



KWAZULU-NATAL PROVINCE
KWAZULU-NATAL PROVINSIE
ISIFUNDAZWE SA KWAZULU-NATALI

Provincial Gazette • Provinsiale Koerant • Igazethi Yesifundazwe

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(Irejistiwee njengephephandaba eposihhovisi)

PIETERMARITZBURG

Vol. 12

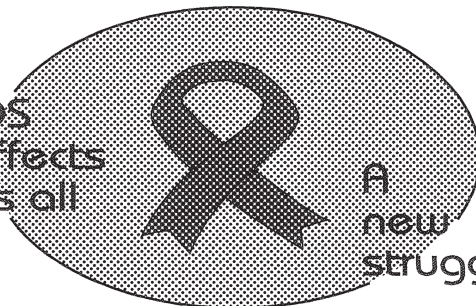
4 JANUARY 2018
4 JANUARIE 2018
4 KUMASINGANA 2018

No. 1914

PART 1 OF 2

We all have the power to prevent AIDS

AIDS
affects
us all



A
new
struggle

**AIDS
HELPLINE**

0800 012 322

DEPARTMENT OF HEALTH

Prevention is the cure

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ISSN 1994-4558



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IMPORTANT NOTICE:

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No FUTURE QUERIES WILL BE HANDLED IN CONNECTION WITH THE ABOVE.

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Closing times for **ORDINARY WEEKLY** **2018** **KWAZULU-NATAL PROVINCIAL GAZETTE**

*The closing time is **15:00** sharp on the following days:*

- **28 December 2017**, Thursday for the issue of Thursday **04 January 2018**
- **04 January**, Thursday for the issue of Thursday **11 January 2018**
- **11 January**, Thursday for the issue of Thursday **18 January 2018**
- **18 January**, Thursday for the issue of Thursday **25 January 2018**
- **25 January**, Thursday for the issue of Thursday **01 February 2018**
- **01 February**, Thursday for the issue of Thursday **08 February 2018**
- **08 February**, Thursday for the issue of Thursday **15 February 2018**
- **15 February**, Thursday for the issue of Thursday **22 February 2018**
- **22 February**, Thursday for the issue of Thursday **01 March 2018**
- **01 March**, Thursday for the issue of Thursday **08 March 2018**
- **08 March**, Thursday for the issue of Thursday **15 March 2018**
- **14 March**, Wednesday for the issue of Thursday **22 March 2018**
- **22 March**, Thursday for the issue of Thursday **29 March 2018**
- **27 March**, Tuesday for the issue of Thursday **05 April 2018**
- **05 April**, Thursday for the issue of Thursday **12 April 2018**
- **12 April**, Thursday for the issue of Thursday **19 April 2018**
- **19 April**, Thursday for the issue of Thursday **26 April 2018**
- **24 April**, Tuesday for the issue of Thursday **03 May 2018**
- **03 May**, Thursday for the issue of Thursday **10 May 2018**
- **10 May**, Thursday for the issue of Thursday **17 May 2018**
- **17 May**, Thursday for the issue of Thursday **24 May 2018**
- **24 May**, Thursday for the issue of Thursday **31 May 2018**
- **31 May**, Thursday for the issue of Thursday **07 June 2018**
- **07 June**, Wednesday for the issue of Thursday **14 June 2018**
- **14 June**, Thursday for the issue of Thursday **21 June 2018**
- **21 June**, Thursday for the issue of Thursday **28 June 2018**
- **28 June**, Thursday for the issue of Thursday **05 July 2018**
- **05 July**, Thursday for the issue of Thursday **12 July 2018**
- **12 July**, Thursday for the issue of Thursday **19 July 2018**
- **19 July**, Thursday, for the issue of Thursday **26 July 2018**
- **26 July**, Thursday for the issue of Thursday **02 August 2018**
- **02 August**, Friday for the issue of Thursday **09 August 2018**
- **08 August**, Wednesday for the issue of Thursday **16 August 2018**
- **16 August**, Thursday for the issue of Thursday **23 August 2018**
- **23 August**, Thursday for the issue of Thursday **30 August 2018**
- **30 August**, Thursday for the issue of Thursday **06 September 2018**
- **06 September**, Thursday for the issue of Thursday **13 September 2018**
- **13 September**, Thursday for the issue of Thursday **20 September 2018**
- **19 September**, Wednesday for the issue of Thursday **27 September 2018**
- **27 September**, Thursday for the issue of Thursday **04 October 2018**
- **04 October**, Thursday for the issue of Thursday **11 October 2018**
- **11 October**, Thursday for the issue of Thursday **18 October 2018**
- **18 October**, Thursday for the issue of Thursday **25 October 2018**
- **25 October**, Thursday for the issue of Thursday **01 November 2018**
- **01 November**, Thursday for the issue of Thursday **08 November 2018**
- **08 November**, Thursday for the issue of Thursday **15 November 2018**
- **15 November**, Thursday for the issue of Thursday **22 November 2018**
- **22 November**, Thursday for the issue of Thursday **29 November 2018**
- **29 November**, Thursday, for the issue of Thursday **06 December 2018**
- **06 December**, Thursday, for the issue of Thursday **13 December 2018**
- **12 December**, Wednesday for the issue of Thursday **20 December 2018**
- **18 December**, Tuesday for the issue of Thursday **27 December 2018**

LIST OF TARIFF RATES FOR PUBLICATION OF NOTICES

COMMENCEMENT: 1 APRIL 2016

NATIONAL AND PROVINCIAL

Notice sizes for National, Provincial & Tender gazettes 1/4, 2/4, 3/4, 4/4 per page. Notices submitted will be charged at R1000 per full page, pro-rated based on the above categories.

Pricing for National, Provincial - Variable Priced Notices		
Notice Type	Page Space	New Price (R)
Ordinary National, Provincial	1/4 - Quarter Page	250.00
Ordinary National, Provincial	2/4 - Half Page	500.00
Ordinary National, Provincial	3/4 - Three Quarter Page	750.00
Ordinary National, Provincial	4/4 - Full Page	1000.00

EXTRA-ORDINARY

All Extra-ordinary National and Provincial gazette notices are non-standard notices and attract a variable price based on the number of pages submitted.

The pricing structure for National and Provincial notices which are submitted as **Extra ordinary submissions** will be charged at **R3000** per page.

GOVERNMENT PRINTING WORKS - BUSINESS RULES

The **Government Printing Works (GPW)** has established rules for submitting notices in line with its electronic notice processing system, which requires the use of electronic *Adobe Forms*. Please ensure that you adhere to these guidelines when completing and submitting your notice submission.

CLOSING TIMES FOR ACCEPTANCE OF NOTICES

1. The *Government Gazette* and *Government Tender Bulletin* are weekly publications that are published on Fridays and the closing time for the acceptance of notices is strictly applied according to the scheduled time for each gazette.
2. Please refer to the Submission Notice Deadline schedule in the table below. This schedule is also published online on the Government Printing works website www.gpwnonline.co.za

All re-submissions will be subject to the standard cut-off times.

All notices received after the closing time will be rejected.

Government Gazette Type	Publication Frequency	Publication Date	Submission Deadline	Cancellations Deadline
National Gazette	Weekly	Friday	Friday 15h00 for next Friday	Tuesday, 15h00 - 3 days prior to publication
Regulation Gazette	Weekly	Friday	Friday 15h00, to be published the following Friday	Tuesday, 15h00 - 3 days prior to publication
Petrol Price Gazette	As required	First Wednesday of the month	One week before publication	3 days prior to publication
Road Carrier Permits	Weekly	Friday	Thursday 15h00, to be published the following Friday	3 days prior to publication
Unclaimed Monies (justice, labour or lawyers)	January / As required 2 per year	Any	15 January / As required	3 days prior to publication
Parliament (acts, white paper, green paper)	As required	Any		3 days prior to publication
Manuals	As required	Any	None	None
State of Budget (National Treasury)	Monthly	Any	7 days prior to publication	3 days prior to publication
Legal Gazettes A, B and C	Weekly	Friday	One week before publication	Tuesday, 15h00 - 3 days prior to publication
Tender Bulletin	Weekly	Friday	Friday 15h00 for next Friday	Tuesday, 15h00 - 3 days prior to publication
Gauteng	Weekly	Wednesday	Two weeks before publication	3 days after submission deadline
Eastern Cape	Weekly	Monday	One week before publication	3 days prior to publication
Northern Cape	Weekly	Monday	One week before publication	3 days prior to publication
North West	Weekly	Tuesday	One week before publication	3 days prior to publication
KwaZulu-Natal	Weekly	Thursday	One week before publication	3 days prior to publication
Limpopo	Weekly	Friday	One week before publication	3 days prior to publication
Mpumalanga	Weekly	Friday	One week before publication	3 days prior to publication
Gauteng Liquor License Gazette	Monthly	Wednesday before the First Friday of the month	Two weeks before publication	3 days after submission deadline
Northern Cape Liquor License Gazette	Monthly	First Friday of the month	Two weeks before publication	3 days after submission deadline
National Liquor License Gazette	Monthly	First Friday of the month	Two weeks before publication	3 days after submission deadline
Mpumalanga Liquor License Gazette	2 per month	Second & Fourth Friday	One week before	3 days prior to publication

GOVERNMENT PRINTING WORKS - BUSINESS RULES**EXTRAORDINARY GAZETTES**

3. *Extraordinary Gazettes* can have only one publication date. If multiple publications of an *Extraordinary Gazette* are required, a separate Z95/Z95Prov *Adobe* Forms for each publication date must be submitted.

NOTICE SUBMISSION PROCESS

4. Download the latest *Adobe* form, for the relevant notice to be placed, from the **Government Printing Works** website www.gpwonline.co.za.
5. The *Adobe* form needs to be completed electronically using *Adobe Acrobat / Acrobat Reader*. Only electronically completed *Adobe* forms will be accepted. No printed, handwritten and/or scanned *Adobe* forms will be accepted.
6. The completed electronic *Adobe* form has to be submitted via email to submit.egazette@gpw.gov.za. The form needs to be submitted in its original electronic *Adobe* format to enable the system to extract the completed information from the form for placement in the publication.
7. Every notice submitted **must** be accompanied by an official **GPW** quotation. This must be obtained from the *eGazette* Contact Centre.
8. Each notice submission should be sent as a single email. The email **must** contain **all documentation relating to a particular notice submission**.
 - 8.1. Each of the following documents must be attached to the email as a separate attachment:
 - 8.1.1. An electronically completed *Adobe* form, specific to the type of notice that is to be placed.
 - 8.1.1.1. For *National Government Gazette* or *Provincial Gazette* notices, the notices must be accompanied by an electronic Z95 or Z95Prov *Adobe* form
 - 8.1.1.2. The notice content (body copy) **MUST** be a separate attachment.
 - 8.1.2. A copy of the official **Government Printing Works** quotation you received for your notice .
(Please see *Quotation* section below for further details)
 - 8.1.3. A valid and legible Proof of Payment / Purchase Order: **Government Printing Works** account customer must include a copy of their Purchase Order. **Non-Government Printing Works** account customer needs to submit the proof of payment for the notice
 - 8.1.4. Where separate notice content is applicable (Z95, Z95 Prov and TForm 3, it should **also** be attached as a separate attachment. (Please see the *Copy Section* below, for the specifications).
 - 8.1.5. Any additional notice information if applicable.
9. The electronic *Adobe* form will be taken as the primary source for the notice information to be published. Instructions that are on the email body or covering letter that contradicts the notice form content will not be considered. The information submitted on the electronic *Adobe* form will be published as-is.
10. To avoid duplicated publication of the same notice and double billing, Please submit your notice **ONLY ONCE**.
11. Notices brought to **GPW** by "walk-in" customers on electronic media can only be submitted in *Adobe* electronic form format. All "walk-in" customers with notices that are not on electronic *Adobe* forms will be routed to the Contact Centre where they will be assisted to complete the forms in the required format.
12. Should a customer submit a bulk submission of hard copy notices delivered by a messenger on behalf of any organisation e.g. newspaper publisher, the messenger will be referred back to the sender as the submission does not adhere to the submission rules.

GOVERNMENT PRINTING WORKS - BUSINESS RULES**QUOTATIONS**

13. Quotations are valid until the next tariff change.
 - 13.1. **Take note:** GPW's annual tariff increase takes place on **1 April** therefore any quotations issued, accepted and submitted for publication up to **31 March** will keep the old tariff. For notices to be published from 1 April, a quotation must be obtained from **GPW** with the new tariffs. Where a tariff increase is implemented during the year, **GPW** endeavours to provide customers with 30 days' notice of such changes.
14. Each quotation has a unique number.
15. Form Content notices must be emailed to the *eGazette* Contact Centre for a quotation.
 - 15.1. The *Adobe* form supplied is uploaded by the Contact Centre Agent and the system automatically calculates the cost of your notice based on the layout/format of the content supplied.
 - 15.2. It is critical that these *Adobe* Forms are completed correctly and adhere to the guidelines as stipulated by **GPW**.
16. **APPLICABLE ONLY TO GPW ACCOUNT HOLDERS:**
 - 16.1. **GPW** Account Customers must provide a valid **GPW** account number to obtain a quotation.
 - 16.2. Accounts for **GPW** account customers **must** be active with sufficient credit to transact with **GPW** to submit notices.
 - 16.2.1. If you are unsure about or need to resolve the status of your account, please contact the **GPW** Finance Department prior to submitting your notices. (If the account status is not resolved prior to submission of your notice, the notice will be failed during the process).
17. **APPLICABLE ONLY TO CASH CUSTOMERS:**
 - 17.1. Cash customers doing **bulk payments** must use a **single email address** in order to use the **same proof of payment** for submitting multiple notices.
18. The responsibility lies with you, the customer, to ensure that the payment made for your notice(s) to be published is sufficient to cover the cost of the notice(s).
19. Each quotation will be associated with one proof of payment / purchase order / cash receipt.
 - 19.1. This means that **the quotation number can only be used once to make a payment.**

GOVERNMENT PRINTING WORKS - BUSINESS RULES**COPY (SEPARATE NOTICE CONTENT DOCUMENT)**

20. Where the copy is part of a separate attachment document for Z95, Z95Prov and TForm03
- 20.1. Copy of notices must be supplied in a separate document and may not constitute part of any covering letter, purchase order, proof of payment or other attached documents.
- The content document should contain only one notice. (You may include the different translations of the same notice in the same document).
- 20.2. The notice should be set on an A4 page, with margins and fonts set as follows:
- Page size = A4 Portrait with page margins: Top = 40mm, LH/RH = 16mm, Bottom = 40mm;
Use font size: Arial or Helvetica 10pt with 11pt line spacing;
- Page size = A4 Landscape with page margins: Top = 16mm, LH/RH = 40mm, Bottom = 16mm;
Use font size: Arial or Helvetica 10pt with 11pt line spacing;

CANCELLATIONS

21. Cancellation of notice submissions are accepted by **GPW** according to the deadlines stated in the table above in point 2. Non-compliance to these deadlines will result in your request being failed. Please pay special attention to the different deadlines for each gazette. Please note that any notices cancelled after the cancellation deadline will be published and charged at full cost.
22. Requests for cancellation must be sent by the original sender of the notice and must be accompanied by the relevant notice reference number (N-) in the email body.

