebinzaneni (2).
- (4) Emhlanganweni, isikhulu esengamele uKhetho esiKoleni kumele siyalele ukuthi –
- izinhlangotho ezikhona emhlanganweni, zihlonze abazozimela esigungwini esilawula isikole ngokweSithasiselo esishiwo ebinzaneni (1);
  - izinhlangotho zihlinzeke ngemininingwane ephela yabantu abaqokwe kuhlanganisa igama, ikheli, izinombolo zokuxhumana kanye nekheli le-imeyli;
  - uma ilungu eliqokwe lingaselona ilungu lenhlangotho, inhlangotho kumele, ngokubhalwe phansi –
    - yazise isigungu esengamele isikole ngesimo salelo lungu;
    - ihoxise ukuqokwa kwalowo muntu;
    - khona manjalo iqoke ozoyimela; futhi
    - ihlinzeke ngegama neminingwane ephela okukhulunywa ngayo ebinzaneni (4)(b) ngenhla;
  - kungaqokwa ongoti abangaphezu koyedwa kuncike ezidingweni zesikole.
- (5) Umhlangano okukhulunywa ngawo ebinzaneni (2) ngenhla kumele ubanjwe ngaphambi komhlangano wokhetho wabazali.
- (6) Isibalo esihlangene samalungu aqokwe ngokwebinzana (2) kumele singeqi emalungwini amahlanu (5).
- (7) Uma isikhulu soKhetho sesiKole sithola imininingwane yabantu abaqokwe ngokwebinzana 16(2) nangemva kokuzigculisa ukuthi umuntu oqokwe ukwamukelile lokho kuqokwa njengelungu lesigungu esilawulayo, kumele ngale kokupholisa amaseko nangokubhalwe phansi sazise umuntu oqokwe ngamunye ngokuqokwa kwakhe njengelungu lesigungu esilawula isikole.

**Ukuqokwa Kamalungu Ngokwezikhundla**

17. (1) Isikhulu esengamele uKhetho esiKoleni singabiza umhlangano ngenhloso yokuqoka amalungu ngokwezikhundla uma –

- (a) isaziso sezinsuku eziyishumi nane-(14) ngokwebinzana 11(3) esathunyelelwa abazali, othisha, izisebenzi ezingebona othisha kanye nabafundi abasemkhandlwini omele abafundi sasineminingwane yokuthi umhlangano wokhetho lweziphathimandla luyoba ngosuku lomhlangano wokhetho wabazali; futhi
- (b) imigomo yekhoramu kuhanjisenwe nayo.
- (2) Uma umhlangano wokuqoka amalungu ngokwezikhundla ungalalanga ngokwebinzana 16(1), isiKhulu esengamele uKhetho esiKoleni kumele sibize umhlangano wokuqala wesigungu esilawula isikole ezinsukwini eziyisikhombisa (7) kusukela osukwini okubanjwe ngalo umhlangano wokhetho wabazali.
- (3) IsiKhulu esengamele uKhetho esiKoleni kumele sengamele yonke imihlangano ebizelwe ukuqoka amalungu ngokwezikhundla. Ngaphambi kokuqokwa kwamalungu ngokwezikhundla, isiKhulu esengamele uKhetho esiKoleni kumele sazise amalungu esigungu esilawula isikole –
- (a) imisebenzi yamalungu ngokwezikhundla zawo; kanye
- (b) nesidingo sokuqinisekisa ukuthi ukumeleleka kuyabhekisiswa ekuqokweni kwamalungu.
- (4) Emhlanganweni wokuqala wesigungu esilawula isikole amalungu kumele aqoke ngokuvota–
- (a) usihlalo;
- (b) isekela likasihlalo;
- (c) umgcinimafa; kanye
- (d) nonobhala.
- (5) Noma yiliphi ilungu lesigungu esilawula isikole eliwumzali noma eliqokelwe kwesinye salezi zikhundla okukhulunywa ngazo ngaphansi komyalelo 4(a), (f), (g), (h), (i) no (j) lingaba usihlalo noma isekela likasihlalo wesigungu esilawula isikole.
- (6) Isikhathi sokusebenza kwabasezikhundleni siwunyaka.
- (7) Uma sekuzophela isikhathi sokusebenza kwalabo abasezikhundleni isiKhulu esengamele uKhetho esiKoleni kumele sisingathe ukhetho lwamalungu azongena ezikhundleni zesigungu azosebenza ngonyaka olandelayo.
- (8) Ilungu elisesikhundleni lingabuye liqokwe futhi emva kokuba sekuphele isikhathi sokusebenza kwalo.
- (9) Uma uthishanhloko ecelwa isigungu esilawula isikole, angajuba omunye wezisebenzi ezingebona othisha ukuthi alekelele umgcinimafa nonobhala besigungu esilawula isikole.
- (10) Uma, ngenxa yanoma yisiphi isizathu, kuvuleka isikhala kwesinye sezikhundla, kumele isigungu esilawula isikole, emhlanganweni wokuqala emva kokuvuleka kwesikhala lesi, siqoke omunye wamalungu aso ukuba avale lesi sikhala lesi sikhathi sokusebenza esisasele kuze kungene esinye isigungu.
- (11) Uthishanhloko, ezinsukwini eziyishumi nane (14) emva kokhetho nangemvume yeziphathimandla, kumele ahambise eNhlokweni yoMnyango imininingwane yalabo abangene ezikhundleni kubandakanya amagama, izinombolo zomazisi, izinombolo zezingcingo noma zamaselula, izinombolo zefeksi, amakheli kanye namakheli-e-imeyili. Imininingwane ehlinze kiwe kumele iphathwe ngokulandela imigomo ye-POPIA (Protection of Personal Information Act)

### Ukudluliselwa Kwemisebenzi Emalungwini Amasha

18. (1) Ezinsukwini eziyishumi nane (14) kuqokwe iziphathimandla, uthishanhloko wesikole njongomuntu omele iNhloko yoMnyango esigungwini esilawula isikole kumele engamele uhlelo lokudluliselwa kwemisebenzi

emalungwini amasha

- (2) Amalungu asephuma esigungwini esilawula isikole kumele adlulisele wonke amabhuku aphaathelene nesigungu esilawula isikole emalungwini amasha.
- (3) Isitifiketi esisemthethweni sokudluliselwa kwemisebenzi emalungwini amasha esikhombisa isibalo samabhuku okumele adluliselwe, kufanele sikhishwe futhi sisayinwe usihlalo ophumayo kanye nongenayo esikhundleni, uthishanhloko kanye noMphathi weSekethe.
- (4) UMphathi weSekethe kumele aqinisekise ukuthi zonke izikole ezingaphansi kwakhe ziyawudlulisela umsebenzi nokuthi zonke izitifiketi zokudluliselwa kwemisebenzi ezigcwaliswe ngendlela zithunyelwa esiKhulwini soKhethe sesiFunda ezinsukwini eziyishumi nane (14) kuqokwe amalungu

### **Ukuphambuka Enqubweni Yokwenza Iziphakamiso Neyokhetho**

19. (1) Uma isigungu esilawula isikole, ngezizathu eziphoqayo siqoka ukungayilandeli inqubo yokwenza iziphakamiso neyokhetho eshiwo ngenhla, isigungu esilawula isikole kufanele sifake isicelo sokuphambuka enqubweni yokwenza iziphakamiso neyokhetho eNhlokweni yoMnyango futhi kufanele silandele imigomo esebinzaneni 19(2).
- (2) Isigungu esilawula isikole singafaka isicelo sokuphambuka sokhetho losuku lonke noma sokhetho olusebenza ngobuchwepheshe
- (3) INhloko yoMnyango iyovumelana naleso sicelo uma sichaza kabanzi futhi igculisekile ukuthi iyona kuphela inqubo isikole esingasingatha ngayo ukhetho olusha.
- (4) Isigungu esilawula isikole iNhloko yoMnyango esinike imvume yokuphambuka enqubweni ejwayelekile yokwenza iziphakamiso neyokhetho, asivinjwe ukuthi sibuyele enqubweni ejwayelekile yokwenza iziphakamiso neyokhetho uma kunokhetho lokuchibiyela.

