

PROVINCIAL NOTICE

The following Provincial Notice is published for general information.

DR H.C. MALILA,
DIRECTOR-GENERAL

Provincial Legislature Building,
Wale Street,
Cape Town.

PROVINSIALE KENNISGEWING

Die volgende Provinsiale Kennisgewing word vir algemene inligting gepubliseer.

DR H.C. MALILA,
DIREKTEUR-GENERAAL

Provinsiale Wetgewer-gebou,
Waalstraat,
Kaapstad.

ISAZISO SEPHONDO

Esi saziso silandelayo sipapashelwe ukunika ulwazi ngokubanzi.

GQIR H.C. MALILA,
MLAWULI-JIKELELE

ISakhiwo sePhondo,
Wale Street,
eKapa.

PROVINCIAL NOTICE

P.N. 23/2021

12 March 2021

WESTERN CAPE EDUCATION DEPARTMENT**PROCEDURES FOR THE ESTABLISHMENT AND ELECTION OF GOVERNING BODIES AT PUBLIC SCHOOLS REGULATIONS, 2021**

The Provincial Minister of Education in the Western Cape, under section 24, read with section 63, of the Western Cape Provincial School Education Act, 1997 (Act 12 of 1997), has made the regulations set out in the Schedule.

SCHEDULE**ARRANGEMENT OF REGULATIONS***Regulations*

1. Definitions
2. Composition of governing body
3. Ineligibility to serve as members on governing body and disqualification of members of governing body
4. Vetting
5. Term of office of members of governing body
6. Vacancies in governing body
7. Dissolution and recomposition of governing body
8. Franchise
9. Modes of election
10. School electoral officer
11. Duties of school electoral officer
12. Duties of district electoral officer
13. Duties of provincial election co-ordinator
14. Code of conduct
15. Voters' rolls
16. Date, time and venue of nomination validation meeting and election of parent members
17. Notice of nomination validation meeting and election of parent members
18. Nomination process in manual election
19. Poll at election of parent members in manual election
20. Role of school in selecting e-election
21. Nomination process for e-election
22. Poll during e-election
23. Counting of votes during e-election
24. Nomination and election meeting of educator members

25. Poll at election of educator members
26. Nomination and election of non-educator member
27. Nomination and election of learner members
28. Decisions of school electoral officer
29. Decisions of district electoral officer
30. Procedure after election of governing body
31. First meeting of governing body
32. Committees
33. Meetings of governing body
34. Minutes of proceedings of meetings
35. Transitional provisions
36. Repeal
37. Short title

Definitions

1. In these regulations, unless stated otherwise, any word or expression to which a meaning has been assigned in the Act bears the meaning assigned to it and, unless the context indicates otherwise—

“**day**” means any day, excluding Sunday, a public holiday and a day falling in a school holiday;

“**disciplinary committee for learners**” means a disciplinary committee contemplated in the Regulations Relating to Disciplining, Suspension and Expulsion of Learners at Public Schools in the Western Cape, made under Provincial Notice 365/2011 in *Provincial Gazette* 6939 dated 15 December 2011;

“**district electoral officer**” means a senior district official at an education district office who is responsible for overseeing and managing the governing body election process in the district;

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

“**enfranchised member**” means a member who has a right to vote;

“**e-voting**” means casting a vote in an e-election;

“**e-voting station**” means a voting station for e-voting;

“**major disruptive event**” means an event that disturbs normal school functions, operations or processes, whether anticipated or unanticipated, and that results in displacement or discontinuity of the normal business of a school;

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

“**nomination validation meeting**” means a meeting contemplated in regulation 16(1)(a)(i);

“**non-educator**” means a person, other than an educator, appointed at a school in a contract or permanent capacity in accordance with the Public Service Act, 1994 (Proclamation 103 of 1994), or by the governing body;

“**non-enfranchised co-opted member**” means—

(a) the owner of the property or his or her nominee if the school is located on private property;
or

(b) a person co-opted to assist in fulfilling specified responsibilities;

“**ordinary school**” means a school other than a school for learners with special education needs;

“**parent**” means—

(a) the parent or guardian of a learner;

(b) the person legally entitled to custody of a learner; or

(c) the person who undertakes to fulfil the obligations of a person referred to in paragraphs (a) and (b) towards the learner's education at school;

“provincial election co-ordinator” means the senior official of the Western Cape Education Department who is responsible for the management of the election of governing bodies in the province and who has been appointed as provincial election co-ordinator by the Head of Department;

“quorum of the meeting”, in relation to a meeting of a governing body, means a quorum as contemplated in regulation 33(7);

“school” means an ordinary public school or a public school for learners with special education needs;

“school electoral officer” means an electoral officer appointed in terms of regulation 10(1);

“school electoral team” means the school electoral officer together with the persons appointed to assist the school electoral officer in terms of regulation 10(3);

“school holiday” means a school holiday contemplated in the National Policy for Determining School Calendars for Public Schools in South Africa, made under Government Notice 57 in *Government Gazette* 38330 dated 30 January 2015;

“second in charge” means a deputy principal or the second most senior educator at a school;

“sponsoring body” means a body that provides financial support to a school for learners with special education needs;

“system”, in relation to an e-election, means the electronic system used for that election;

“the Act” means the Western Cape Provincial School Education Act, 1997 (Act 12 of 1997).

Composition of governing body

2. (1) Subject to subregulation (23) and regulation 7(4), the governing body of an ordinary secondary school, intermediate school or combined school must consist of—

- (a) seven parents who are not employed at the school by the Western Cape Education Department or the governing body;
- (b) two educators at the school;
- (c) one non-educator at the school;
- (d) two learners in the eighth grade or higher elected by the representative council of learners from its own ranks; and
- (e) the principal.

(2) Subject to subregulation (23) and regulation 7(4), the governing body of an ordinary primary school with a staff establishment of three or more educators and one or more non-educators must consist of—

- (a) five parents who are not employed at the school by the Western Cape Education Department or the governing body;
- (b) two educators at the school;
- (c) one non-educator at the school; and
- (d) the principal.

(3) Subject to subregulation (23) and regulation 7(4), the governing body of an ordinary primary school with a staff establishment of one educator must consist of—

- (a) two parents who are not employed at the school by the Western Cape Education Department or the governing body; and
- (b) the principal.

(4) Subject to subregulation (23) and regulation 7(4), the governing body of an ordinary primary school with a staff establishment of one educator and one non-educator must consist of—

- (a) three parents who are not employed at the school by the Western Cape Education Department or the governing body;
- (b) the principal; and
- (c) the non-educator at the school.

(5) Subject to subregulation (23) and regulation 7(4), the governing body of an ordinary primary school with a staff establishment of two educators and one non-educator must consist of—

- (a) four parents who are not employed at the school by the Western Cape Education Department or the governing body;
- (b) the principal;
- (c) the educator at the school who is not the principal; and
- (d) the non-educator at the school.

(6) Subject to subregulation (23) and regulation 7(4), the governing body of a school for learners with special education needs must consist of—

- (a) seven parents who are not employed at the school by the Western Cape Education Department or the governing body, if reasonably practicable;
- (b) two educators at the school;
- (c) one non-educator at the school;
- (d) two learners in the eighth grade or higher, elected by the representative council of learners from its own ranks, if reasonably practicable;
- (e) the principal;
- (f) one representative of sponsoring bodies, if applicable;
- (g) one representative of organisations of parents of learners with special education needs, if applicable;
- (h) one representative of organisations of disabled persons, if applicable;
- (i) one disabled person, if applicable; and
- (j) one expert in appropriate fields of special education needs.

(7) No decision taken by a governing body or action taken on the authority of a governing body is invalid merely because a vacancy existed on that governing body or because a person who was not entitled to sit as a member of that governing body sat on that governing body as such a member at the time when the decision was taken or the action authorised, if the decision was taken or the action was authorised by a quorum of the meeting of the governing body.

(8) A governing body may co-opt non-enfranchised co-opted members.

(9) Subject to subregulation (10) and regulations 6(11) and 31(4), co-opted members do not have voting rights on the governing body.

(10) If there is a vacancy in the number of parent members in a governing body, the governing body must temporarily co-opt a parent with voting rights.

(11) If a parent is co-opted with voting rights as contemplated in subregulation (10), the co-option ceases when the vacancy has been filled through a by-election, which must be held within 90 days after the vacancy has occurred, in accordance with the same procedures as those for the election of parent members as detailed in these regulations.

(12) If the by-election contemplated in subregulation (11) is not held within 90 days after the vacancy has occurred, the governing body may co-opt a parent with voting rights for a further 30 days from the date of the expiration of the 90-day period, during which time the by-election must be held.

(13) If the by-election contemplated in subregulation (11) is not held within 90 days after the vacancy has occurred as a result of a major disruptive event, the governing body may co-opt a parent with voting rights for a further 90 days from the date of the expiration of the 90-day period.