AMENDMENTS TO NOTICES

23. With effect from 01 October 2015, **GPW** will not longer accept amendments to notices. The cancellation process will need to be followed according to the deadline and a new notice submitted thereafter for the next available publication date.

REJECTIONS

24. All notices not meeting the submission rules will be rejected to the customer to be corrected and resubmitted. Assistance will be available through the Contact Centre should help be required when completing the forms. (012-748 6200 or email info.egazette@gpw.gov.za). Reasons for rejections include the following:
- 24.1. Incorrectly completed forms and notices submitted in the wrong format, will be rejected.
- 24.2. Any notice submissions not on the correct *Adobe* electronic form, will be rejected.
- 24.3. Any notice submissions not accompanied by the proof of payment / purchase order will be rejected and the notice will not be processed.
- 24.4. Any submissions or re-submissions that miss the submission cut-off times will be rejected to the customer. The Notice needs to be re-submitted with a new publication date.

GOVERNMENT PRINTING WORKS - BUSINESS RULES**APPROVAL OF NOTICES**

25. Any notices other than legal notices are subject to the approval of the Government Printer, who may refuse acceptance or further publication of any notice.
26. No amendments will be accepted in respect to separate notice content that was sent with a Z95 or Z95Prov notice submissions. The copy of notice in layout format (previously known as proof-out) is only provided where requested, for Advertiser to see the notice in final Gazette layout. Should they find that the information submitted was incorrect, they should request for a notice cancellation and resubmit the corrected notice, subject to standard submission deadlines. The cancellation is also subject to the stages in the publishing process, i.e. If cancellation is received when production (printing process) has commenced, then the notice cannot be cancelled.

GOVERNMENT PRINTER INDEMNIFIED AGAINST LIABILITY

27. The Government Printer will assume no liability in respect of—
 - 27.1. any delay in the publication of a notice or publication of such notice on any date other than that stipulated by the advertiser;
 - 27.2. erroneous classification of a notice, or the placement of such notice in any section or under any heading other than the section or heading stipulated by the advertiser;
 - 27.3. any editing, revision, omission, typographical errors or errors resulting from faint or indistinct copy.

LIABILITY OF ADVERTISER

28. Advertisers will be held liable for any compensation and costs arising from any action which may be instituted against the Government Printer in consequence of the publication of any notice.

CUSTOMER INQUIRIES

Many of our customers request immediate feedback/confirmation of notice placement in the gazette from our Contact Centre once they have submitted their notice – While **GPW** deems it one of their highest priorities and responsibilities to provide customers with this requested feedback and the best service at all times, we are only able to do so once we have started processing your notice submission.

GPW has a 2-working day turnaround time for processing notices received according to the business rules and deadline submissions.

Please keep this in mind when making inquiries about your notice submission at the Contact Centre.

29. Requests for information, quotations and inquiries must be sent to the Contact Centre **ONLY**.
30. Requests for Quotations (RFQs) should be received by the Contact Centre at least **2 working days** before the submission deadline for that specific publication.

GOVERNMENT PRINTING WORKS - BUSINESS RULES

PAYMENT OF COST

31. The Request for Quotation for placement of the notice should be sent to the Gazette Contact Centre as indicated above, prior to submission of notice for advertising.
32. Payment should then be made, or Purchase Order prepared based on the received quotation, prior to the submission of the notice for advertising as these documents i.e. proof of payment or Purchase order will be required as part of the notice submission, as indicated earlier.
33. Every proof of payment must have a valid **GPW** quotation number as a reference on the proof of payment document.
34. Where there is any doubt about the cost of publication of a notice, and in the case of copy, an enquiry, accompanied by the relevant copy, should be addressed to the Gazette Contact Centre, **Government Printing Works**, Private Bag X85, Pretoria, 0001 email: info.egazette@gpw.gov.za before publication.
35. Overpayment resulting from miscalculation on the part of the advertiser of the cost of publication of a notice will not be refunded, unless the advertiser furnishes adequate reasons why such miscalculation occurred. In the event of underpayments, the difference will be recovered from the advertiser, and future notice(s) will not be published until such time as the full cost of such publication has been duly paid in cash or electronic funds transfer into the **Government Printing Works** banking account.
36. In the event of a notice being cancelled, a refund will be made only if no cost regarding the placing of the notice has been incurred by the **Government Printing Works**.
37. The **Government Printing Works** reserves the right to levy an additional charge in cases where notices, the cost of which has been calculated in accordance with the List of Fixed Tariff Rates, are subsequently found to be excessively lengthy or to contain overmuch or complicated tabulation.

PROOF OF PUBLICATION

38. Copies of any of the *Government Gazette* or *Provincial Gazette* can be downloaded from the **Government Printing Works** website www.gpwonline.co.za free of charge, should a proof of publication be required.
39. Printed copies may be ordered from the Publications department at the ruling price. The **Government Printing Works** will assume no liability for any failure to post or for any delay in despatching of such *Government Gazette(s)*.

GOVERNMENT PRINTING WORKS CONTACT INFORMATION

Physical Address:

Government Printing Works
149 Bosman Street
Pretoria

Postal Address:

Private Bag X85
Pretoria
0001

GPW Banking Details:

Bank: ABSA Bosman Street
Account No.: 405 7114 016
Branch Code: 632-005

For Gazette and Notice submissions: Gazette Submissions:
For queries and quotations, contact: Gazette Contact Centre:

E-mail: submit.egazette@gpw.gov.za
E-mail: info.egazette@gpw.gov.za
Tel: 012-748 6200

Contact person for subscribers: Mrs M. Toka:

E-mail: subscriptions@gpw.gov.za
Tel: 012-748-6066 / 6060 / 6058
Fax: 012-323-9574

PROVINCIAL NOTICES • PROVINSIALE KENNISGEWINGS

PROVINCIAL NOTICE 1 OF 2018

CODE OF CONDUCT FOR MEMBERS OF GOVERNING BODIES OF PUBLIC SCHOOLS

I, ME Dlungwane, Member of the Executive Council responsible for Education in KwaZulu-Natal have, in terms of section 18A of the South African Schools Act, 1996 (Act No. 84 of 1996), as amended, determined the Code of Conduct for members of a governing body in a public school as set out in the schedule hereunder.

SCHEDULE

1. Definitions

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;

“**Circuit Manager**” means an official responsible for the management of a cluster of schools within a circuit;

“**Code of Conduct**” means a set of rules regulating the behaviour of members of governing bodies;

“**Constitution**” means the Constitution of the Republic of South Africa, 1996;

“**day**” means a school day;

“**Department**” means the KwaZulu-Natal Department of Education;

“**District Manager**” means the official responsible for the management of education at the district level;

“**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 person who is appointed to exclusively perform extra-curricular duties;

“**governing body**” means a body as defined in the South African Schools Act, 1996 (Act No. 84 of 1996);

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

“**Interested party**” means any member of the governing body, parent, owner of private land on which a public school is situated or an official;

“**learner**” means any person enrolled at a public school, receiving education or obliged to receive education in terms of the South African Schools Act, 1996 (Act No. 84 of 1996);

“**legal representative**” means either a practising attorney, non-practising attorney, an advocate, a non-practising advocate, legal advisor, prosecutor, magistrate, judge or any other person with a legal qualification that practises in any field of law;

“**member**” means a member as defined in sections 23(1) and 24(1) of the Act;

“**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, and who is not an educator at a school;

"Member of the Executive Council" means the Member of the Executive Council of the Province of KwaZulu-Natal, responsible for Education in the Province;

"Official" means an employee of the Department employed in terms of the Employment of Educators Act, 1998 (Act No. 76 of 1998), as amended, or the Public Service Act, 1994 (Act No.103 of 1994);

"principal" means an educator appointed or acting as the head of a public school; and

"School" means a public school which enrolls learners in one or more grades from grade R (reception) to grade 12 including, where applicable, a special needs school and a school that provides education with a specialised focus on talent.

2. Purpose

The purpose of this Code of Conduct is to –

- (a) promote a standard Code of Conduct that is applicable to all members of governing bodies;
- (b) assist members in conducting themselves in accordance with the Code of Conduct;
- (c) establish minimum standards of expected behaviour for members of governing bodies;
- (d) assist in eliminating or minimising conflict amongst members of governing bodies whilst dealing with misconduct;
- (e) promote and maintain good governance in schools in order to provide quality education;
- (f) provide a standard framework within which all members of governing bodies must operate; and
- (g) assist members of governing bodies when supporting the principal, educators and members of staff at the school in the performance of their duties.

3. Application

This Code of Conduct shall be applicable to all members of governing bodies in public schools within the Province of KwaZulu-Natal, with effect from the date of publication of this notice.

4. General Code of Conduct for members of a school governing body

(1) A member of a governing body must –

- (a) at all times conduct himself or herself in a manner that will promote the best interests of the school;
- (b) conduct himself or herself at all times in a manner that will bring credit to the governing body of the school;
- (c) conduct himself or herself in a responsible and sensible manner in the performance of his or her duties as a member of the governing body;
- (d) only perform governance related duties to the best of his or her ability;
- (e) ensure that the work of the governing body is carried out lawfully and in accordance with the Constitution of the governing body;
- (f) conduct himself or herself at all times in a respectable manner;
- (g) disclose any information that relates to his or her conduct, especially in respect of the National Register of Sex Offenders (NRSO) compiled in terms of the Sexual Offences and Related Matters Amendment Act, 2007 (Act No. 32 of 2007), or any other Acts relating to offences committed against children and which information may not have been known to the school prior to the member's election or appointment. Any member who fails to disclose such information shall, after due process being followed, vacate his or her seat immediately upon such information becoming known to the school or the department;
- (h) conduct himself or herself at all times in a manner conducive to the smooth running of the school and of the meetings of the governing body;
- (i) adhere to the provisions of the Constitution of the governing body as set out in section 18 of the Act;
- (j) exercise care to ensure that he or she protects the property of a school;
- (k) act with fidelity, honesty, integrity and in the best interest of the public school when administering, controlling and managing the property of the school; and
- (l) In writing, excuse himself or herself if he or she is unable to attend two (2) consecutive ordinary meetings of the governing body, failing which he or she will no longer be eligible to be a member of the governing body.

(2) A member of a governing body must not –

- (a) conduct himself or herself in a manner that interferes with the professional management of a school or with any educator's performance of his or her duties;

- (b) conduct himself or herself in a manner that interferes with the work of a member of staff in the performance of his or her duties at the school;
- (c) interfere with the implementation of decisions that were duly adopted by the governing body;
- (d) interfere with learners during any school activity or do anything that may be construed as interference with learners during a school activity. Any conduct in furtherance of the member's responsibilities as a member of the governing body during a school activity will not be construed as interference;
- (e) conduct himself or herself in a manner that may harm the relationship of trust between the governing body and the school;
- (f) in any way become involved in an action which may bring him or her into disrepute; and
- (g) become involved in any action which may bring the school into disrepute or in any manner whatsoever harm the good name of the school, the governing body or any member of the school community.

5. Serious Misconduct

The following constitutes serious misconduct and any member may, after due process is followed, be found guilty of serious misconduct if he or she –

- (a) possesses or consumes intoxicating substances, alcohol or illegal drugs whilst performing governing body functions and duties;
- (b) carries on his or her person or uses unauthorised, unlawful or illegal dangerous objects to harm other persons during any school activity and whilst performing his or her governing body functions and duties;
- (c) engages in a sexual relationship with a learner of a public school;
- (d) participates, initiates or conducts a corrupt, unethical, immoral or unbecoming relationship with any person in the school governing body or the school where he or she is a member of the governing body;
- (e) conducts himself or herself in a manner which will affect his or her powers of decision making in the governing body;
- (f) brings the name of the school or the governing body into disrepute;
- (g) verbally abuses a learner, parent, educator or member of staff employed at the school or another member of the school governing body;
- (h) misuses or abuses school property and resources;
- (i) abuses or misuses his or her position as a member of the governing body in any manner whatsoever;
- (j) accepts or gives bribes or favours to any person in the performance of his or her duties as a member of the governing body;
- (k) uses his or her position as a member of the governing body for personal gain or for the benefit or gain of his or her relatives, acquaintances, friends or any other person;
- (l) unduly influences the procurement processes of the school for personal gain or for purposes of enriching friends, acquaintances, relatives or any other person;
- (m) hinders the Department's investigations into the conduct of any person and in particular investigations relating to any other member of the governing body, learner, educator or member of staff employed at the school or hinders investigations into any other matter whatsoever;
- (n) in any way, conducts himself or herself in a manner that conflicts with the vision or mission of the school or any policy or legislation administered by the Department;
- (o) fails to perform the functions mandated to him or her as a member of the governing body;
- (p) binds the school into unauthorised, unlawful or financially wasteful contracts by entering into or negotiating contracts that are not beneficial to the school or that negatively affects the school's budget;
- (q) requests or accepts any personal or financial favours or gain by virtue of conducting any duties or activities of the governing body;
- (r) exempts or directs the governing body to exempt himself or herself or any other member of the governing body from the payment of school fees contrary to the school fee exemption policy;
- (s) receives any concession in school fees payment for his or her children attending a school where he or she is a member by virtue of his or her position on the governing body and not in accordance with the school fee exemption policy;
- (t) grants concessions in school fees to any member of the school staff or to another member of the governing body who would otherwise not qualify in terms of the school fee exemption policy;
- (u) sells, possesses or deals in illegal drugs or intoxicating liquor in or out of the school premises or during any school activity. Should any member operate a liquor business, same shall not be located within 50 m of the school boundary fence and shall not allow entry of underaged persons in the business;
- (v) operates a business of a sexual nature which renders services of a sexual nature or sells items related to a sexual activity;
- (w) conducts any business on the school premises which is in conflict with the school policies or the department's policies or which adversely affects teaching and learning at the school;

- (x) delays staff recruitment, staff selection and placement procedures without any lawful or reasonable grounds;
- (y) involves himself or herself in acts of nepotism, bribery, corruption or favouritism in the staff recruitment, selection and placement procedures;
- (z) commits any act of bribery, corruption or favouritism in the admission of learners;
- (aa) charges or instructs the principal to charge any administration, registration or any other type of fee for the admission of learners (excluding school fees, where applicable);
- (bb) commits any act of theft or fraud whilst executing governing body functions;
- (cc) utters any racist, sexist or xenophobic words or displays such behaviour towards any learner, parent, member of staff, member of the governing body, any departmental official or any other person at the school or during any school activity;
- (dd) participates or causes, directs or incites other members of the governing body, parents, learners or members of staff to participate in unlawful, immoral or unethical activities;
- (ee) conducts himself or herself in any manner whatsoever that will affect good governance and management of a school; and
- (ff) conducts a corrupt relationship with another member of the governing body, staff or any other person at the school which hinders the smooth running of the school.

