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## PROVINCIAL NOTICES • PROVINSIALE KENNISGEWINGS

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### PROVINCIAL NOTICE 1 OF 2021

#### **Regulations for the Election of School Governing Bodies of Public Schools in the Mpumalanga Province.**

I, Bonakele Amos Majuba, Member of the Executive Council for Education in the Mpumalanga Province, acting in terms of section 28 of the South African Schools Act, 1996 (Act No 84 of 1996) hereby publish in the schedule hereto Regulations for the Election of School Governing Bodies of Public Schools in the Mpumalanga Province.



**Mr Bonakele Amos Majuba, MPL  
MEC: EDUCATION**

#### **SCHEDULE**

To provide for a uniform system for the organization and elections of school governing bodies; to amend and repeal certain regulations relating to schools and to provide for matters connected therewith.

##### **1. DEFINITIONS**

“**CNS system**” means the candidate nominations system, a secure electronic system, to be used for the electronic submission of the information and documents contemplated in the guideline;

“**days**” means calendar days including Saturdays, Sundays and public holidays;

“**district electoral officer**” means a senior district official at a district office responsible to oversee and manage the election process in the district;

“**e-election**” means a school governing body election in which electronic means are used in one or more stages;

**“e-voting”** means an e-election that involves the use of electronic means in the casting of the vote;

**“e-voting station”** means the voting station for an e-election established at a place as determined by the School Electoral Officer;

**“e-voting system”** the hardware, software and processes which use electronic means to make a choice between options in an election;

**“educator”** means any person, excluding a person who is appointed to exclusively perform extra-curricular duties, who teaches, educates or trains other persons or who provides professional educational services, including professional therapy and education psychological services, at a public school;

**“electronic ballot box”** means the electronic means by which the votes are stored pending being counted;

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

**“member”** means a member of the governing body;

**“non-educator member of staff”** means a person appointed according to the Public Service Act or the South African Schools Act who is not an educator at a school;

**“Member of the Executive Council”** (MEC) means the political head who is responsible for education in the province;

**“parent”** means –

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

**“personal protection equipment”/PPEs** means equipment used in terms of COVID-19 protection;

**“principal”** means an educator appointed or acting in a post established as the head of a school;

**“provincial elections co-ordinator”** means a senior provincial official at a provincial office responsible to oversee and manage the election process in the province;

**“public school”** may be —

- I. an ordinary public school; or
- II. a public school for learners with special education needs; or
- III. a public school that provides education with a specialised focus on talent, including sport, performing arts or creative arts.

**“remote e-voting”** means e-voting where the casting of the vote is done by a device not controlled by an election official;

RCL means a representative council of learners established in terms of section 11 of the Act;

**“school”** means an ordinary public school or a public school for learners with special education needs which enrolls learners in one or more grades from grade R to grade 12;

**“primary school”** means a public school that offers grade R – 7 or learning within that range;

**“secondary school”** means a public school providing education from the eighth to the twelfth grade;

**“combined school”** means a public school providing education in grades falling in the foundation, intermediate and senior phases of curriculum;

**“school electoral officer”** means the Principal. In exceptional cases the District Director may appoint an education official who is trained in order to manage the election process of the school.

“**SASAMS**” means the South African Schools Administration and Management System, which must be used by schools to upload and update their learner information including details of parents linked to each learner;

“**the Act**” means the South African Schools Act, 1996 (Act 84 of 1996), as amended.

## **2. APPLICATION**

These regulations shall apply to all public schools in the Mpumalanga Province and shall come into operation upon publication in the Provincial Gazette.

## **3. SIZE OF THE SCHOOL GOVERNING BODIES**

The number of parent, educator, non-educator member of staff and learner members of a governing body shall vary according to the type and grading of the school.

## **4. COMPOSITION OF GOVERNING BODIES OF ORDINARY PUBLIC SCHOOLS**

4.1 A governing body of an ordinary public school shall consist of:

- (a) Elected members
- (b) The principal by virtue of his or her official capacity; and
- (c) Co-opted members.

4.2 Elected members of the governing body shall comprise a member or members of each of the following categories:

- (a) parents of the learners admitted to the school;
- (b) educators employed at the school;
- (c) non-educator members of staff employed at the school; and
- (d) learners in the eighth grade or higher at the school drawn from the RCL or nominated by the RCL if applicable.

## **5. COMPOSITION OF GOVERNING BODIES OF PUBLIC SCHOOLS FOR LEARNERS WITH SPECIAL EDUCATION NEEDS**

- 5.1 The governing body of a public school for learners with special education needs should be composed as follows:
- (a) Parents of learners enrolled at the school, if reasonably practicable;
  - (b) Educators at the school;
  - (c) Members of staff at the school who are not educators;
  - (d) Learners in Grade 8 or higher, if reasonably practicable;
  - (e) Representatives of sponsoring bodies, if applicable;
  - (f) Representatives of organisations of parents of learners with special education needs, if applicable;
  - (g) Representatives of organisations of disabled persons, if applicable;
  - (h) People with disabilities, if applicable;
  - (i) Experts in relevant fields of special needs education; and
  - (j) The Principal by virtue of his or her official capacity.
- 5.2 The chairperson of the school governing body in the case of a public school for learners with special education needs can be any member of the governing body elected from the persons referred to in sub regulation (5.1) (a), (e), (f), (g), (h), and (i).
- 5.3 The number of parent, educator, non-educator 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 these regulations.
- 5.4 Parents must elect the members referred to in sub regulation (5.1) (a).
- 5.5 Educators employed at the school concerned must elect the members referred to in sub regulation (5.1) (b)
- 5.6 Members of staff at the school concerned who are not educators must elect the members referred to in sub regulation (5.1) (c).