(14) If after the further 90-day period contemplated in subregulation (13)—

(a) the major disruptive event has ceased, the co-option is extended for a further 30 days, during which time the by-election must be held; or

(b) the major disruptive event continues, the co-option is extended for a further 90 days or until such time as by-elections can be held, whichever is the earlier.

(15) The nomination validation meeting and the by-election contemplated in subregulations (11) and (14) must be held in terms of these regulations.

(16) Subject to subregulation (26), parents of learners at the school must nominate and elect the parent members contemplated in subregulations (1)(a), (2)(a), (3)(a), (4)(a), (5)(a) and (6)(a).

(17) Educators employed at the school must nominate and elect the educator members contemplated in subregulations (1)(b), (2)(b) and (6)(b).

(18) If an educator member contemplated in subregulation (1)(b), (2)(b) or (6)(b) is appointed to act as principal at the school, the governing body must co-opt another educator from the same school from nominations submitted by educators onto the governing body for the duration of the period that the elected educator member acts as principal.

(19) Non-educator staff employed at the school must nominate and elect the non-educator members contemplated in subregulations (1)(c), (2)(c) and (6)(c): Provided that if the school has only one non-educator, that member is automatically elected.

(20) The representative council of learners at the school must nominate and elect the learner members contemplated in subregulations (1)(d) and (6)(d).

(21) The governing body of a school for learners with special education needs must establish a committee on special education needs as contemplated in section 30(2) of the South African Schools Act.

(22) The committee contemplated in subregulation (21) must—

(a) convene at least once a school term; and

(b) consist of—

(i) the principal;

(ii) one educator at the school;

(iii) two parent members of the governing body; and

(iv) if reasonably practicable, at least one and not more than five of the following persons:

(aa) a representative of sponsoring bodies;

(bb) a representative of organisations of parents of learners with special education needs;

(cc) a representative of organisations of disabled persons;

(dd) a disabled person; and

(ee) an expert in appropriate fields of special education needs.

(23) The Head of Department may approve the composition and term of office of a governing body at a school that differs from the composition contemplated in subregulations (1), (2), (3), (4), (5) and (6) if—

(a) the governing body of the school has applied in writing for such different composition and provided reasons therefor; or

(b) a governing body needs to be established to perform the functions of a governing body in the interim, to facilitate the establishment of a new school, and the Head of Department is satisfied that such composition is in the interest of education at the school.

(24) Except for a school referred to in section 12(1)(g) of the Act, in the circumstances contemplated in subregulation (23)(a) the number of parent members serving on a governing body of a school contemplated in subregulations (1), (2), (3), (4) and (5) must comprise one more than the combined total of other members who have voting rights.

(25) The Head of Department may at any time in his or her discretion, withdraw the approval contemplated in subregulation (23)(b) and dissolve the interim governing body concerned, whereupon a new governing body must be composed in accordance with subregulation (1), (2), (3), (4), (5) or (6), as the case may be.

(26) For the purpose of the establishment of an interim governing body as contemplated in subregulation (23)(b), the district director, in consultation with the principal, if applicable, must submit to the Head of Department the names and particulars of sufficient persons to perform all the functions of the governing body.

Ineligibility to serve as members on governing body and disqualification of members of governing body

3. A person may not be nominated for or appointed as a member of a governing body or continue to be a member of a governing body if he or she—

- (a) has at any time been convicted by a court of law of an offence for which he or she received a suspended prison sentence without the option of a fine, or was sentenced to imprisonment without the option of a fine, unless he or she has received a free pardon, or the period of suspension or imprisonment has expired at least three years before the date of his or her nomination or appointment as a member of the governing body;
- (b) has been declared unsuitable to work with children in terms of the Children's Act, 2005 (Act 38 of 2005), or the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act 32 of 2007);
- (c) is mentally ill and has been declared as such by a court of law;
- (d) is an unrehabilitated insolvent;
- (e) with the exception of the principal, in the case of an educator appointed in terms of the Employment of Educators Act, 1998 (Act 76 of 1998), has been found guilty of misconduct and has—
 - (i) received a fine;
 - (ii) been suspended without pay;
 - (iii) been demoted; or
 - (iv) received a combination of the sanctions contemplated in subparagraphs (i) to (iii), unless the period of his or her sanction has expired at least three years before the date of his or her nomination or appointment as a member of the governing body;
- (f) in the case of a non-educator appointed in terms of the Public Service Act, 1994, or by the governing body, has been found guilty of misconduct and has—
 - (i) been suspended without pay;
 - (ii) been demoted; or
 - (iii) received a combination of the sanctions contemplated in subparagraphs (i) and (ii),

- unless the period of his or her sanction has expired at least three years before the date of his or her nomination or appointment as a member of the governing body;
- (g) in the case of a parent candidate, does not have a child enrolled as a learner at the school concerned;
 - (h) in the case of a learner, has at any time been expelled from a school by the Head of Department or suspended by a governing body; or
 - (i) has been removed from a governing body by the Head of Department in terms of regulation 5(3) during the previous three years.

Vetting

4. (1) A person nominated to serve on the governing body as contemplated in regulations 18, 21, 24 and 26 must consent in writing to being vetted by an accredited vetting agency to determine compliance with regulation 3, where necessary.

(2) If the vetting process determines that a person elected to serve on the governing body may not serve on the governing body, the membership of the governing body must be determined in terms of these regulations.

(3) If an allegation is made by any person to a governing body against a member of the governing body that he or she does not comply with regulation 3, the chairperson of the governing body, or if the allegation has been made against the chairperson, the district director, must notify the member concerned in writing of the allegation and afford him or her an opportunity to make a written representation to the governing body within 14 days of receipt of the notification.

(4) The member against whom an allegation has been made as contemplated in subregulation (3) must recuse himself or herself from the meeting of the governing body when the matter is deliberated, and a decision is taken.

(5) If the governing body decides to vet the member contemplated in subregulation (3) to determine compliance with regulation 3, the chairperson or the district director, as the case may be, must inform the member in writing of the decision within five days of the decision being taken.

(6) In the circumstances contemplated in subregulation (5), the governing body must without delay approach an accredited vetting agency to vet the member within 14 days of the decision being taken to determine compliance with regulation 3.

(7) If the vetting agency finds that the member does not comply with regulation 3, it must report in writing to the chairperson or district director, as the case may be, who must then, within 30 days of receiving the report—

- (a) provide a copy of the report to the Head of Department and recommend the termination of membership of the member as contemplated in regulation 5(3); and
- (b) notify the member concerned of the report and the recommendation contemplated in paragraph (a).

(8) The Head of Department must consider the report and respond to the recommendation within 20 days of receipt of the report.

(9) The school is responsible for any costs incurred by any vetting undertaken in terms of this regulation.

Term of office of members of governing body

5. (1) Subject to subregulations (3) and (4) and regulations 6, 7, 30(2) and 31(15), the term of office of a member of a governing body who is not a learner must be three years and is effective from the date when the school electoral officer declares the governing body freely and fairly elected.

(2) The term of office of a learner member must be one year.

(3) The Head of Department may—

(a) at any time suspend or terminate the membership of a governing body member for a breach of the code of conduct as contemplated in section 26A of the Act; or

(b) terminate the membership of a governing body member—

(i) for not complying with regulation 3; or

(ii) in terms of regulation 6(3).

(4) Subject to subregulation (5), if a person elected as a member of a governing body as contemplated in regulation 2(1), (2), (3), (4), (5) or (6) ceases to fall within the category contemplated in that regulation in respect of which he or she was elected as a member, he or she ceases to be a member of the governing body.

(5) If the term of office of a parent member is due to cease because the only child he or she has at the school is leaving the school and the parent member has already received written confirmation of acceptance from the school in respect of the enrolment of a second child at the same school in the next school year, the parent may remain a member of the governing body on condition that the first child leaves the school on the last day of the preceding term and the second child starts at that school on the first day of the new term.

(6) If a combined school or intermediate school is restructured as a—

(a) primary school, the composition of the governing body contemplated in regulation 2(1) remains unchanged, subject to subregulations (7) and (9), until the term of office of the members of the governing body expires; or

(b) secondary school, the composition of the governing body contemplated in regulation 2(1) remains unchanged, subject to subregulation (8) and (9), until the term of office of the members of the governing body expires.

(7) In the circumstances contemplated in subregulation (6)(a), if there are more parents on the governing body than provided for in regulation 2(2), (3), (4) or (5), as the case may be, an election of parent members as contemplated in regulation 19 must be held within 90 days of the restructuring.

(8) In the circumstances contemplated in subregulation (6)(b), if the number of the parents on the governing body is less than the number of parents provided for in regulation 2(1), an election of parent members as contemplated in regulation 19 must be held within 90 days of the restructuring.