6. Conduct Relating to Financial Management

Financial misconduct is an act of serious misconduct and every member of a governing body must –

- (a) maintain the highest standard of ethical behaviour in matters pertaining to funds and the management of school funds;
- (b) ensure utmost honesty and confidentiality in dealing with documentation and records pertaining to the financial matters of the school;
- (c) ensure that the resources of the school, and especially financial resources, are managed and utilised responsibly;
- (d) ensure that all school financial matters are conducted honestly and in accordance with the applicable policies, rules, regulations and prescripts as determined by the Minister of Education, the Member of the Executive Council or the Head of Department and the governing body;
- (e) accept assistance from the school principal in respect of the financial regulations, policies, the relevant prescripts and Acts with regard to the management of the school funds;
- (f) consider the policy advice on the financial implications of decisions relating to the financial matters of the school from the school principal;
- (g) ensure that all school accounts are managed in a proper manner in accordance with generally acceptable accounting practices and which must be in accordance with the Act, relevant policies and practices;
- (h) inform the governing body of his or her immediate relatives, business partners, friends or any other acquaintances who may have an interest in financial matters relating to the governing body;
- (i) recuse himself or herself from any item on the agenda of a meeting that discusses a financial matter which affects the member or in which the member has an interest;
- (j) ensure that procedures are in place for the collection of monies, their safe keeping, use and the banking thereof;
- (k) not bind the school into any contracts without the consent of the governing body, the Member of the Executive Council or any other relevant authority;
- (l) abstain from voting on any financial matters or contracting on behalf of a school if the member is a minor; and
- (m) report any maladministration or mismanagement of school finances to the Chairperson of the Governing Body, the Circuit Manager or other relevant authority.

7. Disclosure of information

(1) A member of the governing body must treat all information that he or she obtains in his or her capacity of being a member of the governing body as confidential unless the law prescribes otherwise. The governing body may classify and minute all information it deems to be confidential at its discretion.

(2) A member of the governing body must not –

- (a) disclose confidential information or information relating to the governing body to other members without the consent of the governing body or the specific members. This information must remain confidential even after a member ceases to be a member of a governing body;
- (b) make any statements or provide information to the media including social networking sites or to any person, relating to the governing body, a member of the governing body, the school, a parent, a learner or any staff of the school, unless such information is given with the consent of the governing body, in terms of legislation, policy or rules of the governing body; and

(c) disseminate false information or unsubstantiated allegations via any means whatsoever including any social networking sites about the governing body or any member of the governing body, the school, a parent, a learner or any staff members at the school.

(3) A member found to be in breach of this clause may, in addition to any other sanction, be requested to –

(a) publish at his or her cost a retraction of the offensive statement or information; and

(b) issue an apology to the person or institution affected by the disclosure, dissemination or publication of information.

8. Breach of code of conduct

(1) Any member who breaches this Code of Conduct must be subjected to the disciplinary process in terms of this Code of Conduct.

(2) In the event of a member being found guilty of serious misconduct after a disciplinary hearing, a sanction shall be imposed on the member in terms of clause 11.

(3) The Member of the Executive Council may, from time to time, declare other forms of serious misconduct, general misconduct or serious financial misconduct and such declaration shall be accepted as constituting serious misconduct, general misconduct or serious financial misconduct.

(4) A member found guilty of a serious act of misconduct may be suspended or have his or her membership of the governing body terminated by the Head of Department.

(5) Should there be any evidence of misconduct by the principal, educator or a non-educator in terms of this code then it may form the basis for a disciplinary hearing against the principal, educator or non-educator in terms of the respective codes of conduct applicable to that particular official.

9. Process of handling complaints of misconduct

(1) Should any interested party have any complaint –

(a) pertaining to the conduct concerning a member of the governing body other than the chairperson, such complaint must be lodged in writing with the chairperson and the chairperson must immediately report the alleged complaint to the Circuit Manager responsible for the school; and

(b) pertaining to the conduct of a chairperson, the complainant must lodge his or her complaint, in writing, with the principal and the principal must immediately report the alleged complaint to the Circuit Manager responsible for the school and must inform the Chairperson of the Governing Body.

(2) Upon receipt of a complaint against any member of a governing body including the principal, the Circuit Manager must –

(a) within seven (7) days acknowledge, in writing, receipt of any complaint lodged with him or her and must determine the seriousness of the alleged misconduct, giving reasons for such determination;

(b) within fourteen (14) days of receipt of a less serious or minor complaint –

(i) attend to the complaint at circuit level;

(ii) notify the District Manager of the action and decision that he or she has taken in respect of the said complaint; and

(iii) inform the complainant and governing body in writing of the outcome of the complaint and the reasons for his or her decision; and

(c) within seven (7) days of receipt of any complaint relating to serious misconduct or a complaint relating to financial misconduct, conduct a preliminary investigation and submit the investigation report to the District Manager for the District Manager's action.

(3) Any complainant may notify the District Manager of his or her dissatisfaction with –

(a) the non-compliance by the Circuit Manager with prescribed time frames in dealing with the matter;

(b) the determination made by the Circuit manager; or

(c) both (a) and (b) above.

(4) Upon considering the determination by the Circuit Manager that the complaint was one of serious misconduct, the District Manager may request the Head of Department to impose a precautionary suspension of not more than fourteen (14) days pending a disciplinary hearing under the following circumstances –

(a) if it is likely that the member will interfere with witnesses;

(b) where the possibility exists that potential witnesses will be threatened or intimidated;

(c) where the possibility exists that evidence may be tampered with; or

(d) any other valid reason.

(5) If it is a serious complaint, the District Manager, after considering the determination of the Circuit Manager in terms of subclause 2, must within seven (7) days direct that –

(a) a tribunal be constituted;

- (b) the Chairperson of the Governing Body serve on the disciplinary tribunal responsible for conducting the disciplinary hearing subject to the provisions of subclause 9(6) below; and
- (c) the disciplinary hearing be conducted within fourteen (14) days of the precautionary suspension.
- (6) If the chairperson is implicated then the deputy chairperson must serve on the tribunal, however, should both the chairperson and the deputy chairperson be implicated then another member appointed by the governing body should be part of the tribunal.
- (7) The following members of the governing body shall not be eligible to serve on the disciplinary tribunal –
- (a) any member who has been directly involved with the events or conduct in question;
 - (b) any person related to the implicated member or where a conflict of interest exists between the person and the member implicated;
 - (c) the school principal; and
 - (d) learner members of the governing body.
- (8) The tribunal must constitute of at least four (4) people and must include the following –
- (a) an official of the Governance and Management component at district level;
 - (b) any other official from the Department with the necessary expertise and competence in disciplinary proceedings; and
 - (c) two (2) members of the governing body appointed by the governing body, one being the chairperson in terms of subclause 5(b).
- (9) The District Manager must appoint, in writing, the two departmental officials in terms of subclause 8 above.
- (10) The District Manager or his or her delegate, who is duly appointed in terms of a written delegation, must preside over the meeting of the tribunal to elect the chairperson.
- (11) The governing body must appoint, in writing, in the Departmental approved template the governing body representatives in the tribunal.
- (12) The tribunal must provide secretariat services.
- (13) In matters concerning financial misconduct, an additional member with the necessary financial background and expertise shall be co-opted to the tribunal by members of the tribunal.
- (14) A governing body may request the assistance of a governing body association in preparing for the hearing and for the purpose of representing the governing body as the initiator at the hearing.

10. Disciplinary Hearing

- (1) The tribunal must give seven (7) days' written notice of the disciplinary hearing to a member who is alleged to have committed serious misconduct.
- (2) The notice must contain –
- (a) the charges preferred against the member;
 - (b) the venue, date and time of the hearing;
 - (c) information to the member that the disciplinary hearing will proceed in the member's absence if a member without just cause and documentary proof (where applicable) fails to turn up for the hearing;
 - (d) the right of the member to have a representative from the governing body or any other person present during the hearing to represent him or her: Provided that that person is not a legal representative;
 - (e) clear notification that representation by a legal representative will not be allowed;
 - (f) the right to call witnesses in support of his or her defense; and
 - (g) any other relevant information relating to the disciplinary hearing.
- (3) The disciplinary tribunal shall appoint a chairperson from amongst the members of the tribunal.
- (4) The chairperson of the tribunal must determine the procedure to be followed at the hearing but he or she must take into account the following –
- (a) the right of each party to have a fair and just hearing;
 - (b) the right to allow witness evidence, cross-examining and re-examining of witnesses;
 - (c) the need to appoint an intermediary to enable a learner who is under the age of 18 to give evidence should it appear that the learner would endure mental stress or suffering should the learner testify at the proceeding;
 - (d) the right of each party to make closing arguments;
 - (e) the right to an interpreter;
 - (f) the right of the member to mitigate in the event that he or she is found guilty; and
 - (g) that accurate records of the proceedings are kept for the duration of the term of office of the governing body.
- (5) The tribunal chairperson must administer an oath to the member, all witnesses and to the interpreter, if applicable.
- (6) The chairperson of the tribunal must conduct the hearing in a fair, just and humane manner.

(7) The hearing must be conducted in a language that is understood by the member, the witnesses and representatives involved in the hearing. An interpreter may be appointed at the request of the member.

(8) The tribunal must, after hearing all evidence, make a finding and provide the reasons for the finding to the District Manager and recommend an appropriate sanction to him or her.

(9) The tribunal may make the following recommendations to the District Manager –

(a) that the member be absolved because there is no substance in the allegations of misconduct leveled against him or her; or

(b) that a recommendation be made to the Head of Department to impose a sanction in terms of clause 11 hereunder.

(10) The tribunal must complete the hearing within fourteen (14) days after being constituted by the District Manager.

(11) The District Manager must, in writing, inform the member of the –

(a) outcome of the findings of the tribunal and give reasons for such finding; and

(b) the proposed recommendation, if applicable.

(12) It is only the Head of Department that may impose a sanction of either a suspension or termination of membership.

(13) In the event of a recommendation of a sanction of suspension or termination of membership, the District Manager must, within seven (7) days of the conclusion of the hearing, forward the tribunal's findings and the recommended sanction to the Head of Department and the Head of Department must, within twenty one (21) days, consider the recommended sanction and take appropriate action.

(14) The decision of the Head of Department must be communicated by the District Manager to the member and the member must be notified of his or her right of appeal to the Member of the Executive Council in terms of clause 12.

11. Sanctions

(1) The following sanctions may be imposed by the Head of Department on a member found guilty of an act of serious misconduct –

(a) suspension for a determined period of time;

(b) termination of membership; or

(c) coupled with termination, a disqualification from being elected, co-opted or appointed as a member of any governing body for a period of three (3) years from date of imposition of the sanction.

(2) Any conduct that constitutes a criminal offence must be reported to the South African Police Services for investigation and prosecution, if applicable.

12. Appeals

(1) A member against whom a sanction has been imposed by the Head of Department in terms of clause 11(1) may, within seven (7) days of receipt of the sanction, appeal to the Member of the Executive Council against that decision.

(2) The Member of the Executive Council may dismiss or uphold an appeal.

(3) Should the Member of the Executive Council uphold the member's appeal, then the Member of the Executive Council may absolve the member of all charges or if he or she deems appropriate, vary the sanction or impose a lesser sanction.

13. Repeal

Provincial Notice No. 331, published in the *KwaZulu-Natal Provincial Gazette* No. 6329 dated 3 March 2005, is hereby repealed in whole.

MR ME DLUNGWANA, MPL

Member of the Executive Council of the Province of KwaZulu-Natal
responsible for Education

PROVINSIALE KENNISGEWING 1 VAN 2018**GEDRAGSKODE VIR LEDE VAN BEHEERLIGGAME VAN OPENBARE SKOLE**

Ek, ME Dlungwane, Lid van die Uitvoerende Raad verantwoordelik vir Onderwys in die Provinsie van KwaZulu-Natal het, ingevolge artikel 18A van die Suid-Afrikaanse Skolewet, 1996 (Wet No. 84 van 1996), soos gewysig, die Gedragskode vir lede van 'n beheerliggaam in 'n openbare skool bepaal, soos hieronder uiteengesit.