- 5.7 The Representative Council of Learners must elect the members referred to in sub regulation (5.1) (d).
- 5.8 Members of categories referred to in sub regulation (5.1) (e), (f), (g) and(h) must be elected or appointed as determined by the Member of the Executive Council.
- 5.9 The person referred to in sub regulation (5.1) (i) shall be appointed as determined by the Member of the Executive Council.

## **6. CRITERIA FOR REPRESENTATION IN PUBLIC SCHOOLS**

- 6.1 Criteria for the achievement of the highest practicable level of representativity of members of the governing body as prescribed in Section 28 (e) of the Act.

Representativity shall refer to the following aspects:

- (a) Race;
  - (b) Gender; and
  - (c) Disability;
- 6.2 In the case of by-election and co-option, parents aged 35 and below shall be taken into account if reasonably practicable, excluding the co-option of experts.
  - 6.3 The School Governing Body shall discuss as part of its meetings and with parents the aspect of representativity in preparing for the tri annual School Governing Body Elections and by elections.
  - 6.4 Nominations shall reflect the aspect of representativity where practical or possible.
  - 6.5 Prior to the election of office-bearers the principal shall inform the members of the governing body of their responsibilities.

## **7. PROFILE OF A GOVERNING BODY**

- (a) The particulars of each member of a SGB must be recorded in the SGB Data Form and be captured in the SASAMS
- (b) The same SGB data must be updated after by-election occurred or during the annual election of office bearers.

## **8. CO-OPTED MEMBERS**

- 8.1 A school governing body may at any time during its term of office co-opt two types of co-opted members namely, those with voting rights and those without voting rights to serve on the school governing body in the discharging of its functions.
- 8.2 Subject to regulation 30(4) members co-opted in terms of regulation 30(5) shall have voting rights.
- 8.3 A school governing body of a public school which provides education to learners with special needs, shall, where practicably possible, co-opt a person or persons with expertise in the field of the relevant education needs of such learners as provided in terms of regulations 5.
- 8.4 A school governing body of a public school situated on private property may co-opt the owner of the property occupied by the school or the nominated representative of such owner.
- 8.5 If a governing body of a public school acts under sub-regulation (4), and there is more than one owner of the property on which the school is situated, such owners shall nominate one of their member, or a representative to represent them on the school governing body.

## **9. TERM OF OFFICE OF MEMBERS AND OFFICE-BEARERS OF GOVERNING BODIES.**

- 9.1 The term of office of a member of a school governing school other than a learner shall be three years calculated from the date of elections.

- 9.2 The term of office of a learner member shall be one year.
- 9.3 A member or office-bearers of a school governing body may be re-elected or co-opted, as the case may be after the expiry of his or her term of office.
- 9.4 The term of office of an office bearer of School Governing Body may not exceed one year.

## 10. ELIGIBILITY

- 10.1 A person shall be ineligible to be a member of a governing body if he or she;
- (a) Is mentally ill and has been declared so by a competent court;
  - (b) Is an un-rehabilitated insolvent;
  - (c) Has been convicted of an offence and sentenced to imprisonment in a court of law in South Africa or in a foreign country, without the option of a fine for a period exceeding six months.
  - (d) Has been declared to be unsuitable to work with children as stipulated in terms of the Children's Act, 2005 (Act 38 of 2005); or is listed in the register of people unsuitable to work with children in terms of the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007; or
  - (e) Does not fall within one of the categories of members who make up a governing body;
  - (f) No longer falls within the category of members that he or she represented at the time of his /her election.
  - (g) Has had his/her membership terminated by the Head of Education in terms of SASA
- 10.2 If a person elected as a member of a governing body ceases to fall within the category for which they were nominated and elected, he or she shall cease to be a member of the governing body.
- 10.3 A parent who is employed at a school may not be elected as a parent member of a governing body at the school.



- 10.4 A principal of a school may not be elected as an educator member of a governing body at the school.
- 10.5 No learner may be elected to a governing body of an ordinary public school unless he or she is admitted to eighth grade or higher and he or she is an elected member of the representative council of learners at the school concerned.
- 10.6 In the case of learners with special education needs learners in the eighth grade or higher may be elected, only if it is reasonably practicable.
- 10.7 A parent shall be entitled to vote only for a parent member of the governing body and shall have one vote in respect of each parent candidate.
- 10.8 An educator employed at a public school shall be entitled to vote only for educator members and shall have only one vote in respect of each educator candidate.
- 10.9 A non-educator member of staff shall be entitled to vote only for non-educator members and shall have one vote in respect of each non-educator candidate.
- 10.10 Every member of the representative council of learners shall be entitled to vote only for a learner member, and shall have only one vote in respect of each learner candidate.
- 10.11 It is the responsibility of the person who alleges to have complied with the definition of a parent to inform the principal on the change of personal details.
- 10.12 The Provincial Election Coordinator, District Electoral Officer and School Electoral officer may not be nominated, elected or co-opted as members of any governing body of any school in the province.