(9) In the circumstances contemplated in subregulation (6), in order to continue as a member of the governing body, the member must remain eligible in terms of these regulations to serve on the governing body of the primary school or the secondary school.

(10) A member of a governing body may be re-elected or co-opted, as the case may be, after the expiry of his or her term of office if he or she is eligible to be a member in terms of these regulations.

Vacancies in governing body

6. (1) A vacancy occurs in a governing body if a member—
- (a) tenders his or her written resignation and does not withdraw the resignation before it is formally noted by the governing body in a meeting;
 - (b) dies;
 - (c) is absent from three consecutive meetings of the governing body without valid reason, after having been duly notified of the meetings;
 - (d) becomes ineligible as contemplated in regulation 3 or 5(4); or
 - (e) has been removed from office in terms of regulation 5(3).

- (2) In the circumstances contemplated in subregulation (1)(c)—

- (a) the governing body must minute the absences;
- (b) after the second absence, the secretary of the governing body must notify the absent member that the governing body will request the Head of Department to terminate his or her membership if he or she is absent a third time;
- (c) after the third absence, the governing body must request the Head of Department to terminate the membership of the absent member; and
- (d) the secretary must notify the absent member in writing that the governing body has requested the Head of Department to terminate his or her membership.

(3) If the Head of Department is satisfied that the member was absent from three consecutive meetings of the governing body without valid reason, the Head of Department must terminate the membership of the member and notify the member of the termination within 21 days of receiving the request contemplated in subregulation (2)(c).

(4) A person whose membership is terminated as contemplated in subregulations (2) and (3) may appeal to the Provincial Minister within 14 days of receiving the notification contemplated in subregulation (3).

(5) The Provincial Minister must consider the appeal and decide the matter in writing within 21 days of receipt of the appeal.

- (6) When a vacancy occurs—

- (a) in a governing body composed in terms of regulation 2(23)(b), the Head of Department must appoint a member in the vacancy;
- (b) in a governing body composed in terms of regulation 2(1), (2), (3), (4), (5), (6) or (23)(a), the vacancy must be filled through a by-election in accordance with the election procedures set out in these regulations—
 - (i) in the case of a parent member, within 90 days after the occurrence of the vacancy; and
 - (ii) in the case of an educator vacancy, non-educator vacancy or learner vacancy, within 14 days after the occurrence of the vacancy.

(7) A member appointed in accordance with subregulation (6)(a) or elected to fill a vacancy by means of a by-election in accordance with subregulation (6)(b) obtains membership for the unexpired period of the term of office of his or her predecessor, with voting rights, subject to regulation 5.

- (8) If a vacancy has been filled—

- (a) in accordance with subregulation (6)(a), the Head of Department must; or
- (b) in accordance with subregulation (6)(b), the secretary of the governing body must,

notify the principal in writing of the name of the person who is no longer a member of the governing body and of the name and address of the person's successor.

(9) A temporary vacancy occurs in a governing body if a member is absent from three consecutive meetings of the governing body with a valid reason.

(10) In the circumstances contemplated in subregulation (9) the member must notify the governing body that he or she will not be able to perform his or her functions on the governing body for three consecutive meetings and provide a reason for the absence.

(11) If the governing body accepts the reason contemplated in subregulation (10) and consents to the absence, it must co-opt a person from the same category of members as the absent member to perform the functions of the absent member, including exercising voting rights, until such time as the absent member is able to resume his or her functions on the governing body.

(12) If the governing body rejects the reason contemplated in subregulation (10) and does not consent to the absence, the member must tender his or her written resignation and the vacancy must be dealt with as contemplated in subregulation (6).

(13) In the circumstances contemplated in subregulation (11) the secretary of the governing body must notify the principal in writing of the name of the member who is temporarily absent and the name and address of the person who is temporarily performing the functions of the absent member.

Dissolution and recomposition of governing body

7. (1) The Head of Department may dissolve a governing body if—

- (a) he or she is of the opinion that, owing to the merger of schools or the division of a school or other re-organisation of school facilities, it is necessary to afford parents of the schools or school concerned an opportunity to elect members of a new governing body that will be properly representative of the parents of learners attending the schools or school after such merger, division or re-organisation;
- (b) the governing body has failed to perform its functions satisfactorily or has acted in a manner that is not in the best interest of the school;
- (c) at least 60 per cent of all parents entitled to vote under regulation 8(1) vote, at a parents' meeting convened for this purpose, in favour of a motion of no confidence in the governing body.

(2)(a) The chairperson of a governing body must, within 14 days after he or she has been requested to do so in writing by not less than 30 per cent of the parents entitled to vote in terms of regulation 8(1), convene a parents' meeting referred to in subregulation (1)(c).

(b) If the chairperson does not respond to the request contemplated in paragraph (a), the parents may approach the district director, who must convene a mediation meeting between the governing body and a delegation of the parents within five days of being approached by the parents.

(c) If the governing body and parents do not reach agreement at the mediation meeting contemplated in paragraph (b), the district director must within five days of the mediation meeting appoint from the relevant education district office—

- (i) the circuit manager; or
- (ii) the head of management and governance,

as chairperson for the parents' meeting contemplated in subregulation (1)(c) and request that chairperson to convene that meeting.

(d) The chairperson contemplated in paragraph (c) must—

- (i) without delay convene a parents' meeting contemplated in subregulation (1)(c), which meeting must be held within 14 days of the chairperson being appointed in terms of paragraph (c); and
- (ii) within five days of being requested to do so by the district director, ensure that written notice of the meeting is given, either by sending the notice by post to all parents or by handing the notice to each learner with the oral instruction to hand it to his or her parents.

(3) Where a governing body has been dissolved under subregulation (1), it becomes inoperative on a date fixed by the Head of Department.

(4) As soon as possible after the date on which a governing body becomes inoperative—

- (a) the district director must furnish the Head of Department with a list of names of persons, in order of preference, who are eligible to be appointed as members of the governing body; and
- (b) the Head of Department must appoint sufficient persons from that list to perform the functions of a governing body at the school for a period not exceeding three months.

(5) The Head of Department must notify the principal forthwith in writing of the names and addresses of the members of the governing body appointed in terms of subregulation (4).

(6) The Head of Department may extend the period referred to in subregulation (4) by further periods not exceeding three months each, but the total period may not exceed one year.

(7) A governing body must be elected under these regulations within a year after the appointment of the persons referred to in subregulation (4).

(8) When the Provincial Minister closes a school in terms of section 18 of the Act, the governing body of that school dissolves on the last day of the school term preceding the date of the closure of the school.

Franchise

8. (1) Every parent who has one or more children enrolled as learners at a school is entitled to vote for parent members of the governing body at that school, and may vote only once for a particular nominee, with a maximum number of votes equal to the number of parent members to be elected.

(2) In the circumstances contemplated in subregulation (1) no more than two parents per learner are permitted to vote.

(3) Every educator employed at a school, including the principal, is entitled to vote for educator members of the governing body at that school, and may vote only once for a particular nominee, with a maximum number of votes equal to the number of educator members to be elected.

(4) Every member of a representative council of learners at a school is entitled to vote for learner members of the governing body at that school and may vote only once for a particular nominee, with a maximum number of votes equal to the number of learner members from the representative council to be elected.

(5) Every member of the non-educator staff at a school is entitled to vote for the non-educator member of the governing body and has one vote: Provided that if the school has only one non-educator, that member is automatically elected.

Modes of election

9. (1) The election of a governing body must take place by means of—

- (a) a manual election; or
- (b) an e-election.

(2) A voting station for the election of a governing body must—

- (a) open at 7:00 and close at 20:00; and
- (b) during the time contemplated in paragraph (a) be open for at least 10 hours in total.
- (3) The principal may not less than 30 days before the date of the election of the governing body—
 - (a) notify the district director that a manual election will be used; or
 - (b) apply to the district director for approval to use an e-election.
- (4) The district director must, within five days of receipt of the application contemplated in subregulation (3)(b)—
 - (a) consider the application and decide the matter; and
 - (b) inform the principal in writing of the decision.
- (5) The district director must grant the application contemplated in subregulation (3)(b) if he or she is satisfied that—
 - (a) an e-election will promote the best interests of the school community and the school concerned;
 - (b) an e-election will allow for maximum participation of voters;
 - (c) an e-election will not compromise the voters' ability to vote for candidates;
 - (d) an e-election will not discriminate unfairly against any potential voters;
 - (e) effective provision is made for a fair nomination process in the run-up to the e-election; and
 - (f) sufficient resources are available for an e-election.
- (6) The principal must communicate the mode of election to the school electoral officer—
 - (a) upon notifying the district director that a manual election will be used as contemplated in subregulation (3)(a); or
 - (b) within two days of receiving the written decision from the district director as contemplated in subregulation (4)(b).
- (7) The school electoral officer must—
 - (a) inform the district electoral officer of the mode of the election within two days of being informed of the mode of election by the principal as contemplated in subregulation (6); and
 - (b) submit a management plan for the election to the district electoral officer at least 14 days before the date of the election.
- (8) The management plan contemplated in subregulation (7)(b) must contain at least the following:
 - (a) the proposed date, time and venue for the election;
 - (b) the time slot when the votes will be counted; and
 - (c) a schedule for the processes of the school electoral team members monitoring the nomination validation meeting and the polling and counting of votes.