BYLAE**1. Omskrywings**

In hierdie kennisgewing beteken enige woord of uitdrukking waaraan 'n betekenis toegeken is in die Wet, tensy uit die samehang anders blyk –

“**amptenaar**” 'n werknemer van die Departement in diens geneem ingevolge die Wet op Indiensneming van Opvoeders, 1998 (Wet No. 76 van 1998);

“**beheerliggaam**” 'n liggaam soos omskryf in die Suid-Afrikaanse Skolewet, 1996 (Wet No. 84 van 1996);

“**belanghebbende party**” enige lid van die beheerliggaam, ouer, eienaar van privaatgrond waarop 'n openbare skool geleë is of 'n amptenaar;

“**dag**” 'n skooldag;

“**Departement**” die KwaZulu-Natal Departement van Onderwys;

“**Departementshoof**” die Hoof van die Departement van Onderwys in die Provinsie van KwaZulu-Natal;

“**Distriksbestuurder**” die amptenaar verantwoordelik vir onderwysbestuur in die Provinsie van KwaZulu-Natal;

“**Gedragskode**” 'n stel reëls wat die gedrag van lede van beheerliggame reguleer;

“**Grondwet**” die Grondwet van die Republiek van Suid-Afrika, 1996;

“**Kringbestuurder**” 'n amptenaar verantwoordelik vir 'n kluster skole binne 'n kring;

“**leerder**” enige persoon ingeskryf by 'n openbare skool wat onderrig ontvang of verplig is om onderrig te ontvang ingevolge die Suid-Afrikaanse Skolewet, 1996 (Wet No. 84 van 1996);

“**lid**” 'n lid soos omskryf in artikels 23(1) en 24(1) van die Wet;

“**Lid van die Uitvoerende Raad**” die Lid van die Uitvoerende Raad van die Provinsie van KwaZulu-Natal, verantwoordelik vir Onderwys in die Provinsie;

“**opvoeder**” enige persoon wat ander persone onderrig, opvoed of oplei of wie professionele opvoedkundige dienste by 'n skool voorsien, ingesluit professionele terapie en opvoedkundige sielkundige dienste maar sluit nie 'n persoon wie aangestel is om uitsluitlik buitemuurse aktiwiteite/pligte te verrig in nie;

“**personeellid**” beteken 'n persoon aangestel volgens die Staatsdienswet, 1996 (Wet No. 103 van 1994), of die Suid-Afrikaanse Skolewet, 1996 (Wet No. 84 van 1996), soos gewysig, en wie nie 'n opvoeder by 'n skool is nie;

“**prinsipaal**” 'n opvoeder aangestel of waarnemend as die hoof van 'n openbare skool;

“**regsverteenwoordiger**” óf ‘n praktiserende prokureur, niepraktiserende prokureur, advokaat, ‘n niepraktiserende advokaat, regsadviseur, aanklaer, magistraat, regter óf enige ander persoon met ‘n regskwalifikasie wat in enige veld van die reg praktiseer;

“**skool**” ‘n openbare skool wat leerders in een of meer grade vanaf graad R (resepsie) tot graad 12 inskryf, ingesluit, waar van toepassing, ‘n skool vir spesiale behoeftes en ‘n skool wat onderrig met ‘n gespesialiseerde fokus op talent aanbied; en

“**Wet**” die Suid-Afrikaanse Skolewet, 1996 (Wet No. 84 van 1996), soos gewysig.

2. Doel

Die doel van hierdie Gedragskode is om –

- (a) ‘n standaard Gedragskode van toepassing op alle lede van beheerliggame te bevorder;
- (b) lede by te staan om op te tree in ooreenstemming met die Gedragskode;
- (c) minimum standaarde vir die gedrag wat van lede van beheerliggame verwag word daar te stel;
- (d) bystand te verleen in die uitskakeling of vermindering van konflik tussen lede van beheerliggame terwyl wangedrag aangespreek word;
- (e) goeie regering in skole te bevorder en handhaaf ten einde kwaliteit onderrig te verskaf;
- (f) ‘n standaard raamwerk waarbinne alle lede van beheerliggame werksaam moet wees te verskaf; en
- (g) lede van beheerliggame by te staan in hul ondersteuning van die prinsipaal, opvoeders en personeellede by die skool in die uitvoering van hul pligte.

3. Toepassing

Hierdie Gedragskode sal van toepassing wees op alle lede van beheerliggame van openbare skole binne die Provinsie van KwaZulu-Natal met inwerkingtreding vanaf die publikasiedatum van hierdie kennisgewing.

4. Algemene Gedragskode vir lede van ‘n skool se beheerliggaam

(1) ‘n Lid van ‘n beheerliggaam moet –

- (a) te alle tye optree op ‘n wyse wat die beste belange van die skool sal bevorder;
- (b) toesien dat hy of sy te alle tye optree op ‘n wyse wat sal bydra tot die status van die beheerliggaam van die skool;
- (c) verseker dat sy of haar optrede verantwoordelik en oordeelkundig is in die uitvoer van sy of haar pligte as ‘n lid van die beheerliggaam;
- (d) slegs beheerliggaam-verwante pligte na die beste van sy of haar vermoë uitvoer;
- (e) verseker dat die werk van die beheerliggaam regmatig en ooreenkomstig die Grondwet van die beheerliggaam uitgevoer word;
- (f) homself of haarself te alle tye op ‘n eerbiedwaardige wyse gedra;
- (g) enige inligting wat verband hou met sy of haar gedrag, veral ten opsigte van die Nasionale Register vir Seks-oortreders (NRSO), saamgestel ingevolge die Wysigingswet op die Strafwet (Seksuele Misdrywe en Verwante Aangeleenthede, 2007 (Wet No. 32 van 2007), of enige ander wette wat verband hou met oortredings teen kinders en sodanige inligting wat voor die lid se verkiesing of aanstelling nie bekend mag gewees het aan die skool nie, bekend maak;
- (h) te alle tye op ‘n wyse optree wat bevorderlik is vir die gladde verloop van die skool en van die vergaderings van die beheerliggaam;
- (i) die bepalinge van die Grondwet van die beheerliggaam, soos uiteengesit in artikel 18 van die Wet, nakom;
- (j) versigtigheid uitoefen ten einde toe te sien dat hy of sy die eiendom van ‘n skool beskerm;
- (k) met getrouheid, eerlikheid, integriteit en in die beste belang van die skool optree wanneer die eiendom van die skool geadministreer, beheer en bestuur word; en
- (l) homself of haarself, skriftelik, verskoon wanneer hy of sy nie in staat is om twee (2) agtereenvolgende gewone vergaderings van die beheerliggaam by te woon nie. Hy of sy sal nie langer verkiesbaar wees om ‘n lid van die beheerliggaam te wees by versuim hiervan nie.

(2) ‘n Lid van ‘n beheerliggaam moet nie –

- (a) op ‘n wyse wat inmeng met die professionele bestuur van ‘n skool of met enige opvoeder se nakoming van pligte optree nie;
- (b) op ‘n wyse wat inmeng met die werk van ‘n personeellid in die nakoming van sy of haar pligte by die skool optree nie;
- (c) inmeng met die inwerkingstelling van besluite wat behoorlik deur die beheerliggaam aangeneem is nie;

- (d) inmenging met leerders tydens enige skoolaktiwiteit of enigiets doen wat geïnterpreteer kan word as inmenging met leerders tydens 'n skoolaktiwiteit nie. Enige optrede ter bevordering van die lid se verantwoordelikhede as 'n lid van die beheerliggaam tydens 'n skoolaktiwiteit sal nie as inmenging geïnterpreteer word nie;
- (e) op so 'n wyse optree dat die vertrouensverhouding tussen die beheerliggaam en die skool skade aangedoen word deur sy of haar optrede nie;
- (f) op enige wyse betrokke raak by 'n handeling wat hom of haar oneer aandoen nie; en
- (g) betrokke raak by enige handeling wat die skool oneer sal aandoen of op hoegenaamd enige wyse die goeie naam van die skool, die beheerliggaam of enige ander lid van die skoolgemeenskap oneer aandoen nie.

5. Ernstige Wangedrag

Die volgende maak ernstige wangedrag uit en enige lid mag, nadat behoorlike beregting gevolg is, skuldig bevind word aan wangedrag indien hy of sy –

- (a) bedwelmende stowwe, alkohol of onwettige dwelms besit of gebruik terwyl werksaamhede van die beheerliggaam verrig en pligte uitgevoer word;
- (b) terwyl hy of sy hul werksaamhede van die beheerliggaam verrig en pligte uitvoer, aan sy of haar persoon ongemagtigde, onregmatige of onwettige gevaarlike voorwerpe dra of gebruik met die doel om ander persone leed aan te doen tydens enige skoolaktiwiteit en nie;
- (c) in 'n seksuele verhouding met 'n leerder van 'n openbare skool betrokke raak;
- (d) deelneem aan, insieer of betrokke is by 'n korrupte, onetiese, immorele of onbetaamlike verhouding met enige persoon op die skool se beheerliggaam of die skool waar hy of sy 'n lid van die beheerliggaam is;
- (e) optree op 'n wyse wat op sy of haar bevoegdhele vir besluitneming op die beheerliggaam sal affekteer;
- (f) die naam van die skool of die beheerliggaam se reputasie in oneer bring;
- (g) 'n leerder, ouer, opvoeder of personeellid in diens van die skool of 'n ander lid van die skool se beheerliggaam verbaal mishandel;
- (h) skoleiendom en bronne misbruik of wangebruik;
- (i) sy of haar posisie as 'n lid van die beheerliggaam op hoegenaamd enige wyse wangebruik of misbruik;
- (j) in die uitvoer van sy pligte as 'n lid van die beheerliggaam omkoperij of gunste van of vir enige persoon aanvaar of aanbied;
- (k) gebruik maak van sy of haar posisie as 'n lid van die beheerliggaam vir persoonlike gewin, of tot voordeel van, of gewin vir sy familieleden, kennisse of enige ander persoon;
- (l) die verkrygingsprosesse van die skool onbehoorlik beïnvloed vir persoonlike gewin of met ten doel om vriende, kennisse, familieleden of enige ander persoon te verryk;
- (m) die Departement se ondersoek na die gedrag van enige ander persoon belemmer, en in bepaalde ondersoek rakende enige ander lid van die beheerliggaam, leerder, opvoeder of personeellid in diens by die skool of ondersoek na hoegenaamd enige ander aangeleentheid belemmer;
- (n) op enige wyse optree wat in konflik is met die visie of missie van die skool of enige ander beleid of wetgewing wat deur die Departement geadminestreer word;
- (o) versuim om die funksies aan hom of haar gemandateer as 'n lid van die beheerliggaam te verrig;
- (p) die skool verbind tot ongemagtigde, onregmatige of finansiële verkwistende kontrakte deur kontrakte te beding of aan te gaan wat nie tot voordeel van die skool strek nie of wat negatief impakteer op die skool se begroting;
- (q) enige persoonlike of finansiële gunste of gewin versoek of aanvaar uit hoofde van enige pligte of aktiwiteite van die beheerliggaam uit te voer;
- (r) homself of haarself vrystel of die beheerliggaam beveel om homself of haarself of enige ander lid van die beheerliggaam vry te stel van die betaling van skoolfooi teenstrydig met die beleid op skoolfooi vrystelling;
- (s) enige toegewing vir skoolfooi betaling ontvang vir sy of haar kinders wat 'n skool bywoon waar hy of sy 'n lid is uit hoofde van sy of haar posisie op die beheerliggaam en wat nie in ooreenstemming met die beleid op skoolfooi vrystelling is nie;
- (t) toegewings vir skoolfooi bestaan aan enige lid van die skoolpersoneel of aan enige ander lid van die beheerliggaam wie andersin nie kwalifiseer ingevolge die beleid op skoolfooi vrystelling nie;
- (u) onwettige dwelmmiddels of bedwelmende drank verkoop, besit of daarin handel dryf binne of buite die skoolterrein of tydens enige skoolaktiwiteit. Sou enige lid 'n drankbesigheid bedryf, sal dit nie geleë wees binne 50 m vanaf die skool se grensomheining nie en sal nie toegang aan minderjarige persone tot die besigheid toelaat nie;
- (v) 'n besigheid wat seksueel van aard is en wat dienste van 'n seksuele aard of items rakende 'n seksuele aktiwiteit bedryf nie;
- (w) enige besigheid op die skoolterrein bedryf wat in konflik is met die skoolbeleide of die beleide van die departement of wat 'n nadelige invloed op onderrig en leer by die skool het nie;

- (x) personeelwerwing, personeelkeuring en -plasingprosedures verdraag sonder enige regmatige of redelike gronde;
- (y) by enige handeling van nepotisme, omkoperij, korrupsie of gunsbetoon in die personeelwerwings-, personeelkeurings- en personeelplasingprosedures betrokke raak;
- (z) enige handeling van omkoperij, bedrog of gunsbetoon in die toelating van leerders begaan;
- (aa) enige administrasie, registrasie of enige ander soort fooi vir die toelating van leerders (skoolfooie uitgesluit) hef of die prinsipaal beveel om so te doen;
- (bb) enige daad van diefstal of bedrog pleeg terwyl beheerliggaamswerkzaamhede verrig word;
- (cc) enige rasistiese, seksistiese of xenofobiese woorde uiter of op sodanige wyse optree voor enige leerder, ouer, personeellid, lid van die beheerliggaam, enige departementele amptenaar of enige ander persoon by die skool of tydens enige skoolaktiwiteit;
- (dd) ander lede van die beheerliggaam, ouers, leerders of personeellede voorsê of aanhits om aan onregmatige, immorele of onetiese aktiwiteite deel te neem en/of self daaraan deel te neem;
- (ee) op enige wyse hoegenaamd optree wat goeie regering en bestuur van 'n skool sal affekteer; en
- (ff) in 'n korrupte verhouding is met 'n ander lid van die beheerliggaam, personeel of enige persoon by die skool wat die vlot bestuur van die skool belemmer.

