

***THE PROVINCE OF
GAUTENG***

***DIE PROVINSIE
GAUTENG***

**Provincial Gazette Extraordinary
Buitengewone Provinsiale Koerant**

Vol. 18

**PRETORIA, 13 JANUARY 2012
JANUARIE**

No. 4

IMPORTANT NOTICE

The Government Printing Works will not be held responsible for faxed documents not received due to errors on the fax machine or faxes received which are unclear or incomplete. Please be advised that an "OK" slip, received from a fax machine, will not be accepted as proof that documents were received by the GPW for printing. If documents are faxed to the GPW it will be the sender's responsibility to phone and confirm that the documents were received in good order.

Furthermore the Government Printing Works will also not be held responsible for cancellations and amendments which have not been done on original documents received from clients.

CONTENTS • INHOUD*No.**Page
No. Gazette
 No.***GENERAL NOTICE**

73 Draft Governing Body Amendment Regulations for Public Schools: Call for comments 3 4

GENERAL NOTICE

NOTICE 73 OF 2012

GAUTENG PROVINCIAL GOVERNMENT

DEPARTMENT OF EDUCATION

**CALL FOR COMMENTS ON THE DRAFT GOVERNING BODY AMENDMENT
REGULATIONS FOR PUBLIC SCHOOLS**

I, Barbara Creecy, member of the Executive Council responsible for education, hereby publish for comments, the draft Governing Body Amendment Regulations for Public Schools contained in the Schedule below.

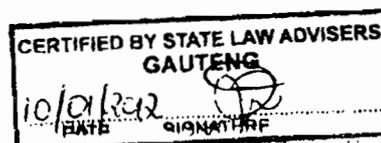
Interested persons or organizations are hereby invited to submit written comments on the draft Regulations by 13 February 2012. Comments must be forwarded to Mr. Dan Legoete; Director: Strategic Policy Development Monitoring and Evaluation by:

(a) post to:

The Department of Education
P O Box 7710,
Johannesburg
2000;

(b) hand to:

The Department of Education
Directorate: Strategic Policy Development Monitoring and Evaluation



111 Commissioner Street
JOHANNESBURG
2001;

(c) fax to:

(011) 355 0495; and

(d) by email to:

dan.legoete@gauteng.gov.za



B. CREECY

**MEC FOR EDUCATION
GAUTENG PROVINCIAL GOVERNMENT**

DATE: 11/01/2012



SCHEDULE

GENERAL EXPLANATORY NOTE

[] Words in bold type in square brackets indicate omissions from existing enactments

_____ Words underlined with a solid line indicate insertions in existing enactments

DRAFT GOVERNING BODY AMENDMENT REGULATIONS FOR PUBLIC SCHOOLS, 2012

Amendment of Enabling Provisions of the Governing Body Regulations for Public Schools

1. The enabling provisions of the Regulations and Rules are hereby amended by the insertion of the following enabling provision:

“The Member of the Executive Council for Education has under **[31]** section 28 of the South African Schools Act, 1996 (Act 84 of 1996), read with sections 27(5), 28(3), **[28(4)]**, 31, and 106 of the Schools Education Act, 1995 (Act 6 of 1995), made the regulations contained in the Schedule hereto.”

CHAPTER 1

DEFINITIONS AND APPLICATION OF REGULATIONS (regulations 1-3)

Amendment of Regulation 1 of the Governing Body Regulations for Public Schools

2. Regulation 1 of the Governing Body Regulations for Public Schools, 1997 is hereby amended by the substitution of the following definitions:

“co-opted community member” means a member of the community who is parent of a learner at the school and or a member of the community co-opted onto the governing body in terms of regulation 9(1);”

'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;

“parent” [includes guardian] means –

- (i) the biological or adoptive parent or legal guardian of a learner;
- (ii) person legally entitled to custody of a learner; or

(iii) the person who undertakes to fulfill the obligations of a person referred to in paragraphs (i) or (ii) towards the learners education at school;"

"[level] grade" means that part of an educational programme which a learner may complete in one school year, or any other educational programme which the Member of the Executive Council may deem to be equivalent thereto;

"[Students' Representative Council (SRC)] Representative Council of Learners (RCL)" means the representative body [council] of learners of a school, duly constituted in accordance with a constitution which satisfies the minimum requirements established by the Member of the Executive Council by notice in the Provincial Gazette."