School electoral officer

10. (1) The district director must, subject to subregulation (2), appoint a principal, or second in charge if needed, of another school or, failing both, the circuit manager of the relevant education district office, in writing as the school electoral officer to conduct the nomination and election, as the case may be, of parent, educator and non-educator members contemplated in regulation 2(1), (2), (3), (4), (5) and (6) to a governing body.

(2) The principal, second in charge or circuit manager contemplated in subregulation (1) may not be appointed as school electoral officer at a school if he or she has children enrolled at that school or has not been trained and certified as a school electoral officer.

(3) The school electoral officer may appoint one or more educators or non-educators to assist at a nomination validation meeting and election.

(4) The school electoral officer must ensure that the school electoral team understands the electoral process to be followed and complies with these regulations.

(5) The school electoral officer must preside over the election of members of a governing body, excluding the election of learner members and office-bearers.

(6) The school electoral officer must ensure that the school where the elections take place establishes an electoral office by providing a room with a telephone, cell phone with data as well as a computer and printer for the use of the school electoral officer and the school electoral team for the duration of the nomination validation meeting and for the polling and counting-of-votes processes.

(7) The school electoral team must use the school stamp from the school where the school electoral officer is employed when stamping the nomination forms and ballot papers.

Duties of school electoral officer

11. A school electoral officer must—

- (a) ensure that there is a suitable venue for the nomination validation meeting, the poll and the counting of votes;
- (b) in the case of e-voting, ensure that one or more e-voting stations have been established;
- (c) intervene in and resolve any disputes on the day of the nomination validation meeting, the poll and the counting of the votes; and
- (d) submit the results of the election to the district electoral officer.

Duties of district electoral officer

12. A district electoral officer must—

- (a) co-ordinate the governing body election processes in the district;
- (b) advise the education district office on the proposed strategy and implementation of the governing body elections in the district and ensure that the process is conducted as agreed with the provincial election co-ordinator;
- (c) compile a management plan to implement the governing body elections;
- (d) ensure that each school has an electoral officer and that the school electoral team is established;
- (e) ensure that the school electoral officers have the forms contemplated in the annexures and all necessary documents for the election process;
- (f) ensure that all school electoral teams are adequately trained and are aware of what their role entails;
- (g) ensure that school electoral team members receive these regulations and other documents relevant to the elections timeously;
- (h) ensure that election advocacy is conducted as planned;
- (i) ensure that the education district officials monitor the election process;
- (j) ensure that the names and contact details of the persons elected to the governing bodies are submitted to the provincial election co-ordinator within seven days of the elections taking place;
- (k) ensure that the names of the office-bearers are submitted to the provincial election co-ordinator within seven days of the receipt thereof from the principal;
- (l) ensure that the names of members who have been—
 - (i) co-opted to the governing body as contemplated in regulation 2(8) and (10); or

- (ii) appointed or elected to the governing body to fill a vacancy as contemplated in regulation 6(6),
are submitted to the provincial election co-ordinator within 14 days of the receipt of these names from the principal;
- (m) develop and maintain a database of newly elected members of governing bodies in the education district and submit it to the provincial election co-ordinator; and
- (n) compile a written report on the governing body elections and submit it to the provincial election co-ordinator.

Duties of provincial election co-ordinator

13. The provincial election co-ordinator must—

- (a) compile a provincial implementation management plan for the governing body elections;
- (b) ensure that there is adequate advocacy regarding the election dates;
- (c) co-ordinate all resources to conduct efficient and fair governing body elections;
- (d) monitor and evaluate the election process in the province; and
- (e) consolidate a database of elected governing body members in the province.

Code of conduct

14. A school electoral officer, district electoral officer, provincial election co-ordinator and school electoral team member must—

- (a) act honestly and courteously;
- (b) act in a fair and unbiased manner;
- (c) be familiar with the election process and applicable legislation pertaining to governing body elections;
- (d) conduct the election according to these regulations;
- (e) co-operate with the principal;
- (f) manage the election process in a fair and just manner; and
- (g) not exceed his or her powers.

Voters' rolls

15. (1) The principal must make a voters' roll for each of the following categories of voters, containing the names of all parents, educators and non-educators at the school who are entitled to vote as contemplated in regulation 8, as follows:

- (a) the voters' roll for parents must be based on the school admission register and must consist of those persons whose names are recorded in the admissions register as parents, or who can show proof that they are parents of learners enrolled in the school;
- (b) the voters' roll for educators must consist of all educators employed at the school; and
- (c) the voters' roll for non-educators must consist of all non-educators employed at the school.

(2) The principal must ensure that there are no duplicate names on the voters' rolls and ensure that there is a maximum number of two parents per learner reflected on the voters' roll for parents contemplated in subregulation (1)(a).

(3) The voters' roll for parents must be made available to parents for scrutiny at least 14 days before the election.

(4) The parents may check the voters' roll for parents to determine whether their names appear on it and raise a dispute within five days of the voters' roll being made available as contemplated in subregulation (3).

(5) The principal must consider a dispute contemplated in subregulation (4) and, where necessary, amend the voters' roll within five days of receiving notice of the dispute.

(6) The principal must finalise the voters' roll for parents, educators and non-educators four days before the election, and no names may be added subsequent to finalisation.

(7) The school electoral officer must verify the voters' rolls after the principal has finalised them in terms of subregulation (6).

Date, time and venue of nomination validation meeting and election of parent members

16. (1) The school electoral officer after consultation with the principal must—

(a) determine a date, time slots and venue for—

- (i) a meeting to validate the nominations from parents, which meeting must be held at least 10 days before the election;
- (ii) an election of parent members; and
- (iii) the counting of votes; and

(b) inform the principal in writing thereof.

(2) The nomination and election of parent members must be preceded by the election of the other categories of members of the governing body as contemplated in regulations 24, 25, 26 and 27.

(3) In the case of a new school, the meeting to validate the nominations from parents and the election of parent members must be held not later than 90 days after the opening of the school to learners.

(4) The Head of Department may, if it is reasonably required in the circumstances, allow an extension in writing of the period contemplated in subregulation (3), but such extension may not exceed six months after the establishment of the school.

Notice of nomination validation meeting and election of parent members

17. (1) The school electoral officer must prepare a notice, in the form of Annexure A, of the nomination validation meeting and election contemplated in regulation 16 and a nomination form, in the form of Annexure B, and must, at least 21 days before the election, provide the principal with a copy of the notice and nomination form in order that the provisions of subregulation (4) may be implemented.

(2) The notice to the parents must—

- (a) state the date, time and venue of the nomination validation meeting;
- (b) state that parent candidates may attend the nomination validation meeting;
- (c) state the date, time slots and venue of the poll;
- (d) include a reminder that parents must bring a form of identification to be allowed to vote;
- (e) indicate the date, time slots and venue of a follow-up poll, to be held not less than seven days and not more than 11 days after the first poll, should a quorum not be achieved at the first poll as contemplated in regulation 19(2);
- (f) inform parents that they may lodge with the school electoral officer an objection in writing to any nomination until 16:00 on the day before the election; and

(g) encourage parents to take the following factors into account when nominating and voting for parent candidates:

- (i) the principle of equity;
- (ii) the need to redress past injustices; and
- (iii) the need for representivity.

(3) The identification contemplated in subregulation (2)(d) must be a South African identity card, a green barcoded identity document, a temporary identity document issued by the Department of Home Affairs or, in the case of a foreigner, a permit issued in terms of the Immigration Act, 2002 (Act 13 of 2002): Provided that in the event of such identification not being available an alternative form of identification may be accepted by a member of the school electoral team.

(4) The principal must at least 21 days before the date of the election for parent members—

- (a) ensure that the educators hand copies of the notice and nomination form to every learner of the school concerned with the oral instruction to hand it to his or her parents;
- (b) ensure that copies of the notice and nomination form are sent to the parents of every learner at the school by post, if he or she deems it expedient;
- (c) use a combination of the two notification methods contemplated in paragraphs (a) and (b); or
- (d) use any other method to notify the parents of every learner at the school of the nomination validation meeting and election of parent members, as long as the method of notification does not place any parents at a disadvantage or impede their participation in the election process.

Nomination process in manual election

18. (1) To nominate a parent candidate in a manual election, the parent of a learner at the school must lodge with the school electoral officer, not later than 11 days before the election, a nomination form in the form of Annexure B, duly completed by the proposer, seconder and parent candidate.