### **Ukhetho Olubanjwa Usuku Lonke**

20. (1) Isikole, uma kunezizathu eziphoqayo futhi ngokuvumelana kwesigungu esilawula isikole singanquma ukuba kubanjwe ukhetho usuku lonke uma –
  - (a) ukuphambuka kuyosebenzela umphakathi wesikole nesikole sonkana futhi kuyovumela ukuthi iningi labavoti libambe iqhaza uma sekuvotwa;
  - (b) ukuphambuka ngeke kubandlulule mvoti noma qembu labavoti;
  - (c) inqubo yokuqokwa kwamalungu ihlinzekelwe ngendlela efanele.
- (2) Uma isigungu esilawula isikole siqoka ukubamba ukhetho usuku lonke, uthishanhloko wesikole kumele –
  - (a) kusasele okungenani izinsuku ezingamashumi amabili nanye-(21) ngaphambi kokuthumela isaziso sokhetho acele ngokubhalwe phansi eNhlokweni yoMnyango imvume yokubamba ukhetho usuku lonke;
  - (b) ahlinzeke izizathu eziphoqa ukuthi kubanjwe ukhetho usuku lonke esikhundleni somhlangano wokhetho;
  - (c) ahlinzeke ubufakazi bokuthi kuzoba khona izingqapheli kanye nethimba elengamele ukhetho ngesikhathi kunokhetho;
  - (d) ahlinzeke ubufakazi bokuthi zikhona izinsiza zokwenza iziphakamiso kanye nezokubanjwa kokhetho usuku lonke;

- (e) ahlinzeke ubufakazi bokuthi ukufunda nokufundisa esikoleni ngeke kuphazamiseke ngenxa yokhetho oluyobanjwa usuku lonke;
- (3) Ngaphambi kokukhipha imvume yokhetho oluyobanjwa usuku lonke yanoma yisiphi isikole, iNhloko yoMnyango kumele ibheke lokho okubalulwe ebinzaneni 19 (2) futhi sizigculise ngokuthi izikole zihlangabezane nokudingekayo.
- (4) Isikole kumele saziswe ngesinqumo seNhloko yoMnyango ezinsukwini eziyishumi nane (14) leso sikole sifake isicelo.
- (5) IsiKhulu esengamele uKhetho esiKoleni kumele, ngaphambi kosuku lokhetho, siqinisekise ukuthi –
  - (a) isikole sigunyaziwe ngokubhaliwe yiNhloko yoMnyango ukuba sibambe ukhetho usuku lonke;
  - (b) lukhona uhlelo losuku lokhetho;
  - (c) bonke abaphakanyisiwe bathumele imininingwane yabo esikoleni nokuthi ikulungele ukuphanyekwa ngaphandle kwesiteshi sokuvota;
  - (d) isikhathi sokuvala sizozivumela izingqapheli kanjalo nethimba elengamele ukhetho isikhathi esanele sokubuyela emakhaya; nokuthi
  - (e) ngesikhathi sokuvala, isikole sinomuntu oyoqinisekisa ukugcinwa kahle kwayo yonke imibhalo namabhuku asetshenzisiwe maqondana nokhetho.

#### **Ukwenziwa Kweziphakamiso zoSuku Lonke Lokhetho**

21. (1) Uma isikole sesinikwe imvume yokubamba ukhetho usuku lonke yiNhloko yoMnyango, kumele kulandelwe le nqubo yokwenza iziphakamiso –
- (a) uthishanhloko kumele abhale isaziso somhlangano wokwenza iziphakamiso futhi kumele abeke usuku, indawo kanye nesikhathi salowo mhlango;
  - (b) isaziso somhlangano wokwenza iziphakamiso wabazali kumele sisatshalaliswe futhi sikhangiswe ezindaweni ezigqamile esikoleni nasempakathini okungenani kusasele izinsuku ezingamashumi amabili nanye-(21) ngaphambi kosuku lokhetho oluyobanjwa usuku lonke.
- (2) Uthishanhloko kumele aqinisekise ukuthi –
- (a) isaziso esiwumbhalo somhlangano wokwenza iziphakamiso kanye nefomu lokwenza iziphakamiso kunikezwa umfundi ngamanye okungenani kusasele izinsuku ezingamashumi amabili nanye-(21) ngaphambi kosuku lokhetho oluyobanjwa usuku lonke oluhlongozwayo aphinde agcizelele nangomlomo ukuthi leso saziswe nalelo fomu kumele kunikezwe abazali; noma
  - (b) uma kungenjalo, ikhophi yesaziso sokwenza iziphakamiso kanye nefomu lokwenza iziphakamiso kumele kuthunyelwe kubazali babafundi ngeposi okungenani kusasele izinsuku ezingamashumi amabili nanye-(21) ngaphambi kokhetho oluyobanjwa usuku lonke; noma
  - (c) zisetshenziswe zombili lezi zindlela zokwazisa ezishiwo ngenhla, inqobo nje uma abazali kanye namalungu omphakathi bengeke babe senkingeni yokuthi azifinyeleli kubona .
  - (d) isaziso sokwenza iziphakamiso kanye nefomu lokwenza iziphakamiso, kumele, uma kunokwenzeka, kubhalwe ngolimi okufundiswa ngalo esikoleni nangolimi olukhulunywa emakhaya abafundi ukuqinisekisa ukuthi wonke umuntu ubamba iqhaza.
- (3) Isaziso kumele sazise abazali ukuthi ifomu lokwenza iziphakamiso kumele ligcwaliswe lisayinwe umuntu ophakanyiswayo, omphakamisayo kanye nomesekayo bese libuyiselwa esikoleni ezinsukwini eyishumi nane (14) ngaphambi kosuku lomhlangano wokwenza iziphakamiso futhi kumele lihambisane nemininingwane

eshiwo ebinzaneni 21(7).

- (4) Ngesikhathi kuqhubeka umhlangano wokwenza iziphakamiso, isiKhulu esengamele uKhetho esikoleni sihambisane nebinza elimaqondana nekhoramukanye nohlelo lokwenziwa kweziphakamiso elichazwe ebinzeneni 13 no14 silandele isigaba somthetho esiphathelene nekhoramukanye nenqubo yokwenza iziphakamiso okushiwo ezigabeni zomthetho 13 no 14 ngokulandelana.
- (5) Ophakanyiswayo angaphakanyiswa futhi esekwe kuphela umuntu osohlakeni olufanayo nalolo alumele lowo omphakamisayo
- (6) IsiKhulu esengamele uKhetho esiKoleni kumele siqinisekise ukuthi noma yimuphi omunye umuntu ofaneleke ukuphakanyiswa futhi ofisa ukuphakanyiswa unelungelo lokuba yingxenye yenqubo yokwenza iziphakamiso futhi lowo muntu kumele athumele imininingwane yakhe ekhombisa –
  - (a) igama lakhe nesibongo;
  - (b) amagama namabanga ezingane zakhe ezifunda kuleso sikole;
  - (c) umsebenzi awenzayo kanye nekhono analo kumbe isipiliyoni
  - (d) umbiko oshoyo ukuthi uyafaneleka ukuba yilungu lesigungu esilawula isikole njengalokhu kuchaziwe ebinzeneni 4; kanye
  - (e) nombiko wakhe obalula umthelela angaba nawo esikoleni.
- (7) Emhlanganweni wokwenziwa kweziphakamiso; isiKhulu esengamele uKhetho esiKoleni kumele sicele ukuba sihlizekwe ngemininingwane yabo bonke abaphakanyisiwe.
- (8) Emva kokwenziwa kweziphakamiso isiKhulu esengamele uKhetho esiKoleni kumele sicubungule iziphakamiso bese sichitha ukuphakanyiswa kwanoma yimuphi ophakanyisiwe –
  - (a) isiphakamiso sakhe esingasekwanga;
  - (b) ongafanelekile ukuqokelwa elinye ihlandla;
  - (c) ongaligcwalisanga ifomu ngendlela efanele nongayilethanga imininingwane edingekayo;
  - (d) ongakhombisanga intshisekelo yokuba yingxenye yesigungu esilawulayo.
- (9) Uma isibalo sabaphakanyisiwe singaphansi kwesibalo samalungu adingekayo esigungwini esilawula isikole kumele kuthunyelwe isaziso kubazali futhi kucelwe ukuba kuphakanyiswe amanye amagama.
- (10) Uma isibalo sabaphakanyisiwe silingana nesibalo samalungu adingekayo esigungwini esilawula isikole, isiKhulu esengamele uKhetho esiKoleni kumele simemezele ngokusemthethweni bonke abaphakanyisiwe njengamalungu aqokiwe futhi simemezele ukuthi usuku lokhetho alusenasingo.
- (11) Uthishanhloko kumele ezinsukwini eziyisikhombisa (7) emva kokwenziwa kweziphakamiso, abhalele abazali abazise ngomphumela womhlangano wokuphakanyiswa kwamagama obalulwe ebinzaneni (10) futhi azise abazali ukuthi usuku lokhetho alusenasingo.
- (12) Uma isibalo sabaphakanyisiwe singaphezu kwesibalo samalungu adingekayo esigungwini esilawula isikole, uthishanhloko kumele azise abazali ngokubabhalela abazise amagama kanye nemininingwane echaza abaphakanyisiwe. Emva kwalokho kuyobe sekubanjwa ukhetho losuku lonke lapho kuyovotwa ngokuyimfihlo.
- (13) Uthishanhloko kumele kusasele okungenani izinsuku eziyisikhombisa kube wusuku lokhetho akhangise imininingwane yabaphakanyisiwe endaweni okuyobanjelwa kuyona ukhetho losuku lonke.