## **11. ELECTORAL CODE OF CONDUCT**

### 11.1 No registered candidate shall-

- (a) Use language or act in a way that may provoke;
- (b) Interrupt/use or cause violence during an election; or
- (c) Intimidate candidates, or voters;
- (d) Discriminate on the grounds of race, ethnicity, sex, gender, class or religion in connection with an election;
- (e) Abuse a position of power, privilege or influence, including parental, or employment authority to influence the conduct or outcome of an election.

### 11.2 Undue influence

- (a) Subject to these regulations, no person may prevent anyone from exercising a right conferred by these regulations.
- (b) No person, knowing that another person is not entitled to be registered as a parent/guardian, shall-
  - (i) persuade that the other person is entitled to be registered as a parent/guardian; or
  - (ii) represent to anyone else that the other person is entitled to be registered as a parent/guardian;

### 11.3 No person, knowing that another person is entitled to vote, shall-

- (a) Assist, compel or persuade the other person to vote; or
- (b) Represent to anyone that the other person is entitled to vote.

## **12. PROVINCIAL ELECTION COORDINATOR**

12.1 The Head of Education shall appoint an official of the department as the Provincial Election Coordinator in writing.

12.2 The duties of the Provincial Electoral Coordinator are amongst others to:

- (a) ensure that Provincial Regulations are promulgated in order to conduct the SGB elections;
- (b) ensure that there is adequate advocacy concerning the election date;
- (c) ensure compliance with provincial procedures with regard to elections;
- (d) coordinate the resources to conduct efficient and fair governing body elections;
- (e) ensure that the school electoral officers have the templates and all documents required for the election process;
- (f) monitor and evaluate the election process in the province; and
- (g) consolidate a provincial database of governing body members after the elections.
- (h) Adjudicate on all appeals resulting from the nomination and election process;
- (i) Investigate and address any matter brought under his/her attention by a member of the public which are not in line with these regulations.

### **13. ELECTORAL OFFICERS**

There shall be two (2) Electoral Officers namely; the District and School Electoral Officer

#### **13.1 District Electoral Officer**

The District Director must appoint a District Electoral Officer in writing.

#### **13.2 The Duties of the District Electoral Officer**

The duties of a District Electoral Officer shall be amongst others, to:

- (a) Coordinate the election processes in the district;
- (b) Advise the district on the proposed strategy and implementation of the election in the district and ensure that the process is conducted as per the Provincial Regulations.
- (c) Compile a management plan to implement the Provincial Regulations.

- (d) Ensure that each school has an Electoral Officer in line with provincial regulations, and that the School Election Teams are established;
- (e) Ensure that all election officials working at school level are adequately trained and are aware of their roles and responsibilities;
- (f) Ensure that all Electoral Officers receive the provincial election Regulation/Notice and other documents in good time;
- (g) Ensure that the election advocacy is conducted as planned;
- (h) Ensure that the entire election process is monitored;
- (i) Ensure that the names and contact details of the persons elected to governing bodies Notification of all Members Elected to the Governing Body) are submitted within a week of the elections taking place;
- (j) Ensure that they receive the Data Form: Governing Body Data Form) from the School Principal and submit it to the district within 14 days of the meeting at which the office bearers are elected;
- (k) Resolve disputes related to the decision which could not be resolved at school level.
- (l) Develop a database of newly elected governing bodies and submit it to the Provincial Election Coordinator; and
- (m) Compile a written district report on elections and submit it to the Provincial Coordinator (as per the management plan)

### **13.3 Composition of the District Electoral Team:**

The District Electoral Team shall comprise of officials from the following:

- (a) Teacher Development and Governance;
- (b) Labour Relations;
- (c) Circuit Coordination;
- (d) Curriculum Management;
- (e) Inclusive Education and Curriculum Enrichment;
- (f) Communications.
- (g) Transformation

### **13.4 The District Election Team Shall:**

- (a) Assist the district electoral officer with all election duties;
- (b) Be responsible for an advocacy strategy to ensure that SGB elections are well advertised amongst all stakeholders in the district.

## **14. SCHOOL ELECTORAL OFFICER**

The District Director or the delegated official must appoint a School Electoral Officer who is a principal of a neighbouring school in writing. The appointed principal must not delegate this responsibility to the Deputy Principal except under unavoidable situations with the approval of the District Director.

### **14.1 Duties of a School Electoral Officer**

The duties of a School Electoral Officer shall amongst others be to:

- (a) Prepare a notice giving details of the date, time and venue of the nomination and election meeting;
- (b) Ensure that there is a suitable venue for the nomination/election meeting;
- (c) Ensure that the School Election Team knows the electoral process to be followed and complies with relevant legislation;
- (d) Intervene in and resolve any disputes on the day of nomination/ election; and
- (e) Submit election results to the district office within 5 days after the election have been concluded

### **14.2 Code of Conduct Electoral Officers (District and School)**

An Electoral Officer, shall: -

- (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 courteousness;

- (h) be polite and diligent; and
- (i) not exceed his or her mandate.

