

**AMENDMENT ON THE PROVINCIAL GAZETTE NOVEMBER
2011. NO.530
NOTICE 135 OF 2011
GENERAL PROVISIONS**

Date of commencement

1. These amended regulations shall come into effect on the date of the publication of this notice.

Date of Elections and Constitution of School Governing Bodies

2. (1) The election of School Governing Bodies in the LIMPOPO PROVINCE shall be held from 01ST - 31ST March 2012.
- (2) The Induction of School Governing Body in the LIMPOPO PROVINCE shall be held between May and July 2012.
3. The Chairperson(s) of Association(s) of School Governing Bodies shall furnish the Head of the Department with Update record of their membership annually.

Date of Elections and Constitution of Representatives Council of Learners (RCL)

4. (1) Representatives Council of learners (RCI) shall be elected and constituted annually between January and February.
- (2) All public schools with *eighth grade or higher* must submit full names of Learner members and Office Bearers to the Circuit Office at the end of February each year.
- (3) No public school with Eighth Grade or Higher should have any learner body except Representative Council of Learners (RCL)

Period of Induction of Representative Council of learners(RCL)

- 5 The newly elected Representative Council of Learners shall be inducted in the month of March of every year.

Capacity Building For RCI

- 6 The department must annually capacitate RCLs members on their Roles and Responsibilities.

**NOTICE 140 OF 2012
LIMPOPO PROVINCE DEPARTMENT OF EDUCATION**

Notice of Determination of Guidelines for Establishment, Election and Functions of Representative Council of Learners

I, N.D~ Masemola, Member of the Executive Council (MEC) for Education, hereby gives Notice in terms of Section 11(2) of the South African Schools Act 1996 as amended (Act No.84 of 1996), that I have determined Guidelines for the establishment, election and functions of Representative Council of

Learners (RCL) including minimum requirements with which Representative Council of Learners in public schools within the Limpopo Province must comply in their Constitution, as set out in the schedule hereto.

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**Honourable, N.D. Masemola
Member of the Executive Council**

SCHEDULE

Definitions

1. Unless the context indicates otherwise, the definitions set out in section 1 of the **South African School Act, Act No. 84 of 1996 as amended**, shall apply throughout this schedule.
2. **Act** means **South African Schools Act No. 84 of 1996, as amended**
3. **District Electoral Officers** refers to an official in the District who is formally appointed to co-ordinate the elections of School Governing Body (SGB)
4. **Educator** means any person, excluding a person who is appointed to exclusively perform extracurricular duties, who teaches, educates or trains other persons or who provides professional educational services, including professional therapy and education psychological services, at a school;
5. **Electoral Assistant** refers to an educator who is formally appointed by
6. **School Electoral Officer** to assist him / her in conducting Election at school
- Nomination** means an official suggestion of someone as a candidate in an election;
7. **Ordinary Public School** refers to a Public School other than a **Public School for learners with Special Educational Needs**
8. **Quorum** refers to fixed minimum number of members of an organisation, who must be present at a meeting for its business to be valid.
9. **Parent** means the parent or guardian of a learner; the person legally entitled to custody of a learner; or person who undertakes to fulfil the obligations of a person referred to in the above mentioned definitions towards the learner's education at school.
10. **Representative Council of Learners** refers to a body or a structure of learners established at every public school enrolling learners in eighth grade or higher;
11. **School** means a public school or an independent school which enrolls learners in one or more grades from grade R (Reception) to grade twelve;
12. **School Community** refers to Educators, Support staff, Learners and Parents at the same school;
13. **School Electoral Officer** refers to an educator who is formally appointed to run the elections of School Governing Body
14. **School Staff** refers to all employees (Educators and Support Staff) appointed at the school
15. **Serious Misconduct** refers to offences that may lead to suspension or expulsion.
16. **Simple Majority** means fifty percent (50%) plus one (1);
17. **Spoilt Ballot Paper** means a ballot paper without an official mark or stamp; or on which more votes are recorded / crossed than the number of candidates to be elected; or completed in such a way that it is uncertain as to which candidate(s) a vote was recorded / crossed;
18. **Sub-Committee** refers to a structure that will assist SGBs and RCLs to achieve their objectives **Support Staff** refers to any public school staff

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member appointed according to Public Service Act or, who is not an educator at the school, including those employed by the School Governing Body.

19. **Teacher Liaison Officer** refers to an educator nominated by school staff and is the same person known as **School Electoral Officer**

Acronyms

EEA	Employment of Educators Act 76 of 1998 as Amended
DEO	District Electoral Officer
MEC	Member of the Executive Council
RCL	Representative Council of Learners
SASA	South African Schools Act 84 of 1996 as Amended
SEA	School Electoral Assistant
SEO	School Electoral Officer
SGB	School Governing Body
TLO	Teacher Liaison Officer

GUIDELINES FOR ESTABLISHMENT OF REPRESENTATIVE COUNCIL OF LEARNERS

Minimum requirements for Constitution of a Representative Council of Learners

2. (1) **The Representative Council of Learners must develop a Constitution**
- (2) **The Constitution referred to in 2(1) above must be ratified by SGB within thirty (30) days of the elections of RCL.**
- (3) **The Constitution of the RCL must indicate clearly the name of the institution / school in which the Representative Council of Learners is established.**
- (4) **The Constitution will set out clearly such information as is necessary to ensure effective communication with the Representative Council of Learners.**
- (5) **The Constitution will set out such aims and objectives of the RCL as are feasible and which fall within the framework established by law.**
- (6) **The Constitution will indicate which activities the Representative Council of Learners shall perform in the furtherance of its aims and the achievement of its objectives and which fall within the framework established by the South African Schools Act and the Regulations.**
- (7) **The Constitution will set out procedures for meetings of the Representative Council of Learners and its Executive Committee.**
- (8) **The Constitution will stipulate that members of the Representative Council of Learners may hold office for a period not exceeding one year.**
- (9) **The constitution will stipulate that a decision to amend the Constitution shall require two-thirds (2/3) majority of the total membership of the Representative Council of Learners after all members have been informed to such proposed amendments in writing, at least two months in advance**
- (10) **The Constitution will stipulate that if fewer members are present at the meeting contemplated in regulation 2(9) above, a second meeting shall be called exclusively for this purpose at least two weeks after the first meeting. The Constitution will stipulate that if two-thirds of the members**



are not present at this second meeting, the proposed amendments may be affected by two-thirds of the members present.