- (14) Akekho umuntu oyoza ukuhlela inqubo yokwenza iziphakamiso ngendlela yokuthi kuphakanyiswe isibalo samalungu adingekayo kuphela ukuze kugwenywe ukhetho futhi nanoma yisiphi isenzo esinjalo siyothathwa njengokungalandelwa kwenqubo esemthethweni njengoba kuchaziwe ebinzeni 30.

### Ukuvota Okhethweni Losuku Lonke

22. (1) Isaziso sokhetho oluyobanjwa usuku lonke kumele sithunyelelwe abazali ezinsukwini eziyishumi nane (14) emva komhlangano wokwenziwa kweziphakamiso.

- (2) Kuyovotwa ngokuyimfihlo futhi kumele kusetshenziswe lenqubo yokuvota elandelayo–

- (a) bonke abantu abafaneleke ukuvota amagama abo avela ohlwini lwabavoti ayabhekwa bese eyaphawulwa ngokuwadwebela ohlwini lolo;
  - (b) abavoti abadinga usizo kuhlenganisa kodwa kungacini nje ngabantu abadala, abantu abaphila nokukhubazeka noma omama abakhulelwe kumele basizwe ngaphandle kokubandlulula abanye abavoti;
  - (c) abavoti amagama abo angaveli ohlwini lwabavoti lwaleso sikole ngeke bavunyelwe ukuvota;
  - (d) ukuqinisekisa ukulandelwa kwenqubo yokuvota kwenziwa kubo bonke abavoti abafanelekile abafike endaweni okuvotelwa kuyona (njengokuthi igama lomvoti liyadwetshelwa ohlwini lwabavoti);
  - (e) abavoti abangakwazi ukufeza zonke izidingo zokhetho ngeke bavunyelwe ukuvota;
  - (f) bonke abavoti banikezwa amaphepha okuvota afanele;
  - (g) izicelo zosizo ezenziwe abavoti abangakwazi ukuzifakela uphawu lokuvota ephapheni lokuvota ngenxa yanoma yisiphi isizathu kumele kubhekwane nazo ngokushesha;
  - (h) uhlelo lokuvotisa kanye nezisebenzi ezivotisayo kuqashwa ngendlela yokuthi kuhlinzekwa imininingwane eyanele neyiqiniso ukuze kugcinwe kahle konke okuqhubekayo futhi ukuze kube lula ukungenelela ngesikhathi uma kunesidingo futhi ehlinzeka ukugcinwa kwemininingwane kanye nokuvumela ukungenelela ngokushesha uma kunesidingo;
  - (i) ukuphikisa kwabavoti kubhalwa phansi bese kuthathwa isinqumo ngakho ngokulandela uhlelo lokuxazulula ukushayisana kwemibono;
  - (j) ukuxhumana ngendlela efanele phakathi kwabavoti,abasebenzi nanoma yibaphi abanye ababambe iqhaza, abangeyona ingxenye yokhetho, ukuze kuhlonishwe isithunzi somuntu kanye nokuqhakambisa ukubekezelelana;
  - (k) izinkinga ezikhona nezingaba khona kumele zihlonzwe futhi zicutshungulwe ngokuthi zingaba namuphi umthelela okhethweni kanye nasezisombululweni;
  - (l) ukuxazululwa kwezinkinga kuya ngokubhekwa kwesimo futhi kufanele ukuthi kubhekanwe nezingkinga ngokushesha;
  - (m) indlela yokuxazulula izinkinga ayikhuthaze ukusebenza kahle kwesiteshi sokuvota, kufezekise umgomo wokhetho olukhululekile nolungachemile futhi akumele nangaphansi kwanoma yisiphi isimo kuphucwe ilungelo lokuvota umvoti onelungelo lokuvota; futhi
  - (n) uhlelo nenqubo yokuvota kuvulelekile ezingqaphelini zokhetho eziqokwe ngokusemthethweni ngabazali;
- (3) Isikhulu esengamele uKhetho esiKoleni singakha elinye isu uma lingekho ibhokisi lamavoti elisemthethweni. Ibhokisi lokufaka amavoti kumele livalwe ngemva kokuthi abaqaphi sebeqinisekisile ukuthi alinalutho.

### Ikhoramu Yokhetho Yosuku Lonke

23. (1) Isikhulu esengamele uKhetho esiKoleni kumele sinqume isikhathi sokuqala nesokuvala kokuvota futhi kumele sazise abazali ngalezo zikhathi.



- (2) IsiKhulu esengamele uKhetho esiKoleni kumele siqinisekise ukuthi amaphepha okuvota okuvotiwe kuwona alingana namaphesenti ayishumi nanhlanu-(15) ekhoramu adingekayo ukuze kuqalwe ukubalwa kwamavoti.
- (3) Uma ukhetho lungawahlanganisanga amaphesenti ayishumi nanhlanu-(15) ekhoramu adingekayo ukubalwa kwamaphepha okuvota akumele kuqale. Uma kunjalo kumele uthishanhloko wesikole anqume olunye usuku lokhetho oluyothatha usuku lonke futhi lolo suku kumele lwaziswe umgwamanda wabazali zingakapheli izinsuku eziyisikhombisa (7) kusuka osukwini lokuvota oluthathe usuku lonke.
- (4) Iziphakamiso ezibhalwe phansi ezamukelwa ngaphambi kokuchithwa kwalolo khetho losuku lonke zizofakwa nazo zihlanganiswe nanoma yiziphi ezinye ezintsha ezibhaliwe eziyokwamukelwa ngesikhathi kuhlelwa kabusha olunye usuku lokuvota oluyothatha usuku lonke.
- (5) Ukhetho olulandelayo oluyothatha usuku lonke kumele lubanjwe ezinsukwini eziyishumi nane-(14) kusukela ngosuku okuhlehliswe ngalo ukhetho.
- (6) Ngosuku lokhetho lwesibili, kumele ukubalwa kwamaphepha okuvota kuqhubeke emva kokuvalwa kokuvota noma ngabe ikhoramu ihlangene noma ayihlangananga.

### Ukubalwa Kwamaphepha Okuvota

24. (1) Uma isiteshi sokuvota sihlanganise amaphesenti ayishumi nanhlanu-(15) noma uma kuwusuku lokhetho lwesibili oluthathe usuku lonke, kumele isiKhulu esengamele uKhetho esiKoleni siqinisekise ukuthi –
  - (a) ukubalwa kwamavoti kuvulekile nasezingqaphelini nakulabo abebengenele ukhetho;
  - (b) konke ukungavumelani mayelana nokubalwa kwamavoti kubhalwa phansi ngendlela efanele;
  - (c) igama lalowo nalowo obengenele ukhetho kanye nenani lamavoti awatholile kumenyenzelwa kakhulu ukuze kuzwe izingqapheli;
  - (d) ifomu elibhalwe izibalo zamaphepha okuvota liyagcwaliswa; futhi
  - (e) nepheshana lemiphumela lisayiniwe.
- (2) IsiKhulu esengamele uKhetho esiKoleni kumele silinqabe iphepha lokuvota –
  - (a) elingenaso isitembu sesikole noma uphawu oluhlonza isikole;
  - (b) elineziphambano (x) eziningi eziqoshiwe ezingaphezu kwezikhala ezisesigungwini esilawula isikole;
  - (c) elinegama lomuntu kumbe abantu abangaphakanyisiwe; noma
  - (d) eligcwaliswe ngendlela engacacisi kahle ukuthi kuvotelwa bani ophakanyisiwe kumbe obani abaphakanyisiwe
- (3) Uma isibalo samavoti abantu abaphakanyisiwe ababili noma ngaphezulu elingana futhi sithikameza imiphumela yokhetho, isiKhulu esengamele uKhetho esiKoleni siyoqinisekisa, ngokucosha iphepha noma ngokuphonsa uhlamvu lwemali, bese kunqunywa ukuthi ubani onqobayo ngokuthi uhlamvu lwemali luwele ngakuluphi uhlangothi. Lokhu kuxazululwa kokubambana kumele kwenziwe ngokusobala nangesivumelwano salabo abangenele ukhetho.
- (4) Uma isiKhulu esengamele uKhetho esiKoleni sesinqabe iphepha lokuvota njengoba kushiwo ebinzeni (2), isiKhulu esengamele uKhetho esiKoleni kumele sichazele bonke abangenele ukhetho abakhona futhi kumele sibanike ithuba lokuhlola iphepha lokuvota elinqatshiwe uma befisa.