## **15. COMPOSITION OF THE SCHOOL ELECTION TEAM**

The school election team shall consist of:

- The deputy principal of the school or a person delegated by the principal;
- The admin clerk to assist with administrative duties including the compiling of the voters roll;
- A number of educators determined by the principal and all the members of the team identified shall be appointed in writing for this assignment

The duties of the school election team shall be to:

- Assist the principal and school electoral officer with all their duties;
- Be responsible for an advocacy strategy to ensure that SGB elections are well advertised amongst all stakeholders;
- Assist with the attendance register and minutes of the nomination and election meeting.

## **16. THE MONITORING OF ELECTIONS**

The Provincial Election Coordinator/District Electoral Officer shall appoint any number of persons to monitor all the SGB elections. Such persons shall:

- a) Have access to any proceeding relevant to the elections as far as reasonably possible;
- b) Not interfere with any processes relating to the elections;
- c) Monitor the election processes in the district, compile a written report of his/her observations and submit it to the provincial electoral officer/district electoral officer within seven (7) days of the conclusion of the elections.

## 17. THE VOTERS ROLL

17.1 A voter's roll for each of the categories must be made available containing the names of all eligible parents, educators, members of staff and the learners;

(a) the voters' roll for parents must be based on the school learners' admission register. Eligible voters are those persons appearing in the admission register as parents or who can show proof that they are parents as defined in the Act. Only two parents per learner are eligible to vote;

(b) the voters' roll must close 7 days before the election day to ensure that the electoral officer can focus on the nomination and voting processes and quality assure the voters' roll;

(c) the voters' roll for educators must consist of all educators employed at the school;

(d) the voters' roll for other members of staff must consist of all other members of staff employed at the school;

(e) the voters' roll for learners must consist of all members of the Representative Council of Learners (RCL) at the school.

17.2 The electoral officer must, at least 14 days prior to the date of the election for parent members, inform the parents of the voters' roll in accordance with publication method adopted by the school.

17.3 All nominations, seconders and nominees must be people who are listed on the voters' roll.

## 18. FRANCHISE

(a) Every parent of a learner officially enrolled at a school is entitled to vote for parent members of the governing body and has one vote in respect of each nominee with a maximum number of votes equal to the number of parent members to be elected.

(b) Every educator, employed at a school including the principal, is entitled to vote for educator members and has one vote in respect of each nominee with a

maximum number of votes equal to the number of educator members to be elected.

- (c) Every member of an RCL is entitled to vote for learner members and has one vote in respect of each nominee with a maximum number of votes equal to the number of learner members to be elected.
- (d) Every member of staff is entitled to vote for a member of staff and has one vote. If the school has only one member of staff, that member is automatically elected.
- (e) Proxy votes are not allowed.

## **19. QUORUM**

- 19.1 A quorum of 15 % of the total number of parents on the voters' roll are required for the nomination and election meeting to proceed.
- 19.2 If the quorum is not met at the first election meeting the election must be rescheduled not less than 7 or more than 14 days in which event the procedure in regulation 21 shall be repeated.
- 19.3 Candidates nominated prior to the rescheduling of the nomination and election meeting will remain nominated for election at the rescheduled meeting but further nomination may still be lodged and accepted.
- 19.4 Notice of the second election meeting should clearly state that no quorum is required for that meeting.

## **20. NOMINATION AND ELECTIONS**

- 20.1 The advent of COVID 19 has provided the sector with an opportunity to re-look and modify the election process. Schools will, with effect from 2021 be given a choice to select an election mode that suits their individual circumstance. The available election modes are:
  - a) Nomination and Election Meeting;
  - b) Full Day Elections; and
  - c) e-Elections mode.



- 20.2 Schools must indicate to the HOD or his or her delegate the mode of election they will undertake, not less than 30 days prior to the date of election referred to in regulation 20.1
- 20.3 The HOD must respond within 14 days of receiving the notification.
- 20.4 When considering the notification, the HOD will, among others consider that:
- (a) the mode of the election will promote the best interests of the school community and the school and will allow for maximum participation of voters in the voting process;
  - (b) the mode of election will not discriminate unfairly against any potential voter or group of voters;
  - (c) sufficient provision is made for the nomination process; and
  - (d) sufficient resources are available for the preferred mode.
- 20.5 The principal must communicate the mode of election to the School Electoral Officer to prepare and sign notices to parents accordingly.
- 20.6 The school electoral officer must inform the district electoral officer of the mode of the election and submit a management plan 14 days prior to the elections.
- 20.7 The management plan referred to in (regulation (21.1) must at least contain:
- (a) The proposed date for the mode of the election;
  - (b) The time for the start of the election, times when voting station open and close;
  - (c) The time that the votes will be counted and results announced;
  - (d) The schedule for the school elections team members to monitor the voting stations to ensure that there are enough officials available for the process to continue.

## 21. NOMINATION AND ELECTION MEETING

### 21.1 Dates, Times and Place of the Nomination and Election of Parent Members

- (a) The school electoral officer must prepare notices in the prescribed form, which indicate the date, time (including duration) and place of the nomination and election. The nomination and election of members must be in line with the mode of election that the school will undertake.
- (b) For this mode of elections, the nomination and election are two sessions conducted at one meeting.
- (c) When the nomination session ends the election session starts immediately.
- (d) The school electoral officer must ensure that the notices regarding the nominations and elections are distributed and displayed in prominent places at the school and in the community at least 14 days prior to the date of the nominations and elections and hand the notice prior thereto to the principal.
- (e) The principal must:
  - I. Inform Eligible parents;
  - II. Hand a copy of the notice to every learner of the school concerned, with the oral instruction to hand it to his or her parents, at least 14 days prior to the date of the nomination and election for parent members; or
  - III. Use any other method that works for the school community, as long as it does not in any way disadvantage any member of the school community; and
  - IV. Post nominee profiles in a convenient place for parents to be able to view them at least **3 school days** before the Election Day.