6. Gedrag ten opsigte van Finansiële Bestuur

Finansiële wangedrag is 'n handeling van ernstige wangedrag en elke lid van 'n beheerliggaam moet –

- (a) die hoogste standaard van etiese gedrag in aangeleenthede betreffende fondse en die bestuur van skoolfondse handhaaf;
- (b) uiterste eerlikheid en vertroulikheid verseker in die hantering van dokumentasie en rekords betreffende die finansiële aangeleenthede van die skool;
- (c) verseker dat die bronne van die skool, in die besonder finansiële bronne, op verantwoordelike wyse bestuur en aangewend word;
- (d) verseker dat alle finansiële aangeleenthede van die skool eerlik en ooreenkomstig die toepaslike beleide, reëls, regulasies en voorskrifte, soos bepaal deur die Minister van Onderwys, die Lid van die Uitvoerende Raad en die beheerliggaam, uitgevoer word;
- (e) bystand van die skoolprinsipaal aanvaar ten opsigte van die finansiële regulasies, beleide, die tersaaklike voorskrifte en handeling met betrekking tot die bestuur van die skoolfondse;
- (f) die skoolprinsipaal se beleidsadvies oor die finansiële implikasies van besluite betreffende finansiële aangeleenthede van die skool oorweeg;
- (g) verseker dat alle skoolrekeninge op 'n behoorlike wyse bestuur word ooreenkomstig algemeen aanvaarbare rekenpligtige praktyke en wat ooreenkomstig die Wet, tersaaklike beleide en praktyke moet wees;
- (h) die beheerliggaam in kennis stel van sy of haar naaste familielede, sakevennote, vriende of enige ander kennisse wat 'n belang in finansiële aangeleenthede met betrekking tot die beheerliggaam mag hê;
- (i) homself of haarself onttrek van enige item op die agenda wat 'n finansiële aangeleentheid raak, wat die lid raak of waarin die lid 'n belang het;
- (j) verseker dat prosedures in plek is vir die insameling van gelde, die beveiliging, gebruik en deponering daarvan in 'n bankrekening;
- (k) nie die skool verbind tot enige kontrakte sonder die toestemming van die beheerliggaam, die Lid van die Uitvoerende Raad of enige ander tersaaklike gesag nie;
- (l) moet buite stemming bly oor enige finansiële aangeleenthede of kontraktering namens 'n skool indien die lid minderjarig is; en
- (m) enige wanadministrasie of wanbestuur van skoolfinansies aan die Voorsitter van die Beheerliggaam, die Kringbestuurder of enige ander tersaaklike gesag rapporteer.

7. Openbaarmaking van Inligting

- (1) 'n Lid van die beheerliggaam moet alle inligting wat hy of sy bekom in sy of haar hoedanigheid as lid van die beheerliggaam as vertroulik behandel tensy die wet anders voorskryf. Die beheerliggaam mag alle inligting wat hy as vertroulik beskou, na sy diskresie, klassifiseer en notuleer as vertroulik.
- (2) 'n Lid van die beheerliggaam moet nie –
 - (a) vertroulike inligting of inligting betreffende die beheerliggaam aan ander lede bekendmaak sonder die toestemming van die beheerliggaam of die bepaalde lede nie;
 - (b) enige verklarings uitreik of inligting verskaf aan die media, ingesluit sosiale netwerke, of aan enige ander persoon, betreffende die beheerliggaam, 'n lid van die beheerliggaam, die skool, 'n ouer, 'n leerder of enige personeel van die skool

nie, tensy sodanige inligting met die toestemming van die beheerliggaam, ingevolge wetgewing, beleid of reëls van die beheerliggaam, verskaf word; en

(c) vals inligting versprei of ongegronde bewerings via enige middele, ingesluit enige sosiale netwerke, oor die beheerliggaam of enige ander lid van die beheerliggaam, die skool, 'n ouer, 'n leerder of enige ander personeellede van die skool dissemineer nie; en

(3) 'n Lid wat skuldig bevind word aan skending van hierdie klousule mag, bykomend tot enige ander strafbepaling, versoek word om –

(a) op eie onkoste 'n terugtrekking van die aanstootlike verklaring of inligting te publiseer; en

(b) 'n verskoning aan die persoon of instelling wat geraak word deur die openbaarmaking, verspreiding of publikasie van inligting uitreik.

8. Skending van Gedragskode

(1) Enige lid wat hierdie Gedragskode skend moet onderwerp word aan die dissiplinêre proses ingevolge hierdie Gedragskode.

(2) In die geval dat 'n lid skuldig bevind word aan ernstige wangedrag na 'n dissiplinêre verhoor, sal 'n strafbepaling aan die lid opgelê word ingevolge klousule 11.

(3) Die Lid van die Uitvoerende Raad mag, van tyd tot tyd, ander vorme van ernstige wangedrag, algemene wangedrag of ernstige finansiële wangedrag verklaar en dit sal aanvaar word dat sodanige verklaring ernstige wangedrag, algemene wangedrag of ernstige finansiële wangedrag konstitueer.

(4) 'n Lid wat skuldig bevind word aan ernstige wangedrag kan geskors word of sy of haar lidmaatskap van die beheerliggaam kan beëindig word deur die Departementshoof.

(5) Sou daar enige bewys van wangedrag deur die prinsipaal, opvoeder of nie-opvoeder ingevolge hierdie kode wees mag dit dan die grondslag vorm vir 'n dissiplinêre verhoor van die prinsipaal, opvoeder of nie-opvoeder ingevolge die onderskeie gedragskodes toepaslik op daardie bepaalde amptenaar.

9. Prosas vir hantering van klagtes oor wangedrag

(1) Sou enige belanghebbende party enige klagte hê –

(a) betreffende die gedrag rakende 'n lid van die beheerliggaam anders as die voorsitter moet sodanige klagte skriftelik by die voorsitter ingedien word en die voorsitter moet onmiddelik die beweerde klagte aan die Kringbestuurder verantwoordelik vir die skool rapporteer; en

(b) betreffende die gedrag van 'n voorsitter moet die klaer sy of haar klagte skriftelik by die prinsipaal indien en die prinsipaal moet onmiddelik die beweerde klagte by die Kringbestuurder verantwoordelik vir die skool rapporteer en die Voorsitter van die Beheerliggaam inlig daarvan.

(2) By ontvangs van 'n klagte teen enige lid van 'n beheerliggaam, ingesluit die prinsipaal, moet die Kringbestuurder –

(a) binne sewe (7) dae skriftelik ontvangs erken van enige klagte by hom of haar ingedien en moet die erns van die beweerde wangedrag bepaal, asook redes vir sodanige bepalings verskaf;

(b) binne veertien (14) dae vanaf ontvangs van 'n minder ernstige of kleinere klagte –

(i) op kringvlak aan die klagte aandag skenk;

(ii) die Distriksbestuurder in kennis stel van die optrede en besluit wat hy of sy geneem het ten opsigte van die vermelde klagte; en

(iii) die klaer en die beheerliggaam skriftelik inlig van die uitkoms van die klagte en die redes vir sy of haar besluit; en

(c) binne sewe (7) dae vanaf ontvangs van enige klagte in verband met ernstige wangedrag of 'n klagte in verband met finansiële wangedrag 'n voorlopige ondersoek doen en die ondersoekverslag aan die Distriksbestuurder voorlê vir die Distriksbestuurder se optrede.

(3) Enige klaer mag die Distriksbestuurder in kennis stel van sy of haar ontevredenheid met –

(a) die nienakoming van voorgeskrewe tydsbestekke van die Distriksbestuurder in die hantering van die aangeleentheid; of

(b) die beslissing van die Distriksbestuurder; of

(c) beide (a) en (b) hierbo.

(4) By oorweging van die beslissing deur die Kringbestuurder dat die klagte 'n geval van ernstige wangedrag is, mag die Distriksbestuurder die Departementshoof versoek om, as voorsorgmaatreeël 'n skorsing, van nie meer as veertien (14) dae nie, opelê hangende 'n dissiplinêre verhoor onder die volgende omstandighede –

(a) indien dit waarskynlik is dat die lid met getuies sal inmeng;

(b) waar die moontlikheid bestaan dat potensiële getuies gedreig of intimideer sal word;

(c) waar die moontlikheid bestaan dat met bewysstukke mee gepeuter mag word; of

(d) enige ander geldige rede.

- (5) Indien die klagte ernstig is moet die Distriksbestuurder, na oorweging van die beslissing van die Kringbestuurder ingevolge subklousule 2, binne sewe (7) dae gelas dat –
- 'n tribunaal saamgestel word;
 - die Voorsitter van die Beheerliggaam dien op die dissiplinêre tribunaal verantwoordelik vir die hou van die dissiplinêre verhoor behoudens die bepalings van subklousule 9(6) hieronder; en
 - die dissiplinêre verhoor moet binne veertien (14) dae vanaf die voorsorgmaatreëlskorsing gehou word.
- (6) Indien die voorsitter geïmpliseer word moet die ondervoorsitter op die tribunaal dien. Indien beide die voorsitter en die ondervoorsitter egter geïmpliseer word moet 'n ander lid deur die beheerliggaam aangestel word as deel van die tribunaal.
- (7) Die volgende lede sal nie verkiesbaar wees om op die dissiplinêre tribunaal te dien nie –
- enige lid wat regstreeks by die gebeure of gedrag onder bedenking betrokke was;
 - enige persoon verwant aan die geïmpliseerde lid of waar 'n konflik van belang bestaan tussen die persoon en geïmpliseerde persoon;
 - die skoolprinsipaal; en
 - leerderlede van die beheerliggaam.
- (8) Die tribunaal moet saamgestel word uit minstens vier (4) mense en moet die volgende insluit –
- 'n amptenaar van die Regerings- en Bestuurskomponent op distriksvlak;
 - enige ander Departementele amptenaar met die nodige kundigheid en vaardigheid in dissiplinêre verhoore; en
 - twee (2) lede van die beheerliggaam, aangestel deur die beheerliggaam, waarvan een die voorsitter moet wees ingevolge subklousule 5(b).
- (9) Die Distriksbestuurder moet die twee Departementele amptenare skriftelik aanstel ingevolge subklousule 8 hierbo.
- (10) Die Distriksbestuurder of sy of haar afgevaardigde, wat behoorlik ingevolge 'n skriftelike afvaardiging aangestel is, moet voorsit by die vergadering van die tribunaal ten einde die voorsitter te verkies.
- (11) Die beheerliggaam moet skriftelik en op die Departementeel-goedgekeurde templet die beheerliggaamsverteenvoerders in die tribunaal aanstel.
- (12) Die tribunaal moet sekretariaatsdienste voorsien.
- (13) By aangeleenthede aangaande finansiële wangedrag sal 'n bykomende lid met die nodige finansiële agtergrond en kundigheid deur lede van die tribunaal gekoöpteer word aan die tribunaal.
- (14) 'n beheerliggaam mag die bystand van 'n assosiasie van regeringsliggame versoek ter voorbereiding vir die verhoor en ten einde die beheerliggaam as die inisieerder by die verhoor te verteenwoordig.

10. Dissiplinêre Verhoor

- (1) Die tribunaal moet sewe (7) dae vooraf, aan 'n lid wat na bewering ernstige wangedrag gepleeg het, skriftelik kennis gee van die dissiplinêre verhoor.
- (2) Die kennisgewing moet insluit –
- die aanklagte teen die lid ingedien;
 - die tyd, datum en plek van die verhoor;
 - inligting aan die lid dat die dissiplinêre verhoor sal voortgaan in die lid se afwesigheid indien 'n lid sonder grondige rede en dokumentêre bewys (waar van toepassing) versuim om vir die verhoor op te daag;
 - die reg van die lid om 'n verteenwoordiger van die beheerliggaam of enige ander persoon tydens die verhoor teenwoordig te hê ten einde hom of haar te verteenwoordig: Met dien verstande dat daardie persoon nie 'n regsverteenvoerder is nie;
 - duidelike kennisgewing dat verteenwoordiging deur 'n regsverteenvoerder nie toegelaat sal word nie;
 - die reg om getuies te roep ter ondersteuning van sy of haar verdediging; en
 - enige ander tersaaklike inligting rakende die dissiplinêre verhoor.
- (3) Die dissiplinêre tribunaal sal 'n voorsitter vanuit die lede van die tribunaal aanstel.
- (4) Die voorsitter van die tribunaal moet die prosedure wat by die verhoor gevolg moet word bepaal maar hy of sy moet rekening hou met die volgende –
- die reg van elke party om 'n regverdige en billike verhoor te hê;
 - die reg om bewysstukke van getuies, kruisondervraging en herondervraging van getuies toe te laat;
 - die reg om 'n bemiddelaar aan te stel vir 'n leerder wat onder die ouderdom van 18 is om getuienis te lewer, sou dit voorkom dat, sou die leerder getuig by die verrigtinge, die leerder geestelike spanning of lyding sal ondergaan;
 - die reg van elke party om closing slotbetoë te lewer;
 - die reg tot 'n tolk;
 - die reg van die lid om versagende omstandighede aan te voer sou hy of sy skuldig bevind word; en
 - dat akkurate rekords van die verrigtinge gehou word vir die tydperk van die ampstermyn van die beheerliggaam.

- (5) Die voorsitter van die tribunaal moet 'n eed van die lid, alle getuies en die tolk afneem, indien toepaslik.
- (6) Die voorsitter van die tribunaal moet die verhoor in 'n billike, regverdigte en menswaardige wyse hanteer.
- (7) Die verhoor moet plaasvind in 'n taal wat verstaanbaar is vir die lid, die getuies en verteenwoordigers betrokke by die verhoor. 'n Tolk mag, op versoek van die lid, aangestel word.
- (8) Die tribunaal moet, na alle getuies aangehoor is, 'n beslissing maak en die redes vir die beslissing aan die Distriksbestuurder voorsien en 'n toepaslike strafbepaling aan hom of haar aanbeveel.
- (9) Die tribunaal mag die volgende aanbevelings aan die Distriksbestuurder maak –
- (a) dat die lid vrygespreek word omdat die bewerings van wangedrag wat teen hom of haar aanhangig gemaak is nie grondige bewyse bevat nie; of
- (b) dat 'n aanbeveling aan die Departementshoof gemaak word om 'n strafbepaling ingevolge klousule 11 hieronder op te lê.
- (10) Die tribunaal moet die verhoor binne veertien (14) dae na konstituering deur die Distriksbestuurder voltooi word.
- (11) Die Distriksbestuurder moet, skriftelik, die lid inlig van die –
- (a) uitslag van die tribunaal se bevindings en redes vir sodanige bevinding voorsien; en
- (b) die voorgestelde aanbeveling, indien toepaslik.
- (12) Slegs die Departementshoof mag 'n strafbepaling van of 'n skorsing of beëindiging van lidmaatskap oplê.
- (13) In die geval van 'n aanbeveling van 'n strafbepaling of skorsing of beëindiging van lidmaatskap, moet die Distriksbestuurder, binne sewe (7) dae vanaf die afhandeling van die verhoor, die tribunaal se bevindings en die voorgestelde strafbepaling aan die Departementshoof voorsien. Die Departementshoof moet, binne een-en-twintig (21) dae, die aanbevole strafbepaling oorweeg en die toepaslike optrede uitvoer.
- (14) Die besluit van die Departementshoof moet deur die Distriksbestuurder aan die lid gekommunikeer word en die lid moet in kennis gestel word van sy of haar reg tot appèl, gerig aan die Lid van die Uitvoerende Raad ingevolge klousule 12.