- (5) Noma yimuphi ongenele ukhetho angasiphikisa isinqumo sesiKhulu esengamele uKhetho esiKoleni sokubalwa kwamavoti noma sokunqaba iphepha lokuvota, yize kunjalo, isiKhulu esengamele uKhetho esiKoleni esiyothatha isinqumo esiwujuqu.
- (6) Imininingwane emaqondana nalokho kuphikisa kumele ibhalwe ngemuva kwephepha lokuvota okuphikiswana ngalo futhi kuvele nasembikweni emaqondana nokhetho oyobhalwa yisiKhulu esengamele uKhetho esiKoleni.
- (7) Uma kwenzeka kuba nokungeneliseki ngokuthi iSikhulu esengamele uKhetho esiKoleni siyehluleka ukuxazulula okuthile, kumele kulandelwe inqubo yokuxazulula ukushayisana kwemibono okuchazwe ebinzeni 30.
- (8) Isikhulu esengamele uKhetho esiKoleni kumele sazise abangenele ukhetho kanye nezingqapheli imiphumela futhi simemezele labo abathole amavoti amaningi abaqokelwe ukuba amalungu esigungu esilawula isikole futhi sazise ngokusemthethweni ngendlela efanele labo abadle umhlanganiso.
- (9) Wonke amaphepha aphathelene nokhetho kumele isiKhulu esengamele uKhetho esiKoleni siwabhale ngokucacile futhi kumele sibhale usuku lokhetho kanye nakho konke okuqokelwe kulawo maphepha futhi lawo maphepha kumele agcinwe ephephile esikoleni okungenenani kuze kuphele ihlandla lokusebenza kwaleso sigungu esilawula isikole.

#### **Iziphakamiso Zokhetho Oluyobanjwa Usuku Lonke Ngaphansi Kwemigomo ye-Covid-19**

25. (1) Uma isikole sinikwe imvume yiNhloko yoMnyango yokubamba ukhetho usuku lonke ngaphansi kwemigomo ye-Covid-19, lolu hlelo lokuphakanyiswa kwamagama olulandelayo kumele lulandelwe –
  - (a) uthishanhloko kumele abhale isaziso esikhombisa ukuqala nokuphela kwesikhathi sokuphakanyiswa kwamagama kanye neminingwane ephathelene nokuphakanyiswa kwamagama kuhlanganisa kodwa kungagcini nje ngamafomu okwenza iziphakamiso kanye nesidingo sokuhlizekwa kweminingwane kanye nezithombe ezilingana nezamaphasiphothi kwabo bonke abangenele ukhetho;
  - (b) isaziso sesikhathi sokuphakanyiswa kwamagama abazali kumele sithunyelwe futhi sikhangiswe ezindaweni ezigqamile esikoleni nasemphakathini okungenani kusasele izinsuku ezingamashumi amabili nanye-(21) ngaphambi kosuku lokhetho;
  - (c) uthishanhloko kumele akhiphe izaziso zesikhathi sokuphakanyiswa kwamagama kanye namaformu okumele agcwaliswe ngokugcwele umuntu ophakanyisiwe, omphakamisile kanye noweseka leso siphakamiso;
  - (d) ifomu lokuphakamisa amagama kumele ligcwaliswe libuyiselwe esikoleni kusasele izinsuku eziyishumi nane-(14) ngaphambi komhlangano wokhetho neminingwane kanye nezithombe (uma kungekho ukuphikisana ngokulethwa kwezithombe) zalabo abazongenela ukhetho;
  - (e) uthishanhloko wesikole kumele agcine irejista layo yonke imibhalo yeziphakamiso etholakele futhi kumele ibhalwe usuku nesikhathi okufike ngaso;
  - (f) okunye okuyinqubo okudingekayo okusele okusebenza emhlanganweni wokuphakanyiswa kwamagama oyobanjwa usuku lonke njengoba kubekwe ebinzeni 20 ngasenhla kuyosebenza ngendlela edingekayo uma kukhethwa abazongenela ukhetho ngaphansi kwemigomo ye-Covid-19;

- (g) ukucutshungulwa kweziphakamiso kumele kwenziwe yisiKhulu esengamele uKhethe esiKoleni kanye nethimba lokhethe bese kuthi owenza isiphakamiso, owesekayo noma ophakanyiswayo angaqapha lolo hlelo.

### Ukulungela Ukhetho Ngaphansi Kwemigomo ye-Covid-19

26. (1) Uma sekuthathwe isinqumo sokuqhubeka nokuvota ngesikhathi kunobhubhane lwe-Covid-19 uthishanhloko wesikole kumele aqinisekise ukuthi –
- (a) isisebenzi sezempilo sasemtholampilo wendawo esisebenzisana nesikole siba khona usuku lonke esiteshini sokuvota ngasinye;
  - (b) ngakho konke okusemandleni akhuthaze abazali babafundi abayizisebenzi zezempilo ukuthi balekelele futhi beseke isikole ngokhethe;
  - (c) abazali abasiza isikole bayaziswa ukuthi bayoba nelungelo lokuvota njengabo bonke abanye abazali.
- (2) Ukhetho lwesigungu esilawula isikole luyokweseka imithethonqubo ye-Covid-19 ngokuqinisekisa ukuthi –
- (a) isibalo sabantu abavumelekile ngokwezinga lomvalelakhaya (lockdown) elisebenzayo ngesikhathi sokhethe esivumelekile esiteshini sokuvota futhi kuyosebenza imithetho elawula imihlangano ngokwezinga lomvalelakhaya (lockdown) elisebenzayo;
  - (b) ithimba lokhethe akumele libe nabantu abangaphezu kwabahlanu futhi ithimba aliyona ingxenye yesibalo sabantu abavunyelwe ngokwezinga lomvalelakhaya (lockdown) elisebenzayo elishiwo ebinzaneni 2(a) ngenhla;
  - (c) ithimba lokhethe kudingeka ukuthi ligqoke iziMpahla zokuziVikela okumele kube yimaskhi, ivayza kanye namagilavu;
  - (d) yonke impahla edingekayo okhethweni kumele ifuthwe ngesibulala magciwane ekuseni ngosuku okuyobanjwa ngalo ukhethe ngaphambi kokuthi kufike abavoti;
  - (e) kunomuntu ome lapho kungenwa esiteshini sokuvota ohlola izinga lokushisa emzimbeni (temperature) lawo wonke umuntu ongena endaweni yokuvota kuhlenganisa nethimba lokhethe;
  - (f) kumele kunqunywe ibanga lokuqhelelana futhi ngaso sonke isikhathi wonke umuntu kumele aqhele ngemitha noma ngamamitha amabili kumuntu amlandelayo;
  - (g) kumele kube nemithi yokuhlaza izandla-(*hand sanitizer*) lapho kungenwa khona esiteshini sokuvota kanye nomuntu ohlodayo ozoqinisekisa ukuthi wonke umuntu uyayisebenzisa le mithi yokuhlaza izindla
  - (h) akekho umuntu oyongena engayigqokile imaskhi nanoma yini yokuzemboza eqinisekisa ukuthi ikhala nomlomo kumboziwe ukunciphisa ukubhehetheka kwegciwane le-Covid-19;
  - (i) igunjana okuvotelwa kulo kumele lifuthwe ngesibulala magciwane-ngemva kokuthi umuntu elisebenzisele ukuvota;
  - (j) umhlangano wokhethe ngaphandle kokubala amavoti akumele udlule isikhathi esinqunyiwe sokubamba imihlangano ngokwemithetho esebenza emihlanganweni ngokwezinga lomvalelakhaya (lockdown) elisebenzayo;
  - (k) umvoti kuphela oyovunyelwa endaweni yokuvota futhi kumele acelwe ukuthi aphume emva kokuthi esevotile;
  - (l) noma yimuphi umuntu ongahloniphi lemigomo ye-Covid-19 lapho kungenwa khona akumele avunyelwe ukuthi angene endaweni yokuvota futhi uma kunomuntu ongayihloniphi imigomo esendaweni yokuvota, lowo muntu kumele acelwe ukuthi aphume endaweni yokuvota;
  - (m) yize kufakwe imigomo ebalulwe emabanzaneni 2(a) kuya ku (l), imigomo esebenza ezingeni lomvalelakhaya (lockdown) elisebenzayo nayo iyosebenza.