### 21.2 Nomination Meeting for Parent Members

The School Electoral Officer must ensure that:

- (a) all COVID 19 protocols are adhered to (the maximum number of people in the venue, sanitising and the washing of hands with soap, wearing of face masks and social distancing) depending of prevailing Regulations and Directives at the time of elections;
- (b) the required quorum of 15% is met before nominations start;
- (c) the starting and closing time for nominations is indicated at the beginning of the meeting;
- (d) nominations that were sent to school are announced ahead of opening for new nominations;
- (e) having a proposer and a seconder for each nominee; and
- (f) ensuring that the nominee, proposer and seconder appear on the voters roll.

### **21.3 Nomination Procedures for Parent Members**

The Electoral Officer must:

- a) Confirm that the 15% quorum of parents eligible to vote has been achieved before the start of the nomination meeting;
- b) Closing the nomination meeting and schedule it to a period not less than 14 days should the quorum not be formed. Noting that a quorum will not be required for the second meeting;
- c) Explain the nomination procedure if the quorum of 15% is achieved;
- d) Inform the meeting about nominations received in advance;
- e) Set time for the nomination process;
- f) Make nomination forms available to parents to complete and assist those who require assistance to nominate candidates;
- g) Ensure that each form is correctly completed with the signature of the Nominee, Proposer and Secunder;
- h) Verify that the nominee, the Proposer and the Secunder are all eligible parents in the school;
- i) Disqualify nominations forms which do not meet the stipulated requirements;
- j) Prevent the nomination of candidates through the raising of hands; and

- k) Close the nomination meeting when the allocated time has elapsed.

#### 21.4 Elections for Parents Members

- (a) If the total number of valid nominations is equal to the required number of parent members after the elapse of the nomination time, those nominated are declared to be duly elected, and the School Electoral Officer must sign a declaration indicating that members were not elected by secret ballot, and that he or she has provided enough time for more nominations.
- (b) If the number of nominated candidates is more than the required number of expected parent members, the Electoral Officer must prepare ballot papers containing the names of all nominated candidates in alphabetical order (Ballot Paper for Parent Members). These ballot papers must have the school stamp on them, or some other distinguishing feature which prevents the ballot papers from being tampered with.
- (c) Nominated candidates must be allocated numbers corresponding to the number next to their names on the ballot paper.
- (d) The Electoral Officer must allow nominated parents to introduce themselves where each parent needs to provide the following information:
- I. full names;
  - II. the names and grades of children in the school;
  - III. occupation, skills and experience that may benefit the SGB; and
  - IV. the parent's vision for the school.
- (e) The Electoral Officer must indicate the number of parents to be voted for as predetermined according to the size of the school, while ballot papers are being prepared.
- (f) Each parent, verified on the voters' roll must receive a ballot paper to mark in **secret** a maximum number of parents as indicated in regulation 10.
- (g) The marked ballot paper must be folded and placed in a ballot box or any closed container provided for this purpose.

- (h) A person who cannot read nor write or a person who is not able to vote because of any physical challenge may, at his or her own request, be assisted by the School Electoral Officer with a witness identified by the voter.

## 21.5 Counting of Votes

- (a) The Electoral Officer must open the ballot papers in the presence of monitors, observers and candidates who wish to be present.
- (b) The Electoral Officer must reject a ballot paper:
- I. which is without the school stamp or distinguishing feature as indicated in regulation 21.4 (b);
  - II. with more vote crosses than the number of members to be elected; or
  - III. which is marked in such a way that it is not clear as to which nominee or nominees a cross has been allocated.
- (c) A ballot paper with fewer crosses or marking than the expected number of parents to be voted for is valid.
- (d) After the rejection of any spoilt ballot papers, the Electoral Officer must:
- i. count the votes in the presence of monitors, observers and nominees who wish to be present;
  - ii. announce to the monitors the name of each nominee and the number of votes cast for each;
  - iii. complete the counted ballot papers form in order of the most votes to the least votes; and
  - iv. declare who has been elected in terms of the expected number of positions in the SGB. The parents with the most votes are listed first and parents with least votes listed last.
- (e) Where the number of votes recorded for two or more nominees is equal and affects the outcome of the poll, the Electoral Officer must draw lots to

determine the elected parent member. This must be done openly in the presence of the identified observers as indicated in 21.5(a) above.

## **22. FULL DAY ELECTION**

This mode is a manual full day election in which voters physically come to the venue to cast their votes at any time within the allocated hours of the day without any meeting held. The counting of votes may proceed only if the number of votes cast by the close of the polls indicates that a 15% quorum of voters has been reached.

