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ADMINISTRATION: HOUSE OF ASSEMBLY

DEPARTMENT OF EDUCATION AND CULTURE

No. R. 2290

31 October 1986

REGULATIONS IN RESPECT OF THE TEACHERS' FEDERAL COUNCIL

The Minister of Education and Culture has in terms of section 8B (4) and (5) of the National Education Policy Act, 1967 (Act 39 of 1967), promulgated the Regulations set out in the Schedule.

SCHEDULE DEFINITIONS

1. In these regulations, any word or expression to which a meaning has been assigned by the National Education Policy Act, 1967 (Act 39 of 1967) shall have that meaning and unless the context otherwise indicates—

“Act” means the National Education Policy Act, 1967 (Act 39 of 1967);

“accused” means a registered or provisionally registered person against whom a complaint of an alleged offence is being examined;

“approved qualification” means a degree, diploma, certificate or other qualification recognised by the committee, after consultation with the council, as a qualification for employment in a teaching post;

“complainant” means—

(i) a person who lodges a complaint, lays a charge or makes an allegation of a contravention against a registered or provisionally registered person; or

(ii) except for purposes of regulation 8 (1), (2), (3) and (5), a person appointed *pro forma* complainant;

“contravention” means a contravention of a provision of the professional code of conduct for registered and provisionally registered persons;

“council” means the body recognised by the Minister in terms of section 8B (1) of the Act and which is known as the Teachers' Federal Council;

ADMINISTRASIE: VOLKSRAAD

DEPARTEMENT VAN ONDERWYS EN KULTUUR

No. R. 2290

31 Oktober 1986

REGULASIES MET BETREKKING TOT DIE FEDERALE ONDERWYSERSRAAD

Die Minister van Onderwys en Kultuur het kragtens artikel 8B (4) en (5) van die Wet op Nasionale Onderwysbeleid, 1967 (Wet 39 van 1967), die regulasies uiteengesit in die Bylae uitgevaardig.

BYLAE

WOORDOMSKRYWING

1. In hierdie regulasies het enige woord of uitdrukking waaraan 'n betekenis in die Wet op die Nasionale Onderwysbeleid, 1967 (Wet 39 van 1967), geheg is, daardie betekenis en tensy uit die samehang anders blyk, beteken—

“beskuldigde” ’n geregistreerde of voorwaardelik geregistreerde persoon teen wie ’n klagte van ’n beweerde oortreding ondersoek word;

“boekjaar” ’n jaar wat op 31 Maart eindig;

“geregistreer” geregistreer soos in regulasie 2 (1) (a) bedoel;

“goedgekeurde kwalifikasie” ’n graad, diploma, sertifikaat of ander kwalifikasie wat deur die komitee na oorleg met die raad erken word as ’n kwalifikasie vir indiensneming in ’n onderwyspos;

“klaer”—

(i) ’n persoon wat ’n klagte, beskuldiging of bewering van ’n oortreding teen ’n geregistreerde of voorwaardelik geregistreerde persoon aanhangig maak; of

(ii) behalwe by die toepassing van regulasie 8 (1), (2), (3) en (5) iemand wat as *pro forma*-klaer aangewys is;

“ondersoek” ’n ondersoek wat ingevolge regulasie 6 (1) ingestel word na ’n klagte van ’n beweerde oortreding deur ’n beskuldigde;

- "financial year" means a year ending on 31 March;
- "inquiry" means an inquiry in terms of regulation 6 (1) into a complaint of an alleged contravention by an accused;
- "professional code of conduct" means the professional code of conduct contemplated in regulation 5;
- "professionally qualified teacher" means any person who holds a professional teachers' qualification;
- "professional teachers' qualification" means a degree, diploma or certificate recognised by the committee, after consultation with the council, as a professional teachers' qualification for employment in a teaching post;
- "provisionally registered" means provisionally registered as contemplated in regulation 2 (1) (b);
- "register" means the register mentioned in regulation 2 (1); and
- "registered" means registered as contemplated in regulation 2 (1) (a).

