

## **Checklist for governing body elections**

### **January until March**

1. Succession planning – identify candidates who are willing to stand for possible election to the new governing body.
2. Finalise matters – determine any outstanding matters and address these as far as practically possible prior to the election of the new governing body.
3. Use the FEDSAS governing body support tool to check whether all the required documents and structures are ready for handover to the new governing body.
4. Introduction, advertising and marketing of the election among parents, staff and learners (see the useful tips suggested by FEDSAS in this regard).
5. Compose an election team consisting of educators, non-educators and parents.
6. Draft a voters' roll for parents – approach parents who do not yet appear on the voters' roll. It is vitally important for the voters' roll to be as complete as possible – use the admissions register as basis for the voters' roll, and determine which parents are not reflected on it.
7. Finalise the voters' roll for educators, non-educators and the representative council of learners (RCL).
8. If a full-day election is to be held, timeously apply for the Head of Department's approval in terms of the provincial regulations, and follow up if no feedback is received within the stipulated timeframe.
9. If the full-day election is to take place alongside another school activity, finalise the arrangements for the school activity and inform the parents properly and well in advance.

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10. Order enough copies of the FEDSAS pocket statutes for each member of the incoming governing body to have one.
11. Book the school's place at the FEDSAS governing body training.

#### March until the election

12. Continue marketing the election.
13. The principal should provide the parents with the notice of meeting, as received from the electoral officer, containing the date, time and venue of the nomination and election meeting, within the prescribed period and in the way stipulated by the provincial regulations.
14. If a full-day election is approved, the school must inform the electoral officer accordingly before notices are sent to parents.
15. Ensure that the voting venue is properly appointed.
16. Ensure that suitable ballot boxes are provided.
17. Assist the electoral officer in finalising ballot papers.
18. Hand the voters' rolls for parents, educators, non-educators and RCL to the electoral officer.

#### Following the election

19. The school principal is expected to convene the first governing body meeting within 14 days following the announcement of the election result.
20. Elect new office-bearers and appoint the FEDSAS representative.
21. The principal should provide the district director with the new office-bearers' details.

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22. Send correspondence to all parents in which the result of the governing body election is announced.
23. Amend the signing powers at the bank, if needed.
24. Attend the FEDSAS governing body training.
25. Change the school's contact details on the FEDSAS website in order to reflect the new members' information.
26. Ensure that every member of the governing body has the school's access code and password in order to be able to make full use of the FEDSAS webpage.

The governing body elections are held in accordance with provincial regulations. We therefore encourage schools to carefully study and adhere to the regulations and procedures applicable to their particular province. The provincial regulations that FEDSAS has available can be downloaded here:

<http://www.fedsas.org.za/Documents/SGB-elections-2018/>

## **Obstacles for governing body elections**

### **1. Who qualify as parents for purposes of governing body elections?**

Consult and peruse the comprehensive legal opinion in this regard.<sup>1</sup>

### **2. The voters' roll and voter registration**

Parents – The national guidelines and most provincial regulations stipulate that the school's admissions register or SASAMS database must serve as the basis for the voters' roll for parents.

"The voters' roll for parents must be based on the school admissions register. Eligible voters are those persons appearing in the admissions register as parents, or who can furnish proof that they are parents as defined in the Act. Only two parents per learner are eligible to vote."

"Electoral officers should follow the principles of inclusion, transparency and democracy rather than exclude potential voters."

We strongly encourage our members to prepare the most complete voters' roll possible prior to voting day. Schools must deal with this early on – the principal is responsible for handing the voters' roll to the electoral officer. However, parents whose names do not appear on the voters' roll must be afforded the opportunity to vote if they are able to

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<sup>1</sup> The legal opinion "The definition of 'parent' in terms of the South African Schools Act" can be obtained on the FEDSAS website by following the links "Documents - Legal opinions - The framework for school governance and management".

furnish sufficient proof that they qualify as “parents”. (Sufficient proof – the learner’s birth certificate, a court order in terms of section 23 of the Children’s Act, or an undertaking to the school as envisaged in the definition of “parent” in the Schools Act.)

In certain provinces, parents are expected to furnish proof of their identity even if their names do appear on the voters’ roll (valid South African ID, passport or such other legal identity document – reg 23). Urge all parents to take along such proof when they go to vote in order to avoid any unnecessary disputes.