### **22.1 Nomination for Full Day Election**

- (a) The school electoral officer must prepare notices in the prescribed form, which indicates the date, time (including duration) and place of the nomination and election 14 days before the Election Day.
- (b) Nomination takes place prior to the Election Day which is not more than 7 days and not less than 3 days prior to the elections.
- (c) Nomination forms are made available to parents to complete, indicating the name and signature of the Proposer and Secunder, with the nominee signing to indicate acceptance of the nomination.
- (d) The Nominee, Proposer and Secunder must all appear on the voters roll.
- (e) The Nominee must provide the following information to accompany the nomination form for distribution to parents before the Election Day:
  - i. a recent passport size photo;
  - ii. full names;
  - iii. name(s) and grade(s) of child(ren) in the school;
  - iv. occupation, skills and experience that would benefit the school; and
  - v. the nominee's vision for the school.

- (f) The profiles of all nominated candidates must be distributed to all parents 3 days before the Election Day.

## **22.2 Voting During the Full Day**

The following takes place on the day of the elections:

- (a) Verification of eligible voters on the voters' roll;
- (b) Handing out of stamped ballot papers containing the names of all nominated candidates in alphabetical order;
- (c) The marking of the ballot paper by the parents secretly according to the expected number of parents to be elected or less;
- (d) Placing of the folded ballot paper in a sealed ballot box or container provided for this purpose.

## **22.3 Counting During the Full Day Election**

- (a) Counting is as during the normal election mode (see 21.5).
- (b) Counting can only commence after it has been confirmed that the 15% quorum of votes have been cast.
- (c) If the 15 % quorum is not met, the election must be rescheduled to not less than 7 or more than 14 days from the date of the failed election.

## **23. E-ELECTIONS**

e-Elections is a mode of elections conducted electronically through virtual platforms. This mode of election can only be selected by schools which have the capacity to deliver such elections virtually due to available resources and having the majority of the parent having access to the required technology and data to participate in the election.

### **23.1 The Role of the School in Selecting e-Elections**

In selecting this mode of elections, the school must:

- (a) apply to the Head of Department or delegated official for approval to use this chosen mode of elections;
- (b) inform parents about the platform that the school will use for the elections;
- (c) provide guidance to the parents on how to use the election APP; and
- (d) provide an IT specialist for technical support before and during the election.
- (e) Appoint a suitable service provider in accordance to the set prescripts of the Department

### **23.2 Technical requirements for the e-voting system**

- (a) The Service Provide must provide a Cloud Based System.
- (b) The Service Provider should provide a fully managed and maintained system including regular scheduled backups and relevant updates.
- (c) The system should run on various platforms (e.g. Microsoft, Oracle etc.).
- (d) The solution should be user friendly and be able to run on devices such as Laptops, Tablets, Smart Phones and have Browser compatibility.
- (e) The programme must be accredited.
- (f) The information collected during elections may not be used in any form or for any purpose other than the purpose stipulated in the agreement.
- (g) If the service provider wishes to use such information in any other form or for any other purpose, including, but not limited to, workshops, media releases and the like, it he/she must submit a written motivation for approval for the use of such to the provincial department.
- (h) The system must be able to generate reports and include the following functions:
  - i. Import voters roll from a spreadsheet format (List, No, Names/s, ID No, etc);
  - ii. Post pictures of candidates (user choice to toggle for on/off of function);
  - iii. Allow for a number of votes per voter if there are multiple candidates;



- iv. Provide real time results for quorum purposes;
- v. Provide admin panel for Electoral Officer to monitor proceedings;
- vi. Authentic parents on the voters' roll;
- vii. Set election start and end time;
- viii. Incorporate a User Log;
- ix. 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;
- x. Provide an Audit Trail.

### **23.3 Nomination for e-Elections**

- (a) The school Electoral Officer must prepare notices in the prescribed form, which indicates the date, time (including duration) of the nomination and election 14 days before the Election Day.
- (b) Nomination is similar to the nomination procedures followed in Full Day Elections see regulation 21.1 except that the whole process from sending out notices, information and the submission of nomination form is done electronically.
- (c) The completed nomination forms must be lodged with the School Electoral Officer not more than seven days and not less than 24 hours prior to the commencement of the elections.
- (d) The school should be in a position to assist parents to upload documents when required to do so.

### **23.4 Voting During e-Elections**

- (a) Parents will receive log on details with a unique one-time pin to join the e-elections.
- (b) The system must be able to verify the credentials of the parents as they log on through the provided pin based on the voters' roll to accept them into the elections.

- (c) The Electoral Officer will explain the election process to the parents who have logged on.
- (d) An online ballot paper will be made available to parents to cast their vote for the required number of parents to be voted for.
- (e) Parents can log off after casting their vote.

### **23.5 Counting e-Elections Votes**

- (a) The system should be able to calculate and provide results as soon as the election time has elapsed.
- (b) The Electoral Officer must use all the available checks and balances to verify the authenticity of the results and sign them off.
- (c) In case of a tie that affects the outcome of the results, the Electoral Officer should draw lots as a deadlock breaking mechanism as in all other election modes.

## **24. NOMINATION AND ELECTION OF EDUCATOR MEMBERS**

- (a) The School Electoral Officer will decide on a date, time and place for the nomination and election for educator members. This process must be held at least 24 hours before the election of the parent member component.
- (b) The Principal must give the School Electoral Officer a list of all educators at the school. This will serve as the voters' roll.
- (c) The School Electoral Officer must ensure that each educator at the school receives a copy of the notice of the Nomination/Election (Notice of Nomination/Election for Educator Members of Staff) at least 14 days before the date of the election.
- (d) An educator can only be nominated and seconded by another educator employed at the school.
- (e) The completed nomination forms must be lodged with the School Electoral Officer not more than seven days and not less than 24 hours prior to the commencement of the nomination and elections.