"Voters roll" means a register of all parents of learners enrolled at a school, that are eligible to vote at an SGB election with their Identity Document/Passport numbers."

CHAPTER 2

Amendment of Regulation 7 of the Governing Body Regulations for Public Schools

3. Regulation 7 is hereby amended by the substitution for subregulation (2) of the following subregulation:

“(2) A governing body of a school for learners with special education needs shall not be deemed to be improperly constituted if it is not reasonably practicable that learners at the school or the parents of learners at the school be represented on such governing body.”

Amendment of Regulation 9 of the Governing Body Regulations for Public Schools

4. Regulation 9 is hereby amended by the substitution for subregulation (1) of the following subregulation:

“(1) A governing body may at any time during its term of office, in accordance with the procedure set out in regulations 28 and 29, co-opt a parent of a learner at the school or a member of the community to assist in discharging its functions: Provided that the number of co-opted community members of a governing body at any time may not exceed **[two]** three.”

Amendment of Regulation 12 of the Governing Body Regulations for Public Schools

5. Regulation 12 is hereby amended by the:

(a) substitution for subregulation (3) of the following subregulation:

“(3) **[A]** Subject to regulation 16(2), a member whose term of office has expired may be re-elected to the governing body.”

(b) insertion after regulation (3) of the of the following subregulation:

“(4) A school governing body should not enter into any contract that exceeds its three year term of office.”

Amendment of Regulation 13 of the Governing Body Regulations for Public Schools

6. Regulation 13 is hereby amended by the substitution for subregulation (2) of the following subregulation:

“(2) (a) The Head of Department may not take action under subregulation 13 (1) unless he or she has - **[given the member concerned the opportunity to make representations concerning his or her possible removal from the governing body]**

(i) informed the governing body of his or her intention so to act and the reasons therefore;

(ii) granted the governing body a reasonable opportunity to make representations to him or her relating to such intention; and

(iii) given due consideration to any such representations received.

b) In cases of urgency, the Head of Department may act in terms of subsection (1) without prior communication to such governing body, if the Head of Department thereafter-

(i) furnishes the governing body with reasons for his or her actions;

(ii) gives the governing body a reasonable opportunity to make representations relating to such actions; and

(iii) duly considers any such representations received."

CHAPTER 3

ELECTION OF MEMBERS OF GOVERNING BODIES (regulations 16-30)

Amendment of Regulation 16 of the Governing Body Regulations for Public Schools

7. Regulation 16 is hereby amended by the-

(a) substitution for subregulation (2) of the following subregulation:

“(2) A parent member who was eligible under sub-regulation (1) at the time of his or her election to the governing body shall **[not]** cease to be eligible to remain a member if the learner in respect of whom he or she qualifies as a parent member ceases to be officially enrolled at the school during the term of office for which the parent member was elected.”

(b) substitution for subregulation (7) of the following subregulation:

“(7) A learner member **[need not]** must be a member of the **[Students’ Representative Council]** Representative Council of Learners, and the learner members of the governing body must include the chairperson of the Representative Council of Learners.

(c) insertion of sub regulation (8A) after sub regulation (8):

(8A) A co-opted member of the community may only serve two consecutive terms as a co-opted member of the community.”

Amendment of Regulation 17 of the Governing Body Regulations for Public Schools

8. Regulation 17 is hereby amended by the-

(a) substitution for subregulation (3) of the following subregulation:

“(3) Every educator, **[other than]** including the principal, employed at a school shall be entitled to vote for educator members and shall have one vote in respect of each candidate with a maximum number of votes equal to the number of educator members to be elected.”

(b) substitution for subregulation (5) of the following subregulation:

“(5) Every member of a **[Students’ Representative Council]** Representative Council of Learners shall be entitled to vote for learner members and shall have one vote in respect of each candidate with a maximum number of votes equal to the number of learner members to be elected.”