11. Strafbepalings

- (1) Die volgende strafbepalings mag deur die Departementshoof op 'n lid wat skuldig bevind is aan 'n daad van ernstige wangedrag opgelê word –
- (a) skorsing vir 'n bepaalde tydperk;
- (b) beëindiging van lidmaatskap; of
- (c) gekoppel aan beëindiging, 'n diskwalifikasie om verkies, gekoöpteer of aangestel te word as 'n lid van enige beheerliggaam vir 'n tydperk van drie (3) jaar vanaf die datum van oplegging van die strafbepaling.
- (2) Enige gedrag wat 'n kriminele oortreding uitmaak moet aan die Suid-Afrikaanse Polisie dienste gerapporteer word vir ondersoek en vervolging, indien van toepassing.

12. Appèlle

- (1) 'n Lid aan wie 'n strafbepaling opgelê is deur die Departementshoof ingevolge klousule 11(1) mag, binne sewe (7) dae vanaf ontvangs van die strafbepaling, by die Lid van die Uitvoerende Raad appèlleer teen daardie besluit.
- (2) Die Lid van die Uitvoerende Raad mag 'n appèl afwys of bekragtig.
- (3) Sou die Lid van die Uitvoerende Raad die lid se appèl bekragtig, mag die Lid van die Uitvoerende Raad dan die lid vryspreek van alle aanklagte of, indien hy of sy dit as toepaslik beskou, die strafbepaling wysig of 'n mindere strafbepaling oplê.

13. Herroeping

Provinsiale Kennisgewing No. 331, gepubliseer in die KwaZulu-Natal Provinsiale Koerant No. 6329 gedateer 3 Maart 2005 word hiermee herroep.

MNR. ME DLUNGWANA, LPW

Lid van die Uitvoerende Raad van die Provinsie van KwaZulu-Natal
verantwoordelik vir Onderwys

**UMGOMO WOKUZIPHATHA WAMALUNGU EZIGUNGU EZILAWULA IZIKOLE
ZIKAHULUMENI**

Mina, ME Dlungwane, iLungu loMkhandlu oPhethe elibhekele ezeMfundo esiFundazweni saKwaZulu-Natali, ngokwesigaba 18A soMthetho weziKole waseNingizimu Afrika, 1996 (uMthetho No. 84 ka 1996), njengoba uchitshiyelwe, ngingume uMgomo wokuziPhatha wamaLungu eziGungu eziLawula iziKole zikaHulumeni njengoba kubekiwe ohlelweni olungezansi.

UHLELO

1. Izincazelo

Kulesi sazi, noma yiliphi igama noma isisho esinikwe incazelo kulo Mthetho siyoba naleyo ncazelo, ngaphandle uma ingqikithi isho okwehlukile –

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

“**uMphathi weSekethe**” kushiwo isikhulu esibhekele ukuphathwa kweqoqo lezikole ezingaphansi kwesekethe;

“**uMgomo wokuziPhatha**” kushiwo imithetho ethile elawula ukuziphatha kwesigungu esilawula isikole;

“**uMthethosisekelo**” kushiwo uMthethosisekelo weRiphabhuliki yaseNingizimu Afrika, 1996;

“**usuku**” kushiwo usuku lwesikole;

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

“**uMphathi wesiFunda**” kushiwo isikhulu esibhekele ukuphathwa kwezemfundo ezingeni lesifunda;

“**uthisha**” kushiwo nanoma yimuphi umuntu owuthisha, ofundisayo noma oqeqesha abanye abantu noma ohlinzeka ngemisebenzi yobungoti kwezemfundo esikoleni sikahulumeni futhi kubandakanya nemisebenzi yokwelulekwa ngokomqondo kodwa akubandakanyi umuntu oqokelwe ukwenza imisebenzi engaphathelene nokufundisa;

“**isigungu esilawula isikole**” kushiwo isigungu esilawula isikole njengoba kuchazwe eMthethweni weziKole waseNingizimu Afrika, 1996, (uMthetho No. 84 ka 1996);

“**iNhloko yoMnyango**” kushiwo iNhloko yoMnyango wezeMfundo esiFundazweni saKwaZulu-Natali;

“**onentshisekelo**” kushiwo nanoma yiliphi ilungu lesigungu esilawula isikole, umzali, umnikazi womhlaba ozimele okwakhiwe kuwona isikole sikahulumeni noma umsebenzi;

“**umfundi**” kushiwo nanoma yimuphi umfundi ofunda esikoleni sikahulumeni, othola imfundo noma onesibopho sokuthola imfundo ngokoMthetho weziKole waseNingizimu Afrika, 1996, (uMthetho No. 84 ka 1996);

“**ummeli**” kungasho osebenza njengommeli, ongasebenzi njengommeli, ummeli wasemajajini, ongasebenzi njengommeli wasemajajini, umeluleki wezomthetho, umshushisi, imantsi, ijaji nanoma yimuphi umuntu oneziqu kwezomthetho osebenza kunoma yimuphi umkhakha wezomthetho;

“**ilungu**” kushiwo ilungu njengoba kuchazwe ezigabeni 23(1) no 24(1) zoMthetho;

“**ilungu labasebenzi**” kushiwo umuntu oqokwe ngokoMthetho wabaSebenzi baHulumeni, 1994 (uMthetho No. 103 ka 1994), noma ngokoMthetho weziKole waseNingizimu Afrika, 1996 (uMthetho No. 84 ka 1996), njengoba uchitshiyelwe, futhi ongeyena uthisha esikoleni;

“**iLungu loMkhandlu oPhethe**” kushiwo iLungu loMkhandlu oPhethe elibhekele ezeMfundo esiFundazweni saKwaZulu-Natali;

“**umsebenzi**” kushiwo umsebenzi woMnyango oqokwe ngokoMthetho wokuQashwa koThisha, 1998 (uMthetho No. 76 ka 1998), njengoba uchitshiyelwe, noma ngokoMthetho wabaSebenzi baHulumeni, 1994 (uMthetho No. 103 ka 1994);

“**uthishanhloko**” kushiwo umuntu onguthisha oqokiwe noma osebenza njengenhloko yesikole;

“**isikole**” kushiwo isikole sikahulumeni esibhalisa abafundi ezingeni elilodwa kuya phezulu kusukela ezingeni eliphansi ibanga R kuze kufike ezingeni eliphezulu ibanga le-12 kubandakanya, uma sikhona, nesikole sabanezidingo ezikhethekile kanye nesikole esihlinzeka ngemfundo egxile ekuthuthukiseni ithalente.

2. Inhloso

Inhloso yalo mgomo wokuziphatha –

- (a) ukugqugquzela uMgomo wokuziPhatha ofanayo ozosebenza kuwo wonke amalungu ezigungu ezilawula izikole;
- (b) ukusiza amalungu ekutheni aziphathe ehambisana noMgomo wokuziPhatha;
- (c) ukusungula izinga elifanele lokuziphatha kwamalungu ezigungu ezilawula izikole;
- (d) ukusiza ukuqeda noma ukwehlisa izinga lokungaboni ngaso linye phakathi kwamalungu ezigungu ezilawula izikole uma kudingidwa amacala okungaziphathi ngendlela efanele;
- (e) ukugqugquzela kanye nokugcina ukubusa okuhle ezikoleni ukuze kuhlinzekwe imfundo esezingeni;
- (f) ukuhlinzeka ngomkhombandlela osezizingeni okumele wonke amalungu ezigungu ezilawula izikole awusebenzise; kanye
- (g) nokusiza amalungu ezigungu ezilawula izikole ukweseka uthishanhloko, othisha kanye nabasebenzi besikole ekwenzeni imisebenzi yabo.

3. Ukusebenza kwawo

Lo mgomo wokuziphatha uyosebenza kuwo wonke amalungu ezigungu ezilawula izikole zikahulumeni esiFundazweni saKwaZulu-Natali, kusukela ngosuku okuyoshicilelwa ngalo lesi saziso.

4. UMgomo wokuziPhatha oJwayelekile wawo wonke amaLungu esigungu esilawula isikole

- (1) Ilungu lesigungu esilawula isikole kumele –
 - (a) ngaso sonke isikhathi liziphathe ngendlela ezoqhakambisa okuzohlomulisa isikole;
 - (b) ngaso sonke isikhathi liziphathe ngendlela ezokwenza ukuthi isigungu esilawula isikole sinconywe;
 - (c) liziphathe ngendlela ehloniphekile nephusile uma lenza imisebenzi yalo njengelungu lesigungu esilawula isikole;
 - (d) lenze kuphela leyo misebenzi ephathelene nokulawula ngakho konke okusemandleni alo;
 - (e) liqinisekise ukuthi umsebenzi wesigungu esilawula isikole uqhutshwa ngokomthetho nangokuhambisana noMthethosisekelo wesigungu esilawula isikole;
 - (f) liziphathe ngendlela ehloniphekile ngaso sonke isikhathi;
 - (g) lidalule noma yiluphi ulwazi oluphathelene nokuziphatha kwalo, ikakhulu maqondana neRejista kaZwelonke labaHlukumeza ngokoCansi (i-NRSO) ehlanganiswe ngokoMthethosichibiyelo wamaCala okuHlukumeza ngokoCansi Nokunye okuPhathelene Nalokho, 2007 (uMthetho No. 32 ka 2007), nanoma yimiphi eminye iMithetho ephathelene namacala okuhlunyezwa kwezingane futhi lolo lwazi isikole ebesingenalo ngaphambi kokuqokwa kwelungu. Noma yiliphi ilungu elihluleka ukudalula lolo lwazi, uma sekulandelwe yonke imigudu, liyoshiya esikhundleni ngokushesha uma lolo lwazi selwaziwa yisikole noma umnyango;
 - (h) ngaso sonke isikhathi liziphathe ngendlela eyenza kube lula ukusebenza ngendlela efanele kwesikole kanye nokuqhutshwa ngendlela efanele kwemihlangano yesigungu esilawula isikole;
 - (i) lilandele izinhlinzeko zomthethosisekelo wesigungu esilawula isikole njengoba kubekwe esigabeni 18 soMthetho;
 - (j) lizihluphe ngokuqinisekisa ukuthi livikela impahla yesikole;
 - (k) lisebenze ngokwethembeka, ngeqiniso, ngobuqotho nangendlela ezohlomulisa isikole ngesikhathi liphethe futhi lilawula impahla yesikole; futhi
 - (l) libhale incwadi, lixolise uma lingeke likwazi ukwethamela imihlangano ejwayelekile emibili (2) elandelanayo yesigungu esilawula isikole, uma lihluleka ukwenza lokho angeke lisaba yilungu lesigungu esilawula isikole.
- (2) Ilungu lesigungu esilawula isikole akumele –
 - (a) liziphathe ngendlela ephazamisa ukuphathwa ngendlela kwesikole noma nanganoma iyiphi indlela ephazamisa uthisha ekwenzeni umsebenzi wakhe;
 - (b) liziphathe ngendlela ephazamisa umsebenzi welinye ilungu labasebenzi uma lenza umsebenzi walo esikoleni;

- (c) liphazamise ukuqaliswa kwezinqumo ezithathwe yisigungu esilawula isikole;
- (d) liphazamise abafundi ngesikhathi benza okunye okwenziwa esikoleni noma lenze nanoma yini ezoba nokuphazamisa abafundi ngesikhathi benza okunye okwenziwa esikoleni. Noma yimuphi umsebenzi owenziwa yilungu njengelungu lesigungu esilawula isikole ngesikhathi kwenziwa okunye okwenziwa esikoleni angeke uthathwe njengokuphazamisa;
- (e) liziphathe ngendlela engona ubudlelwane bokwethembana phakathi kwesigungu esilawula isikole kanye nesikole;
- (f) noma ingayiphi indlela lizibandakanye ezenzweni ezingalifaka ehlazweni; futhi
- (g) lizibandakanye kunoma yiziphi izenzo ezingafaka isikole ehlazweni noma ezingenza ukuthi igama lesikole, lesigungu esilawula isikole nelanoma yiliphi ilungu elisebenza esikoleni lihuduleke phansi.

