

REGULATIONS RELATING TO THE CONDUCT OF LEARNERS AT, AND THEIR SUSPENSION AND EXPULSION FROM, PUBLIC SCHOOLS (EXCLUDING INDUSTRIAL AND REFORM SCHOOLS)

[PROVINCIAL NOTICE NO. 285 OF 1997]

[DATED: 21 AUGUST, 1997]

REGULATIONS

The Minister for the KwaZulu-Natal Province has under section 63 (2) of the KwaZulu-Natal School Education Act, (No. 3 of 1996), and section 9 of the South African Schools Act, No. 84 of 1996, made the regulations in this Schedule.

SCHEDULE

1. Definitions.—In these Regulations, any word or expression to which a meaning has been assigned in the Act, has the same meaning unless the context otherwise indicates—

“**governing body**” includes a management council referred to in section 45, 49 (1) (a) or section 27 (3); and a management body referred to in section 28 (7) of the Act.

2. Code of Conduct.—(1) Subject to the provisions of these regulations and the provisions of sub-regulation (2) the principal of a school shall ensure the adoption of a code of conduct by the governing body.

(2) If the school is a secondary school the governing body may adopt a code of conduct only after consultation with the representative council of learners for this purpose.

(3) A governing body may only adopt a code of conduct after consultation with parents and educators.

(4) The principal and the governing body shall ensure the code of conduct—

- (a) sets out the rules relating to school wear (if applicable);
- (b) aims at establishing a disciplined and purposeful school environment, dedicated to the improvement and maintenance of the quality of the learning process;
- (c) makes provision for the punishment of learners who disobey the code of conduct;
- (d) makes provision for the process safeguarding the interests of a learner and other party involved in disciplinary proceedings;
- (e) is made known in writing to learners and their parents; and
- (f) is in accordance with guidelines determined in accordance with section 8 (3) of the South African Schools Act, No. 84 of 1996.

3. Suspension.—(1) A governing body may order the suspension of a learner—

- (a) as a correctional measure for a period not longer than one week after being found guilty of misconduct;
- (b) pending a decision by the Secretary on whether a learner is to be expelled from the school after being found guilty of misconduct and a recommendation to this effect has been forwarded to the Secretary.

(2) A governing body may order the suspension of a learner before misconduct charges are put to a learner if the following requirements are met—

- (a) the learner is accused of serious misconduct on or off the school premises which could lead, if the truth of the charge is established, to the expulsion of the learner from the school,
- (b) it is the opinion of the governing body that the continued presence of the learner—
 - (i) endangers the maintenance of discipline or social well-being at such school, or
 - (ii) hinders or prevents the investigation into his/ her conduct.

(3) Before making an order for the suspension of a learner in terms of sub-regulation (2) above, the governing body must—

- (a) inform the learner and the parent of—
 - (i) the allegations made regarding the conduct of the learner, and
 - (ii) the reasons why suspension is being considered;
- (b) afford the learner and the parent an opportunity to advance reasons why the learner should not be suspended pending the outcome of an enquiry in terms of regulation 5.

(4) If the governing body, after consideration of the representations referred to in sub-regulation (3), decides to order the suspension of a learner, it must—

- (a) inform both the learner and the parent in writing of its decision, and
- (b) ensure that charges are put to the learner within two school days after the day on which the suspension takes place.

(5) If the period of suspension is likely to exceed seven days, the Secretary must make alternative arrangements for the schooling of the learner pending his decision on the expulsion of the learner.