Educators and non-educators – The South African Schools Act refers to educators and non-educators only, without distinguishing between departmental appointments and staff appointed in addition to the state’s establishment. The voters’ roll for educators and non-educators consist of staff appointed at the school in terms of the Employment of Educators Act, the Schools Act, the Basic Conditions of Employment Act or the Civil Service Act.

Representative council of learners – The voters’ roll consists of all the names of learners serving on the RCL.

### **3. When does the new governing body officially take over?**

A school governing body’s term of office is three years. The exiting governing body ceases to function the moment when the incoming governing body’s election result is announced and the election of new members is declared free and fair. The new governing body does not take over only when new office-bearers are elected or the first meeting is held but directly after the election.

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If the three-year term expires prior to the next election, there simply is no governing body (consult the judgement in *Stutterheim High School v. MEC Eastern Cape*).

Signing powers are linked to the office.

#### **4. Quorum – how is it calculated?**

The quorum is calculated based on the number of names recorded on the voters' roll. The names of parents who do not appear on the voters' roll, yet pitch for the election must therefore be added to the voters' roll.

#### **5. Proxy votes**

National – “Proxy votes are not allowed.”

Consult provincial regulations.

#### **6. Nomination of candidates**

If the total number of candidates whose nominations have been accepted is:

- less than the prescribed number of governing body members, a new meeting must be convened, where no quorum shall be required;
- equal to the prescribed number of governing body members, the electoral officer must declare all nominees duly elected; or

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- more than the prescribed number of governing body members required in respect of the category concerned, an election meeting must be held as a second part of the procedure.

**The answer above is based on the provisions in the national guidelines. Each province must also consult their own regulations in this regard.**

In terms of any restriction on the number of nominations, section 19 of the Constitution stipulates as follows:

*Political rights*

*19(3) Every adult citizen has the right-*

*(b) to stand for public office and, if elected, to hold office.*

The governing body election also falls under this provision, as each member of the governing body holds a public office, and this right cannot be limited by any provincial regulation. Therefore, there is no restriction as to the number of candidates who may be nominated.

## **7. Introduction of candidates**

According to the national document “Guidelines relating to elections of school governing bodies of public schools”, nominated parents may be afforded the opportunity to introduce themselves. In fact, this is recommended, as particularly parents in large schools in urban areas do not necessarily know the candidates whom they will be voting for. Paragraph 12(3) of the guidelines reads as follows:

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“(3) The Electoral Officer must explain the proceedings to be followed and must stipulate that every nominee will have the opportunity to briefly state at least:

- his or her name;
- the names and grades of his or her children in the school;
- occupation and experience or skills; and
- vision for the school.”

Of course, this is a guideline only. As long as each candidate receives equal opportunity to introduce him/herself, it is up to the school to add items to the list (such as current involvement with the school, including committees, the governing body or the like). In the event of a full-day election, the school may use other avenues to introduce the candidates to the school community, such as sending the information above to all parents in an e-mail, enclosing a picture of each candidate, as well as posting the information on the school notice boards. The most important guideline is to treat all candidates alike and provide the school community with as much information as possible to ensure informed decision-making.

## **8. Grade R**

Keep in mind that the parents of Grade R learners who are part of the public school may also vote and that their names should therefore also appear on the voters’ roll.

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## **9. Disputes**

### **The national guidelines:**

1. All disputes that arise during the governing body election are first referred to the electoral officer.

- The electoral officer must resolve all disputes and complete the election. The electoral officer's decision is final.
- If the dispute cannot be resolved, the electoral officer must still continue with the election, complete the process and then refer the dispute to the relevant district electoral officer within seven days following the election. The dispute must be resolved within 14 days of receipt.

2. If a dispute arises after the election only, it must be referred to the relevant district electoral officer. The dispute must be finalised within 14 days of receipt.

3. If a complainant is aggrieved at the district electoral officer's decision, he/she has seven days to appeal to the MEC, who is required to take a decision within 30 days.

In this regard, remember the principle that all internal remedies first need to be exhausted before application may be made to the court to take a decision on review.

However, consult the processes in terms of the provincial regulations, as these may vary between provinces.

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