REGISTRATION, PROVISIONAL REGISTRATION, KEEPING OF REGISTER, STRIKING OFF REGISTER AND RE-ENTRY IN REGISTER

2. (1) The council shall keep a register and, subject to the provisions of subregulation (4), enter therein, on application and on payment of the fees prescribed by regulation 3 (1) and (2)—

- (a) the name of every professionally qualified teacher; and
- (b) provisionally the name of a person who does not hold a professional teachers' qualification but who holds an approved qualification and has been appointed to a teaching post.

(2) The council shall issue a certificate of registration to every person registered or provisionally registered in terms of subregulation (1).

(3) The name of a person who is, in the opinion of the council, fit to be appointed to a teaching post but who has been convicted of an offence, a contravention of the professional code of conduct or misconduct in terms of a law governing education or the teaching profession may, *mutatis mutandis*, in the manner contemplated in subregulation (1), be entered provisionally in the register for such period and on such conditions as the council may determine.

(4) (a) The council may, subject to the provisions of the Act and these Regulations refuse to register or to provisionally register any person if such person is, on the ground of the circumstances connected with his conviction of any offence or any contravention of the professional code of conduct or of misconduct in terms of a law governing education or the teaching profession, in the opinion of the council, unfit to teach.

(b) Any persons whose name has been struck off the register in terms of subregulation (9) (a) (ii) before any inquiry into any complaint regarding an alleged offence contemplated in regulation 6 (1) lodged against him at the time, had been completed, shall for the purposes of subregulation (4) (a) be deemed to have been convicted of a contravention of the provision in question of the code of conduct.

(5) If the council is satisfied that a name has been erroneously entered in the register, such name shall forthwith be struck off the register.

(6) The council shall on application and on payment of the fees prescribed by regulation 3 (3), issue to the applicant an amended version of a certificate contemplated in subregulation (2) or an extract from the register or a certified copy of such extract.

"oortreding" 'n oortreding van 'n bepaling van die professionele gedragskode vir geregistreerde en voorwaardelik geregistreerde persone;

"professioneel gekwalifiseerde onderwyser" 'n persoon wat 'n professionele onderwyserskwalifikasie besit;

"professionele gedragskode" die professionele gedragskode bedoel in regulasie 5;

"professionele onderwyserskwalifikasie" 'n graad, diploma of sertifikaat wat deur die komitee na oorleg met die raad as 'n professionele onderwyserskwalifikasie erken word vir indiensneming in 'n onderwyspos;

"raad" die liggaam wat ingevolge artikel 8B (1) van die Wet deur die Minister erken is en wat bekend staan as die Federale Onderwysersraad;

"register" die register vermeld in regulasie 2 (1);

"voorwaardelik geregistreer" voorwaardelik geregistreer soos in regulasie 2 (1) (b) bedoel; en

"Wet" die Wet op die Nasionale Onderwysbeleid, 1967 (Wet 39 van 1967).

REGISTRASIE, VOORWAARDELIKE REGISTRASIE, HOU VAN REGISTER, SKRAPPING EN HER-INSKRYWING IN DIE REGISTER

2. (1) Die raad hou 'n register en skryf daarin, behoudens die bepalings van subregulasie (4), by aansoek en teen betaling van die gelde voorgeskryf by regulasie 3 (1) en (2)—

(a) die naam van elke professioneel gekwalifiseerde onderwyser; en

(b) voorwaardelik die naam van 'n persoon wat nie 'n professionele onderwyserskwalifikasie besit nie maar wat oor 'n goedgekeurde kwalifikasie beskik en in 'n onderwyspos aangestel is.

(2) Die raad reik 'n registrasiesertifikaat uit aan elke persoon wat ingevolge subregulasie (1) geregistreer of voorwaardelik geregistreer is.

(3) Die naam van 'n persoon wat volgens die oordeel van die raad geskik is om in 'n onderwyspos aangestel te word, maar wat aan 'n misdryf, 'n oortreding van die professionele gedragskode, of wangedrag ingevolge 'n wet op onderwys of die onderwysberoep skuldig bevind is, kan, *mutatis mutandis* op die wyse in subregulasie (1) bedoel, voorwaardelik in die register ingeskrif word vir die tydperk en op die voorwaardes wat die raad bepaal.