Election of members of the Representative Council of Learners

3. (1) a The District Senior Manager must appoint the School Electoral Officer who would have been nominated by his / her schools staff to conduct election of Representative Council of Learners.
 - b. Each class of learners in a school shall elect at least two representatives (Male and Female) to the RCL, which shall be composed of all such elected representatives, unless if the class is composed of single sex learners where at least one representative must be elected.
- (2) The appointed School Electoral Officer shall also be known as Teacher Liaison Officer.
- (3) The School Electoral Officer must appoint class educators as Electoral Assistants.
- (4) Every enrolled learner at school, in a level not lower than the eighth grade, is eligible to be elected as a member of RCL.
- (5) A learner who has been expelled from a particular school for serious misconduct must not serve as a member of RCL for a period of one school calendar year.
- (6) A learner who has been found guilty of serious or repeated misconduct must not be allowed to stand for an election of RCL for a period of one school calendar year.
- (7) A learner who has a pending case of serious misconduct may not serve as a member of RCL, while a decision / judgement is pending.
- (8) Notice of a nomination and election meeting for learners shall be given 14 (fourteen) days before the meeting (refer to LP/RCL/N/O105 Form)

Nomination of Candidates

4. (1) Prior to the election of learners to RCL referred in regulation 3(1) above, a seven school working days notice shall be given in writing and prominently displayed in the classroom by the Electoral Assistant.
- (2) Each candidate must be nominated and seconded in writing by learners within the same class, and consent of the candidate must be obtained. Using appropriate nomination form (LP/RCL/NO/O206).
- (3) The total number of nomination must not be more than four times the number of vacancies.
- (4) Nominations made at the meeting must be recorded in the appropriate nomination form (LP/RCL/NO/O206) and be checked by Electoral Assistant against the appropriate register for eligibility.
- (5) At the close of the nominations the Electoral Assistant will draw up a list of all candidates and display the list on the Class Notice Board or write on the Class Chalk Board and number of votes a voter is entitled.
- (6) Nominees / Candidates must be given five minutes to canvass for the class elections

Election of Representative Council of Learners

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5. (1) **Every learner in a level not lower than the eighth grade, is entitled to vote and to be voted to the RCL**
- (2) **When the Electoral Assistant has prominently displayed a list of candidates, one ballot paper may be issued to each eligible voter.**
- (4) **Voters will be checked against the appropriate register (Class register) which will serve as a voter's roll?**
- (4) **The election of learner representatives shall be by secret ballot using appropriate Ballot form (LP/RCL/BF/O306).**
- (5) **Every learner shall have one vote in respect of each candidate in the election**

Election of RCL Executive Committee

6. (1) **The School Electoral Officer must call and preside at the first meeting of the duly elected class representatives, to constitute Representative Council of Learners (RCL) formally.**
- (2) **The School Electoral Officer must also preside over the election of Executive Committee of the RCL.**
- (3) **The Executive Committee of RCL is composed of:**
- a. **President**
 - b. **Deputy President**
 - c. **Secretary**
 - d. **Deputy Secretary**
 - e. **Treasurer**
- (5) **The elected President of RCL must preside over the meeting of electing committee chairpersons**
- (6) **The following committees may be established**
- a. **Education Officer**
 - b. **Sport and Culture Affairs**
 - c. **Media Officer and any other portfolio committee as may be deemed necessary**
- (7) **No member of RCL must hold more than one office in the Executive Committee of Representative Council of Learners.**

Functions of Representative Council of Learners

7. **The functions of RCL must be:**

- (a) **to build unity among learners in the school**
- (b) **to address the needs of all learners in the school**
- (c) **to keep learners informed about events in the school and the school community**
- (d) **to encourage good relationship within the school between educators and parents of learners, and learners and non-teaching members of staff,**
- (e) **to encourage good relationship within the school between educators and parents of learners, and**
- (f) **to establish for the benefit of learners in the school, fruitful links with Representative Council of Learners in the other schools; and with student/learner organizations;**
- (g) **to encourage learners to render voluntary services for the benefit of**

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the school;

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- (h) to encourage and maintain due observance of the code conduct adopted for the school by the SGB.

Election of Learner Representative to School Governing Body

8. (1) The School Electoral Officer shall assist the RCL to conduct election of a learner representatives into School Governing Body during the meeting referred to in paragraph 6 (1) above;
- (2) Only elected members of the RCL Executive Committee are legible for election to the SGB of the school, i.e. President, Secretary or any other member of the executive of the RCL.
- (3) The election in paragraph 8 (1) above shall be by secret ballot;
- (4) The RCL may duly substitute elected members on the SGB in the event of his/her early removal or disqualification on the SGB

Duties of School Electoral Officer / TLO

9. (1) The School Electoral Officer must inaugurate RCL members in the present of Parents, Educators and Learners
- (2) The SEO must lead RCL members in a declaration / pledge during inauguration.
- (3) The SEO must promote spontaneous communication between himself / herself, the principal, staff and the RCL
- (4) The SEO / TLO will resolve grievances / dispute related to the election of RCL members.