- (3) Imisebenzi yesiKhulu esengamele uKhetho esiFundazweni mayelana nokulandela imigomo ye-Covid-19 phakathi kokunye –
- (a) ukuqinisekisa ukuthi imigomo ye-Covid-19 efanele yenziwa ingxenye yohlelo lokhetho futhi ifakwa kuzo zonke izaziso ezilawula ukubanjwa kokhetho;
  - (b) ukuqinisekisa ukuthi isiKhulu esengamele uKhetho esiFundeni ngasinye siqeqeshiwe ngemithethonqubo ye-Covid-19;
  - (c) ukuthumela imithethonqubo ye-Covid-19 esiKhulwini soKhetho sesiFunda;
  - (d) ukuqinisekisa ukuthi ngaphambi kokhetho zonke izifunda zilethelwa iziMpahla zokuziVikela ezizidingayo;
  - (e) ukuqinisekisa ukuthi zonke iziNsiza zokuQapha zesiFundazwe ezidingekayo ngokhetho ziyahambisana nemigomo ye-Covid-19;
  - (f) ukuthi iziKhulu zoKhetho zeziFunda zinesibopho sokuphendula ngokuhluleka ukulandela imigomo ye-Covid-19.
- (4) Imisebenzi yesiKhulu soKhetho sesiFunda mayelana nokulandela imigomo ye-Covid-19 phakathi kokunye –
- (a) ukuqinisekisa ukuthi iziKhulu ezengamele uKhetho eziKoleni ziqeqeshiwe ngemithethonqubo ye-Covid-19;
  - (b) ukuthumela imithethonqubo ye-Covid-19 kuzo zonke izikole ezisesiFundeni saso;
  - (c) ukuqinisekisa ukuthi ngaphambi kokhetho zonke izifunda zilethelwa iziMpahla zokuziVikela ezizidingayo;
  - (d) ukuqinisekisa ukuthi iziKhulu ezengamele uKhetho eziKoleni zinesibopho sokuphendula ngokuhluleka ukulandela imigomo ye-Covid-19;
  - (e) ukuqinisekisa ukuthi ezinsukwini eziyisikhombisa ngaphambi kokhetho, izikole zigcwalisa futhi ziletha amafomu adingekayo eHhovisi leSekethe isikole esingaphansi kwayo akhombisa ukuthi isikole sesizilungiselele maqondana nemigomo ye-Covid-19 okumele ilandelwe;
  - (f) ukuqinisekisa ukuthi noma yisiphi isikole esingalandeli imigomo ye-Covid-19 sinikezwa isaziso esisivimbelayo ukuthi siqhubeke nokhetho kuze kube senza okufanele ukuhambisana nemigomo ye-Covid-19;
  - (g) senze uhlu lwazo zonke izikole ezingakulungele ukubamba ukhetho bese sithumela lolo luhlu esiKhulwini soKhetho sesiFundazwe;
  - (h) sithathe zonke izinyathelo ezifanele ukusiza izikole ukuthi zilandele imigomo ye-Covid-19.
- (5) Imisebenzi yesiKhulu esengamele uKhetho esiKoleni mayelana nokulandela imigomo ye-Covid-19 phakathi kokunye –
- (a) ukucela isikole esinesibopho sokubamba ukhetho kuso, ukuthi silethe kusasele izinsuku eziyishumi nane(14) ngaphambi kosuku lokhetho ubufakazi bokuthi siyilandele yonke imigomo ye-Covid-19 futhi sikulungele ukuqhubeka nokhetho;
  - (b) ukuqinisekisa ukuthi ithimba loKhetho lesiKole liqeqeshiwe ngemithethonqubo ye-Covid-19;
  - (c) ukuqinisekisa ukuthi ithimba loKhetho lesiKole linolwazi ngemigomo ye-Covid-19;
  - (d) ukuqinisekisa ukuthi ithimba loKhetho lesiKole lineziMpahla zokuziVikela elizidingayo zokuqhuba ukhetho;
  - (e) ukuqinisekisa ukuthi wonke amalungu anesibopho sokuphendula ngokungalandeli imigomo ye-Covid-19;
  - (f) ukubhala umbiko ngokuthi indawo okuzovotelwa kuyona ikulungele yini ukubamba ukhetho bese siwuthumela kumdidiyeli woKhetho wesiFunda kusasele izinsuku eziyishumi nane(14) ngaphambi kokhetho; futhi
  - (g) ukuzijwayeza yonke imithethonqubo ye-Covid-19;
  - (h) siqinisekise ukuthi uthishanhloko wesikole ubuza imibuzo efanele ezinsukwini eziyisikhombisa (7) ngaphambi kokhetho ukuqinisekisa ukuthi bonke abazongenela ukhetho bafanelekile;
  - (i) ukuqinisekisa ukuthi imvume ebhalwe phansi itholakele kubo bonke abaphakanyisiwe ngokwe-POPIA

- ukuze kukhangiswe imininingwane yabo nezithombe zabo endaweni egqamile lapho kuvotelwa khona;
- (j) ukuqinisekisa ukuthi yonke imigomo yokuqhelelana kwabantu iyagcinwa ngaso sonke isikhathi;
  - (k) ukuqinisekisa ukuthi isibalo sabantu abavunyelwe kuphela ngokwezinga lomvalelakhaya elisebenzayo ngesikhathi sokhetho;
  - (l) ukuqinisekisa ukuthi kunezikhulu zokhetho ezingeqile kwezinhlanu noma yingasiphi isikhathi endaweni okuvotelwa kuyona;
  - (m) ukuqinisekisa ukuthi bonke abavoti bayaphuma endaweni okuvotelwa kuyona ngemva kokuthi sebevotile nokuthi abangenele ukhetho kuphela abasalayo ngesikhathi kubalwa amavoti;
  - (n) ukuqinisekisa ukuthi ngaphambi kokuthi kubalwe kunekhoramu edingekayo ngokwalesi saziso. Uma ikhoramu ingahlangani isikhulu sokhetho sesikole siyocela uthishanhloko ukuthi ahlele olunye usuku lokuvota.

### Impahla Yokuzivikela Edingekayo Esiteshini Sokuvota Ngasinye

27. (1) Isiteshi sokuvota ngasinye kumele sibe nale mpahla yokuzivikela –

- (a) okungenani umshini ohlola izinga lokushisa emzimbeni (thermometer) owodwa osebenzayo;
- (b) umuthi wokuhlaza izandla (*hand sanitizer*);
- (c) insipho ewuketshezi;
- (d) amagilavu okuzivikela kwi-Covid-19;
- (e) amanzi agelezayo ampompi noma ethangi;
- (f) okungenani amamaskhi asetshenziswa alahlwe ayizipele angamashumi amahlani(50);
- (g) ithawula eliyiphepha;
- (h) imigqomo eseduze nesendaweni ebonakalayo egunjini okuvotelwa kulo;
- (i) ikhophi yeMithethonqubo ye-Covid-19 ebekwe lapho bonke abavoti bezoyibona khona endaweni okuvotelwa kuyona;
- (j) kuhlinzekelwe ukuthi ukhetho luqhubekwe noma ngabe kuhamba ugesi.

### UKUVOTA KUSETSHENZISWA UBUXHAKAXHAKA BEZOBUCHWEPHESHE

28. (1) Ukhetho Olwenziwa Ngobuxhakaxhaka Bezobuchwepheshe

- (1) Uthishanhloko kumele afake isicelo sokubamba ukhetho olwenziwa ngobuxhakaxhaka bezobuchwepheshe eNhlokweni yoMnyango.
- (2) Kumele kuthunyelwe isicelo eNhlokweni yoMnyango kufakwe nemibhalo ewubufakazi neyeseke isicelo ngokugcwele.
- (3) Isicelo siyocutshungulwa yiNhloko yoMnyango kuphela uma igculisekile ukuthi -
  - (a) kwenziwe ucwaningo lwesikole futhi iningi labavoti abasohlwini lwabavoti livumelana nohlelo lokuvota ngobuxhakaxhaka bezobuchwepheshe;
  - (b) zonke izikole zinengqalasisinda yokusiza abazali abangakwazi ukuba yingxenywe yohlelo lokuvota ngobuxhakaxhaka bezobuchwepheshe;
  - (c) kwenziwe inhlinzeko yokusiza abazali abadinga usizo ngohlelo;
  - (d) akukho mzali isikole esimncisha ithuba lokuvota ngokukhetha ukuvotisa ngobuxhakaxhaka bezobuchwepheshe;

- (e) ithimba lokhetho lesikole liyakwazi ukuvotisa ngobuxhakaxhaka bezobuchwepheshe;
- (f) nokuthi isikole sisebenzisa uhlelo oluzocina ngokuphephile yonke imininingwane uma umuntu eqeda ukuvota.