(2) A nomination contemplated in subregulation (1) must be seconded by another parent.

(3) A parent may not nominate himself or herself.

(4) At the nomination validation meeting the school electoral team must consider the nominations and reject the nomination of any parent who—

- (a) has not been nominated in accordance with subregulation (1);
- (b) is ineligible as contemplated in regulation 3; or
- (c) nominated himself or herself,

and thereafter the school electoral officer must compile a nomination list and notify the principal and the parents of the names of the parents whose nomination have been accepted.

(5) The principal, at least two days before the date of the election for parent members—

- (a) must ensure that the educators hand copies of the nomination list contemplated in subregulation (4) to every learner of the school concerned with the oral instruction to hand it to his or her parents; or
- (b) may use any other method to notify the parents of every learner at the school of that nomination list, as long as the method of notification does not place any parents at a disadvantage or impede their participation in the election process.

(6) If the total number of parent candidates whose nominations have been accepted as contemplated in subregulation (4) is less than the number of members required in terms of regulation 2(1)(a), (2)(a), (3)(a), (4)(a), (5)(a) or (6)(a) in respect of the governing body concerned, the school electoral officer must within two days of the nomination validation meeting—

- (a) inform the principal in writing thereof;
 - (b) inform the parents and request additional parent candidates be nominated not more than four days after the nomination validation meeting; and
 - (c) convene a second nomination validation meeting to be held not more than five days after the date of the first nomination validation meeting.
- (7) In the circumstances contemplated in subregulation (6)(c)—
- (a) if the total number of parent candidates whose nominations have been accepted, including the nominations accepted in terms of subregulation (4), is more than the number of members determined in terms of regulation 2(1)(a), (2)(a), (3)(a), (4)(a), (5)(a) or (6)(a) in respect of the governing body concerned—
 - (i) the school electoral officer must inform the principal and the parents at least five days before the election of the names of the parents whose nominations have been accepted; and
 - (ii) a poll must be held in accordance with regulation 19;
 - (b) if the total number of parent candidates whose nominations have been accepted, including the nominations accepted in terms of subregulation (4), is equal to the number of the members determined in terms of regulation 2(1)(a), (2)(a), (3)(a), (4)(a), (5)(a) or (6)(a) in respect of the governing body concerned, the process contemplated in subregulation (9) must be followed; or
 - (c) if the total number of parent candidates whose nominations have been accepted, including the nominations accepted in terms of subregulation (4), is less than the number of members determined in terms of regulation 2(1)(a), (2)(a), (3)(a), (4)(a), (5)(a) or (6)(a) in respect of the governing body concerned, the school electoral officer must within two days of the second nomination validation meeting—
 - (i) inform the principal in writing thereof;
 - (ii) inform the parents and request additional parent candidates be nominated not more than six days after the date of the second nomination validation meeting contemplated in subregulation (6)(c); and
 - (iii) convene a third nomination validation meeting to be held not more than seven days after the date of the second nomination validation meeting contemplated in subregulation (6)(c).
- (8) In the circumstances contemplated in subregulation (7)(c)(iii)—
- (a) if the total number of parent candidates whose nominations have been accepted, including the nominations accepted in terms of subregulations (4) and (7), is more than the number of members determined in terms of regulation 2(1)(a), (2)(a), (3)(a), (4)(a), (5)(a) or (6)(a) in respect of the governing body concerned, the process contemplated in subregulation (7)(a) must be followed;
 - (b) if the total number of parent candidates whose nominations have been accepted, including the nominations accepted in terms of subregulations (4) and (7), is equal to the number of the members determined in terms of regulation 2(1)(a), (2)(a), (3)(a), (4)(a), (5)(a) or (6)(a) in respect of the governing body concerned, the process contemplated in subregulation (9) must be followed; or
 - (c) if the total number of parent candidates whose nominations have been accepted, including the nominations accepted in terms of subregulations (4) and (7), is less than the number of members determined in terms of regulation 2(1)(a), (2)(a), (3)(a), (4)(a), (5)(a) or (6)(a) in respect of the governing body concerned, the process contemplated in regulation 16(1) must be followed.
- (9) If the total number of parent candidates whose nominations have been accepted as contemplated in subregulation (4) is equal to the number of the members determined in terms of regulation 2(1)(a), (2)(a),

(3)(a), (4)(a), (5)(a) or (6)(a) in respect of the governing body concerned, the school electoral officer must declare every accepted parent candidate to be a duly elected member of the governing body.

(10) If the total number of parent candidates whose nominations have been accepted as contemplated in subregulation (4) is more than the number of members determined in terms of regulation 2(1)(a), (2)(a), (3)(a), (4)(a), (5)(a) or (6)(a) in respect of the governing body concerned, a poll must be held in accordance with regulation 19.

Poll at election of parent members in manual election

19. (1) The poll contemplated in regulation 18(7)(a)(ii), (8)(a) or (10) must be held on the date and at the time and venue determined in accordance with the nomination and election process.

(2) A quorum of parents—

- (a) consists of 10 per cent of the total number of parents on the voters' roll having voted; and
- (b) must be determined by the school electoral officer at the end of the poll.

(3) The school electoral officer must issue every parent who is entitled to and wishes to vote with an approved ballot paper on which the school stamp contemplated in regulation 10(7) appears.

(4) A parent must record his or her vote on the ballot paper contemplated in subregulation (3): Provided that if a parent is on account of illiteracy, blindness or any other physical defect unable to record his or her vote, the school electoral officer may, at the request of that parent and in the presence of a witness chosen by the parent, record the vote for the parent candidate or parent candidates indicated by that parent.

(5) The school electoral officer must reject a ballot paper—

- (a) on which the school stamp contemplated in subregulation (3) does not appear;
- (b) on which more votes are recorded than the number of members to be elected in accordance with regulation 2; or
- (c) which is completed in such a way that it is in the opinion of the school electoral officer unclear for which parent candidate or parent candidates a vote was recorded.

(6) After the school electoral officer has rejected any spoiled ballot papers as contemplated in subregulation (5), he or she must—

- (a) in the presence of every parent candidate who wishes to be present, ensure that the votes recorded for every parent candidate are counted by the school electoral team; and
- (b) declare the determined number of parents in terms of regulation 2(1)(a), (2)(a), (3)(a), (4)(a), (5)(a) or (6)(a) in respect of the governing body concerned for whom the greatest number of votes were recorded to be duly elected members of the governing body and state the number of votes recorded for every parent candidate.

(7) If the number of votes recorded for two or more parent candidates is equal and it affects the result of the poll, the school electoral officer must, in the presence of every parent candidate who wishes to be present, draw lots to determine which of the parents is successfully elected.

(8) If a quorum contemplated in subregulation (2)(a) was not achieved at the poll, the school electoral officer must—

- (a) inform the principal and the parents; and
- (b) inform the parents of the date of the follow-up poll as contemplated in regulation 17(2)(e).

(9) At the follow-up poll no quorum of parents is required.

(10) No proxy votes are accepted for governing body elections.

Role of school in selecting e-election

20. In selecting the e-election mode of election, the principal must—

- (a) apply to the district director for approval to use this mode of election as contemplated in regulation 9(2)(b);
- (b) inform parents about the application;
- (c) before the election provide guidance to the parents by means of a manual on how to use the e-election mode;
- (d) ensure that a person who has thorough knowledge of the operation of an e-election is available to provide technical support before and on the day of the election;
- (e) set up at least one e-voting station at the school for the duration of the election to make provision for those who wish to vote at the school;
- (f) ensure that there is a generator available in the case of no electricity supply;
- (g) allocate and provide staff members who will be available to assist the school electoral team for the duration of the nomination, polling and counting process; and
- (h) ensure that parents register to vote with a selection of security questions at least five days before the election.

Nomination process for e-election

21. (1) The nomination process contemplated in regulation 18 applies, unless the system provides for the nomination process for an e-election to be undertaken online electronically, in which case the nomination process contemplated in regulation 18 applies with the necessary changes.

(2) Where the nomination process is to be undertaken online electronically, the system must be programmed to—

- (a) provide a parent with log-on details with a unique one-time personal identification number to enable him or her to nominate parent candidates;
- (b) verify the identification of the parent when he or she logs on through the personal identification number contemplated in paragraph (a), based on the voters' roll for parents; and
- (c) provide an online nomination form to the parent to enable him or her to nominate parent candidates.

(3) A parent must log off after making nominations.

(4) The staff members contemplated in regulation 20(g) must assist parents to upload documents when required to do so.

Polling during e-election

22. (1) The system must be programmed to—

- (a) provide a parent with log-on details with a unique one-time personal identification number to enable him or her to vote in the poll;
- (b) verify the identification of the parent when he or she logs on through the personal identification number contemplated in paragraph (a), based on the voters' roll for parents; and
- (c) provide an online ballot paper to the parent to enable him or her to vote for the required number of parent candidates.