5. Icala lokungaziphathi ngendlela efanele elibucayi

Lokhu okulandelayo kungathathwa njengamacala okungaziphathi ngendlela efanele abucayi kunoma yiliphi ilungu, ngemva kokulandela imigudu elandelwayo, lingatholakala linecala elibucayi uma –

- (a) liphethe noma lisebenzisa izidakamizwa, utshwala noma izidakamizwa ezingekho semthethweni ngesikhathi lenza imisebenzi yalo yesigungu esilawula isikole noma izibophezelo zalo;
- (b) liphethe noma lisebenzisa izinto ezingagunyaziwe, ezingekho semthethweni noma ezinobungozi ezingalimaza abanye abantu ngesikhathi benza okunye okwenziwa esikoleni nanoma lenza noma yimiphi imisebenzi yesigungu esilawula isikole noma lifeza izibophezelo zesigungu esilawula isikole;
- (c) lizibandakanya kwezocansi nomfundi ofunda esikoleni sikahulumeni;
- (d) libamba iqhaza, liqala noma liba nobudlelwane obunenokohlakalo, obungenabuqotho, obungalungile noma obuthunazayo nanoma yimuphi umuntu osesigungwini esilawula isikole noma esikoleni lapho eliyilungu lesigungu esilawula isikole khona;
- (e) liziphatha ngendlela ezophazamisa amandla alo okuthatha izinqumo esigungwini esilawula isikole;
- (f) lihlambalaza igama lesikole noma lesigungu esilawula isikole;
- (g) lithuka umfundi, umzali, uthisha noma elinye ilungu labasebenzi eliqashwe esikoleni noma elinye ilungu lesigungu esilawula isikole;
- (h) lisebenzisa budedengu noma licekela phansi impahla yesikole kanye nezinsiza zesikole;
- (i) lisebenzisa budlabha isikhundla salo njengelungu lesigungu esilawula isikole noma ingayiphi indlela;
- (j) lamukela noma ligwazisa noma likhetha iphela emasini uma lenza umsebenzi walo njengelungu lesigungu esilawula isikole;
- (k) lisebenzisa isikhundla salo njengelungu lesigungu esilawula isikole ukuze kuhlomule lona uqobo noma kuhlomule izihlobo zalo, abasondelene nalo nanoma yimuphi omunye umuntu;
- (l) lifaka umoya wokusebenza ngokungathembeki kulabo abakhipha imisebenzi kahulumeni ukuthi bayikhiphe ngokungalandeli inqubo elandelwayo yesikole ukuze kuhlomule lona uqobo, abangani balo, abasondelene nalo, izihlobo zalo nanoma yimuphi omunye umuntu;
- (m) lithikameza uphenyo loMnyango oluphathelene nokuziphatha kwanoma yimuphi umuntu futhi ikakhulu uphenyo oluthinta noma yiliphi ilungu lesigungu esilawula isikole, umfundi, uthisha noma elinye ilungu labasebenzi eliqashwe esikoleni noma liphazamise uphenyo oluphathelene nanoma yiluphi olunye udaba;
- (n) noma ingayiphi indlela, liziphatha ngendlela engahambisani nombono noma nenjongo yesikole nanoma iyiphi inqubomgomo noma umthetho obekwe uMnyango;
- (o) lihluleka ukwenza imisebenzi elijutshelwe yona njengelungu lesigungu esilawula isikole;
- (p) libophezela isikole ezivumelwaneni ezingagunyaziwe, ezingekho semthethweni noma ezisaphaza imali ngokungena ezivumelwaneni ezingeke zihlomulise isikole noma ezizoba nomthelela ongemuhle kwisabelomali sesikole;
- (q) licela noma lamukela nanoma yini ezolihlomulisa noma ezolenza lithole imali ngokwenza noma yimiphi imisebenzi yesigungu esilawula isikole;
- (r) lingayikhokhi imali yesikole noma liyalela noma yiliphi elinye ilungu lesigungu esilawula isikole ukuthi lingayikhokhi imali yesikole ngokungahambisani nenqubomgomo yesikole egunyaza abathile ukuthi behliselwe noma bephulelwe imali yesikole;
- (s) lehliselwa imali okumele liyikhokhe esikoleni okufunda kuso izingane zalo noma lapho liyilungu lesigungu esilawula isikole khona ngokwamandla esikhundla salo esigungwini esilawula isikole ngokungahambisani nenqubomgomo yesikole egunyaza abathile ukuthi behliselwe noma bephulelwe imali yesikole;
- (t) lehlisela noma yiliphi elinye ilungu labasebenzi noma yiliphi elinye ilungu lesigungu esilawula isikole imali yesikole obekungamele lehliselwe imali yesikole ngokwenqubomgomo yesikole egunyaza abathile ukuthi behliselwe noma bephulelwe imali yesikole;
- (u) lidayisa, liphatha noma lishushumbisa izidakamizwa ezingekho semthethweni noma uphuzo oludakayo esikoleni noma ngaphandle kwamageceke esikole nanoma yinini uma kwenziwa izinto eziqondene nesikole. Uma noma yiliphi ilungu liqhuba ibhizinisi lokudayisa utshwala, lelo bhizinisi akumele libe sendaweni engamamitha ayi-50 kusuka emngceleni wocingo lwesikole futhi akumele livumele ukuthi kungene abantu abaneminyaka engaphansi kwevumelekile kulelo bhizinisi;

- (v) liqhuba ibhizinisi eliphathelene nezocansi noma lidayisa ngezinto ezisetshenzisela ucansi;
- (w) liqhuba noma yiliphi ibhizinisi emagcekeni esikole elingahambisani nezinqubomgomo zesikole noma zoMnyango noma eliphazamisa ukufundisa kanye nokufunda esikoleni;
- (x) lihudula izinyawo ekuqasheni, ekukhetheni abasebenzi kanye nasekulandeleni izinqubo zokuvala izikhala zomsebenzi ngaphandle kwezizathu ezisemthethweni nezizwakalayo;
- (y) lizibandakanya ezenzweni zokuqasha ngokwazana, zokugwazelwa, zokukhwabanisa noma zokwenzelela, uma kuqashwa noma kugcwaliswa izikhala zomsebenzi;
- (z) lizibandakanya kunanoma yiziphi izenzo zokugwazelwa, zokukhwabanisa noma zokwenzelela uma kwamukelwa abafundi kuleso sikole;
- (aa) likhokhisa noma litshela uthishanhloko ukuthi akhokhise abafundi imali yokubhalisa nanoma iyiphi imali ukuze abafundi bamukelwe (ngaphandle kwemali yesikole, uma ikhokhwa);
- (bb) lizibandakanya kunoma yiziphi izenzo zokweba noma zenkohlakalo ngesikhathi liseyilungu lesigungu esilawula isikole;
- (cc) likhuluma noma yimaphi amazwi okubandlulula, okucwasa ngokobulili noma ngokobuzwe noma lokho likukhombisa ngezenzo kunoma yimuphi umfundi, umzali, umsebenzi, ilungu lesigungu esilawula isikole, nakunoma yimuphi umsebenzi womnyango nakunoma yimuphi omunye umuntu esikoleni noma ngesikhathi kwenziwa okunye okwenziwa esikoleni;
- (dd) libamba iqhaza noma lenza, liyalela noma liphoca amanye amalungu esigungu esilawula isikole, abazali, abafundi noma amalungu abasebenzi ukuthi babambe iqhaza ezintweni ezingekho semthethweni, ezingalungile nezingenabuqotho;
- (ee) liziphatha nganoma iyiphi indlela ezophazamisa ukubusa okuhle kanye nokulawulwa kwesikole;
- (ff) linobudlelwane obunenkohlakalo nelinye ilungu lesigungu esilawula isikole, nomsebenzi nanoma yimuphi omunye umuntu, okuvimba ukusebenza kwesikole ngendlela efanele.

6. Ukuziphatha okuphathelene nokuPhathwa kweziMali

Icala lokungaziphathi ngendlela efanele eliphathelene nezezimali liyicala lokungaziphathi ngendlela efanele elibucayi futhi ilungu lesigungu esilawula isikole ngalinye kumele –

- (a) ligcine izinga lokuziphatha ngobuqotho eliseqophelweni eliphezulu maqondana nezezimali kanye nokuphathwa kwezimali zesikole;
- (b) liqinisekise ukuthi liyethembeka futhi ligcina ubumfihlo uma lisebenza ngamabhuku nangamarekhodi aphaathelene nezindaba ezithinta izimali zesikole;
- (c) liqinisekise ukuthi izinsiza zesikole, futhi ikakhulu izimali zesikole, ziphathwa futhi zisetshenziswa ngendlela efanele;
- (d) liqinisekise ukuthi zonke izindaba eziphathelene nezezimali zesikole ziqhutshwa ngokwethembeka nangokuhambisana nezinqubomgomo, nemithetho, nemithethonqubo nangokulandela izimiso njengoba zinqunywe uNgqongqoshe wezeMfundo, yiLungu loMkhandlu oPhethe noma yiNhloko yoMnyango kanye nesigungu esilawula isikole;
- (e) livume ukusizwa uthishanhloko wesikole maqondana nemithethonqubo, nezinqubomgomo, nezimiso ezifanele nangeMithetho eqondene nokuphathwa kwezimali zesikole;
- (f) lamukele izeluleko zikathishanhloko mayelana nomthelela izinqumo eziphathelene nezezimali zesikole ezingaba nawo;
- (g) liqinisekise ukuthi wonke ama-akhawunti esikole aphaathwa ngendlela efanele ngokuhambisana nezindlela ezigunyaziwe zokusebenzisa izimali futhi okumele zihambisane noMthetho, izinqubomgomo kanye nezinqubo ezifanele;
- (h) lazise isigungu esilawula isikole ngezihlobo zalo zegazi, ngabalingani balo ebhizinisini, ngabangani balo nanoma yimuphi umuntu ondelene nalo ongaba nentshisekelo kwezezimali eziphathelene nesigungu esilawula isikole;
- (i) lihoxe kunoma yiluphi udaba olusohlwini lokuzodingidwa emhlanganweni okuzodingidwa kuwo izindaba eziphathelene nezezimali oluluthinta ngqo njengelungu noma lona njengelungu elinentshisekelo kulona;
- (j) liqinisekise ukuthi kunezinqubo zokuqoqwa kwezimali, zokubekwa kwazo endaweni ephephile, zokusetshenziswa kwazo kanye nezokufakwa kwazo ebhange;
- (k) lingabophezeli isikole kunoma yiziphi izivumelwano ngaphandle kwemvume yesigungu esilawula isikole, yeLungu loMkhandlu oPhethe neyanoma yibaphi abanye abasemagunyeni;
- (l) lingavoti mayelana nezindaba eziphathelene nezimali noma nokungena ezivumelwaneni egameni lesikole uma ilungu liselincane ngokweminyaka;
- (m) libikele uSihlalo wesiGungu esiLawula isiKole, uMphathi weSekethe noma abanye abasemagunyeni nganoma yikuphi ukuphathwa budlabha noma budedengu kwezimali zesikole.

7. Ukudalulwa kolwazi

- (1) Ilungu lesigungu esilawula isikole kumele lithathe lonke ulwazi oluluthole ngenxa yesikhundla salo sokuba yilungu lesigungu esilawula isikole njengoluyimfihlo ngaphandle uma umthetho obekiwe usho okwehlukile. Isigungu esilawula isikole ngokubona kwaso singahlukanisa futhi siphinde sibhale phansi lonke ulwazi esiluthatha njengoluyimfihlo.

- (2) Ilungu lesigungu esilawula isikole akumele –
- (a) lidalule ulwazi oluyimfihlo noma ulwazi oluphathelele nesigungu esilawula isikole kwamanye amalungu ngaphandle kwemvume yawo wonke amalungu esigungu esilawula isikole noma yamalungu athile. Lolu lwazi kumele lugcinwe luyimfihlo noma ngabe ilungu lingaselona ilungu lesigungu esilawula isikole;
- (b) lenze noma yiziphi izitatimende noma lihlinzeke ulwazi kwabezindaba kubandakanya nezinkundla zokuxhumana nakunoma yimuphi umuntu, oluphathelele nesigungu esilawula isikole, nelungu lesigungu esilawula isikole, nesikole, nomzali, nomfundi nanoma yiliphi elinye ilungu labasebenzi basesikoleni, ngaphandle uma lolu lwazi lukhishwe ngemvume yesigungu esilawula isikole, ngokomthetho, ngokwenqubomgomo noma ngokwemithetho yesigungu esilawula isikole; futhi
- (c) lisabalalise ulwazi olungelona iqiniso noma izinsolo ezingenabo ubufakazi nganoma iyiphi indlela kubandakanya nanoma yiziphi izinkundla zokuxhumana ngesigungu esilawula isikole noma ngelungu lesigungu esilawula isikole, ngesikole, ngomzali, ngomfundi noma ngelinye lamalungu labasebenzi basesikoleni.
- (3) Ilungu eliyotholalaka liphule lesi sigaba, ngaphezu kwanoma yisiphi isigwebo, lingacelwa ukuthi –
- (a) lishicilele ngezindleko zalo isihoxiso saleso sitatimende noma salolo lwazi olungelona iqiniso; futhi
- (b) lixilise kumuntu noma kwisikhungo esiphazanyiswe yilokho elikudalulile, elikusabalalisile noma yilolo lwazi elilushicilele.

8. Ukuphula umgomo wokuziphatha

- (1) Noma yiliphi ilungu eliphula lo Mgomo wokuziphatha kumele liqondiswe izigwegwe ngokwalo Mgomo wokuziphatha.
- (2) Uma kwenzeka ilungu litholakala linecala elibucayi kufanele, ngemva kokuqondiswa izigwegwe, lelo lungu linikezwe isigwebo ngokwesigatshana somthetho 11.
- (3) ILungu loMkhandlu oPhethe, ngemva kwesikhathi esithile, lingamemezela okunye okuthathwa njengamacala okungaziphathi ngendlela efanele abucayi, njengamacala okungaziphathi ngendlela efanele ajwayelekile noma njengamacala okungaziphathi ngendlela efanele abucayi aphaathelene nezezimali futhi lesi simemezelo siyokwamukelwa njengesihlanganisa amacala okungaziphathi ngendlela efanele abucayi, amacala okungaziphathi ngendlela efanele ajwayelekile noma amacala okungaziphathi ngendlela efanele abucayi aphaathelene nezezimali.
- (4) Ilungu elitholakala linecala lokungaziphathi ngendlela efanele lingamiswa noma lixoshwe esikhundleni salo njengelungu lesigungu esilawula isikole yiNhlolo yoMnyango.
- (5) Uma kwenzeka kutholakala ubufakazi bokungaziphathi ngendlela efanele kukathishanhloko, kukathisha noma komsebenzi ongesiyena uthisha ngokwalo mgomo lokhu kuyosho ukuthi kumele aqondiswe izigwegwe uthishanhloko, uthisha noma ongesiyena uthisha ngokomgomo wokuziphatha osebenza kulabo basebenzi.