**(2) Ukuvota Kusetshenziswa Ubuxhakaxhaka Bezobuchwepheshe – Okuyodingeka Uma Kuvotwa**

- (1) Ukuphakanyiswa kwamalungu kumele kwenzekwe ngokuhambisana nenqubo ebekwe kulesi saziso ephathelene nokhetho oluyobanjwa usuku lonke.
- (2) Isikhulu esengamele uKhetho esiKoleni kumele sisungule isiteshi sokuvota ngobuxhakaxhaka bezobuchwepheshe lapho kuyovotwa khona ngobuxhakaxhaka bezobuchwepheshe.
- (3) Ukuvota ngobuxhakaxhaka bezobuchwepheshe nokuvota ngobuxhakaxhaka bezobuchwepheshe ukude kumele kwenziwe ngosuku, ngesikhathi nasendaweni eyonqunywa yisikhulu esengamele uKhetho esiKoleni.
- (4) Uthishanhloko kumele okungenani kusasele izinsuku eziyishumi nane (14) ngaphambi kosuku lokhetho lobuchwepheshe –
  - (a) azise abavoti, ngolimi oluzwakalayo nolucacile, ngendlela ukhetho oluzoqhutshwa ngayo, kanye nanoma yiziphi izinyathelo umvoti angazithatha ukuze abambe iqhaza futhi avote;
  - (b) ahlinzeke ngohlu olusemthethweni lwe software ezosetshenziswa okhethweni lobuchwepheshe. Kufanele okungenani aqagule isoftware ezosetshenziswa noma ayichaze kafushane.
- (5) Ukuvota ngobuxhakaxhaka bezobuchwepheshe ukude ngeke kuqale ngaphambi kwesikhathi sokuvula kwesiteshi sokuvota ngobuxhakaxhaka bezobuchwepheshe esikoleni. Ukuvota ngobuxhakaxhaka bezobuchwepheshe ukude ngeke kuqhubekwe ngemva kokuphela kwesikhathi sokuvota esiteshini sokuvota ngobuxhakaxhaka bezobuchwepheshe esikoleni.
- (6) Ngaphambi kokuqala kokuvota esiteshini sokuvota ngobuxhakaxhaka bezobuchwepheshe, isikhulu esengamele uKhetho esiKoleni siyozigculisa ukuthi uhlelo lokuvota ngobuxhakaxhaka bezobuchwepheshe lusebenza ngendlela efanele nokuthi ezokuphepha ezishiwo kulesi saziso zimi ngomumo.
- (7) Enkundleni yokuvota ngobuxhakaxhaka bezobuchwepheshe ngayinye, izinhlelo zokwesekwa nosizo ngenqubo yokuvota, kuyohlelelwa abavoti futhi kutholakale kubavoti. Uma kuvotwa ngobuxhakaxhaka bezobuchwepheshe ukude, lezo zinhlelo ziyotholakala nangenye inkundla ehlukile edumile yezokuxhumana.
- (8) Isikhulu esengamele uKhetho esiKoleni siyoqinisekisa ukuthi –
  - (a) i-*software* efanele kanye nezinsiza kungasetshenziswa yiyo bonke abavoti;
  - (b) abavoti bahlinzekwa, uma kunesidingo noma uma kungenzeka, ngezinye izinsiza, njengezinye izindlela zokuxhumana noma ngokuhlinzekwa ngosizo oluqondene ngqo nomuntu ngamunye.
- (9) Kumele kube nokulingana ngendlela okubekwa ngayo izindlela ezahlukene zokuvota kulowo mshini osetshenziselwa ukuvota ngobuxhakaxhaka bezobuchwepheshe.

- (10) Uhlu lwabaphakanyisiwe kumele okungenani luveze –
- igama lophakanyisiwe;
  - ibanga ingane yophakanyisiwe ekulona;
  - umsebenzi owenziwa ophakanyisiwe, nesipiliyoni anaso namakhono anawo;
  - umbono wesikole, futhi kumele lutholakale bese lethulwa ngokulingana kuzo zonke izinhlelo zokuvota ngobuxhakaxhaka bezobuchwepheshe futhi luvuleleke kuwonkewonke ngezinye izindlela ngaphambi kosuku lokuvota ngobuxhakaxhaka bezobuchwepheshe.
- (11) Isikhulu esengamele uKhethe esiKoleni kumele siqinisekise ukuthi uhlelo lokuvota ngobuxhakaxhaka bezobuchwepheshe lunephepha lokuvota oluyilonalona elizosetshenziswa umvoti. Uma evota ngobuxhakaxhaka bezobuchwepheshe ekude, umvoti uyokwaziswa ngendlela eqinisekisa ukuxhumana neseva esemthethweni nokuthi iphepha lokuvota oluyilonalona selethuliwe.

**(3) Imicikilisho Edingekayo Yohlelo Lokuvota Ngobuxhakaxhaka Bezobuchwepheshe**

- Ukuze kuqinisekiswa ukhethe lwentandoyeningi, izinhlelo zokuvota ngobuxhakaxhaka bezobuchwepheshe kumele kube lula kubavoti ukuzisebenzisa nokuziqonda.
- Uhlelo lokuvota ngobuxhakaxhaka bezobuchwepheshe kumele luqinisekise ukufaneleka komvoti ngaphambi kokuthi avote.
- Uhlelo lokuvota ngobuxhakaxhaka bezobuchwepheshe luyiqinisekisa umvoti futhi luyiqinisekisa ukuthi umvoti uvota kangaki nokuthi lawo mavoti agcinwa ebhokisini lamavoti.
- Uhlelo lokuvota ngobuxhakaxhaka bezobuchwepheshe kumele luqinisekise ukuthi okukhethwe umvoti kuyikho nokuthi ivoti elivaliwe lingena ebhokisi lokuvota.
- Uhlelo lokuvota ngobuxhakaxhaka bezobuchwepheshe luyiqinisekisa ukutholakala nobuqotho bamavoti. Luyogcina nobumfihlo bamavoti liwagcine evaliwe kuze kube yisikhathi sokubala.
- Emva kokuphela kwesikhathi sokuvota, akekho umvoti oyovunyelwa ukungena ohlelweni lokuvota ngobuxhakaxhaka bezobuchwepheshe.
- Uhlelo lokuvota ngobuxhakaxhaka bezobuchwepheshe luezindlela zokugcina ukusebenza kwalo ngezikhathi kuvotwa ngobuxhakaxhaka bezobuchwepheshe.
- Isikhulu esengamele uKhethe esiKoleni siyoqoka okungenani umuntu oyedwa, onobungoti, oyokwazi ukungena engqalasizindeneni equkethe uhlelo neminingwane yokhethe. Imicikilisho yemisebenzi esemqoka iyokwenziwa yilowo muntu. Lowo muntu uyoqinisekisa ngakho konke okusemandleni ukuthi leyo misebenzi yenziwa ngemva kwesikhathi sokhethe.
- Uhlelo lokubala –
  - luyobala amavoti ngendlela efanele futhi ukubalwa kwamavoti kungafanekiswa;
  - luyiqinisekisa ukutholakala nobuqotho bebhokisi lamavoti kanye nemiphumela yohlelo lokubala isikhathi esilingana nesokuba sesikhundleni kwesigungu esilawula isikole;
  - luyohlinzeka indlela yokuthi kuphinde kuhlolwe futhi kuqinisekiwe ukusebenza ngendlela efanele kohlelo lokuvota ngobuxhakaxhaka bezobuchwepheshe, neyokuqinisekisa ubuqiniso bemiphumela, eyokwazi ukubona ukukhwananisa, ukuthi umvoti oyedwa uvote kaningi nokuqinisa ukuthi wonke amavoti abaliwe okuyiwonawona nokuthi wonke amavoti abaliwe;

(d) luyohlinzeka indlela yokuqinisekisa ukuthi ukhetho olwenziwa ngobuxhakaxhaka bezobuchwepheshe luhambe ngendlela ehlinzekwe ngokusemthethweni, inhloso kube kuwukuqinisekisa ukuthi imiphumela ikhombisa isithombe samavoti okuyiwonawona.