(2) A parent must log off after voting.

Counting of votes during e-election

23. (1) The system must be programmed to be able to calculate and provide results as soon as the election time has lapsed.

(2) The school electoral officer must verify the results of the poll contemplated in regulation 22.

(3) If the number of votes recorded for two or more parent candidates is equal and it affects the result of the poll, the school electoral officer must, in the presence of every parent candidate who wishes to be present, draw lots to determine which of the parents are successfully elected.

Nomination and election meeting of educator members

24. (1) The school electoral officer must, in a notice in the form of Annexure C, indicate a date, time and venue for a meeting for the nomination and election of educator members of the governing body, which must be held at least 11 days before the election of parent members.

(2) To nominate an educator, an educator on the establishment of the same school must—

- (a) lodge with the school electoral officer, not more than seven days before the date of the nomination and election meeting, a nomination form in the form of Annexure D, duly completed by the proposer, seconder and educator candidate; or
- (b) propose an educator as a member of the governing body during the nomination and election meeting.

(3) A nomination contemplated in subregulation (2)(b) must be seconded by another educator, and a nomination form in the form of Annexure D must be duly completed by the proposer, the seconder and, if present, the educator nominee and must be lodged with the school electoral officer within the time contemplated in subregulation (4).

(4) If a quorum as contemplated in regulation 25(2) is reached, the school electoral officer must determine the time to be allowed for the nomination of educator candidates during the nomination and election meeting and must inform the meeting thereof.

(5) An educator may not nominate himself or herself.

(6) After expiry of the time contemplated in subregulation (4) the school electoral officer must consider the nominations and reject the nomination of any educator who—

- (a) has not been nominated in accordance with subregulation (2)(a) or (3);
- (b) is ineligible as contemplated in regulation 3;
- (c) in the case of a nomination contemplated in subregulation (2)(b), has not completed the nomination form, unless written proof to the satisfaction of the school electoral officer is submitted before the expiry of the time contemplated in subregulation (4) that the educator candidate is willing to serve as a member of the governing body; or
- (d) has nominated himself or herself,

and thereafter the school electoral officer must announce the names of the educator candidates whose nominations have been accepted.

(7) If the total number of educator candidates whose nominations have been accepted as contemplated in subregulation (6)—

- (a) is less than the number of members determined in terms of regulation 2(1)(b), (2)(b) or (6)(b) in respect of the governing body concerned, a new meeting at which new educator candidates must

be nominated must be convened, which meeting is to be held within seven days of the first meeting in accordance with the procedures as set out in these regulations;

- (b) is equal to the number of members determined in terms of regulation 2(1)(b), (2)(b) or (6)(b) in respect of the governing body concerned, the school electoral officer must declare every accepted educator candidate to be a duly elected member of the governing body; or
- (c) is more than the number of members determined in terms of regulation 2(1)(b), (2)(b) or (6)(b) in respect of the governing body concerned, a poll must be held in accordance with regulation 25.

(8) If there are ten or fewer educators on the establishment of a school, the procedure for the nomination of educator members is not followed, but the procedure for the poll contemplated in regulation 25 must be followed.

Poll at election of educator members

25. (1) The school electoral officer must prepare a notice of the nomination and election meeting and must distribute a copy of the notice to every educator on the establishment of the school at least seven days before the poll.

(2) A quorum at the poll consists of the presence of one more than half of the total number of educators on the establishment of the school.

(3) The school electoral officer must issue each educator who wishes to cast his or her vote with an approved ballot paper on which the school stamp contemplated in regulation 10(7) appears.

(4) An educator contemplated in subregulation (1) who wishes to vote must cast his or her vote by writing the names of not more than two educator candidates on the ballot paper.

(5) The school electoral officer must reject a ballot paper—

- (a) on which the school stamp contemplated in subregulation (3) does not appear;
- (b) on which the names of more than two educator candidates appear; or
- (c) that is completed in such a way that it is, in the opinion of the school electoral officer, unclear for which educator candidate or educator candidates a vote was recorded.

(6) The two educator candidates for whom the greatest number of votes have been recorded must be declared by the school electoral officer as duly elected.

(7) If no educator candidate receives a majority of the votes, the candidate who receives the lowest number of votes must be eliminated and a further vote taken on the remaining candidates in accordance with these regulations.

(8) The procedure contemplated in subregulation (7) must be repeated until there are two educator candidates, who must be declared by the school electoral officer as duly elected.

(9) When applying subregulation (7), if two or more educator candidates each have the lowest number of votes, a separate vote must be taken on those candidates and repeated as often as may be necessary to determine which candidate is to be eliminated.

Nomination and election of non-educator member

26. The procedure for the nomination and election of educator members applies, with the necessary changes, to the nomination and election of a non-educator member.

Nomination and election of learner members

27. The two learner members contemplated in regulation 2(1)(d) and (6)(d) must be elected by the representative council of learners from its own ranks as contemplated in the Determination of the Functions and Procedures for the Establishment and Election of Representative Councils of Learners at Public Schools made by the Provincial Minister under Provincial Notice 272/2014 in *Provincial Gazette* 7317, dated 13 October 2014.

Decisions of school electoral officer

28. (1) The school electoral officer must decide and settle all matters connected with the nomination of candidates and election of members.

(2) Subject to regulation 29(1), all disputes about the nomination and election process must be reported to the school electoral officer.

(3) The school electoral officer must endeavour to resolve all disputes in order to declare the elections undisputed.

(4) A decision of the school electoral officer during the nomination and election process is final.

(5) The school electoral officer must decide and settle an objection to a nomination contemplated in regulation 17(2)(f) after the election.

(6) Should there be a dispute that the school electoral officer is unable to resolve, the nominations and elections must go ahead.

Decisions of district electoral officer

29. (1) Any person who wishes to lodge an objection against a decision of a school electoral officer must, within seven days after the election of members in the category concerned, lodge the objection in writing with the district electoral officer concerned.

(2) Any person may, within seven days after the election of members in the category concerned, refer an unresolved dispute contemplated in regulation 28(6) to the district electoral officer.

(3) The district electoral officer must consider the objection contemplated in subregulation (1) or the referral contemplated in subregulation (2) and respond in writing within seven days of receipt of the objection or referral.

(4) Any person who becomes aware of an alleged irregularity in the election process after the election may refer the alleged irregularity to the district electoral officer within seven days after the announcement of the governing body members.

(5) Any person who is not satisfied with a decision of the district electoral officer may lodge an appeal with the Provincial Minister within 21 days after receiving the decision of the district electoral officer.

(6) The Provincial Minister must consider the appeal and decide the matter in writing within 21 days of receipt of the appeal.

Procedure after election of governing body

30. (1) After the election of a governing body the school electoral officer must—

- (a) make a scanned copy of all documents used in the nomination and election of the members, including all completed ballot papers used in the election and all nomination forms received and—
 - (i) forward a scanned copy to the school principal; and
 - (ii) retain a scanned copy;
- (b) place the original documents contemplated in paragraph (a) in envelopes, seal the envelopes and give them to the district electoral officer, who must keep them in safe custody for a period of at least three years from the date of the election of the governing body;
- (c) if so satisfied, declare the election to be free and fair;
- (d) notify each elected member in writing of his or her election; and
- (e) notify the principal and the district electoral officer within three days of the date of the election of the governing body in writing of the names and addresses of the persons elected as members.

(2) The outgoing governing body ceases to exist when the school electoral officer announces the newly elected parent members and declares the election to be free and fair.

First meeting of governing body

31. (1) The first meeting of a newly elected governing body must—

- (a) be convened by the principal within five days after he or she received the notice contemplated in regulation 30(1)(e);
- (b) be held within 10 days after the election;
- (c) be chaired by the principal;
- (d) elect the office-bearers of the governing body; and
- (e) determine the signatories for financial matters.

(2) The signatories contemplated in subregulation (1)(e) must be given signing powers within seven days of the meeting contemplated in subregulation (1).

(3) The principal must convene and chair a meeting between the office-bearers of the outgoing governing body and the office-bearers of the newly elected governing body to be held within seven days of the meeting contemplated in subregulation (1) for the handover process to take place.

(4) At the first meeting of a governing body of a school for learners with special education needs, the members contemplated in regulation 2(6)(a), (b), (c), (d) and (e) must co-opt the members contemplated in regulation 2(6)(f), (g), (h), (i) and (j) with voting rights.

(5) At the first meeting of the governing body contemplated in subregulation (1), the body must from among its enfranchised members elect officer-bearers, who must comprise at least a chairperson, a deputy chairperson, a treasurer and a secretary.

(6) No member may hold more than one office of the governing body simultaneously unless the governing body consists of less than five members.