- (f) Each nomination form will have to be properly completed and handed in to the School Electoral Officer within the time that the Electoral Officer allows for this purpose.
- (g) If the total number of valid nominations is equal to the required number of educator members, those nominated are declared to be duly elected, and the School Electoral Officer must sign a declaration indicating that members were not elected by secret ballot, and that he or she allowed sufficient opportunity for further nominations.
- (h) The School Electoral Officer and the Principal must use all reasonable means to ensure that the nomination process is successful at the first attempt.
- (i) If the nominations are more than the required number of educators, elections are conducted by secret Ballot Paper for Educator Members using the same procedure as described for the parent members' elections.

## **25. NOMINATION AND ELECTION MEETING OF A NON-EDUCATOR MEMBER OF STAFF**

(The procedure for the election of the member of staff (who is not an educator) to the governing body is as follows:

- (a) The procedure as set out for the nomination and election of the educator component applies, with the necessary changes, to this category of the governing body;
- (b) In cases where there is no non-educator member of staff at the school, the position will be left unfilled;
- (c) Food handlers receiving stipends from the SGB fall within this category;
- (d) Where there is one member of staff, that person is regarded as duly elected to the governing body;
- (e) In cases where there are two or more members of staff at a school, a democratic election must be held to determine who should be

elected to the governing body Notice of Nomination Meeting for a Member of Staff); and

- (f) The Electoral Officer may, with the approval of the members of staff, draw lots as an alternative method to elect a member of staff if there are two members of staff on the school's staff establishment.

## **26. NOMINATION AND ELECTION OF LEARNER MEMBERS**

- (a) The Representative Council of Learners shall elect from its ranks learners who shall be members of the governing body.
- (b) The procedure for the nomination and election of learner members shall be as prescribed for educator members.
- (c) The number of learners elected to the governing body should be in line with the formula for the calculation of members of the governing body as per category as indicated in schedule A.
- (d) The learners must be made aware of section 32 of the Act, which outlines the status of minors on the governing body.

## **27. ORDER OF ELECTIONS**

The election of the parent component of the governing body shall be held after the nominations and elections of the educator, non-educator and learner members of the governing body.

## **28. DECISION OF THE SCHOOL ELECTORAL OFFICER**

28.1 The School Electoral officer shall preside and take decisions in all matters related to the nomination and election of nominees in terms of all the categories.

28.2 All disputes should be reported to the School Electoral Officer during the process of the elections.

28.3 The School Electoral Officer shall resolve all disputes in order to declare elections undisputed. His or her decision during the election will be final.

28.4 If the School Electoral Officer is unable to resolve the dispute, the election should be completed and the dispute can then be referred to the District

Electoral officer within seven (7) days after the Election Day. The District Electoral officer shall inform the complainant in writing of his/her decision and the reasons for such within fourteen (14) days of receipt of the complaint.

28.5 In the event that knowledge of any alleged irregularity only became available after completion of the election process, a dispute can be referred to the District Electoral officer.

28.6 An appeal can be lodged with the MEC within seven (7) days, should the complainant not be satisfied with the decision taken by the District Electoral officer.

28.7 The MEC must inform the complainant in writing of his or her decision and the reasons thereof within thirty (30) days of receipt of the appeal.

## **29. ELECTION AND TERM OF OFFICE-BEARERS**

29.1 The principal shall convene the first meeting of the governing body within fourteen (14) days after he or she has been notified in writing of the names and addresses of all the members of the governing body.

29.2 Prior to the election of office-bearers the principal shall orientate the members of the governing body indicating their responsibilities and the need to ensure that office-bearers are as representative of gender and racial diversity of the school as possible.

29.3 At the first meeting of the governing body such body must, from amongst its members, elect office-bearers, who must include at least a chairperson, a treasurer and a secretary. The Principal shall preside at the election of the Chair of the School Governing Body who shall then officially preside over the meeting.

29.4 The office bearers, with the exception of the learner component, shall remain in office for one year from the date of their election.

29.5 An office bearer of a governing body may be re-elected or co-opted after the expiry of his or her term of office.

29.6 If for any reason the office of an office-bearer becomes vacant, the governing body shall, at the first meeting after that vacancy has occurred, elect one of its members to fill that vacancy for the unexpired period of office of his or her predecessor.

29.7 The principal shall, after a meeting at which any office-bearer has been elected notify the Head of Education forthwith in writing of the date of the meeting and of the name, address and office of the person elected.

### **30. BY-ELECTIONS DUE TO VACANCIES IN THE GOVERNING BODY**

30.1 The chairperson of the governing body, in consultation with the principal, must inform the District Director of any vacancies and arrangements for a by-election.

30.2 An electoral officer should be a principal of a neighbouring school.

30.3 A by-election must be held as and when there is a vacancy in the governing body. A vacancy shall occur in a governing body if a member:

- (a) resigns;
- (b) dies;
- (c) becomes disqualified as indicated in regulation 10;
- (d) absents himself or herself from three or more consecutive meetings of the governing body without a formal apology;
- (e) is removed from office in accordance with provisions contained in a code of conduct noted in section 18A of the Act; or
- (f) no longer falls within the category of members which he or she represented at the time of the election.