(4) (a) Die raad kan behoudens die bepalings van die Wet en hierdie Regulasies weier om iemand te registreer of voorwaardelik te registreer indien daardie persoon op grond van die omstandighede verbonde aan sy skuldigbevinding aan 'n misdryf, 'n oortreding van die professionele gedragskode of aan wangedrag ingevolge 'n wet op onderwys of die onderwysberoep, volgens die oordeel van die raad ongeskik is om onderwys te gee.

(b) Iemand wie se naam ingevolge subregulasie (9) (a) (ii) in die register geskrap is voordat 'n ondersoek na 'n klagte van 'n beweerde oortreding in regulasie 6 (1) bedoel, wat toe teen hom aanhangig gemaak was, afgehandel is, word by die toepassing van subregulasie (4) (a) geag aan 'n oortreding van die betrokke bepaling van die professionele gedragskode skuldig bevind te wees.

(5) Indien die raad oortuig is dat 'n naam verkeerdelik in die register ingeskrif is, moet die naam onverwyld geskrap word.

(6) Die raad reik by aansoek en teen betaling van die gelde voorgeskryf by regulasie 3 (3) 'n gewysigde weergawe van 'n sertifikaat bedoel in subregulasie (2) of 'n uittreksel uit die register of 'n gesertifiseerde afskrif van sodanige uittreksel aan die aansoeker uit.

(7) A certificate purporting to be signed by any person on behalf of the council and stating—

- (a) that a person has been registered or provisionally registered; or
- (b) that a name does not appear in the register, shall on its mere production in any proceedings be admissible in evidence and be *prima facie* proof of the facts so stated.

(8) A head of education shall on application of the council furnish the council with such information as he may have at his disposal and as the council may require for the keeping of the register.

(9) (a) The council shall strike off the register the name of any registered or provisionally registered person—

- (i) who is deceased;
- (ii) who requests that his name be struck off the register;
- (iii) who, in the opinion of the council, has contravened or neglected to comply with any condition determined in terms of subregulation (3); or
- (iv) whose name is in terms of a provision of the Act or these Regulations, or in terms of a provision of any other law required to be struck off the register.

(b) The reason for striking a name off the register shall be recorded therein, and if the striking off takes place otherwise than in accordance with subparagraph (i) or (ii) of paragraph (a), the person concerned shall be notified of the striking off.

(c) Every certificate issued on the ground of an entry in the register which has been struck off shall be regarded as cancelled from the date of such striking off.

(10) Should any person employed in a teaching post during a financial year fail, on or before the last day of the financial year, or on or before such later date as the council may from time to time determine, to pay the fees prescribed by regulation 3 in respect of that financial year or pro rata in respect of the part of that financial year during which he was so employed the council shall strike the name of such person off the register, and for this purpose a part of a month shall be regarded as a full month.

(11) The council may, subject to the provisions of the Act and these Regulations, in its discretion and subject to such conditions as it may determine, re-enter in the register a name that has been struck off the register.

MONEYS PAYABLE

3. (1) (a) Every registered or provisionally registered person (including a person deemed to be registered or provisionally registered) who is a member of a recognised teachers' body or association in a province and who is employed in a teaching post shall pay an annual fee of R30 during every financial year.

(b) The annual payment of the annual fee referred to in paragraph (a) shall take place by deduction of monthly payments from the salary of the person concerned.

(c) The council may from time to time with the concurrence of the Minister change the amount of the annual fee referred to in paragraph (a).

(2) (a) Every registered or provisionally registered person (including a person deemed to be registered or provisionally registered) who is not a member of a recognised teachers' body or association in a province and who is employed in a teaching post, shall pay during every financial year, *mutatis mutandis* as contemplated in subregulation (1) (b), the following professional fees:

- (i) R30 annual fee *mutatis mutandis* in accordance with subregulation (1) (c) to the council; and

(7) 'n Sertifikaat wat deur iemand namens die raad geteken het te wees en wat vermeld—

- (a) dat iemand geregistreer of voorwaardelik geregistreer is; of
- (b) dat 'n naam nie in die register voorkom nie, is by blote oorlegging daarvan by enige verrigtinge as getuieis toelaatbaar en *prima facie*-bewys van die feite aldus daarin vermeld.

(8) 'n Onderwyshoof moet op versoek van die raad die raad van dié inligting voorsien waarvoor hy beskik en wat die raad vir die hou van die register vereis.