(7) In the circumstances contemplated in regulation 2(1), (2), (3), (4) and (5), only a parent member of a governing body with voting rights may serve as chairperson or deputy chairperson of the governing body.

(8) In the circumstances contemplated in regulation 2(6), any member of the governing body may serve as chairperson or deputy chairperson, except the principal of the school, an educator at the school, a non-educator at the school or a learner.

(9) Subject to subregulations (7) and (8), any enfranchised member of the governing body, excluding the principal, may serve as an office-bearer.

(10) Subject to subregulation (11), the office-bearers must remain in office for a term of 12 months from their election.

(11) An office-bearer of a governing body may be re-elected as an office-bearer after the expiry of his or her term of office, provided that he or she still qualifies to be a member of the governing body.

(12) If for any reason the office of an office-bearer becomes vacant, the governing body must at the first meeting after the vacancy has occurred, elect one of its members to fill the vacancy for the unexpired term of office of his or her predecessor.

(13) The principal must preside at an election contemplated in subregulations (5) and (12).

(14) The principal must, after a meeting at which any office-bearer has been elected in accordance with this regulation, notify the Head of Department by means of the Western Cape Education Department's online management information system of the date of the meeting, the name and address of the person elected and the office into which he or she has been elected.

(15) Subject to regulations 7 and 30(2), at the expiry of his or her term of office, an outgoing office-bearer must perform his or her functions until the election of the new office-bearer who is to replace him or her has taken place, provided that the new office-bearer qualifies to be a member of the governing body.

Committees

32. (1) The governing body—

(a) must establish—

- (i) a finance committee;
- (ii) a disposal committee;
- (iii) a safety, security and business continuity committee;
- (iv) a maintenance committee; and
- (v) a disciplinary committee for learners; and

(b) may establish as many other committees as it deems necessary.

(2) Subject to subregulation (3), any enfranchised member may serve as chairperson of a committee of the governing body.

(3) The treasurer or, failing him or her, the deputy chairperson must serve as the chairperson of the finance committee and any delegation of the governing body dealing with finance matters.

Meetings of governing body

33. (1) The governing body must meet at least once every school term.

(2) The chairperson of a governing body must after consultation with the principal and the secretary of the governing body determine the date, time and venue of a meeting contemplated in subregulation (1), and the secretary must notify each member in writing thereof at least 14 days before such meeting and provide an agenda for the meeting.

(3) If the chairperson of the governing body is of the opinion that a matter requires urgent attention at a special meeting of the governing body, the secretary of the governing body must give each member at least 24 hours' notice of the special meeting.

(4) No more than three matters may be discussed at a special meeting contemplated in subregulation (3).

(5) Any person may on the invitation of a governing body be present at a meeting of the body and take part in the discussion but may not vote and must leave the meeting when the governing body makes a decision.

(6) A governing body may require any educator or non-educator of the school concerned to attend a meeting of the body in connection with any matter relating to the functions of the governing body.

(7) A quorum for any meeting of a governing body consists of one more than half of the number of all the enfranchised members of the governing body.

(8) Subject to section 22 of the Act and these regulations, a governing body must determine its own rules relating to meetings and the procedures at such meetings.

(9) A member of a governing body who is a learner may not vote on resolutions that impose liabilities on the school or third parties.

(10) Learner members of a governing body must remain present throughout governing body meetings.

(11) The governing body must meet with parents, educators, non-educators and learners at the school, respectively, at least once a year.

(12) No proxy votes are accepted at governing body meetings.

(13) A quorum of the meeting is a prerequisite for a valid governing body meeting to start or to continue, as the case may be.

Minutes of proceedings of meetings

34. (1) The secretary of a governing body must ensure that—

(a) minutes are taken of the proceedings of every meeting of the governing body; and

(b) each member of the governing body is provided with a copy of the minutes at least 14 days before the next meeting.

(2) The secretary of a governing body must provide the principal with a copy of the minutes, and the principal must retain the minutes and other documents of the governing body in a file.

(3) The secretary of a governing body must provide, on reasonable request and for a specific purpose, the Head of Department, or any person duly designated by the Head of Department, with a copy of the minutes.

(4) The secretary of a governing body must provide, on request, a parent of a learner at the school or an educator or a non-educator at the school with a copy of those parts of the minutes relevant to the protection of the rights or interests of the parent or his or her child or the educator or non-educator, as the case may be.

(5) In the circumstances contemplated in subregulations (3) and (4) there must be no violation of the rights of any other persons, or breach of confidentiality where such breach is not in the best interests of the school or member of the governing body, member of staff, parent or learner at the school.

(6) The minutes of a meeting of a governing body or a committee thereof must at the next meeting of the governing body or committee thereof, as the case may be, be submitted for approval and signing.

(7) Upon the dissolution of a governing body or the expiry of its term of office, all minutes and other documents of the governing body and any committee thereof must be handed to the principal of the school.

(8) At the closure of a school, the principal must hand in all minutes and other documents of the governing body or any committee thereof to the relevant district director for safekeeping.

(9) The governing body must render a report on its activities to parents, educators, non-educators and learners at the school at least once a year.

Transitional provisions

35. A governing body at a public school which, at the commencement of these regulations, was validly constituted in terms of the Procedures for the Establishment and Election of Governing Bodies at Public Schools Regulations, 2017, published under Provincial Notice 156/2017 in *Provincial Gazette* 7810 of 17 August 2017, is regarded as being constituted in terms of these regulations.

Repeal

36. The Procedures for the Establishment and Election of Governing Bodies at Public Schools Regulations, 2017, published under Provincial Notice 156/2017 in *Provincial Gazette* 7810 of 17 August 2017, are repealed.

Short title

37. These regulations are called the Procedures for the Establishment and Election of Governing Bodies at Public Schools Regulations, 2021.

ANNEXURE A

Notice of Nomination Validation Meeting and Election

Election of Parents of Learners to Governing Body

(Regulations 18, 19, 21 and 22 of the Procedures for the Establishment and Election of Governing Bodies at Public Schools Regulations, 2021)

NAME OF SCHOOL: _____ EMIS NUMBER: _____

Notice is hereby given that:

1. a parent of a learner who attends the above-mentioned school whose name is on the voters' roll of the school may nominate any other parent of a learner who attends the school whose name is on the voters' roll of the school, or second the nomination of such a parent, by delivering a completed nomination form to the school by latest on _____ (date).

2. various nomination validation meetings, which may be attended by parent candidates, will be held on:
 - (a) Date: _____ Venue: _____ Time: _____
 - (b) Date: _____ Venue: _____ Time: _____
 - (c) Date: _____ Venue: _____ Time: _____
 to transact the following business:
 - (i) consider all nominations;
 - (ii) to reject all nominations that are ineligible or not completed properly; and
 - (iii) to compile a list of parent candidates who are eligible to be nominees.

3. The voters' roll of parents, which is based on the school admission register, will be available for scrutiny at the school as from _____ (date) at _____ (time), and a parent has the right to lodge a dispute until _____ (date) at _____ (time) with the school principal. The principal will consider all disputes before publishing the voters' roll for parents by _____ (date). No names will be added after _____ (date).

4. Any person may lodge an objection to any nomination with the school electoral officer _____ (name and surname) in writing by 16:00 on _____ (date).

5. An election will be held on _____ (date), at _____ (venue), and the voting station will open at _____ (time) and close at _____ (time) and will be open for the following slots (if a manual election):

This election will only be held if more parent candidates are nominated than the number of members to be elected.

6. A follow-up election may be held on _____ (date), at _____ (venue), and the voting station will open at _____ (time) and close at _____ (time) and will be open for the following slots (if a manual election):

This follow-up election will only be held if more parent candidates are nominated than the number of members to be elected and a quorum was not reached at the previous election. At the follow-up election no quorum is required.

7. Counting of ballots, after a quorum was established, will be held on _____ (date), at _____ (venue), after polling at the election has closed and nominees may attend the session.

8. Counting of ballots will be held on _____ (date), at _____ (venue), after polling at the follow-up election has closed, and nominees may attend the session.

9. You are hereby reminded to—

(a) bring a form of identification to be allowed to vote. The form of identification must be a South African identity card or green barcoded identity document, a temporary identity document issued by the Department of Home Affairs or, in the case of a foreigner, a permit issued in terms of the Immigration Act, 2002 (Act 13 of 2002); and

(b) take the following factors into account when nominating and voting for parent candidates:

- (i) the principle of equity;
- (ii) the need to redress past injustices; and
- (iii) the need for representivity.

10. If the number of parent candidates nominated equals the number of members to be elected, the parent candidates will be deemed to be elected governing body members.

11. If the number of parent candidates nominated is less than the number of members to be elected, the school electoral officer will call for more nominations of parent candidates.