8 No. 530 PROVINCIAL GAZETTE EXTRAORDINARY, 01 MARCH 2012

NOTICE 141 OF 2012**LIMPOPO PROVINCE DEPARTMENT OF EDUCATION****SOUTH AFRICAN SCHOOLS ACT No. 84 OF 1996 AS AMENDED****REGULATIONS RELATING TO GOVERNING BODIES OF PUBLIC SCHOOLS**

I, **N.D. Namane**, Member of the Executive Council for Education, hereby give Notice in terms of Section 28 of the South African Schools Act No 84, 1996 as amended, that I have determined Regulations for Establishment of Governing Bodies in Public Ordinary Schools in the Limpopo Province.

N.D. Masemola
Member of the Executive Council

Mandates and Principles underlying Free and Fair Elections

Elections must be conducted in accordance with the provisions of the following legislations:

- 1A a. Constitution of the Republic of South Africa, Act 108 of 1996;
b. National Education Policy Act, Act 27 of 1996
c. South African Schools Act, Act 84 of 1996; and
d. Applicable Provincial Laws and Policies

The following principles must be applied when conducting SGB elections:

1B.a. The right to equality

Voters and Candidates must be treated **equal and free** from unfair discrimination.

Election procedures should aim at eliminating the past inequality practices.

b. The right to freedom and security of the person

Voters must be given opportunity to vote without any form of intimidation or threats. Candidates must be allowed to stand freely without threats or intimidation.

c. The right to freedom of Association

No any person who qualifies to be a member of SGB will be excluded from participating in elections of SGB on the basis of his/her association to a particular organisation (Trade Unions, Religious groups, Political Organisations etc.)

d. **The right to reasonable and fair administrative action**

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Candidates and Voters have the right to a **just and fair administrative Action** from officials who are running or conducting elections.

CHAPTER 1

COMPOSITION OF A GOVERNING BODY

1. (1) A governing body of a school consists of the following members:
 - (a) The principal of the school,
 - (b) Parents of learners at the school, elected in terms of section 23 (3) of SASA,
 - (c) Educators at the school elected in terms of Regulation 18,
 - (d) **Support staff** at the school, elected in terms of Regulation 21,
 - (e) Learners attending the **eighth grade and higher**, elected in terms of paragraph 8 of **Notice 140 of 2012** of Regulations Relating to the Election of Learners and Regulation 20, of **Notice 141 of 2012**
 - (f) An owner or a representative of the owner of the property on which the school is situated **may be co-opted** in terms of Regulation 24, and
 - (g) Co-opted member of the community served by the school in terms of Regulation 24.
- (2) (a) A parent who is employed at the school **may not** represent parents on a school governing body in terms of **Regulation (1) (b)**.
- (b) The number of parent members contemplated in **Regulation 1 (1) (b)** must comprise **one more** than the combined total of other members of a School Governing Body with voting rights.
- (c) Members of the governing body contemplated in **Regulation 1 (1) (f) and (g)** shall **not** have **voting rights** on the School Governing body.
- (3) The number of parent members, educator members, **support staff** members and learner members of a governing body shall **vary** according to the type and grading of the school, as set out in **Schedule A** hereto.

GOVERNING BODIES SERVING TWO OR MORE SCHOOLS

2. (1) The **Member of the Executive Council** shall determine that the governance of two or more schools shall vest in a **single** School Governing Body if it is in the best interest of education at the Schools in question.
- (2) The schools referred to in **Regulation 2 (1)** shall for the purpose of these Regulations be treated as **one school**; Provided that the principals of all schools in question shall be members of the School Governing Body and such principal nominated from among their number **one principal** to perform the duties and functions of a principal which are provided for in these Regulations.
- (3) The **Member of the Executive Council** shall not act under Regulation 2(1) unless he or she has—
 - (a) Given **Notice** in the Provincial Gazette of his or her intentions so to act;
 - (b) Given interested parties an **opportunity** to make **written** submissions within a period of not less than **30 days**; and
 - (c) Considered all such submissions

- (4) The Head may **approve** a composition of a governing body of a school which differs from the composition contemplated in Regulation 1.

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MERGER OF PUBLIC SCHOOLS

3. (1) The **Member of the Executive Council** shall, by **Notice** in the Provincial Gazette, merge two or more public schools into a single school, subject to regulation 3(2).
 - (2) Before merging two or more public schools the **Member of the Executive Council** must-
 - (a) **give written notice** to the schools in question of the **intention** to merge them;
 - (b) **publish** a notice giving the **reason(s)** for the **proposed merger** in **one or more newspapers** circulating in the area where the schools in question are situated;
 - (c) **give the School Governing Bodies** in question and other **interested persons** an **opportunity** to make **representations** within a period of **not less than 90 days**;
 - (d) **consider** such representations; and;
 - (e) **be satisfied** that the employers of staff at the public schools have complied with their obligations in terms of the applicable labour law.
 - (3) If one of more of the schools that are to be merged in terms of **Regulation 3(1)** are **public schools on private property** the **Member of the Executive Council** must also-
 - (a) **notify** the owners of these private properties of his or her intention to merge the schools in question;
 - (b) **consider** his or her contractual obligations in terms of the existing agreement contemplated in section 41 of Act No. 84 of 1996;
 - (c) **renegotiate** his or her obligations in terms of the existing agreement if and where necessary, and
 - (d) **Negotiate** a new agreement in terms of section 14 of Act No. 84 of 1996, if the single school contemplated in regulation 3 (1) is to be situated on private property.
 - (4) The single school contemplated in regulation 3(1) must be regarded as a public school on private property.
 - (5) All assets, liabilities, rights and obligations of the schools that are merged, must, subject to the conditions of any donation, bequest or trust contemplated in section 37 (4) of Act NO. 84 of 1996, vest in the single school
 - (6) (a) The School governing bodies that are merged must have a meeting before the merger to constitute a single interim school governing body comprising of all members of the governing bodies concerned.
 (b) The interim school governing body must decide on the **Proposed budget** and **differences in school fees**, as well as any **policy** or issue that is relevant to the merger or which is prescribed, until a new school governing body is constituted in terms of these regulations and sections 23 and 28 of South African Schools Act No. 84 of 1996 as amended.
 (c) **The proposed budget and school fees must be ratified by parents of learners of the merged schools.**
 - (7) The school governing body of a public school to be merged, may appeal to the Minister against the decision as contemplated in regulation 3 (1).
4. A member of a school governing body who is a minor-
- (1) may not contract on behalf of a public school;

- (2) may not vote on resolutions of a School Governing Body which impose liabilities on and / or by third parties on the school;
- (3) Incurs no personal liability for any consequences of his or her membership of the school governing body.

SCHOOL GOVERNING BODY OF A NEWLY ESTABLISHED SCHOOL

- 5.(1) The Head of Department shall appoint three or more members of community served by the school to constitute an interim school governing body.
- (2) The Head of Department shall designate an official from the department to serve in the interim school governing body of a newly established public school.
- (3) Functions and period of an interim school governing body:
 - (a) The interim school governing body must decide on the budget, school fees, the code of conduct for learners, as well as any issue or policy which is prescribed, until a new school governing is constituted in terms of these regulations and sections 11 (1); 23 and 28 of Act No. 84 of 1996.
 - (b) The interim school governing body shall perform those functions for a period not exceeding three months.
 - (c) The Head of Department may extend the period referred to in regulation 5 (3) (b) by further periods not exceeding three months each, but the total period may not exceed one year.
 - (d) The Head of Department must ensure that a school governing body is elected in terms of this regulation within a year after the appointment of persons contemplated in regulation 5 (1)

RECUSAL BY MEMBERS OF A GOVERNING BODY

6. A member of a school governing body must withdraw from a meeting of school governing body for the duration of discussion and decision-making on any issue in which the member has a personal interest and /or financial interest where is impartiality may be questioned.

TERM OF OFFICE OF GOVERNING BODY.

- 7.(1) Subject to these regulations-
 - (a) A member other than a learner member shall hold office for a period of three (3) years, with the proviso that he/ she satisfies section 23 (12) of SASA 84, 1996 as amended.
 - (b) A learner member shall hold office for a period of one (1) year,
 - (c) The term of office of an office-bearer of a governing body may not exceed one year.
- (2) A member of a governing body whose term of office has expired-
 - (a) may be re-elected as a member of the governing body or
 - (b) may be co-opted as a member by the governing body.
- 8. (1) The Head of Department may remove a governing body member from office if he or she is of the opinion that such removal is in the best interest of the school; and that the code of conduct for members of School Governing Body Members of public schools as determined by the Member of the Executive Council has been transgressed.
- (2) The Head of Department shall not take action under sub-regulation (1) unless he or she has
 - (a) informed that / those member(s) of the governing body of the school, in writing of his or her intention to act and the reasons thereof

- (b) granted that / those member(s) of the governing body of a school a (14) fourteen days grace period.

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POWERS AND FUNCTIONS OF GOVERNING BODIES

Functions of all governing body of a public school

8. (1) Subject to the Act, the governing body of a public must-
- (a) promote the best interest of the school and strive to ensure its development through the provision of quality education for all learners at the school;
 - (b) adopt a constitution;
 - (c) develop the mission statement of the school;
 - (d) Adopt a code of conduct for learners at the school;
 - (e) support the principal, educators and other staff of the school in the performance of their professional functions;
 - (f) determine times of school day consistent with any applicable condition of employment of staff at the school;
 - (g) administer and control the school's property, and grounds occupied by the school, including school hostels, if applicable;
 - (h) encourage parents, learners, educators and other staff at the school to render voluntary services to the school;
 - (i) recommend to the Head of Department the appointment and transfer of educators at the school, subject to the Employment of the Educators Act, No.76 of 1998, and the Labour Relations Act, 1995 (Act No. 66 of 1995);
 - (j) recommend to the Head of Department the appointment of non- educator staff at the school, subject to the Public Service Act, 1994 (Proclamation 103 Of 1994), and the Labour Relations Act, 1995 (Act 66 of 1995);
 - (k) at the request of the Head of Department, allow the reasonable use under fair conditions of the facilities of the school for educational programmes not conducted by the school;
 - (l) discharge other functions imposed upon the governing body by or under this Act; and
 - (m) discharge other functions consistent with this Act as determined by the Minister by notice in the Government Gazette, or by the Member of the Executive Council by notice in the Provincial Gazette.

- (2) The governing body may allow the reasonable use of the facilities of the school for community, social and school fund-raising purposes, subject to such reasonable and equitable conditions as the governing body may determine which may include the charging of a fee or tariff which accrues to the school.

- (3) The governing body may join a voluntary association representing governing Bodies of public schools.

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- (4) Subject to this Act, the Labour Relations Act, 1995 (Act No. 66 of 1995), and any other applicable law, a public school may establish posts for educators and employ educators additional to the establishment determined by the MEC in terms of section 3 of Employment of Educators Act 76 of 1998 as amended.

- (5) Subject to this Act, the Labour Relations Act, 1995 (Act No. 66 of 1995), and any other applicable law, a public school may establish posts for

support staff and employ support staff additional to the establishment determined in terms of the Public Service Act, 1994

- (6) The state is not liable for any act or omission by the public school relating to its contractual responsibility as the employer in respect of staff employed in terms of regulation 10(4) and 10(5)**

Allocated functions of governing bodies

- 10. (1) Subject to this Act, a governing body must apply in terms of section 21 to the Head of Department in writing to be allocated any of the following functions:**
- (a) To maintain and improve the school's property, and buildings and grounds occupied by the school, including schools hostels, if applicable,**
 - (b) To determine the extra-mural curriculum of the school and the choice of subject options in terms of provincial curriculum policy;**
 - (c) To purchase textbooks, educational materials or equipment for the school;**
 - (d) To pay for services to the school;**
 - (e) To provide an adult basic education and training class or centre subject to any applicable law; or**
 - (f) Other functions consistent with this Act and applicable provincial law.**
- (2) The Head of Department may refuse an application contemplated in regulations 9 (1) only if the governing body concerned does not have capacity to perform such function effectively.**
- (3) The Head of Department may approve such application unconditionally or subject to conditions.**
- (4) The decision of the Head of Department on such application must be conveyed in writing to the governing body concerned, giving reasons.**
- (5) Any person aggrieved by a decision of the Head of Department in terms of this section may appeal to the Member of the Executive Council.**
- (6) The Member of the Executive Council may, by notice in the Provincial Gazette, determine that some school governing body may exercise one or more functions without making an application contemplated in regulation 9 (1) if –**
- (a) he or she is satisfied that the governing body concerned have the capacity to perform such function effectively; and**
 - (b) there is a reasonable and equitable basis for doing so.**

WITHDRAWAL OF FUNCTIONS FROM GOVERNING BODY

- 11.(1) The Head of Department may, on reasonable grounds, withdraw a function of a governing body.**
- (2) The Head of Department may not take action under regulation 11(1) unless he or she has-**
- (a) informed the governing body of his or her intention so to act and the reasons thereof,**
 - (b) granted the governing body a reasonable opportunity to make representations to him or her relating to such intention, and**
 - (c) Given due consideration to any such representations received.**
- (3) In cases of urgency, the Head of Department may act in terms of regulation 11 (1) without prior communication to such governing body, if the Head of Department thereafter-**
- (a) furnishes the governing body with reasons for his or her actions;**
 - (b) gives the governing body a reasonable opportunity to make representations relating to such actions; and**
 - (c) Duly considers any such representations received.**
- (4) The Head of Department may for sufficient reasons reverse or suspend his or her action in terms of sub-regulation 11 (3).**

(5) Any person aggrieved by a decision of the Head of Department in terms of this regulation may appeal against the decision to the Member of the Executive Council.

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LIABILITY OF STATE AND SCHOOL GOVERNING BODY

12. (1) The State is liable for any damage or loss caused as a result of any act or omission in connection with any educational activity conducted by a public school and for which such public school would have been liable but for the provisions of this section.
- (2) The provisions of the State Liability Act, 1957 (Act No. 20 of 1957), apply to any claim under regulations 12 (1).
- (3) Any claim for damage or loss contemplated in sub-regulation 12(1) must be instituted against the Member of the Executive Council concerned.
- (4) Despite the provisions of regulation 12 (1), State is not liable for any damage or loss caused as a result of any act or omission in connection with any enterprise or business operated under the authority of a public school for purposes of supplementing the resources of the school as contemplated in section 36 of Act No. 84 of 1996, including the offering of practical educational activities relating to that enterprise or business.
- (5) Any legal proceedings against a public school for any damage or loss contemplated in regulation 9(6) may only be instituted after written notice of the intention to institute proceedings against the school has been given to the Head of Department for his or her information.

CHAPTER 2

ELECTION OF MEMBERS OF SCHOOL GOVERNING BODY

Electoral officer

13. (1) (a) The Head of Department must appoint a District Electoral officer who shall be in charge of electoral procedures within the district.
- (b) The District Senior Manager must appoint a Principal as an Electoral Officer for the election of educator component within his/her school.
- (c) The District Electoral officer shall appoint an educator to act as a School Electoral Officer for all electoral procedures other than his/her component at a particular school.
- (2) The School Electoral Officer contemplated in 13(1) (c) above should be the same officer who conducted RCL elections. The term of office for the school electoral officer shall be three years.
- (3) The School Electoral Officer contemplated in regulation 13 (1) may appoint person(s) to assist him/her in the election process as School Electoral assistant.
- (4) The School Electoral Officer shall preside over all matters relating to the nominations and elections of candidates and his/ her decision shall be final.
- (5) The School Electoral Officer shall exercise all other powers conferred upon him or her by the regulations or any other law.

Eligibility of parent members

14.A Every parent of a learner at a school shall be entitled to –

- (a) stand for election as a parent member of the school governing body of the school;
- (b) vote in an election of parent members of the school governing body and shall have one (1) vote in respect of each candidate in the election with maximum number of votes equal to the number of parent members to be elected.

Ineligibility

14.B A person shall be ineligible to be a member of a governing body if he/she:

- (i) Has been convicted of an offence and sentenced to imprisonment without an option of a fine for a period exceeding six months or has not yet served his/her full period of imprisonment; or**
- (ii) No longer falls within the category of members which he/she represent at the time of elections**

NOMINATION AND ELECTIONS OF PARENT MEMBER

15. (1) Nominations and elections of School Governing Bodies in Public schools in Limpopo Province must be conducted on the same day. The School Electoral Officer shall determine a date, time and place for a meeting of parents of learners-

- (a) at the school at which parents of learners may be nominated for election and elected to the school governing body.**
- (b) which shall be held a month prior the expiry date of the term of office of parent members of the governing body; and**
- (c) shall notify the principal of the school thereof.**

(2) The principal shall notify the parents of the date, time, and place of the meeting referred to in regulation 15(1) at least 14 days in advance if invitation is handed to learners or 21 days prior to the aforementioned meeting if sent to parents through post. A quorum of 15% of parents on voters roll is required during nominations and elections meeting.

(3) The principal shall make available to the School Electoral Officer the Voters roll for the parents (schedule G) for the purposes of exercising control at the meeting.

(4) (a) At the meeting referred to in regulation 15 (1), a parent contemplated in regulation 14 A who intends standing for election of the governing body must be nominated and seconded by parents who are themselves eligible to stand for election.

(b) One parent shall nominate such a parent as a candidate and another parent shall second such a nomination.

(5) The election officer shall record the names of persons nominated for election and the names of the Proposer(s) and Seconder(s) of those persons as per LP/SGB/PNO/02/06.

(6) If the total number of nominations made at the meeting is :-

- (a) less than the required number of parent members of a school governing body, the School Electoral Officer shall dissolve the meeting and convene a new meeting within fourteen (14) days, at which nominations will be called for;**
- (b) equal to the required number of parent members, the election officer shall declare the nominated candidates duly elected; or**
- (c) more than the required number of parents members, the election officer shall hold elections in accordance with regulation 16.**

(7) The School Electoral Officer must ensure that the governing body elections must be in line with learner populations (demographics and

should adhere to democratic
representativity.

principles such as inclusivity and

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ELECTION OF PARENT MEMBERS

16. (1) The election of parent members of a governing body shall be by secret ballot.

(2) The **School Electoral Officer** shall issue one officially marked ballot paper, as per **LP/SGB/BF/06/06** to each parent entitled to vote.

(3) The **School Electoral Officer** shall reject any spoilt ballot form before counting the votes recorded for each candidate.

(4) Candidates must be present while the **School Electoral Officer** is rejecting spoilt ballot forms and counting the votes.

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(5) A parent for whom the greatest number of votes have been recorded shall be declared by the **School Electoral Officer** to be elected member of the governing body.

(6) If the number of votes in favour of two or more candidates is equal and it affects the results of the election, the **School Electoral Officer** shall draw lots to determine the results.

ELIGIBILITY OF EDUCATOR MEMBERS OF GOVERNING BODY

17. Every educator at a school shall be entitled to-

(a) Stand for election as an educator member of the governing body of the school

(b) Vote in an election for educator members of a governing body and shall have one vote in respect of each candidate in the election with a maximum number of votes equal to the number of educator members to be elected.

NOMINATION AND ELECTION OF EDUCATOR MEMBERS

18.(1) The provisions of regulations 15 and 16 shall apply to the nomination and election of educator members of the school governing body.

(2) An educator attached to a particular school may not stand for election to its SGB as part of the parent component even if his/her child is a learner attending at that school; provided that he/she may so qualify as part in the educator component.

ELIGIBILITY OF LEARNER MEMBERS

19.(1) Every learner attending the eighth grade or higher shall be entitled to stand for and vote in the election of the Representative Council of Learners.

(2) The RCL shall elect from its members someone to represent it on the school governing body in terms of Schedule A.

(3) A learner may only serve on the RCL of the school which he/she attends

(4) A learner who has been suspended from school for misconduct may not stand or vote for a learner member of the RCL

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(5) An RCL member who has been expelled from his school loses his membership of the RCL, pending the outcome of the appeal which she/he may have noted.

NOMINATION AND ELECTION OF LEARNER MEMBERS

20. (1) The Representative Council of Learners must elect its executive committee in terms of the Guidelines for Establishment of Representative Council of Learners.

(2) The President, the Secretary and Treasurer of the RCL shall automatically form part of learner representative on the governing body.

ELIGIBILITY OF SUPPORT STAFF MEMBER OF A SCHOOL GOVERNING BODY

21. Every Support Staff at a school shall be entitled to –

- (a) stand for election as a Support Staff member of the school governing body and have one vote in respect of each candidate in the election with maximum number of votes equal to the number of Support Staff members to be elected;
- (b) vote in an election for Support Staff members of a school governing body.

NOMINATION AND ELECTION OF SUPPORT STAFF MEMBERS

22. The provisions of regulations 15 and 16 shall apply to the nomination and election of Support Staff members of a school governing body.

PROCEDURE AFTER ELECTION OF MEMBERS OF A SCHOOL GOVERNING BODY

23. (1) After the election of members of a school governing body, the election officer shall-

- (a) Keep all documents, including ballot papers, used in the election in safe custody for a period of at least three months from the date of the election;
- (b) Notify each elected member of the school governing body in writing of his or her election within a period of two weeks;
- (c) Notify the principal and the Head of Department in writing of the school election results in terms of the pro-forma number LP/SGB/RCB/07/06 and LP/SGB/OB/10/06

Handling of Disputes of Election

- (d) (i) Any person who is eligible to vote in a governing body election may lodge an appeal if he/she believes that the prescribed procedures were not followed
- (ii) All appeals must be lodged with the Head of Department within seven days of the election.
- (iii) The Head of Department may, after investigation, declare elections in valid and call for re-election if he/she is satisfied that the prescribed procedures were not followed

CO- OPTION OF MEMBERS OF SCHOOL GOVERNING BODY

24. (1) A school governing body, at the meeting referred to in regulation 26 and where applicable to the school –

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- (1) (c) and 23 (10) of the South African Schools Act No. 84 of 1996, as amended, as members of school governing body;
- (b) the secretary of the school governing body shall notify persons co-opted in writing;
- (c) The principal of the school shall notify the Head of Department in writing of the names of the co-opted members of school governing body
- (2) Co-opted members shall be treated in terms of regulation 1 (1) (f) and (g), and regulation 1(2) (c).

PUBLIC SCHOOLS WITH LESS THAN FIFTY (50) LEARNERS

- 25.(a) The Head of Department may appoint three or more members of community served by the school to constitute a school governing body of schools with less than fifty learners or two educators.
- (b) Schools mentioned in regulation 25 (a), may also conduct elections in terms of these regulations, if the Head of the Department is satisfied that the conditions in a school are such that elections could be conducted in terms of these regulations.
- (d) The appointed school governing body contemplated in 25 (a) shall execute all functions stipulated in Act No. 84, of 1996, as amended, and the Provincial Regulations of the Department.
- (e) Parents of learners or educators of learners may appeal to the MEC against the appointed School Governing Body as contemplated in regulation 25 (a).

CHAPTER 3

OFFICE-BEARERS, MEETINGS AND PROCEDURES OF SCHOOL GOVERNING BODIES

Election of office-bearers

26. (1) The School Electoral officer shall convene the first meeting of the school governing body within seven days after completion of the election of the members of the school governing body.
- (2) At this meeting the members shall elect the following office bearers who shall form the Executive Committee of the school governing body:
- (a) A Chairperson;
 - (b) A Deputy Chairperson;
 - (c) A Secretary;
 - (d) A Deputy Secretary.
 - (e) A Treasurer
- (3) SGB may establish any other sub-committees as may be deemed necessary.

Meetings of school governing body

27. (1) A school governing body may hold the following type of meetings:
- (a) Executive committee meeting (s);
 - (b) General meetings of school governing body;
 - (c) Special meeting;
 - (d) Ordinary meeting;

(e) Annual general meeting:

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(2) Executive committee meeting:

- (a) The executive committee shall meet once per month or at such other intervals determined by the governing body.
- (b) A quorum of the executive committee shall be a simple majority of the members of the executive committee.
- (c) An employee of the department, designated for this purpose by the Head of Department, may attend any meeting of the executive committee of a school governing body.
- (d) The school governing body shall determine the rules and procedures relating to meetings of the executive committee or any other sub- committees.

(3) Annual general meeting:

- (a) A school governing body shall, in the fourth quarter each year, convene a General Meeting of parents of learners at the school at which-
 - (i) the latest audited financial statements required under the Act No. 84 of 1996, as amended, will be tabled and discussed;
 - (ii) a proposed budget for the following year is tabled for consideration and approval by a majority of parents present;
 - (iii) the school governing body through principal submits a written report on the performance of learners and educators for the previous year;
 - (iv) any other matter relating to the school is discussed
- (b) At least thirty (30) days notice of AGM, to be given to parents of learners
- (c) The school governing body submits a composite written report which includes activities of the school governing body, for the year.
- (d) The school governing body presents introduces the newly elected executive committee of school governing body as required by section 31 (3) and (4) of Act No. 84, 1996, as amended.

(4) Special meeting:

- (a) A school governing body shall convene a special meeting of parents of learners at the school within thirty (30) days of receipt of a petition signed by at least twenty five per cent (25%) of parents of learners at the school, requesting that such a special meeting be held.

(5) Ordinary meeting: The school governing body shall meet at least once every school term, or once every 3 months to carry out the functions of the SGB.

(6) Other general meetings:

- (a) A school governing body may convene other general meetings of learners at the school, during the course of the year.

(7) Meeting procedures of school governing body:

- (a) A quorum of a school governing body shall be a simple majority of members eligible to participate in the relevant business of the school governing body;
- (b) An employee of the department designated for his purpose by the Head of Department, shall be entitled to attend any meeting of a school governing body;
- (c) Subject to these regulations a school governing body shall determine its own rules relating to meetings and procedures at those meetings.

(8) Minutes of meetings:

- (a) The secretary of a school governing body shall keep minutes of the proceedings of every meeting of the school governing body which minutes shall be submitted for approval at the next meeting of the school governing body;
- (b) The secretary shall, on request by the Head of Department , provide him or her with a copy any minutes of a meeting of the school governing body;

- (c) Upon the expiry of the term of office of members, all minutes and other documents of the governing body shall be handed over to the principal for safe keeping;
- (d) The school Governing Body must make information available for inspection by any person, in so far as information is required for the exercise and protection of such person's rights.

Casual vacancy

28. (1) A casual vacancy on a governing body shall occur when a member:-

- (i) **resigns** in writing;
- (ii) **dies**;
- (iii) **is removed** from the office of the Head of Department, because of a serious misconduct levelled against him or her after a **fair hearing**, provided that such a member may appeal to a Member of the Executive Council.
- (iv) **Is absent** from **three (3) consecutive** meetings **without** apology from the School Governing Body (SGB), and
- (v) If a person elected as a member of a School Governing Body as contemplated in Regulation 1 (1) **ceases** to fall within the category referred to 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 School Governing Body;
- (vi) **Becomes ineligible** in terms of these Regulations.

(2) Whenever a casual vacancy occurs:

- (a) and if the number of parents at any stage is less than the combined total of other members with voting rights, the school governing body must temporarily **co- opt parent member (s) with voting rights**. If a parent with voting rights is co- opted, the co- option **ceases** when the vacancy has been **filled** through a **by- election** which must be held according to a procedure determined in terms of Regulation 16 within **ninety (90) days** after the vacancy has been in existence;
 - (b) a school Governing Body may apply to the Head of Department for an extension of the **period of co-option** contemplated in Regulation 28 (2) **fourteen (14) days** before the lapse of the **90 days**;
 - (c) The Head of Department may extend the period referred to in regulation 28 (2) ©, by further a period not exceeding three months.
- (3) A member elected or co-opted in terms of this regulation shall hold office for the unexpired term of his or her predecessor unless he /she is earlier removed in terms of regulation 28.

CONSTITUTION AND STANDING ORDERS

29. (1) A School Governing Body shall draw its own **Constitution** and Standing Orders which shall not be contrary to Act No. 84 of 1996, as amended, these Regulations or any applicable Provincial law, and which shall comply with the **Minimum requirements** determined by the **Member of the Executive Council** and /or the **National Minister of Basic Education**.
- (2) A school governing body shall submit a copy of its constitution to the Head of the Department within **ninety (90)** of its operation.
- (3) A copy of the said constitution shall be made accessible to all any interested person for perusal.

10 DISSOLUTION AND RECONSTITUTION OF SCHOOL GOVERNING BODY

- 30. (1)** if at least sixty per cent (60%) of parents of learners at the school, at a meeting of parents convened for this purpose, vote for a motion of no confidence in the school governing body, the chairperson of the school governing body shall within seven (7) days, call a meeting of the SGB to dissolve it formally.
- (2)** If a school governing body is dissolved under regulation 30 (1) it shall be reconstituted within one (1) month in accordance with these regulations.
- (3)** The powers and functions of a school governing body shall be exercised and performed, during the period from the dissolution of the school governing body until the reconstitution of the school governing body, two or more persons appointed by the Head of Department.
- (4)** Any member of the SGB who exercises such powers during the non existence of the SGB, shall be held personally liable for the consequences thereof.

TRANSITIONAL PROVISIONS

- 31. (1)** The old governing body will cease to exist in the first meeting of the new governing body.
- (2)** The new governing body will, after its first meeting, review the constitution and the code of conduct developed by the old governing body for adoption

CHAPTER 4

SCHEDULE A

NUMBER OF SCHOOL GOVERNING BODIES MEMBERS ACCORDING TO TYPE AND SIZE

1. PUBLIC SCHOOLS WITH ALL COMPONENTS

(a) PRIMARY SCHOOL

Number of Learners	Parent s	Educator s	Support Staff	Principal	Total
<80	4	1	1	1	7
81- 159	5	2	1	1	9
160-319	5	2	1	1	9
320- 719	5	2	1	1	9
720 +	6	3	1	1	11

(b) SECONDARY SCHOOL

Number of learners	Parents	Educator s	Support Staff	Learner	Principal	Total
<80	5	1	1	1	1	9
81- 159	7	2	1	2	1	13
160- 319	7	2	1	2	1	13

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320- 719	7	2	1	2	1	13
720 +	9	3	1	3	1	17

(c) MIDDLE SCHOOL (COMBINATION OF PRIMARY SCHOOL AND SECONDARY SCHOOL)

Number of learners	Parent s	Educator s	Support Staff	Learner	Principal	Total
<80	5	1	1	1	1	9
81- 159	7	2	1	2	1	13
160- 319	7	2	1	2	1	13
320- 719	7	2	1	2	1	13
720 +	9	3	1	3	1	17

2. SCHOOL WITHOUT SUPPORT STAFF

(a) PRIMARY SCHOOL

Number of learners	Parents	Educators	Principal	Total
<80	3	1	1	5
81- 159	4	2	1	7
160- 319	4	2	1	7
320- 719	4	2	1	7
720 +	5	3	1	9

(b) MIDDLE AND SECONDARY SCHOOL

Number of learners	Parents	Educator s	Learner	Principal	Total
<80	4	1	1	1	7
81- 159	6	2	2	1	11
160- 319	6	2	2	1	11
320- 719	6	2	2	1	11
720 +	8	3	3	1	15

3. SCHOOLS WITH LOWER ENROLMENT

(a) SECONDARY AND MIDDLE SCHOOLS

Number learners	Parents	Educator s	Support Staff	Learner	Principal	Total
-50	3			1	1	5
-50	4	1		1	1	7
-50	5	1	1	1	1	9

(b) PRIMARY SCHOOL

Number learners	Parents	Educators	Support Staff	Principal	Total
-50	3	1		1	5
-50	4			1	5
-50	4	1	1	1	7

SCHEDULE B

Amendment of Northern Province Regulation No. 257 of 1997

37. To amend Northern Province Regulation No. 257 of 1997, and other previous legislation so as to substitute certain definitions; to delete others and to insert new definitions; to provide additional functions of a school governing body and Head of the Department and to insert new regulations.

Title, number and year of regulation	Extent of repeal
Coloured Persons Education Act, 1963 (Act No. 47 of 1963) Regulation No. 1898 of 4 December 1963	Chapter F
Indian Education Act, 1965 (Act No. 61 of 1965) Regulation No. 459 of 25 March 1977	The whole
Education and Training Act, 179 (Act No. 90 of 1979) Regulation No. 828 of 30 April 1982 (as amended by Regulations No. 672 of 31 March 1983, Regulation No. 2365 and 2366 of 25 November 1988 and Regulation No. 331 of 3 March 1989)	The whole
Education Affairs Act (House of Assembly), 1988 (Act No. 70 of 1988) Regulation No. 700 and 701 of 30 March 1990 and Regulation No. 2932 of 6 December 1991)	The whole
GaZankulu Education Act, 1990, and Regulation No. 27 of 31 December 1976	The whole
Lebowa Education Act, 1974 (Act No. 6 of 1974) Regulation No. 257 of 15 September 1978	Chapter 2