4. Expulsion.—A learner may be expelled from a school if he/she—

- (a) intentionally violates any regulation in terms of the Act or any provision of the code of conduct framed in terms of regulation 2 and which may be grounds for expulsion;
- (b) in or outside of the buildings or on or off the premises of the school and whilst under the control of school authorities, intentionally conducts himself/herself in a manner which is or could be seriously detrimental to the maintenance of order or discipline at the school;
- (c) intentionally damages, destroys, uses or appropriates property of the school or any other person or body;
- (d) intentionally contravenes any regulation or instruction pertaining to examinations;
- (e) wilfully disobeys a legitimate instruction given by the principal or by an educator authorised to do so by the principal;
- (f) intentionally gives false information to the principal or any educator;
- (g) has been convicted in a court of law of a serious offence;
- (h) incites or instigates or procures a fellow learner to contravene or to fail to comply with any regulation or instruction made in terms of this Act, or any rule of such school;
- (i) violates the rights of other learners to receive education by disrupting classes, preventing other learners from attending classes, preventing educators from providing classes or in any other manner;
- (j) refuses, without good reason, to attend classes or to receive tuition, or without sound reason deliberately absents him- or herself from school or classes;
- (k) commits an act of insubordination towards an educator or other person who occupies a position of authority over him/her at such school;
- (l) prevents or attempts to prevent any educator or member of staff from carrying out his/her normal duties;
- (m) conducts him- or herself in a disgraceful, improper or unbecoming manner; and
- (n) possesses or uses a habit-forming drug without a prescription from a registered medical practitioner.

5. Disciplinary hearing.—(1) The governing body must appoint a tribunal consisting of two persons to conduct an enquiry into allegations of misconduct against a learner.

(2) The tribunal must—

- (a) give the learner and his/her parent at least 5 days written notification of the time, day and place of the hearing and the charges brought against the learner;
- (b) warn the learner and his/her parent that the hearing could result in the expulsion of the learner from the school, and
- (c) inform the learner and his/her parent of their right to place evidence before it to make representations why the learner should not be expelled from school.

(3) A learner who is suspended in terms of regulation 3 (2) above may accelerate the day of the hearing.

(4) The tribunal may proceed with the enquiry in the manner it sees fit but always in such a manner that the accused learner is informed of the allegations made against him/her and is given an opportunity to refute the allegations.

(5) The tribunal must keep an accurate record of the proceedings and submit same together with its report and recommendations to the governing body.

(6) The governing body may make one of the following decisions on receipt of the report and recommendations referred to in the previous sub-regulation:

- (a) the learner is not guilty of misconduct and may resume his/her position in the school;
- (b) the learner is guilty of misconduct.

(7) If a learner is found guilty by the governing body, it may impose one or more of the following penalties—

- (a) warn the learner;
- (b) impose a penalty provided for in the code of conduct;
- (c) require a written undertaking of good conduct from the learner;
- (d) suspend the learner from school for a period not exceeding one week;
- (e) recommend the expulsion of the learner from the school to the Secretary;
- (f) recommend to the Secretary to suspend a learner in terms of sub-regulation 3 (5) pending the outcome of the Secretary's decision on the expulsion of the learner; and
- (g) expel a learner from a hostel.

6. Appeal.—(1) A person who is aggrieved by a decision taken by the governing body, including a decision to expel a learner from a hostel, may appeal to the Secretary.

(2) A learner or his/her parent who is aggrieved by a decision of the Secretary to expel a learner may appeal to the Minister.

(3) A governing body who is aggrieved by a decision of the Secretary not to expel a learner may appeal to the Minister.

7. Suspension and expulsion from a hostel.—(1) The provisions of regulations 4, 5 and 6 apply likewise to the suspension and expulsion of a learner from a hostel.

(2) If a learner residing in a hostel, is suspended or expelled from a school to which the hostel is attached, he/she is deemed to be suspended or expelled from that hostel as well.

(3) A learner may be suspended or expelled from a hostel, without being suspended from the school to which the hostel is attached.

8. Delegation of powers.—The Secretary has authority to delegate powers bestowed on him/her, excluding the power to hear an appeal, to an official in the employ of the department.

9. Repeal of regulations.—The regulations governing the conduct, suspension and expulsion of learners at or from public schools set out in the Schedule hereto, are hereby repealed.

SCHEDULE

<i>Name of Act</i>	<i>Regulation</i>	<i>Date</i>	<i>Repealed portion</i>
Education and Training Act, No. 90 of 1979	R.1143	29/5/1981	Regulations 6 to 8
Coloured Persons Education Act, No. 47 of 1963	R.2248	1/10/1985	Chapter S28 and S29 in so far as it applies to schools
Education Affairs Act (House of Assembly), No. 70 of 1988	R.704	30/3/1990	The whole
Indians Education Act, No. 61 of 1965	R.2753	30/11/1990	The whole excluding regulations 5 to