9. Inqubo elandelwayo yokufaka izikhalo zokungaziphathi ngendlela efanele

- (1) Uma noma yiluphi uhlangothi oluthintekayo luba nesikhalo –
- (a) esiphathelene nendlela yokuziphatha kwelungu lesigungu esilawula isikole ngaphandle kukasihlalo, lesi sikhalo kumele sifakwe ngokubhalela usihlalo bese usihlalo ngokushesha ebikela uMphathi weSekethe isikole esingaphansi kwayo ngesikhalo esifakiwe; okanye
- (b) esiphathelene nokuziphatha kukasihlalo, umuntu ofaka isikhalo kumele afake isikhalo sakhe ngokubhalela uthishanhloko bese uthishanhloko ngokushesha ebikela uMphathi weSekethe isikole esingaphansi kwayo bese azisa uSihlalo wesiGungu esiLawula isiKole ngesikhalo asitholile;
- (2) Uma esethole isikhalo nganoma yiliphi ilungu lesigungu esilawula isikole kubandakanya nothishanhloko, uMphathi weSekethe kumele –
- (a) ezinsukwini eziyisikhombisa (7) abhalele ofake isikhalo incwadi emazisa ukuthi usitholile isikhalo esifakiwe futhi kumele anqume ukuthi lezo zinsolo zokungaziphathi ngendlela efanele zibucayi kangakanani, anikeze izizathu zaleso sinqumo;
- (b) ezinsukwini eziyishumi nane (14) ethole umbiko wokungaziphathi ngendlela efanele okuyicala elingatheni kumele –
- (i) acubungule isikhalo ezingeni leSekethe;
- (ii) azise uMphathi wesiFunda ngezinyathelo ezizothathwa nangesinqumo esizothathwa noma asithathile ngalokhu okukhalazwa ngakho; futhi
- (iii) azise umuntu ofake isikhalo kanye nesigungu esilawula isikole ngokubabhalela ngesinqumo esithathiwe mayelana nesikhalo futhi abeke nezizathu eziholele ekutheni athathe lesi sinqumo;
- (c) ezinsukwini eziyisikhombisa (7) ethole noma yisiphi isikhalo esiphathelene necala lokungaziphathi ngendlela efanele elibucayi, enze uphenyo ngezinsolo bese eletha umbiko ngophenyo kuMphathi wesiFunda ukuze uMphathi wesiFunda athathe izinyathelo.
- (3) Noma yimuphi umuntu ofake isikhalo angazisa uMphathi wesiFunda ngokungeneliseki kwakhe –

- (a) ngokwehluleka koMphathi weSekethe ukugcina izikhathi ezinqunyiwe zokucubungula udaba;
- (b) ngesinqumo esithathwe uMphathi weSekethe; noma
- (c) ngakho kokubili okubekwe ku (a) no (b) ngenhla.
- (4) Uma sekucutshungulwa isinqumo soMphathi weSekethe sokuthi isikhalo besingesinye samacala okungaziphathi ngendlela efanele abucayi, uMphathi wesiFunda angacela iNhloko yoMnyango ukuthi immise okwesikhashana lowo isikhalo esingaye okungenani izinsuku ezingeqile kwezinyathelo nane (14) ngaphambi kokuthathwa kwezinyathelo zokuqondisa izigwegwe ngaphansi kwalezi zimo –
- (a) uma kubonakala ukuthi kungenzeka ilungu liphazamise ofakazi;
- (b) uma kusolakala ukuthi abantu abangaba ofakazi bangasongelwa noma bangasatshiswa;
- (c) uma kusolakala ukuthi ubufakazi bungaphazanyiswa; noma
- (d) kunezinye izizathu eziphathekayo.
- (5) Uma kuyisikhalo esibucayi, uMphathi wesiFunda, ngemva kokucubungula isinqumo soMphathi weSekethe ngokwesigatshana somthetho 2, ezinsukwini eziyisikhombisa (7) angakhipha umyalelo wokuthi –
- (a) kubunjwe isigungu sokuqondiswa izigwegwe;
- (b) uSihlalo wesiGungu esiLawula isikole uba yingxenywe yesigungu esizokwengamela ukuqondiswa kwezigwegwe kuncike kwizinhlinzeko zesigatshana somthetho 9(6) ngezansi; futhi
- (c) ukuqondiswa kwezigwegwe kuyokwenziwa ngaphambi kwezinsuku eziyishumi nane (14) uma umuntu esamiswe okwesikhashana.
- (6) Uma usihlalo ethinteka, usekela sihlalo kumele abe yingxenywe yesigungu sokuqondiswa kwezigwegwe, kodwa uma bobabili usihlalo kanye nosekela sihlalo bethinteka isigungu esilawula isikole lingaqoka elinye ilungu ukuthi libe yingxenywe yesigungu sokuqondiswa kwezigwegwe.
- (7) Lamalungu alandelayo esigungu esilawula isikole akumele abe yingxenywe yesigungu sokuqondisa izigwegwe –
- (a) noma yiliphi ilungu elithinteka ngqo kulelo cala;
- (b) noma yimuphi umuntu ohlobene nelungu elithintekayo noma uma kunokushayisana kwezintshisekelo phakathi komuntu kanye nelungu elithintekayo;
- (c) uthishanhloko wesikole; kanye
- (d) nabafundi abangamalungu esigungu esilawula isikole.
- (8) Isigungu sokuqondiswa kwezigwegwe kumele okungenani sibe namalungu amane (4) futhi kumele sibandakanye laba abalandelayo –
- (a) umsebenzi wophiko lwezokuBusa kanye nokuPhatha ezingeni lesifunda;
- (b) nanoma yimuphi omunye umsebenzi ovela eMnyangweni onekhono nobungcweti okudingekayo ekuqondisweni kwezigwegwe; kanye
- (c) nanoma yimaphi amalungu amabili esigungu esilawula isikole aqokwe yisigungu esilawula isikole, omunye phakathi kwabo kube usihlalo ngokwesigaba somthetho (5)(b).
- (9) UMphathi wesiFunda kumele aqoke, ngokubhalwe phansi, abasebenzi ababili boMnyango Ngokwesigatshana somthetho (8).
- (10) UMphathi wesiFunda noma umuntu adlulisele kuye amandla, oqokwe ngokufanele ngokubhalwe phansi, kumele engamele umhlangano wesigungu sokuqondiswa kwezigwegwe ukuze kukhethwe usihlalo.
- (11) Isigungu esilawula isikole kumele siqoke, ngokubhalwe phansi, ngendlela egunyazwe uMnyango siqoke abazomela isigungu esilawula isikole esigungwini sokuqondiswa kwezigwegwe.
- (12) Isigungu sokuqondiswa kwezigwegwe kumele sihlizeke ozokwenza umsebenzi kanobhala.
- (13) Mayelana nezindaba eziphathelele nokungaphathwa ngendlela efanele kwezimali, kumele kuqokwe elinye ilungu elinolwazi oludingekayo lwezezimali kanti ongoti bayoqokwa kwisigungu sokuqondiswa kwezigwegwe mgamalungu aso.
- (14) Isigungu esilawula isikole singacela usizo enhlanganweni eyengamele izigungu ezilawula izikole uma sesilungiselela usuku lokulalelwa kwecala futhi nangenhloso yokusimela ukuze kube yiyo ezosikhulumela.

10. UkuQondiswa kweziGwegwe

- (1) Isigungu sokuqondiswa kwezigwegwe kumele sithumele isaziso kwilungu elibekwe izinsolo zokuthi linecala lokungaziphathi ngendlela efanele elibucayi ezinsukwini eziyisikhombisa (7) ngaphambi kosuku lwecala.
- (2) Isaziso kumele siqakathe –
- (a) imininingwane yecala ilungu elibekwa lona;
- (b) indawo, usuku kanye nesikhathi kokulalelwa kwecala;

- (c) imininingwane yokwazisa ilungu ukuthi ukulalelwa kwecala kuyoqhubeka noma ngabe lelo lungu lingafikanga ngaphandle kwesizathu esizwakalayo futhi nencwadi yobufakazi ingekho (uma ifuneka) uma lehluleka ukuzokwethamela icala;
- (d) ilungelo lokuthi ilungu lingafika nomuntu ozolimela oqhamuka esigungwini esilawula isikole noma lingamelwa yinoma yimuphi omunye umuntu okhona ngesikhathi kulalelwe icala. Kuncike ekutheni lowo muntu akayena ummeli;
- (e) isaziso esicacile sokuthi ukumelwa ummeli akuvumelekile;
- (f) ilungelo lokubiza ofakazi abazofakazela lokho akushoyo; kanye
- (g) nanoma yimiphi eminye imininingwane ephathelene nokulalelwa kwecala.
- (3) Isigungu sokuqondiswa kwezigwegwe kumele siqoke umuntu ozoba usihlalo phakathi kwamalungu aso.
- (4) Usihlalo wesigungu sokuqondiswa kwezigwegwe kumele kube nguyena onquma inqubo ezolandelwa uma sekulalelwa icala, kodwa kumele aqaphele lokhu okulandelayo –
- (a) ilungelo lokuthi uhlangothi ngalunye lilalelwe ngendlela efanele nenobulungiswa;
- (b) ilungelo lokuthi kuvunyelwe ukuthi kube nofakazi, nokuthi baphekwe ngemibuzo futhi kuphinde kuqinisekiswa ubufakazi babo;
- (c) isidingo sokuqoka ozokwelekelela umfundi oneminyaka engaphansi kweyi-18 ukuze akwazi ukwethula ubufakazi uma kubonakala ukuthi umfundi uzoba nengcindezi uma ethula ubufakazi ecaleni;
- (d) ilungelo lohlangothi ngalunye lokubeka isitatimende salo sokugoqa mayelana necala;
- (e) ilungelo lokuthi kube khona utolika;
- (f) ilungelo lokuthi ilungu lithanjiselwe isigwebo uma kwenzeka lilahlwa yicala; kanye
- (g) nokuthi kugcinwe amarekhodi angenaphutha okulalalelwa kwecala agcinwa leso sikhathi sigungu esilawula isikole sisesesikhundleni.
- (5) Usihlalo wesigungu sokuqondiswa kwezigwegwe kumele afungise ilungu, bonke ofakazi kanye notolika, uma kulalelwa icala.
- (6) Usihlalo wesigungu sokuqondiswa kwezigwegwe kumele aqhube ukulalelwa kwecala ngendlela engachemile, enobulungiswa nenobuntu.
- (7) Ukulalelwa kwecala kumele kuqhutshwe ngolimi oluqondwa yilungu, ofakazi kanye nalabo abamele lowo othinteka ecaleni. Utolika angaqokwa uma kucela ilungu elibekwe icala.
- (8) Isigungu sokuqondiswa kwezigwegwe uma selilalele bonke ubufakazi, kumele sisho esikutholile futhi singahlinzeka uMphathi wesiFunda ngezizathu zalokho esikutholile bese sinikeza uMphathi wesiFunda izincomo ngesijeziso esifanele.
- (9) Isigungu sokuqondiswa kwezigwegwe singenza lezi zincomo ezilandelayo kuMphathi wesiFunda –
- (a) zokuthi amacala ahoxiswe ngoba akukho okubambekayo ezinsolweni zecala elibekwe lona lokungaziphathi ngendlela efanele;
- (b) zokuthi iNhlalo yoMnyango ikhiphe isijeziso ngokwesigaba somthetho 11 esilapha ngezansi.
- (10) Isigungu sokuqondiswa kwezigwegwe kumele sibe sesikuphuthulile ukulalelwa kwecala ezinsukwini eziyishumi nane (14) ngemuva kokuthi sibunjiwe uMphathi wesiFunda.
- (11) UMphathi wesiFunda kumele, ngokubhalwe phansi, azise ilungu –
- (a) ngomphumela wokutholwe yisigungu sokuqondiswa kwezigwegwe futhi ahlinzeke izizathu zalokho okutholakele; kanye
- (b) nezincomo ezihlongozwayo; uma zikhona.
- (12) INhlalo yoMnyango kuphela engakhipha isijeziso sokuthi ilungu kufanele limiswe noma lixoshwe.
- (13) Uma kukhishwe isincomo sokuthi ilungu limiswe noma lixoshwe, uMphathi wesiFunda kumele, ezinsukwini eziyisikhombisa (7) kuphuthulwe ukulalelwa kwecala, adlulisele okutholwe yisigungu sokuqondiswa kwezigwegwe kanye nesijeziso esikhishiwe kwiNhlalo yoMnyango. INhlalo yoMnyango, ezinsukwini ezingamashumi amabili nanye (21), kumele icubungule isijeziso esinconyiwe bese ithatha izinyathelo ezifanele.
- (14) Isinqumo seNhlalo yoMnyango kumele sidluliswe uMphathi wesiFunda kwilungu elibekwe icala futhi kumele laziswe ngelungelo lalo lokudlulisela isikhalo kwiLungu loMkhandlu oPhethe ngokwesigaba somthetho 12.

11. Izijeziso

- (1) Lezi zijeziso zingakhishwa yiNhlalo yoMnyango kwilungu elitholwe linecala elibucayi –
- (a) ukumiswa isikhathi esithile esinqunyiwe;
- (b) ukuxoshwa kwelungu;
- (c) okunye okuhambisana nokuxoshwa kwelungu, ukukhishwa ohlwini lwabazokhethwa, lwabazoqokwa njengamalungu esigungu esilawula isikole isikhathi esiyiminyaka emithathu (3) kusukela osukwini okukhishwe ngalo isijeziso.
- (2) Nanoma yikuphi ukuziphatha ngendlela engafanele okubandakanya icala lobugebengu kumele

kubikelwe amaPhoyisa aseNingizimu Afrika ukuze enze uphenyo futhi ashushise lowo owenze icala, uma kufanele.

12. Izikhalo

(1) ILungu elinikwe isijeziso yiNhloko yoMnyango ngokwesigaba somthetho 11(1) ezinsukwini eziyisikhombisa (7) lithole lesi sijezi, lingafaka isikhalo kwiLungu loMkhandlu oPhethe, esiphikisa isinqumo esithathiwe.

(2) ILungu loMkhandlu oPhethe lingasichitha noma lingaseseka isikhalo.

(3) Uma kwenzeka iLungu loMkhandlu oPhethe leseka isikhalo selungu, iLungu loMkhandlu oPhethe lingasula wonke amacala abekwe ilungu noma uma libona lokho kufanele, lingaguqula isijeziso noma lingashaya ilungu ngoswazi oluncane.

13. Okuchithwayo

Isaziso sesiFundazwe No. 331, esashicilelwa kwiGazethi yesiFundazwe No. 6329 mhla zi-3 kuNdasa 2005, ngalokhu siyachithwa sonke.

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