(10) Kuyocatshangiswa kahle, uma kusungulwa izinhlelo ezintsha uma ziqhathaniswa nezikhona, kuhlanganisa nalezo ezisebenzisa ubuchwepheshe obakhelwe ukusiza abantu abaphila nokukhubazeka.

### **Ukusebenza Kwalesi Saziso**

29. Ngaphandle uma kuhlinzekelwe ngenye indlela kulesi saziso konke okunye okuhlinzekelwe kulesi saziso okuphathelene nomhlangano wokhetho wezigungu ezilawula izikole kuyosebenza ezikoleni ezinquma ukuba nokhetho oluyobanjwa usuku lonke.

### **Ukuxazululwa Kokungaboni Ngaso Linye**

30. (1) IsiKhulu esengamele uKhetho esiKoleni siyothatha isinqumo ngazo zonke izindaba eziphathelene nokuphakanyiswa kwamagama nokhetho kuzo zonke izigaba.

(2) Konke ukungaboni ngaso linye okuphathelene nohlelo lokhetho kumele kubikwe esiKhulwini esengamele Khetho esiKoleni.

(3) IsiKhulu esengamele uKhetho esiKoleni siyozama ukuxazulula konke ukungaboni ngaso linye ngendlela enokungenzeleli nenobulungiswa. Isinqumo saso siyoba ujuqu.

(4) Umvoti noma umuntu obengenele ukhetho lwesigungu esilawula isikole ongagculisekile ngesinqumo sesiKhulu esengamele uKhetho esiKoleni angafaka isikhalo ngokubhalwe phansi esiKhulwini soKhetho sesiFunda ezinsukwini eziyisikhombisa (7) ngemva komhlangano wokhetho uma kunezinsolo zokuthi inqubo enqunyiwe ayilandelwanga ngokhetho.

(5) (a) Uma umvoti noma umuntu obengenele ukhetho lwesigungu esilawula isikole enolwazi mayelana nanoma yimuphi umkhonyovu ophathelene nokhetho ezinsukwini eziyisikhombisa (7) ngemva kokhetho, angazisa isiKhulu esengamele uKhetho esiFundeni ngokubhalwe phansi.

(b) Uma kulethwe isikhalo, nganoma yisiphi isizathu, sekudlule izinsuku eziyisikhombisa (7) kodwa zingakapheli izinsuku ezingamashumi ayisishiyagalolunye-(90) kubanjwe ukhetho, isiKhulu esengamele uKhetho esiFundeni kumele siphanye ngaleso sikhalo bese sithatha izinyathelo ezifanele.

(c) Noma yisiphi isikhalo esifike sekudlule isikhathi esiyizinsuku ezingamashumi ayisishiyagalolunye-(90) siyophenywa futhi sicutshungulwe uMqondisi wesiFunda uma eyalelwe yiNhloko yoMnyango ukuthi enze njalo.

(6) Uma sithola isikhalo noma ulwazi oluphathelene nomkhonyovu, isiKhulu esengamele uKhetho esiFundeni kumele siqoke isekela noma umsizi wesiKhulu esengamele uKhetho esiFundeni ukuthi enze uphenyo ezinsukwini eziyishumi nane (14) bese enza izincomo.

(7) IsiKhulu esengamele uKhetho esiFundeni, ngemva kophenyo singamemezela ukuthi ukhetho aluhambanga ngendlela esemthethweni singabe sesinquma ukuthi ukhetho lubanjwe kabusha uma sigculisekile ukuthi –

(a) inqubo ebeyibekiwe ayilandelwanga;

(b) kube nomkhonyovu ngesikhathi sokhetho;



- (c) umphumela wokhetho ubuzohluka ukube akubanga namkhonyovu noma ukube kulandelwe inqubo ebeyinqunyiwe.
- (8) Uma noma yimuphi umvoti noma lowo obengenele ukhetho lwesigungu esilawula isikole engagculisekile ngesinqumo sesiKhulu esengamele uKhetho esiFundeni, angadlulisela isikhalo mayelana naleso sinqumo eNhlokweni yoMnyango ezinsukwini eziyishumi nane (14) ethole lesi sinqumo esiKhulwini soKhetho esiFundeni.
- (9) INhloko yoMnyango kumele –
- ezinsukwini eziyisikhombisa (7) ithole isikhalo esidluliselwe kuyona, idlulisele lesi sikhalo esiKhulwini soKhetho sesiFundazwe;
  - icele isiKhulu soKhetho sesiFundazwe ukuthi siphanye futhi sibhale umbiko onezincomo ezinsukwini eziyishumi nane (14) lesi sikhalo esidluliselwe esiKhulwini soKhetho sesiFundazwe; futhi
  - sicubungule izincomo ezisembikweni oshiwo ebinzaneni (9)(b), sithathe isinqumo bese sazisa umuntu ofake isikhalo nesiKhulu soKhetho sesiFunda ngesinqumo saso ezinsukwini eziyishumi nane (14) sithole umbiko esiKhulwini esengamele uKhetho esiFundazweni.
- (10) Isinqumo seNhloko yoMnyango siyoba ujuqu.

### Inqubo Ngemva KoKhetho

#### 31. (1) Ngemva kokukhethwa kwamalungu esigungu esilawula isikole, uthishanhloko kumele

- ezinsukwini eziyisikhombisa kubanjwe umhlangano wokhetho, azise ngokubhalwe phansi, ilungu ngalinye eliqokiwe ngokuqokwa kwalo futhi lesi saziso kumele sithunyelwe ngesikhahlamezi (fax) ngeposi, nge-imeyli noma sihanjiswa ngesandla;
  - sazise isiKhulu soKhetho sesiFundazwe ngefomu elinqunyiwe ngokubhalwe phansi imininingwane yokhetho, kuhlanganisa nosuku lokhetho, amagama, izinombolo zomazisi, izinombolo zocingo, izinombolo zezikhahlamezi kanye namakheli awo wonke amalungu aqokiwe. Imvume yokuthumela leyo mininingwane kuwo wonke amalungu aqokiwe kumele itholakale ngaphambi kokuthi ithunyelwe;
  - afake yonke imibhalo kuhlanganisa namaphepha okuvota asetshenziswe kulolo khetho ezimvilophini bese evala lezo zimvilophi;
  - aqinisekise ukuthi yonke imibhalo ephathelene nokhetho igcinwa iyimfihlo endaweni ephethile okungenani kuze kuphele isikhathi sokuba sesikhundleni sesigungu esilawula isikole;
  - athumele kuMqondisi wesiFunda amakhophi emibhalo yokhetho ukuze awagcine kuze kuphele isikhathi sokuba sesikhundleni sesigungu esilawula isikole;
  - athumele kuMqondisi wesiFunda isimemezelo sokhetho esingaphikiswanga noma esichaza kabanzi ngokungaboni ngaso linye eFomini lokuMemezela uKhetho elinqunyiwe; futhi
  - azise uMqondisi wesiFunda nganoma yiziphi izinguquko ezimayelana nobulungu esigungwini esilawula isikole ezinsukwini eziyishumi nane (14) kwenziwe lezo zinguquko ukuqinisekisa ukuthi isizindalwazi (database) sinemininingwane okuyiyonayona.
- (2) (a) Uthishanhloko kanye noMqondisi wesiFunda bayoqinisekisa ukuthi yonke imininingwane yabantu equkethwe emibhalweni yokhetho nakweminye imibhalo ephathelene namalungu esigungu esilawula isikole igcinwe iphephile futhi iyimfihlo ukuze kuvikelwe imininingwane yabantu equkethwe kuleyo mibhalo.
- (b) Isizindalwazi semininingwane kumele sigcinwe lesi sikhathi ilungu liseyngxenywe yesigungu esilawula isikole futhi akumele sisetshenziselwe okunye ngaphandle kwemvume yalabo bantu.
- (c) Yonke imininingwane kumele igcinwe emakhabetheni akhiywayo.

**Ukhetho Lokuchibiyela**

32. (1) Isikhala esigungwini esilawula isikole sivela uma ilungu –

- (a) lisula ngokubhalwe phansi;
- (b) lidlula emhlabeni;
- (c) lingasafanelekile njengoba kushiwo ebinzeni 5;
- (d) liphutha emihlanganweni emibili noma ngaphezulu elandelanayo yesigungu esilawula isikole ngaphandle kokuxolisa ngokubhalwe phansi, kuncike ekutheni isimemo somhlangano sasithunyelwe ngendlela yini efanele kulelo lungu;
- (e) lisuswa esikhundleni ngokuhambisana nomgomo wokuziphatha oqukethwe ebinzeni 18A;
- (f) lingasangenzi ngaphansi kwesigaba samalungu elaliwamele ngesikhathi sokhetho.