DATE

SIGNATURE OF SCHOOL ELECTORAL OFFICER

ADDRESS:

ANNEXURE B

NOMINATION FORM

Election of Parents of Learners as Members of Governing Body

(Regulations 18, 19, 21 and 22 of the Procedures for the Establishment and Election of Governing Bodies at Public Schools Regulations, 2021)

NAME OF SCHOOL: _____

PROPOSER:

I, _____,
(Full name)

of _____ (residential address)

being a parent of a learner of the above-mentioned school, hereby nominate

(Full name of candidate)

as a member of the governing body of the above-mentioned school.

SIGNATURE OF PROPOSER

SECONDER:

I, _____,
(Full name)

of _____ (residential address)

being a parent of the above-mentioned school, hereby second the nomination of

(Full name of candidate)

as a member of the governing body of the above-mentioned school.

SIGNATURE OF SECONDER

CANDIDATE:

I, _____
(Full name)

with PERSAL/EMPLOYMENT/IDENTITY number _____,

of _____
(Residential address)

hereby declare that I am fully aware that—

1. I may not be nominated for or appointed as a member of a governing body or I cease to be a member of a governing body if I—
 - (a) have at any time been convicted by a court of law of an offence for which I received a suspended prison sentence without the option of a fine, or was sentenced to imprisonment without the option of a fine, unless I have received a free pardon, or the period of suspension or imprisonment has expired at least three years before the date of my nomination or appointment as a member of the governing body;
 - (b) have been declared unsuitable to work with children in terms of the Children's Act, 2005 (Act 38 of 2005), or the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act 32 of 2007);
 - (c) am mentally ill and have been declared as such by a court of law;
 - (d) am an unrehabilitated insolvent;
 - (e) do not have a child enrolled as a learner at the school concerned;
 - (f) *(in the case of an educator, in the employ of the Western Cape Education Department, appointed in terms of the Employment of Educators Act, 1998 (Act 76 of 1998)),* have been found guilty of misconduct and have—
 - (i) received a fine;
 - (ii) been suspended without pay;
 - (iii) been demoted; or
 - (iv) received a combination of the sanctions contemplated in subparagraphs (i) to (iii),
 unless the period of my sanction has expired at least three years before the date of my nomination or appointment as a member of the governing body;
 - (g) *(in the case of a non-educator, in the employ of the Western Cape Education Department, appointed in terms of the Public Service Act, 1994 (Proclamation 103 of 1994), or by the governing body)* have been found guilty of misconduct and have—
 - (i) been suspended without pay;

(ii) been demoted; or
(iii) received a combination of the sanctions contemplated in subparagraphs (i) and (ii),
unless the period of my sanction has expired at least three years before the date of my nomination or appointment as a member of the governing body.

2. I further declare, based on the points listed in (1) above, that I am not ineligible to be nominated or to serve on the governing body of a school under the auspices of the Western Cape Education Department.
3. I further declare that I consent to being vetted by an accredited vetting agency to determine compliance with point (1) above, if I am elected to the governing body and an allegation based on point (1) is made against me.
4. I further declare that, after having considered points (1), (2) and (3) above, I duly accept the above-mentioned nomination.

SIGNATURE OF CANDIDATE

I, _____,
(Full name)

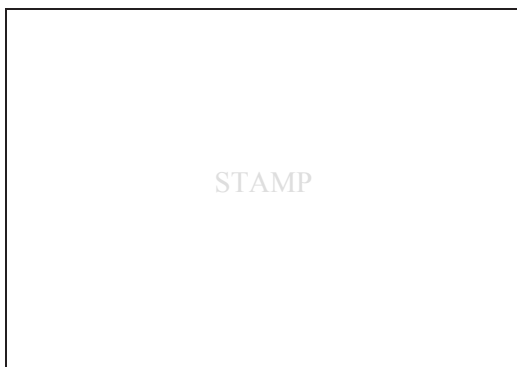
the school electoral officer, hereby declare that this nomination is accepted / rejected.

(Delete which is not applicable)

DATE

SIGNATURE OF SCHOOL ELECTORAL OFFICER

Please affix the stamp of office of the school electoral officer:



ANNEXURE C

Notice of Nomination and Election Meeting

Election of Educators / Non-Educators to Governing Body

(Regulations 24, 25 and 26 of the Procedures for the Establishment and Election of Governing Bodies at Public Schools Regulations, 2021)

NAME OF SCHOOL: _____ EMIS NUMBER: _____

Notice is hereby given that a meeting for the nomination and election of candidates for the election of _____ (educators / non-educators) as members of the governing body for the above-mentioned school will be held on _____ (date) at _____ (time) in _____ (venue). Should a quorum not be reached, a follow-up meeting will be held on _____ (date) at _____ (time).

It will be determined at _____ (time) on the day of the nomination and election meeting whether enough educators / non-educators entitled to vote are present for the meeting to go ahead. Educators / non-educators are therefore encouraged to attend the meeting.

Please arrive at the meeting before _____ (time).

A candidate may be nominated at the meeting or by lodging with the school electoral officer not more than seven days before the above meeting, a nomination form duly completed by a proposer, a seconder and the nominated candidate. For this purpose, nominations will be accepted at the school from _____ (date) until _____ (time) on _____ (date).

If the number of candidates nominated equals the number of members to be elected, the candidates will be deemed to be elected governing body members.

If more candidates are nominated than the number of members to be elected, a poll will be conducted after the nominations have been submitted.

DATE

SIGNATURE OF SCHOOL ELECTORAL OFFICER

ADDRESS:

ANNEXURE D

NOMINATION FORM

Election of Educators / Non-Educator as Members of Governing Body

(Regulations 24, 25 and 26 of the Procedures for the Establishment and Election of Governing Bodies at Public Schools Regulations, 2021)

NAME OF SCHOOL: _____

PROPOSER:

I, _____,
(Full name)

of _____ (residential address)

being an educator / non-educator of the above-mentioned school, hereby nominate

(Full name of candidate)

as a member of the governing body of the above-mentioned school.

SIGNATURE OF PROPOSER

SECONDER:

I, _____,
(Full name)

of _____ (residential address)

being an educator / non-educator of the above-mentioned school, hereby second the nomination of

(Full name of candidate)

as a member of the governing body of the above-mentioned school.

SIGNATURE OF SECONDER

CANDIDATE:

I, _____
(Full name)

with PERSAL/EMPLOYMENT number _____,

of _____
(Residential address)

hereby declare that I am fully aware that—

1. I may not be nominated for or appointed as a member of a governing body or I cease to be a member of a governing body if I—
 - (a) have at any time been convicted by a court of law of an offence for which I received a suspended prison sentence without the option of a fine, or was sentenced to imprisonment without the option of a fine, unless I have received a free pardon, or the period of suspension or imprisonment has expired at least three years before the date of my nomination or appointment as a member of the governing body;
 - (b) have been declared unsuitable to work with children in terms of the Children's Act, 2005 (Act 38 of 2005), or the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act 32 of 2007);
 - (c) am mentally ill and have been declared as such by a court of law;
 - (d) am an unrehabilitated insolvent;
 - (e) *(in the case of an educator, excluding the principal, appointed in terms of the Employment of Educators Act, 1998 (Act 76 of 1998))*, have been found guilty of misconduct and have—
 - (i) received a fine;
 - (ii) been suspended without pay;
 - (iii) been demoted; or
 - (iv) received a combination of the sanctions contemplated in subparagraphs (i) to (iii), unless the period of my sanction has expired at least three years before the date of my nomination or appointment as a member of the governing body;
 - (f) *(in the case of a non-educator appointed in terms of the Public Service Act, 1994 (Proclamation 103 of 1994), or by the governing body)* have been found guilty of misconduct and have—
 - (i) been suspended without pay;
 - (ii) been demoted; or
 - (iii) received a combination of the sanctions contemplated in subparagraphs (i) and (ii), unless the period of my sanction has expired at least three years before the date of my nomination or appointment as a member of the governing body.

2. I further declare, based on the points listed in (1) above, that I am not ineligible to be nominated or to serve on the governing body of a school under the auspices of the Western Cape Education Department.
3. I further declare that, after having considered points (1) and (2) above, I duly accept the above-mentioned nomination.

SIGNATURE OF CANDIDATE
OR

(IF PROPOSED AT NOMINATION AND ELECTION MEETING AND NOT PRESENT TO
COMPLETE THE NOMINATION FORM)

I, _____,
(Full name)

declare that written proof to my satisfaction has been submitted that the above-mentioned candidate, who is not present at the nomination and election meeting to complete the nomination form, will, if elected, be willing to serve as a member of the governing body.

SIGNATURE OF SCHOOL ELECTORAL OFFICER

This nomination is accepted / rejected.
(Delete which is not applicable)

DATE

SIGNATURE OF SCHOOL ELECTORAL OFFICER

Please affix the stamp of office of the school electoral officer:

