

## PROVINCIAL NOTICE 119 OF 2017

**SOUTH AFRICAN SCHOOLS ACT, 1996 (ACT NO. 84 OF 1996)**  
**NOTICE RELATING TO ELECTION OF MEMBERS OF GOVERNING BODIES**  
**FOR PUBLIC ORDINARY SCHOOLS**  
**(EXCLUDING SCHOOLS FOR LEARNERS WITH SPECIAL EDUCATION NEEDS)**

I, **Mthandeni Erick Dlungwana**, Member of the Executive Council responsible for Education in the Province of KwaZulu-Natal have, in terms of Section 28 of the South African Schools Act, 1996 (Act No. 84 of 1996), as amended, determined matters relating to school governing bodies as contained in this schedule.

### SCHEDULE

#### Definitions

1. In this notice any word or expression to which a meaning has been assigned in the Act shall have that meaning unless the context indicates otherwise -

**"Act"** means the South African Schools Act, 1996 (Act No. 84 of 1996) as amended;

**"Assistant School Electoral Officer"** means a person employed by the Department or the governing body who is appointed by the School Electoral Officer to assist during elections but who must not be the principal of the school where elections are being held nor be appointed as an electoral officer in any other school;

**"closed meeting"** means a meeting open only to -

- (a) parents for the election of parents;
- (b) educators for the election of educators;
- (c) members of staff for the election of members of staff; and
- (d) learners from the representative council of learners;

**"combined school" means** a public school which enrolls learners from foundation phase to senior phase or senior phase to further education and training phase or foundation phase to further education and training phase.

**"co-opted members"** means -

- (a) members co-opted without voting powers to assist the governing body in discharging its functions;
- (b) the owner of the private property on which a public school is situated and who does not have voting powers;
- (c) members without voting powers co-opted for expertise regarding special needs in an ordinary public school which provides education to learners with special education needs; and
- (d) members with voting powers co-opted **pending the by-election**, to replace exiting parent members who have not completed their term of office;

**"day"** means a calendar day including Saturdays, Sundays and Public Holidays;

**"Department"** means the KwaZulu-Natal Department of Education;

**"District Electoral Officer"** means a senior District official at a District office responsible to oversee and manage the election process in the district;

**"Educator"** means any person who teaches, educates or trains other persons or who provides professional educational services at a public school including professional therapy and educational psychological services but does not include **a teacher assistant, a teacher aid** or a person who is appointed to exclusively perform extra-curricular duties;

**"election day"** means a full day set aside by the school for purposes of conducting elections of a school governing body instead of holding an election meeting;

**"election meeting"** means -

- (a) four separate election meetings held exclusively for the nomination and election of parents only, educators only, members of staff who are not educators only and learners from the representative council of learners only, as the case may be; and
- (b) a by-election meeting;

**"election monitors"** means officials or stakeholders selected from the Provincial or District electoral task teams and approved by the Head of Department as either observers, supervisors or overseers of election;

**"first meeting"** means a meeting held exclusively for the election of office bearers after the completion of the election of members into the governing body;

**"franchise"** means the right to vote for:

- (a) parents for the parent component;
- (b) educators for the educator component;
- (c) member of staff for the member of staff component; or
- (d) RCL Member for the learner component;

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

**"member"** means a member of the governing body;

**"member of staff"** means a person appointed according to the Public Service Act, 1994 (Act No.103 of 1994) or the South African Schools Act, 1996 (Act No. 84 of 1996) as amended who is not an educator at a school;

**"Member of the Executive Council"** means the Member of the Executive Council responsible for education in the Province of KwaZulu-Natal;

**"Minister"** means the Minister of Basic Education;

**"parent"** means –

- (a) the biological or adoptive parent or legal 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 learners education at school;

**"principal"** means an educator appointed or acting as the head of a public school responsible for the professional management and administration of a school;

**"Provincial Electoral Officer"** means a senior Provincial official at a Provincial office responsible to oversee and manage the election process in the Province;

**"public school"** means -

- (a) an ordinary public school; or  
(b) a public school that provides education with a specialised focus on talent, including sport, performing arts or creative arts;

**"representative council of learners" (RCL)** means a representative council of learners established in terms of section 11 of the Act;

**"school"** means an ordinary public school which enrolls learners in one or more grades from Grade R to Grade 12;

**" School Electoral Officer"** means a school principal, acting principal or an officer, who is not employed at the school, appointed by the Head of Department to conduct school governing body elections; and

**"voter"** means a parent in the parent component, an educator in the educator component, a member of staff in the member of staff component and a learner from the representative council of learners' component.

## Composition of Governing Bodies for Public Schools

2. (1) The membership of the governing body of a public school comprises the following members -
- (a) Elected members;
- (b) The principal by virtue of his or her official capacity; and
- (c) Co-opted members with or without voting rights, as the case may be.
- (2) The elected members of a governing body referred to in sub clause (1) (a) comprises the following -
- (a) Parents of learners at the school;
- (b) Educators at the school;
- (c) Member of staff who is not an educator at the school;
- (d) Learners from the eighth grade or higher at the school elected from the RCL, if applicable.
- (3) The number of parent members, educator members, member of staff and learner members of a governing body must, depending on the type and grading of the school concerned, comply with Schedule A of this notice.
- (4) Before any annual meeting for the election of office bearers, the governing body must determine if there has been an increase or decrease in learner enrolment as contemplated in schedule A. and if there has been –

- (a) an increase in the enrolment which results in an additional vacancy in the governing body, such vacancy must only be declared if the increase in the learner enrolment is 10% percent or more; and
  - (b) (i) if there has been a decrease in learner enrolment by ten (10)% or more and such decrease requires one or more educators and one or more learners from the RCL to vacate the position in the governing body, the educator (or educators, as the case may be) and learner (or learners as the case may be) from the RCL who received the least number of votes shall vacate the position; or
  - (ii) if members were duly elected where no voting occurred, the component affected by the decrease in enrolment must by secret ballot determine who will vacate the position in the governing body.
- (5) The increase or decrease in learner enrolment will result in either a vacancy in the parent component or a member of the parent component vacating his or her position on the governing body.

### Term of Office

3. (1) A governing body is elected for a period of three (3) years unless otherwise directed by the Member of the Executive Council.
- (2) The Member of the Executive Council shall determine the term of office of governing bodies of all schools.
- (3) If the governing body has –
- (a) six (6) months or less before the expiry of its term of office, the Member of the Executive Council may, on reasonable grounds and notwithstanding such period, direct that elections be held on a date determined by him or her; or
  - (b) more than six(6)months before the expiry of its term, the Member of the Executive Council may, after consultation with the governing body concerned determine a date when elections must be held, notwithstanding the unexpired period of its term of office.
- (4) All members elected in terms of Clause 2(2) but excluding learners elected in terms of Clause 2(2)(d) are elected for a term of three (3)years.
- (5) The term of office of a governing body member who is a learner elected in terms of Clause 2 (2) (d) is one (1) year.
- (6) Subject to Clause 3(3), a member of a governing body holds office until the expiry of the term of office of the governing body or the exiting of the member.
- (7) Should the Head of Department determine, on reasonable grounds, that a governing body has ceased to perform a function in terms of the Act, the Head of Department may after adhering to the provisions of Sections 22 and 25 of the Act withdraw its function and -
- (a) appoint sufficient persons to carry out all such functions or one or more of such functions of the governing body for a period not exceeding three (3) months;
  - (b) may extend the period referred to in sub clause (7)(a) for periods not exceeding three months at a time, which combined period shall not exceed one(1) year; and
  - (c) must ensure that a governing body is elected within one (1) year after the appointment of the persons referred to in sub clause (7)(a).
- (8) Subject to sub clause (6), 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.

### Membership of a Governing Body

4. (1) A governing body which governs a school consists of the following members –
- (a) parents of learners enrolled at the school for which a governing body is being elected, comprising one more parent than the combined total number of members with voting rights referred to in sub clauses (1) (b), (c), (d) and (e);
  - (b) an educator or educators, depending on the learner enrolment at the school as reflected in Schedule A hereto;
  - (c) one(1) member of staff elected by the members of staff employed at the school for which a governing body is being elected;
  - (d) learners, if applicable, elected by members of the RCL from the RCL in a school with grade eight or higher, the number of learners elected will be determined in accordance with Schedule A;
  - (e) the principal, representing the Head of Department in a school in his or her official capacity; and
  - (f) co-opted members of the community, if any, provided the number of co-opted members shall not exceed five.
- (2) A governing body of a public school situated on private property may co-opt, without voting rights, the owner of the private property occupied by the school or the nominated representative of such owner.

### Eligibility

5. (1) A person will not be eligible to be a member of a governing body if he or she-
- (a) is mentally ill and has been declared as such by a competent court;
  - (b) is an unrehabilitated insolvent;
  - (c) has been convicted of an offence and sentenced to imprisonment by a court of law in South Africa or in a foreign country, without the option of a fine for a period exceeding six(6) months or has not yet served his or her full period of imprisonment;
  - (d) has been declared to be unsuitable to work with children as stipulated in terms of the Children's Act, 2005 (Act 38 of 2005), as amended;
  - (e) has his or her name included in the National Register for Sex Offenders (NRSO) compiled in terms of the Sexual Offences and Related Matters Amendment Act, 2007 (Act 32 of 2007);
  - (f) is a parent but is not a South African citizen and is not in possession of a permanent or temporary resident permit;
  - (g) no longer falls within the category of members that he or she represented at the time of his or her election; or
  - (h) had his or her membership terminated by the Head of Department in terms of Section 18A of the Act or any other applicable legislation.
- (2) A member vacates his or her office if he or she -
- (a) does not meet the requirements set out in Clause 4 (1);
  - (b) becomes disqualified in terms of sub clause (1);
  - (c) resigns;
  - (d) is deceased;
  - (e) has been absent from two (2)consecutive ordinary meetings of the governing body without providing written apology;
  - (f) is removed from office in terms of section 18 A of the Act.
  - (g) is affected by the decrease of the learner enrolment by ten (10)% or more as contemplated in Clause 2(4)(b).

- (3) The principal must-
- (a) at all times ensure that the governing body is properly constituted in terms of this Notice.
  - (b) in writing, within five (5) days of becoming aware that a member is not eligible, inform the Circuit Manager of a member who is no longer eligible as a member of the governing body.
- (4) Upon receiving the information in terms of sub clause (3) above, the Circuit Manager in charge of the school concerned, must in writing and within five (5) days of receipt of the information, inform the District Electoral Officer of a member who is no longer eligible as a member of the governing body.
- (5) The District Electoral Officer must-
- (a) within five (5) days of receipt of the information in sub clause (4) verify the information received;
  - (b) if the information is verified inform the member in writing that he or she is no longer eligible as a member of the governing body; and
  - (c) ensure that he or she vacates his or her seat.

### **Appointment of Provincial Electoral Officer**

6. (1) The Head of Department must appoint, in writing, a Provincial Electoral Officer, a Deputy Provincial Electoral Officer and Assistant Provincial Electoral Officers.
- (2) The Provincial Electoral Officer must -
- (a) ensure that there is adequate publicity of the election;
  - (b) administer the appointment of one(1) or more officers in the service of the Department to assist during the election as Assistant Provincial Electoral Officers;
  - (c) ensure that there is compliance with legislation and procedures in respect of the elections;
  - (d) co-ordinate the resources to conduct efficient and fair governing body elections;
  - (e) ensure that materials and procedures for the training of district and School Electoral Officers and teams are in place and training takes place as planned;
  - (f) develop and provide templates of all documents required for the elections;
  - (g) resolve disputes relating to the elections which could not be resolved at school or district level;
  - (h) compile an election schedule for all schools in the Province;
  - (i) monitor and evaluate the election process in the Province;
  - (j) consolidate a database of governing bodies on taking office;
  - (k) conduct investigations as directed by the Head of Department; and
  - (l) monitor the induction of newly-elected governing body members;
- (3) The Deputy Provincial Electoral Officer and the Assistant Provincial Electoral Officers assist the Provincial Electoral Officer in the performance of his or her functions and duties.

### **Appointment of District Electoral Officers**

7. (1) The Head of Department must appoint, in writing, a District Electoral Officer, a Deputy District Electoral Officer and Assistant District Electoral Officers.
- (2) The District Electoral Officer must -
- (a) administer the appointment of one(1) or more officers in the service of the Department to assist during the election as Assistant District Electoral Officer ;
  - (b) co-ordinate the election process in the district;

- (c) administer the appointment of School Electoral Officers;
  - (d) ensure compliance with the election process;
  - (e) advise the School Electoral Officers on the proposed strategy and implementation of the election in the district and see to it that the process is conducted as agreed;
  - (f) compile a management plan to implement the Provincial regulations;
  - (g) ensure that each school has an electoral officer in line with Provincial regulations, and that the school electoral teams are established;
  - (h) ensure that all election officials working at school level are adequately trained and are aware of what their role entails;
  - (i) ensure that all electoral officers receive the Provincial election notice and other documents in good time;
  - (j) ensure that election advocacy is conducted as planned;
  - (k) ensure that the entire election process is monitored;
  - (l) ensure that the names and contact details of the persons elected to governing bodies are completed on the relevant forms and submitted by the principal to the District office within seven (7) days of the elections taking place;
  - (m) ensure that the relevant Data Form is received from the school principal and submitted to the District within seven (7) days of the first meeting at which the office bearers are elected;
  - (n) resolve disputes related to the decisions which could not be resolved at school level;
  - (o) develop a data base of newly elected governing bodies and submit the data base to the Provincial election coordinator; and
  - (p) compile a written district report on elections and submit it to the Provincial coordinator.
- (3) The Deputy District Electoral Officer and the Assistant District Electoral Officers will assist the District Electoral Officer in the performance of his or her functions;
- (4) The Deputy District Electoral Officer and Assistant District Electoral Officers may provide advice to the District Electoral Officer on any issue relating to the elections.

### **Appointment of School Electoral Officers**

8. (1) The Head of Department must appoint, in writing, a School Electoral Officer for the election of parents, educators, members of staff and for learners from the representative council of learners as members of a governing body of a public school.
- (2) A principal shall not be appointed as School Electoral Officer in the school where he or she is employed.
- (3) The School Electoral Officer must appoint in writing one (1) or more officers or educators in the service of the Department or employed by the school governing body to assist at the elections as Assistant School Electoral Officers.
- (4) The School Electoral Officer shall preside over all election meetings including by-elections and elections for office-bearers for the duration of the term of office of the elected school governing body. In exceptional circumstances, should the School Electoral Officer not be available to preside over any election meeting, the Head of Department shall appoint in writing a School Electoral Officer for that election meeting.
- (5) The School Electoral Officer and the Assistant School Electoral Officer shall not be a candidate, nor a proposer or seconder of a candidate;
- (6) The duties of a School Electoral Officer are *inter alia* to-

- (a) in consultation with the school principal to ensure that a notice giving details of the date, time and venue of the nomination and election meeting is prepared and dispatched by the school principal;
- (b) ensure that there is a suitable venue for the nomination and election meeting;
- (c) ensure that the school election team knows the electoral process to be followed and complies with relevant legislation;
- (d) intervene and resolve any disputes on the day of election; and
- (e) submit election results to the district office.

### **Acceptable Standard of Conduct for the Provincial, District and School Electoral Officers**

9. (1) Notwithstanding the acceptable standard of conduct, powers and duties provided for in the Act as well as other relevant legislation and policies, the Provincial, District and School Electoral Officers must -
- (a) act honestly and with dignity;
  - (b) act in an unbiased way;
  - (c) be familiar with the election process and applicable legislation;
  - (d) carry out the election in terms of the provincial prescripts;
  - (e) co-operate with school managers and line management;
  - (f) manage the voting process in a fair and just manner;
  - (g) deal with difficulties that may arise with courtesy;
  - (h) be polite and diligent; and
  - (i) not exceed his or her mandate.
- (2) An electoral officer must sign an oath or affirmation of confidentiality in a format determined by the Head of Department before he or she performs the duties of an Electoral Officer.
- (3) The conduct of employees of the Department who are appointed as Electoral Officers is regulated by the relevant departmental legislation and policies.

### **Voters' Roll**

10. (1) The principal must prepare a separate voters' roll for each of the following -
- (a) parents;
  - (b) educators;
  - (c) members of staff; and
  - (d) learners from the representative council of learners;
- (2) The voter's roll must be prepared as follows -
- (a) The voters' roll for parents must be prepared from the school admission register. Eligible voters are those persons appearing in the admission register or who can show proof that they are parents as defined in the Act. Only two(2) parents per learner are eligible to vote.
  - (b) The voters' roll for educators must consist of all educators employed at the school;
  - (c) The voters' roll for members of staff must consist of all members of staff employed at the school; and
  - (d) The voters' roll for learners must consist of all members of the RCL.



- (3) The following guidelines must be taken into consideration by the principal in determining proof of parenthood in respect of the person who undertakes to fulfil the obligations of the biological, adoptive, legal guardian or the person entitled to custody of a learner in circumstances when the above-mentioned are still alive -
  - (a) The reasons for the person undertaking to fulfil the obligations of the abovementioned;
  - (b) Who the learner resides with;
  - (c) Where the home of the persons who undertakes to fulfill the obligations of the biological, adoptive, legal guardian or the person entitled to custody is situated;
  - (d) The proximity of the home of the persons referred to in sub clause (3)(c) above to that of the school;
  - (e) The obligations referred to above must extend beyond financial obligations and consideration must be given to the obligation towards the learners' education and the day to day care and support of the learner;
  - (f) The overall involvement and responsibility of the person who undertakes to fulfil the obligations of the persons referred to in sub clause (3)(c) above to that of the learner;
  - (g) Should the learner have other siblings in the school then consideration must be given to who assumes parenthood of the other siblings. The information provided in respect of the other siblings must be compared with the information provided for the learner concerned;
  - (h) The relationship of the person who undertakes to fulfil the obligations towards the learner;
  - (i) The school principal must undertake reasonable investigation within the community to ascertain who the community regards as being the parent;
  - (j) Any other reasonable explanation for the person undertaking to fulfil the obligations of the person referred to above;
  - (k) Each case must be dealt with on its merits and the school principal must ensure that there is consistency in decisions when accepting any person as a parent.
- (4) The principal of the school must at least fourteen (14) days prior to the election meeting, cause a letter notifying parents about the election meeting together with the relevant form to be sent with the learners to their parents for purposes of inviting parents to inspect the current voter's roll and to update their information at the school, if necessary.
- (5) All those who nominate or second the nominations and the nominees must be persons who are listed on the voter's roll for their respective constituency of representation on the governing body.
- (6) Any updates relating to the voters' roll must be referred to the principal at least seven (7) days prior to the election date.

#### **Notice of a Nomination and Election Meeting**

11. (1) The principal of the school that holds an election meeting must consider the convenience of voters when preparing notices setting out the date, time and place of the nomination and election meeting.
- (2) The election of the educator component, members of staff component and RCL component must precede the election of the parent component.
- (3) At least fourteen (14) days prior to the date of the first election meeting, the principal of the school must send out copies of the notice of the election meeting.
- (4) The principal must ensure that he or she-
  - (a) hands a copy of the notice of the election meeting for parents to every learner at the school with a verbal instruction to hand the notice to the learners' parents;
  - (b) hands a copy of the notice of the election meeting of educators to the educators;

- (c) hands a copy of the notice of the election meeting of members of staff to the members of staff;
  - (d) hands a copy of the notice of the election meeting of the RCL to each member of the RCL;
  - (e) causes copies of such notices to be displayed or posted in a conspicuous place at the school and in suitable and prominent places in the community; and
  - (f) circulates the notices in whatever method that may work for the school community as long as it does not disadvantage members of the school community.
- (5) The principal must ensure –
- (a) that the notices are in the school's language of instruction and where practical in the home language of the learners; and
  - (b) that all parents are encouraged to participate in the election.
- (6) Should a new school be established during the term of the governing body, then the election meeting of the new school must be held within sixty (60) days of the establishment of the school.

### **Franchise**

12. (1) Every parent whose name appears in the voters roll -
- (a) is entitled to vote for parent members of the governing body; and
  - (b) has one vote in respect of each nominee with a maximum number of votes equal to the number of parent members to be elected.
- (2) Every educator, including the principal, employed at a school-
- (a) is entitled to vote for educator members; and
  - (b) has one vote in respect of each nominee with a maximum number of votes equal to the number of educator members to be elected.
- (3) Every member of staff at the school -
- (a) is entitled to vote for a member of staff; and
  - (b) has one vote.
- (4) If the school has only one(1) member of staff, that member is duly elected to serve in the governing body.
- (5) Every member of a RCL -
- (a) is entitled to vote for learner members; and
  - (b) has one(1) vote in respect of each nominee with a maximum number of votes equal to the number of learner members to be elected.
- (6) Proxy votes are not allowed.

### **Quorum for a Nomination and Election Meeting**

13. (1) A quorum of fifteen (15) % of voters on the voters roll must be constituted prior to proceeding with the nomination and election meeting.

- (2) If a quorum referred to in sub clause (1) is not constituted, the -
  - (a) meeting must be adjourned and a second meeting be rescheduled for another day not less than seven (7) days but not more than fourteen (14) days from the day on which the meeting was adjourned; and
  - (b) principal of the school must adhere to the procedure stipulated in Clause 11(4) (a)-(f).
- (3) The written nominations received prior to the adjourned meeting will in addition to any other new written nominations be considered at the rescheduled meeting.
- (4) The notice in respect of the second meeting must state that no quorum is required for the second meeting.

#### **Nominations for an Election Meeting**

14. (1) The School Electoral Officer must appoint in writing an Assistant School Electoral Officer to act as secretary to the meeting and to record the minutes of the proceedings.
- (2) Except for election monitors and the Assistant School Electoral Officers, the School Electoral Officer must not allow any person who is not eligible as a voter to attend a meeting or allow the election of a person who is not qualified as a candidate in terms of Clause 2.
- (3) The School Electoral Officer must request voters to provide proof of identification in the form of a South African identity document or identity card, a valid passport or proof of temporary or permanent residence for non-South African citizens.
- (4) Before proceeding with the election of members of a governing body, the School Electoral Officer must bring the following to the attention of voters -
  - (a) that the term of office of the current school governing body has expired and members have been officially notified;
  - (b) that the election meeting is a closed meeting;
  - (c) that the provisions of Clause 5, renders a person ineligible for membership to a governing body;
  - (d) the number of persons to be elected;
  - (e) that every nomination must be seconded by a parent, educator, member of staff or a learner from the RCL, as the case may be, who is entitled to vote;
  - (f) that, during nominations voters must take into account representivity and must ensure that nominations are representative of gender, race and, wherever possible, include nominations of persons with disabilities;
  - (g) that a voter has one vote for each vacancy to be filled;
  - (h) that voting is by secret ballot; and
  - (i) that a grievance procedure exists as contemplated in Clause 24.
- (5) During the nomination period the School Electoral Officer must –
  - (a) determine and allocate the time for nominations;
  - (b) inform the voters of the time allocated;
  - (c) allow sufficient time for the nomination of candidates during the nomination phase; and
  - (d) indicate that the time for nominations has lapsed.
- (6) A person may be nominated in absentia, provided the –
  - (a) proposer and seconder of the nominated person are present at the meeting and must complete a nomination form; and
  - (b) nominated person sends written confirmation of acceptance of the nomination to the principal.

- (7) A nomination form duly completed by the proposer, seconder and the nominee must have been received by the School Electoral Officer within seven (7) days and not less than twenty four (24) hours prior to the commencement of the meeting.
- (8) At the election meeting, a candidate may be nominated verbally by -
- (a) a parent of a learner enrolled at the school for a vacancy in terms of Clause 4(a) ;
  - (b) an educator employed at the school concerned for a vacancy in terms of Clause 4(b);
  - (c) a member of staff employed at the school concerned for a vacancy in terms of Clause 4(c);
  - (d) a learner from the RCL in terms of Clause 4(d), as the case may be, provided that another parent, educator, member of staff or a learner from RCL, as the case may be, seconds the proposal and the person nominated indicates to the meeting verbally or in writing if he or she is absent, that he or she is prepared to serve as a member of the governing body, if elected.
- (9) A School Electoral Officer must –
- (a) allow a person who nominated a candidate an opportunity to introduce the candidate to the meeting and give reasons for the nomination; or
  - (b) allow a nominated candidate to introduce himself or herself to the meeting.
- (10) During the nominations, the School Electoral Officer must consider the nominations and reject the nomination of any candidate who –
- (a) has not been nominated in accordance with Clause 14;
  - (b) is not eligible in terms of Clause 5; or
  - (c) has not completed the nomination form unless written proof has been submitted by the candidate to the School Electoral Officer that such nominee will be willing to serve as a member of the governing body and that he or she meets the eligibility requirements.
- (11) The School Electoral Officer must announce the names of the nominees whose nominations have been accepted and cause nomination forms to be duly completed.
- (12) If the total number of nominees whose nominations have been accepted –
- (a) is less than the number of members required in respect of the category concerned, a new meeting at which new additional nominees must be nominated shall be convened not less than seven(7) days but not more than fourteen (14) days;
  - (b) is equal to the number of members required in respect of the category concerned, the Electoral Officer must declare every accepted nominee to be duly elected; or
  - (c) exceeds the number of vacancies, the School Electoral Officer must, immediately after the closing of the nominations, write down the names of the candidates on a suitable board or any other surface that is clear and visible to everyone in attendance at the meeting and prepare ballot papers.
- (13) In a school where there is one member of staff, the School Electoral Officer must inform that member of staff that he or she is duly elected to the governing body.

### **Voting at the Election Meeting**

15. (1) Each voter has one(1) vote for each vacant position to be filled on the governing body.
- (2) The School Electoral Officer must prepare ballot papers and must-

- 
- (a) ensure that every ballot paper has the school stamp on it or some other distinguishing feature which prevents the ballot papers from being tampered with; and
    - (b) explain the voting process, the maximum number of nominees to be voted for as well as how to record the voting either by marking with a cross(x), using numbers or by writing names.
  - (3) A voter present must indicate the name or names of the candidate or candidates preferred by him or her on the ballot paper provided by the School Electoral Officer in terms of sub clause(2)(b).
  - (4) A person with a right to vote must record his or her vote on the ballot paper in secrecy and deposit the folded ballot paper in a box or other closed container provided for this purpose.
  - (5) A person who is unable to mark his or her vote on the ballot paper as contemplated in sub clause (3), may make a verbal request for assistance from the School Electoral Officer or the Assistant School Electoral Officer to mark, next to the appropriate candidate, his or her vote on the ballot paper.
  - (6) The School Electoral Officer, in the presence of the Assistant School Electoral Officer, must assist any person with a disability or any person who is for whatever reason unable to mark his or her vote.
  - (7) The request for assistance and the completion of the ballot paper contemplated in sub clause (3) shall be done in private in an area identified by the School Electoral Officer for that purpose but within the area in which the voting is taking place.
  - (8) Should a ballot paper be erroneously spoilt whilst a person is casting his or her vote, the Electoral Officer must-
    - (a) issue the person with a new ballot paper with the same number as the spoilt ballot paper and indicate the word "duplicate" on the new ballot paper;
    - (b) retain the spoilt ballot paper and clearly mark "spoilt" on it;
    - (c) record all spoilt ballot papers on the relevant template; and
    - (d) retain the record of spoilt ballot papers and the ballot papers with other election documents.
  - (9) The School Electoral Officer must reject a ballot paper –
    - (a) which is without the school stamp or distinguishing feature as contemplated in sub clause (2)(a);
    - (b) with more crosses(x) recorded than the number of vacancies on the governing body;
    - (c) with the name of a person or persons not nominated; or
    - (d) which is completed in such a way that it is uncertain as to which nominee or nominees a vote was recorded for.
  - (10) After all the voters have cast their votes, the School Electoral Officer and the Assistant School Electoral Officers must count the votes in the presence of three(3) observers appointed by those attending the meeting to observe the counting process.
  - (11) In the case of a tie between candidates after another voting session, the School Electoral Officer must break the deadlock by tossing a coin and the winner shall be determined by deciding on either heads or tails.
  - (12) The School Electoral Officer must announce the results during the election meeting and declare the candidates who have secured the most votes as the elected members of the governing body.
  - (13) The number of votes a person secures in this election does not determine the outcome of the election of office bearers elected in terms of Clause 16.

- (14) The School Electoral Officer must direct the learners to the provisions of Section 32 of the Act which outlines the status of minors on the governing body.

### **Election of Office Bearers**

16. (1) The School Electoral Officer may convene a meeting solely for the purpose of electing office bearers on the day of the parents' election meeting if –
- (a) the fourteen(14) days' notice in terms of Clause 11(3) which was issued to parents, educators, members of staff and learners from the RCL included information that the meeting for the election of office bearers would take place on the day of the parent election; and
  - (b) the quorum requirements of the first meeting have been complied with.
- (2) Should the meeting to elect office bearers not be held in terms of sub clause (1), the School Electoral Officer must convene the first meeting of the governing body within seven (7) days of the date of the parent election meeting.
- (3) The School Electoral Officer must preside over all meetings convened for the election of office bearers. Prior to the election of office bearers, the School Electoral Officer must make the members of the governing body aware –
- (a) of the responsibilities of office bearers; and
  - (b) the need to ensure that representivity is taken into consideration in the election of office bearers.
- (4) At the first meeting of a governing body the members must elect by secret ballot a -
- (a) chairperson;
  - (b) deputy-chairperson;
  - (c) treasurer; and
  - (d) secretary.
- (5) Only a parent member, not employed at the school is eligible for the election to the position of chairperson and deputy chairperson of the governing body.
- (6) The term of office of office bearers is one (1) year.
- (7) Upon the expiry of the term of office of the office bearers the School Electoral Officer must conduct the elections of office bearers for the next term.
- (8) An office bearer may be re-elected after the expiry of the term of office.
- (9) At the request of the governing body, the principal may designate a member of his or her staff to assist the treasurer and secretary of the governing body.
- (10) Where, for any reason, the office of one of the office bearers becomes vacant, the governing body, at the first meeting after the vacancy has occurred, must elect one of its members to fill the vacancy for the unexpired period of his or her predecessor.
- (11) The principal must, within fourteen (14) days after the election provide the Head of Department with the details of the new office bearers including names, identity numbers, telephone or cellular phone numbers, fax numbers, addresses and email addresses, as applicable.

### **Hand-over Process**

17. (1) Within fourteen(14) days of the election of office bearers, the principal of a school as a representative of the Head of Department in the governing body must manage the hand over process.
- (2) The outgoing office bearers of the school governing body must hand over to the newly-elected office bearers all documents relating to the school governing body.
- (3) An approved handover certificate indicating the minimum documents to be handed over, must be issued and signed by both the outgoing and incoming chairpersons, the principal of the school and the Circuit Manager.
- (4) The principal of a public school must submit within fourteen (14) days of the election of office bearers a duly completed handover certificate to the District Electoral Officer

### **Full Day Election**

18. (1) A school may, if there are compelling reasons and by resolution of its governing body opt to hold elections for a full day instead of holding an election meeting if –
  - (a) the deviation will promote the best interest of the school community and the school and will allow for maximum participation of voters in the voting process;
  - (b) the deviation will not discriminate unfairly against any voter or group of voters;
  - (c) sufficient provision is made for the nomination process.
- (2) Where a school governing body opts for a full day election, the principal of the school must–
  - (a) at least twenty one (21) days prior to sending out a notice of election apply in writing to the Head of Department for permission to have an election day;
  - (b) provide compelling reasons for opting for a full day's election instead of an election meeting;
  - (c) provide proof of the availability of monitors and an electoral team during the entire election day;
  - (d) provide proof of the availability of resources to carry out the nomination process and election process for the entire day; and
  - (e) provide proof that the teaching and learning process at the school will not be interrupted or interfered with due to a full day's election.
- (3) Before granting permission for a full day election to any school, the Head of Department must consider the provisions of sub clause (2) and must satisfy himself or herself that the requirements thereof have been met by the school.
- (4) The decision of the Head of Department must be communicated to the school within fourteen (14) days of receipt of the school's application.
- (5) The School Electoral Officer must, before the Election Day, ensure that –
  - (a) the school has written approval from the Head of Department to conduct a full day election;
  - (b) a programme is in place for the election day;
  - (c) all nominees have sent their profiles to the school and these are ready to be posted outside the voting station;
  - (d) the closing time will allow observers as well as the electoral team to travel back home; and
  - (e) at closing time, the school has someone available on the spot for the safe-keeping of all documents used for the elections.

### **Nominations for the Full Day Election**

19. (1) Where a school has been granted permission by the Head of Department to hold a full day election, the following nomination process must be followed -
  - (a) the principal must prepare notices of the nomination meeting and must indicate the date, place and time of the nomination meeting; and
  - (b) the notice of the nomination meeting for parents should be distributed and displayed in prominent places at the school and in the community at least twenty one (21) days prior to the date of the full day election.
- (2) The principal must ensure that –
  - (a) a hard copy of the notice of the nomination meeting and the nomination form is handed to every learner at least twenty one (21) days prior to the proposed full day election with a verbal instruction to hand the notice and the nomination form to their parents; or
  - (b) alternatively, a copy of the notice and the nomination form must be sent to the parents of every learner by post at least twenty one (21) days prior to the date of the full day election; or
  - (c) a combination of the two notification methods is used provided that parents and members of the community are not disadvantaged; and
  - (d) the notice and the nomination form must, where possible, be in the school's language of instruction and in the home language(s) of the learners to ensure maximum participation.
- (3) The notice must inform the parents that the nomination form should be completed and signed by the candidate, the proposer and the seconder and returned to the school fourteen (14) days before the nomination meeting and must include the profile contemplated in sub clause (7).
- (4) During the nomination meeting, the School Electoral Officer must adhere to the clause relating to the quorum and the nomination process contemplated in Clauses 13 and 14 respectively.
- (5) A candidate may only be nominated and seconded by a person belonging to the same representative membership category to which the candidate belongs.
- (6) The School Electoral Officer must ensure that any person who is eligible to be nominated and who wants to be nominated is free to participate in the nomination process and any such person must submit their profile stating -
  - (a) his or her name and surname;
  - (b) the names and grades of his or her children in the school;
  - (c) his or her occupation and experience or skills;
  - (d) a statement that indicates that he or she qualifies to be a member of a governing body as contemplated in Clause 4; and
  - (e) his or her brief statement stipulating the value he or she can add to the school.
- (7) At the nomination meeting the School Electoral Officer must request profiles from all the nominees.
- (8) After the nominations, the School Electoral Officer must consider the nominations and reject the nomination of any candidate -
  - (a) whose nomination has not been seconded;
  - (b) who is not eligible for election; and
  - (c) who has not completed and submitted the nomination form and profile as required.
  - (d) who has not indicated willingness to serve in the governing body.
- (9) If the total number of nominees is less than the number of members required in the governing body, a notice must be sent to parents and more nominees' names must be requested.



- (10) If the number of nominees is equal to the number of members required in the governing body, the School Electoral Officer must declare all the nominees as duly elected members and indicate that an election day will no longer be necessary.
- (11) The principal must within seven(7) days after the nomination process, notify parents in writing of the outcome of the nomination meeting contemplated in sub clause (10) and inform parents that an election day will no longer be necessary.
- (12) If the number of nominees is more than the number of members required in a governing body, the principal must inform the parents in writing of the names and of the profiles of the candidates whose nominations have been accepted. A full day election must thereafter take place where voting will be by secret ballot.
- (13) The principal must make the nominees' profiles available to the parents at least seven(7) days prior to the full day election.
- (14) No person shall make attempts to organise the nomination process in such a manner that only the required number of members is nominated in order to avoid the election process and any such act shall be deemed to be an election irregularity as contemplated in Clause 24.

### **Voting at the Full Day Election**

20. (1) Notice of the full day election must be issued to parents fourteen (14) days from the nomination meeting.
- (2) Voting shall be by secret ballot and the following voting process must apply –
  - (a) all eligible voters whose names appear on the voters' roll are located and marked off on the roll;
  - (b) voters who require special attention including but not limited to the elderly, disabled or pregnant women are assisted without prejudicing other voters;
  - (c) voters whose names do not appear on the voters' roll for that school will not be allowed to vote;
  - (d) all the voting integrity tasks are performed for each eligible voter who has visited the station (i.e. voter's name is marked off on the voters' roll);
  - (e) voters who fail any of the voting integrity checks will not be allowed to vote;
  - (f) all voters are issued with the correct ballot papers;
  - (g) requests for assistance made by voters who are unable to mark their vote on the ballot papers for whatever reason be attended to promptly;
  - (h) the electoral process and personnel are monitored in a manner that provides sufficient information for record keeping and to allow for timely intervention when required;
  - (i) objections from voters are recorded and decided in line with the dispute resolution process;
  - (j) interactions with voters, personnel and any other role-players are inclusive, non-partisan, respecting human dignity and promoting tolerance;
  - (k) potential or actual problems are identified and analysed in terms of potential impact on the electoral process and possible solutions;
  - (l) resolution of problems is justified by the situations and is suitable for addressing the problems effectively;
  - (m) the manner of problem-solving promotes the smooth running of the voting station, upholds the principle of free and fair elections and must not under any circumstances disenfranchise an eligible voter; and

- (n) the voting process and procedures are open to observers, duly nominated by parents who must monitor the process without interfering with the elections.
- (3) The School Electoral Officer may improvise if there is no official ballot box. The ballot box must be sealed after observers have acknowledged that it is empty.

### **Quorum for a full day Election**

21. (1) The School Electoral Officer must decide the time for the start and close for the casting of votes and must indicate these times in the notice to parents.
- (2) The School Electoral Officer must ensure that the marked ballot papers meet the required fifteen (15)% quorum in order for counting to proceed.
  - (3) If the poll has not reached the required fifteen (15)% quorum then the counting of the marked ballot papers must not commence. In which event another date for the full day election must be decided upon by the principal of the school and such date must be communicated to the parent body within seven(7) days from the day of the full day election.
  - (4) The written nominations received prior to the adjourned full day election will in addition to any other new written nomination be considered at the rescheduled full day election.
  - (5) The next full day election must be held on another day not less than seven (7) days but not more than fourteen (14) days from the date of the adjourned election.
  - (6) During the second full day election, counting of marked ballot papers must proceed after the voting has closed irrespective of whether a quorum is constituted or not.

### **Counting of Ballot Papers**

22. (1) If the fifteen (15)% poll is met or if it is the second full day election, the School Electoral Officer must ensure that –
- (a) the counting process is open to observers and candidates;
  - (b) all objections to the counting process are recorded accurately;
  - (c) the name of each candidate and the number of votes cast for each candidate is loudly announced to the observers;
  - (d) the form indicating the number of counted ballot papers is completed; and
  - (e) the results slip has been signed.
- (2) The School Electoral Officer must reject a ballot paper -
- (a) which is without the school stamp or distinguishing feature.
  - (b) with more crosses(x) recorded than the number of vacancies on the governing body; or
  - (c) with the name of a person or persons not nominated ;or
  - (d) which is completed in such a way that it is uncertain as to which nominee or nominees a vote was recorded for.
- (3) Where the number of votes recorded for two or more candidates is equal and it affects the result of the poll, the School Electoral Officer shall ascertain, by drawing lots or by the tossing of a coin, in order to break a tie between candidates. This tie-breaker process must be conducted openly and in agreement with the candidates present.

- (4) Where the School Electoral Officer has rejected a ballot paper as contemplated in sub clause (2), an explanation must be given by the School Electoral Officer to all candidates present and he or she must grant the candidates an opportunity to view the rejected ballot paper if they so desire.
- (5) Any candidate present may object to the decision of the School Electoral Officer in the counting or rejection process however the School Electoral Officer will take the final decision.
- (6) A record of such objection must be indicated at the back of the ballot paper that is being contested and reflected in the election report by the School Electoral Officer.
- (7) Should there be a dispute that the electoral officer is unable to resolve, the dispute process contemplated in Clause 24 must be followed.
- (8) The School Electoral Officer must announce the results to the candidates and observers present and declare the candidates who have secured the most votes as the elected members of the governing body and officially inform the successful candidates accordingly.
- (9) All documentation relating to the election process must be clearly marked by the School Electoral Officer and he or she must indicate the election date and record the contents thereof and such documentation must be safely kept at the school for at least the duration of the term of office of the governing body.

#### **Application of this Notice**

- 23.** Unless otherwise specifically provided for in this notice all other matters provided for in this notice relating to the election meeting of governing bodies shall be applicable to schools that decide on a full day election.

#### **Dispute Resolution**

- 24.** (1) The School Electoral Officer shall decide on all matters concerning the nomination and election of nominees in terms of all the categories.
- (2) All disputes related to the election process must be reported to the School Electoral Officer.
  - (3) The School Electoral Officer shall attempt to resolve all disputes in a fair and just manner. His or her decision during the election is final.
  - (4) A voter or person who was a candidate in a governing body election who is dissatisfied with the decision of the School Electoral Officer may lodge a grievance, in writing with the District Electoral Officer within seven (7) days of the election meeting if there is an allegation that the prescribed procedures were not followed during the election process.
  - (5)
    - (a) If a voter or person who was a candidate in the governing body election has any knowledge or information of any irregularities relating to the elections he or she may within seven(7) days of the elections, inform the District Electoral Officer in writing of the irregularities.
    - (b) Should any complaint be, for any reason, lodged out of the seven(7) day period but within ninety (90)days of the election, the District Electoral Officer must investigate the complaint and take appropriate action.
    - (c) Any complaint received after the expiry of the ninety (90) days will only be investigated and dealt with by the District Electoral officer if he or she is instructed by the Head of Department to do so.

- (6) Upon receipt of the complaint, grievance or information relating to irregularities, the District Electoral Officer must appoint his Deputy or Assistant District Electoral Officer to conduct an investigation within fourteen (14) days and make a recommendation to him or her.
- (7) The District Electoral Officer may, after investigation declare an election invalid and may call for re-election if he or she is satisfied that -
  - (a) the prescribed procedures were not followed; or
  - (b) irregularities were committed during the election process; and
  - (c) the outcome of the election would have been different had the irregularities not been committed or had the prescribed procedures been followed.
- (8) If any voter or person who was a candidate in the governing body election is aggrieved by the decision of the District Electoral Officer, he or she may appeal against such decision to the Head of Department within fourteen (14) days of receipt of the decision of the District Electoral Officer.
- (9) The Head of Department must -
  - (a) within seven (7) days of receipt of the appeal, refer the appeal to the Provincial Electoral Officer ;
  - (b) request the Provincial Electoral Officer to investigate and prepare a report with recommendations within fourteen (14) days of the appeal having being referred to the Provincial Electoral Officer ; and
  - (c) consider the recommendations in the report contemplated in sub clause (9)(b), make a finding and communicate his or her decision in writing to the appellant and to the District Electoral Officer within fourteen (14) days of receiving the report from the Provincial Electoral Officer .
- (10) The decision of the Head of Department shall be final.

#### **Procedure after the Election**

- 25. (1)** After the election of members of a governing body, the principal must –
- (a) within seven (7) days of the election meeting, notify in writing, each elected member of his or her election and such notification must be sent by fax, post, e-mail or be hand delivered;
  - (b) notify the District Electoral Officer in writing of the details of the election, including the date of election, names, identity numbers, telephone numbers, fax numbers and addresses of all elected members;
  - (c) place all documents including ballot papers used at such elections, in envelopes and seal the envelopes;
  - (d) ensure the safe keeping and confidentiality of all documents relating to the election for at least the duration of the term of office of the governing body;
  - (e) submit to the District Director copies of all election documents for safe keeping for the duration of the term of office of the governing body;
  - (f) submit to the District Director the prescribed form which includes the names and addresses of the persons elected as governing body members;
  - (g) submit to the District Director either an undisputed election declaration or declaration detailing disputes on the prescribed Election Declaration Form;
  - (h) ensure that the Data Form reflecting details of every member of the duly elected governing body is submitted to the District Director within fourteen (14) days after notification of the results of the election; and
  - (i) inform the District Director of any changes in membership of the governing body within fourteen (14) days of those changes being effected to ensure that the database is up to date.

- (2) The Principal and the District Director shall ensure that all personal information contained in the election documents and other documents relating to the governing body members is safely and confidentially retained with the necessary safeguards in place to ensure the protection of personal information contained in the aforesaid documents.

### **By-Election**

26. (1) A vacancy occurs in a governing body if a member –
  - (a) resigns in writing;
  - (b) is deceased;
  - (c) becomes disqualified as contemplated in Clause 5
  - (d) absents himself or herself from two (2) or more consecutive ordinary meetings of the governing body without tendering a written apology for being absent.
  - (e) is removed from office in accordance with provisions contained in a code of conduct contemplated in section 18A of the Act; or
  - (f) no longer falls within the category of members that he or she represented at the time of the election;
- (2) A vacancy must be declared if there is an increase in the learner enrolment by ten (10)% or more as contemplated in Clause 2 (4)(a).
- (3) A by-election must be held whenever –
  - (a) the number of parent members of a governing body is reduced to a number equal to or less than the total of the other members of the governing body; or
  - (b) an member of the category of members of a governing body referred to in section 23 of the Act is no longer represented on a governing body.
- (4) The School Electoral Officer must conduct a by- election within ninety (90) days of the vacancy arising.
- (5) If the number of parents at any stage is not more than the combined total of other members with voting rights, the governing body must, pending the by-election, temporarily co-opt parents with voting rights.
- (6) If a vacancy arises more than six (6) months before the expiry of the term of office of a governing body, the School Electoral Officer must conduct a by-election following procedures stipulated in Clause 11.
- (7) If a vacancy arises less than six (6) months before the expiry of the term of office of a governing body as a result of the exiting of a parent member, the relevant constituency affected by the departure must co-opt by majority vote a person to fill the vacancy for the remainder of the term of office of the governing body;
- (8) A co-opted member referred to in sub clause (7) above assumes the voting rights of the exiting member.
- (9) A member elected in accordance with this Clause remains in office for the unexpired term of office of his or her predecessor provided they are still eligible.

### **Governing body serving two or more schools**

27. (1) A Member of the Executive Council may determine that the governance of two or more public schools must vest in a single governing body if it is in the best interest of education at the schools in question.

- (2) The Member of the Executive Council may not act under sub clause (1) unless he or she has-
- (a) given notice in the Provincial Gazette of his or her intention to act as such;
  - (b) given interested parties an opportunity to make written submissions within a period of not less than thirty (30) days; and
  - (c) considered all such suggestions.

### **Dissolution of a Governing Body**

**28.** (1) The Member of the Executive Council may dissolve a governing body if -

- (a) the school is dysfunctional, closed, partly disestablished, is a health risk or may affect the safety of any person at such a school;
  - (b) a merger, closure, division of a school or any other re-organisation of the school occurs;
  - (c) he or she is of the opinion that the governing body is no longer representative of the community for which a school has been established; or
  - (d) due to poor governance, the school is rendered dysfunctional and the process of teaching and learning can longer be undertaken at the school.
- (2) Upon consideration of a motion of no confidence passed by not less than fifteen (15) % of parents on the parents' voters' roll at a general meeting of parents, the Member of the Executive Council may dissolve a governing body.
- (3) The Member of the Executive Council may dissolve any school governing body that has rendered a school ungovernable, dysfunctional, or for any other reason that he or she deems fit and in the interest of education in the Province.
- (4) The Member of the Executive Council may not dissolve a governing body, in terms of sub-clauses (1), (2) or ((3), unless he or she has –
- (a) notified the school governing body concerned of his or her intention to dissolve the governing body;
  - (b) granted the school governing body reasonable opportunity to make representations as to why he or she should not dissolve the governing body;
  - (c) duly considered such representations; and
  - (d) provided written notification of his or her final decision to the governing body after having considered the representations.

### **Delegation of Powers**

**29.** The Head of Department may delegate, in writing, the duties, functions and powers bestowed upon him or her in terms of this notice to an official in the employment of the Department.

### **Repeal of Notice**

**30.** Provincial Notice No. 11 published in the KZN Provincial Gazette Number 1325 dated 9 March 2015 is hereby repealed.

**MTHANDENI ERICK DLUNGWANA**

**Member of the Executive Council of the Province of KwaZulu-Natal**

**Responsible for Education**

**SCHEDULE A****COMPOSITION OF GOVERNING BODY OF ORDINARY PUBLIC SCHOOLS  
BY TYPE AND LEARNER ENROLMENT**

TYPE OF SCHOOL	NUMBER OF LEARNERS ENROLLED AT SCHOOL	PRINCIPAL	NUMBER OF EDUCATORS OR MEMBERS	NUMBER OF LEARNER MEMBERS	NUMBER OF MEMBER OF STAFF MEMBERS	NUMBER OF PARENT MEMBERS	TOTAL NUMBER OF MEMBERS
Primary School	1 to 159	1	1	0	1	4	7
Primary School	160 to 700	1	2	0	1	5	9
Primary School	701 and more	1	3	0	1	6	11
Secondary School	1 to 649	1	2	2	1	7	13
Secondary School	650 and more	1	3	3	1	9	17
Combined School	1 to 499	1	2	2	1	7	13
Combined School	500 and more	1	3	3	1	9	17