30.4 Whenever a vacancy occurs as envisaged in sub paragraph 30.3, a by-election must be held within 90 days of the occurrence of such vacancy.

30.5 A by-election must be held in accordance with regulation 20 to 30, depending on the category of the membership.

30.6 A member elected in accordance with this paragraph remains in office for the unexpired term of office of his or her predecessor, provided that he/she is still eligible.

30.7 If for any reason the position of an office-bearer becomes vacant, the governing body shall, at the first meeting after that vacancy has occurred, elect one of its members to fill that vacancy for the remaining period of office of his or her predecessor.

30.8 The principal shall, after a meeting at which any office-bearer has been elected, notify the Head of Department forthwith in writing of the date of the meeting, name, address and position of the person elected.

### **31. HAND OVER**

31.1 The Principal, as a member of the outgoing and the newly elected governing body, must manage the handing-over process by:

- (a) Officially handing over all governing body files to the newly elected governing body;
- (b) Conducting an induction session for the newly elected members; and
- (c) Answering any questions that the newly elected governing body may have.

31.2 A list indicating the minimum documents that need to be handed over to the incoming governing body.

### **32. CONSTITUTION OF SCHOOL GOVERNING BODY**

32.1 The governing body must submit a copy of its constitution to the Head of Education within 90 days of its election.

32.2 The Constitution of School Governing Body (SGB) of a public school shall reflect the following:

- a) The vision and mission statement of the school

- b) Duties of office bearers
- c) Establishment of committees with clear functions
- d) Meeting procedures and frequency
- e) Procedure to manage amendments to the constitution.

### **33. FUNCTION OF THE NEW GOVERNING BODY**

The newly elected school governing body must start its function immediately after the successful completion on the election process.

### **34. FREEDOM OF ASSOCIATION**

The governing body may join voluntary association representing governing bodies of public school.

### **35. REMOVAL OR SUSPENSION OF GOVERNING BODY MEMBERS FROM OFFICE**

A member of the school governing body of a public school may be removed from office in terms of section 18A and 25 of the Act.

### **36. WITHDRAWAL OF THE FUNCTIONS**

The of Department may, on reasonable grounds, withdraw the functions of a governing body, in terms of section 22 of the Act.

### **37. REVIEW OF REGULATIONS**

These regulations may be reviewed at any given time.



### **38. REPEAL OF REGULATIONS**

The Governing Body Regulations for Public Schools contained in Notice No. 2398 of 2014, and published in the Extraordinary Provincial Gazette of 12 December 2014, are hereby repealed.

### **39. SHORT TITLE**

These Regulations shall be known as Regulations for the Constitution and Election of Governing Bodies in Public School in Mpumalanga, and shall come into effect on publication in the Provincial Gazette.

**Schedule A**  
**COMPOSITION OF SCHOOL GOVERNING BODY OF ORDINARY PUBLIC SCHOOLS BY TYPE AND LEARNER ENROLMENT**

- (1) The numbers of a school governing body of a school are set out for each category of membership in the table below.
- (2) The number of members in a category will vary according to the type of school and learner enrolment set out in columns 1 and 2.
- (3) In a school which does not have member of staff, the number of parents set out in column 4 shall be reduced by one and the total number of members set out in column 8 shall be reduced by one.

TYPE OF SCHOOL	NUMBER OF LEARNERS ENROLLED AT SCHOOL	PRINCIPAL	NUMBER OF EDUCATOR MEMBERS	NUMBER OF PARENT MEMBERS	NUMBER OF NON EDUCATOR MEMBERS	NUMBER OF LEARNER MEMBERS	TOTAL NUMBER OF MEMBERS
Primary School	1 to 159	1	1	4	1	0	7
Primary School	160 to 700	1	2	5	1	0	9
Primary School	701 and more	1	3	6	1	0	11
Secondary School	1 to 649	1	2	7	1	2	13
Secondary School	650 and more	1	3	9	1	3	17
Combined School	1 to 499	1	2	7	1	2	13
Combined School	500 and more	1	3	9	1	3	17

**COMPOSITION OF SCHOOL GOVERNING BODY OF PUBLIC SCHOOLS FOR LEARNERS WITH SPECIAL EDUCATIONAL NEEDS  
BY TYPE AND LEARNER ENROLMENT**

TYPE OF SCHOOL	NUMBER OF LEARNERS ENROLLED AT SCHOOL	PRINCIPAL	NUMBER OF EDUCATOR MEMBERS	NUMBER OF PARENT MEMBERS	NUMBER OF NON EDUCATOR MEMBERS	NUMBER OF LEARNER MEMBERS	ELECTED MEMBERS	TOTAL NUMBER OF MEMBERS
Primary School	1 to 149	1	2	5	1	0	9	Plus members appointed per applicable category
Primary School	150 and more	1	3	6	1	0	11	
Secondary School	1 to 149	1	2	6	1	1	11	
Secondary School	150 and more	1	3	8	1	2	15	
Combined School	1 to 149	1	2	7	1	2	13	
Combined School	150 and more	1	3	8	1	2	15	





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