Amendment of Regulation 18 of the Governing Body Regulations for Public Schools

9. Regulation 18 is hereby amended by the substitution for regulation 18 of the following regulation:

“[Students’ Representative Council] Representative Council of Learners

The Member of the Executive Council may, by notice in the Provincial Gazette, establish guidelines and minimum requirements of the establishment, election and functions of **[Students’ Representative Council] Representative Council of Learners”.**

Insertion of Regulation 19A of the Governing Body Regulations for Public Schools

10. Regulation 19A is hereby inserted Regulation 19:

“(19A) Monitoring of Electoral Process

The elections process may be monitored by election officials nominated by the Head of Department or an official delegated by the Head of Department.”

Insertion of Regulation 19B of the Governing Body Regulations for Public Schools

11. Regulation 19B is hereby inserted after Regulation 19A:

“(19B) Electoral Disputes

- (1) If there is a dispute about the election of governing body members, the electoral office must determine the dispute.
- (2) If any interested party is aggrieved by the decision of the electoral officer, that party may refer the dispute in writing to the Member of the Executive Council within 14 days of the determination of the electoral officer. The Member of the Executive Council may condone, on good cause, the later referral of a dispute.
- (3) The Member of the Executive Council shall appoint a person to determine the dispute within 14 days of receiving the dispute and shall determine that person's terms of reference.
- (4) The person appointed in terms of sub-regulation (3) may conduct the process of determining the dispute in a manner that he or she considers appropriate in order to determine the dispute fairly and quickly, but shall deal with the substantial merits of the dispute with the minimum of legal formalities."

Amendment of Regulation 20 of the Governing Body Regulations for Public Schools

12. Regulation 20 of the Regulations and Rules is hereby amended by the addition of subregulations (4), (5) and (6) after sub regulation (3):

“(4) The nomination meeting must have a quorum. When nominating a parent to be a member of the governing body of the school, the parents should take into account whether the parent has basic skills required to add value in the functionality of the school governing body.

5) The quorum for the nomination meeting is 15% of the voters roll...

(6) If the quorum is not reached at the nomination meeting referred to in sub regulation (4) —

(a) the election officer shall determine a date, time and place for a second nomination meeting and inform the principal in writing at least 20 days prior to the date of such meeting;

(b) the election officer shall provide the principal with sufficient copies of a notice which sets out the date, time and place of the second nomination meeting;

(c) the principal shall at least 14 days prior to the date of the second nomination meeting distribute a copy of the notice to

every learner at the school with an instruction to hand it to his or her parents;

- (d) at the second nomination meeting there shall be no quorum requirement and the nomination for parent members shall proceed according to the provisions of regulation 22.

Amendment of Regulation 21 of the Governing Body Regulations for Public Schools

13. Regulation 21 is hereby amended by the substitution for regulation 21 of the following regulation:

“The Principal shall make available to the election officer a **[school register containing the names of all]** register of eligible parents with the identity/passport numbers for the purposes of exercising control at the nomination meeting.”

Amendment of Regulation 22 of the Governing Body Regulations for Public Schools

14. Regulation 22 is hereby amended by the insertion of subregulation (1A) after subregulation (1):

“(1a) When nominating a parent to be a member of the governing body of the school, the parents should consider the parent with basic skills required to add value in the functionality of the school governing body.”

Amendment of Regulation 23 of the Governing Body Regulations for Public Schools

15. Regulation 23 is hereby amended by the substitution for subregulation 2 of the following subregulation:

(2) A quorum at the poll meeting shall be 15% of the total number of parents who are: [eligible to vote]

(a) eligible to vote;

(b) in possession of proper proof of identification including a valid South African identity document/passport and such other legal identity documents

Amendment of Regulation 29 of the Governing Body Regulations for Public Schools

16. Regulation 29 is hereby amended by the:

(a) insertion of the following sub regulation after sub regulation (1):

“(1A) When nominating a community member to be a member of the governing body of the school, the governing body should take into account the skills and experience of the members of the governing body and the prospective community member, including his or her legal, financial and human resource skills and experience.”