(2) Isikhala kumele simenyazelwe uma isibalo sabafundi abathathiwe senyuke ngamaphesenti ayishumi noma ngaphezulu njengoba kushiwo ebinzeni 2(4)(a).

(3) Ukhetho lokuchibiyela kumele lubanjwe noma yinini uma –

- (a) isibalo samalungu angabazali esigungu esilawula isikole sincishiswa siba ngesilingana noma esingaphansi kwesibalo esihlanganisiwe samalungu esigungu esilawula isikole;
- (b) isibalo samalungu esigungu esilawula isikole sincishiswa siba ngaphansi kwesibalo sekhoramu eshiwo ebinzeni 13(1); noma
- (c) ilungu elisesigabeni samalungu esigungwini esilawula isikole esishiwo ebinzeni 24 lingasamelekile esigungwini esilawula isikole.

(4) Isikhulu esengamele uKhetho esiKoleni kumele sibambe ukhetho lokuchibiyela ezinsukwini ezingamashumi ayisishiyagalolunye-(90) kuvele isikhala.

(5) Uma isibalo sabazali noma yingasiphi isikhathi singaphansi kwesibalo esihlanganisiwe samanye amalungu anelungelo lokuvota, isigungu esilawula isikole, kusalindwe ukhetho lokuchibiyela, singangeza okwesikhashana amalungu angabazali.

(6) Uma kuvela isikhala ezinyangeni eziyisithupha ngaphambi kokuphela kwesikhathi sokuba sesikhundleni kwesigungu esilawula isikole, isikhulu esengamele uKhetho esiKoleni kumele sibambe ukhetho lokuchibiyela silandela inqubo ebekwe ebinzeni 11.

(7) Uma kuvela isikhala sekusele izinsuku ezingamashumi ayisishiyagalolunye (90) ngaphambi kokuphela kwesikhathi sokuba sesikhundleni kwesigungu esilawula isikole ngenxa yokuphuma kwelungu eliwumzali esigungwini esilawula isikole, amalungu asele esigungu esilawula isikole kumele engeze umuntu ukugcwalisa isikhala okwesikhashana leso esisasalele isigungu esilawula isikole.

(8) Ilungu elengeziwe elimele abazali elishiwo ebinzaneni (7) ngenhla lithatha amalungelo okuvota elungu eliphumile.

(9) Ilungu eliqokwe ngokwale ndima liba sesikhundleni isikhathi esisele sokuba sesikhundleni sophume esikhundleni kuncike ekutheni lisafanelekile yini.

**Isigungu Esilawula Izikole Ezimbili Noma Ngaphezulu**

33. (1) iLungu Lesigungu Esiphezulu linganquma ukuthi ukulawulwa kwezikole zikahulumeni kumele kube sezandleni zesigungu esilawula isikole esisodwa uma lokho kulungele ukufunda esikoleni esithintekayo.
- (2) iLungu Lesigungu Esiphezulu ngeke lenze okushiwo ebinzaneni (1) ngenhla ngaphandle uma –
- selikhiphe isaziso kwiGazethi yesiFundazwe ngenhloso yalo yokwenze njalo;
  - selinike izinhlangothi ezinentshisekelo ithuba lokwenza izethulo ezibhalwe phansi esikhathini esingangaphansi kwezinsuku ezingamashumi amathathu (30); futhi
  - selicubungule zonke iziphakamiso.

**Ukungafaneleki Nokukhishwa Esikhundleni kweLungu lesiGungu esiLawula Isikole**

34. (1) Ilungu lesigungu esilawula isikole, ngemva kokulandela inqubo efanele elitholakale linecala lokungaziphathi ngendlela efanele njengoba kushiwo eMgomweni wokuziPhatha wesiFundazwe wamalungu ezigungu ezilawula izikole ngokwebinza 18A kumele lithathwe njengelingasafanekile noma likhishwe esigungwini esilawula isikole.
- (2) Ukuze kufinyelelwe esinqumweni sokuthi ilungu alisafanekile noma likhishwe esikhundleni kumele kulandelwe inqubo efanele eshiwo ebinzaneni (1) ngenhla.

**Ukuhlakazwa KwesiGungu esiLawula Isikole**

35. (1) iLungu Lesigungu Esiphezulu lingahlakaza isigungu esilawula isikole uma –
- isikole singasebenzi ngendlela, sivaliwe, singahlelekile, sinobungozi ngokwezempilo noma singabeka engcupheni ukuphepha kwanoma yimuphi umuntu okuleso sikole;
  - kuhlanganiswa, kuvalwa, kuhlukaniswa isikole nanoma yikuphi okunye ukuhlelwa kabusha kwesikole;
  - ngemva kokucubungula konke okubekiwe libona ukuthi isigungu esilawula isikole asisamele umphakathi isikole esisungulelwe wona; noma
  - ngenxa yokungalawulwa ngendlela efanele, isikole singasebenzi ngendlela futhi nokufunda nokufundisa kungeke kusaqhubeka kuleso sikole.
- (2) Uma selicubungule isiphakamiso sokuthi isigungu sihlakazwe esesekwe amalungu angengaphansi kwamaphesenti ayishumi nanhlano-(15%) abazali abasohlwini lwabavoti emhlanganweni ojwayelekile wabazali, iLungu Lesigungu Esiphezulu lingahlakaza isigungu esilawula isikole.
- (3) iLungu Lesigungu Esiphezulu lingahlakaza isigungu esilawula isikole esihluleke ukuqinisekisa ukuthi isikole siyalawuleka, sisebenza ngendlela efanele, noma ngenxa yanoma yisiphi isizathu esisibona sifanele sicabangela ezemfundo esiFundazweni.
- (4) iLungu Lesigungu Esiphezulu ngeke lihlakaze isigungu esilawula isikole ngaphandle uma –
- selazise isigungu esilawula isikole esithintekayo ngenhloso yalo yokusihlakaza;
  - selinike isigungu esilawula isikole ithuba lokubeka izizathu zokuthi kungani kungamele ukuthi sihlakazwe; futhi
  - sesicubungulisise lezo zizathu.

**Ukunikezelwa Kwamandla**

36. INhloko yoMnyango inganikezela, ngokubhalwe phansi, imisebenzi kanye namandla enikezwe wona ngokwalesi saziso kunoma yisiphi isisebenzi esiqashwe uMnyango.

**Ukuchithwa Kwesaziso**

37. Lapha kuchithwa iSaziso sesiFundazwe No. 118 esashicilelwa kwiGazethi yesiFundazwe saKwaZulu-Natal No. 1895 mhla ziyi-9 kuLwezi ngonyaka wezi-2017.

**KWAZIKWENKOSI I MSHENGU**

**iLungu Lesigungu Esiphezulu Elengamele Ezemfundo eSifundazweni saKwaZulu-Natali**

## UHLELO A

**UKUBUNJWA KWESIGUNGU ESILAWULA IZIKOLE ZIKAHULUMENI ZABAFUNDI ABANEZIDINGO  
EZIKHETHEKILE NGOHLOBO LWESIKOLE NESIBALO SABAFUNDI ABATHATHIWE**

Isibalo samalungu aqokiwe akumele sibe ngaphezu kwamalungu amahlanu. Lokhu kuyonqunywa yisikole kuncike esimweni saleso sikole.

UHLOBO LWESIKOLE	ISIBALO SABAFUNDI ABATHATHIWE ESIKOLENI	UTHISHA-NHLOKO	ISIBALO SAMALUNGU ANGOTHISHA	ISIBALO SAMALUNGU ANGABAFUNDI	ISIBALO SABA-SEBENZI ABANGEBONA OTHISHA	ISIBALO SAMALUNGU ANGABAZALI	AMALUNGU AQOKWE NGOKWE-SIGABA ESIKHONA NGASINYE NJENGOBA KUBEKWE ESIGABENI 24	ISIBALO SAMALUNGU ESEHLANGENE
Isikole Samabanga Aphansi	Kusuka ku-1 kuya ku-149	1	2	0	1	5	5	14
Isikole Samabanga Aphansi	Kusuka e-150 kuya a phezulu	1	3	0	1	6	5	16
Isikole Samabanga Aphezulu	Kusuka ku-1 kuya ku e-149	1	2	1	1	6	5	16
Isikole Samabanga Aphezulu	Kusuka e-150 kuya a phezulu	1	3	2	1	8	5	20
Isikole esiyinhlanganisela yamabanga	Kusuka ku-1 kuya e-149	1	2	2	1	7	5	18
Isikole esiyinhlanganisela yamabanga	Kusuka e-150 na ngaphezulu	1	3	2	1	8	5	20