- b) substitution for subregulation (3) of the following subregulation:

“(3) If a member elected in terms of subregulation (2) is the only co-opted community member of the governing body, immediately after his or her election, the governing body shall vote on whether it should elect **[a second]** further co-opted community members and, if it so decides, shall proceed to elect **[a second]** further co-opted community members in terms of subregulation (2)”.

CHAPTER 4

OFFICE-BEARERS AND COMMITTEES OF GOVERNING BODIES

(regulations 31-41)

Amendment of Regulation 31 of the Governing Body Regulations for Public Schools

17. Regulation 31 is hereby amended by the substitution of the following title:

“Election of **[acting]** office- bearers of governing bodies

Amendment of Regulation 37 of the Governing Body Regulations for Public Schools

18. Regulation 37 is hereby amended by the substitution for subregulation (4) of the following subregulation:

(4) “The District Director (or an official delegated by him) shall have the right to request and to be furnished with information regarding the time and venue of any meeting of the Executive Committee, and to attend but not to vote at such meeting”.

Amendment of Regulation 39 of the Governing Body Regulations for Public Schools

19. Regulation 39 is hereby amended by the substitution for subregulation (2) of the following subregulation:

“(2) Parent members must be in the majority.”

Amendment of Regulation 41 of the Governing Body Regulations for Public Schools

20. Regulation 41 is hereby amended by the addition of subregulation (3) of the following subregulation:

“(3) The AGM shall be deemed to be a legal forum if it has a quorum of 50% + 1 of the voters roll.”

CHAPTER 6

DUTIES AND FUNCTIONS OF GOVERNING BODIES (regulations 43-58)

Amendment of Regulation 45 of the Governing Body Regulations for Public Schools

21. Regulation 45 is hereby amended by the addition of sub regulations (4) and (5) of the following subregulations:

“(4) The Member of the Executive Council shall by notice in the *Provincial Gazette* publish a standard school constitution and standing orders referred to in sub regulation (1).

(5) The governing body of a school shall be deemed to have adopted the standard constitution and standing orders if it has not adopted its own standard constitution and standing orders in terms of sub regulation (1).”

Amendment of Regulation 46 of the Governing Body Regulations for Public Schools

22. Regulation 46 is hereby amended by the substitution for regulation 46 of the following regulation:

“(1) Subject to the South African Schools Act, 1996 (Act No. 84 of 1996), [the Act], its regulations and the Constitution, a governing body of a school shall –

(aA) determine a finance policy of the school;

(c) decide upon school rules, which may include a learner attendance policy and the dress code for learners at the school;

(2) Insofar as a provision of a policy, rule or code contemplated in subregulation (1) and adopted by a governing body of a school is inconsistent with the South African Schools Act, 1996 (Act No. 84 of 1996), the Act, their regulations, the Constitution or any other applicable legislation, that provision shall be regarded as having no force and effect.”

Amendment of Regulation 49 of the Governing Body Regulations for Public Schools

23. Regulation 49 is hereby amended by the substitution for paragraph (d) of the following paragraph:

“(d) shall open and maintain [a] **one** banking account, **but may, with the approval of the Member of the Executive Council, invest surplus money in another account.**”

Insertion of Regulation 56A of the Governing Body Regulations for Public Schools

24. The following regulation is hereby inserted after regulation 56:

“56A Functions of governing bodies with regard to handover

(1) Before the end of its term, the school governing body must prepare a handover report for the incoming school governing body.

(2) The handover report must inform the incoming governing body of all relevant issues relating to the school, including—

- (a) the governance of the school;
- (b) the finance of the school;
- (c) contracts entered into by the school;

- (d) the management of the school;
- (e) the educators and educator establishment of the school;
- (f) the learners of the school; and
- (g) the educational standards and results of the school.

(3) The outgoing governing body must meet with the incoming governing body at the commencement of the incoming governing body's term and discuss the handover report.

(4) Members of a governing body who do not submit a handover report (as per sub-regulation 3 above) to the District Director by the end of their term of office will not be eligible for re-election or serving as members in that school for a period of three years. However, such members may with the permission of the HOD still serve in the SGB by being co-opted only after eighteen months of the non-compliance with sub-regulation 1."

Short Title

25. These Regulation shall be called the Governing Body Amendment Regulations for Public Schools, 2012.