(9) (a) Die raad moet die naam van elke geregistreerde of voorwaardelik geregistreerde persoon—

- (i) wat oorlede is;
- (ii) wat versoek dat sy naam in die register geskrap word;
- (iii) wat na die oordeel van die raad enige voorwaarde wat ingevolge subregulasie (3) bepaal is, oortree het of versuim het om daaraan te voldoen; of
- (iv) wie se naam ingevolge 'n bepaling van die Wet of hierdie Regulasies of ingevolge 'n bepaling van enige ander wet in die register geskrap moet word, in die register skrap.

(b) Die rede vir die skapping van 'n naam in die register moet daarin aangeteken word, en indien die skapping anders as ooreenkomstig subparagraaf (i) of (ii) van paragraaf (a) geskied, moet die betrokke persoon van die skapping in kennis gestel word.

(c) Elke sertifikaat wat uitgereik is op grond van 'n inskrywing in die register wat geskrap is, word as ingetrek beskou vanaf die datum van skapping.

(10) Indien enige persoon wat gedurende 'n boekjaar in 'n onderwyspos in diens is, versuim om ten opsigte van daardie boekjaar of pro rata ten opsigte van die gedeelte van daardie boekjaar wat hy aldus in diens was by die gelde by regulasie 3 voorgeskryf voor of op die laaste datum van daardie boekjaar of voor of op die latere datum wat die raad van tyd tot tyd bepaal, te betaal, moet die raad daardie persoon se naam in die register skrap, en vir hierdie doel word 'n gedeelte van 'n maand as 'n volle maand beskou.

(11) Die raad kan behoudens die bepalings van die Wet en hierdie Regulasies na goeë dunske en op die voorwaardes wat hy bepaal, 'n naam wat in die register geskrap is, weer daarin inskryf.

GELDE BETAALBAAR

3. (1) (a) Elke geregistreerde of voorwaardelik geregistreerde persoon (met inbegrip van 'n persoon wat geag word geregistreer of voorwaardelik geregistreer te wees) wat lid is van 'n erkende onderwysersliggaam of -vereniging in 'n provinsie en wat in diens is in 'n onderwyspos, betaal gedurende elke boekjaar R30 jaargeld.

(b) Die jaarlikse betaling van die jaargeld vermeld in paragraaf (a), geskied by wyse van aftrekking van maandelikse paaielemente van die salaris van die betrokke persoon.

(c) Die bedrag jaargeld in paragraaf (a) vermeld, kan van tyd tot tyd deur die raad met die instemming van die Minister verander word.

(2) (a) Elke geregistreerde of voorwaardelik geregistreerde persoon (met inbegrip van 'n persoon wat geag word geregistreer of voorwaardelik geregistreer te wees) wat nie lid is van 'n erkende onderwysersliggaam of -vereniging in 'n provinsie nie en wat in diens is in 'n onderwyspos, betaal gedurende elke boekjaar *mutatis mutandis* ooreenkomstig subregulasie (1) (b) die volgende professionele geld:

- (i) 'n Jaargeld van R30 *mutatis mutandis* ooreenkomstig subregulasie (1) (c) vasgestel, aan die raad; en

- (ii) An amount determined in accordance with subregulation (2) (b) to the organised teaching profession in the province concerned.

(b) The amount contemplated in paragraph (a) (ii) shall be determined by the head of education from time to time after consultation with the organised teaching profession in the province and shall be paid to the recognised teachers' bodies and associations in the province concerned in accordance with a formula determined by the head of education concerned after consultation with the organised teaching profession in that province.

(3) The following fees shall be payable to the council:

- (a) For entry or provisional entry in the register of the name of a person and the issue of a certificate of registration or provisional registration: R60;
- (b) for an extract from the register or certified copy of such extract in respect of a registered or provisionally registered person: R5;
- (c) for inspection of the register: R5: Provided that departments of State in the Republic of South Africa and the organised teaching profession are exempted from this provision;
- (d) for a copy of a certificate of registration or provisional registration: R5;
- (e) for the issue of an amended registration certificate: R5;
- (f) for re-entry of a name in the register: R60.

OFFENCES RELATING TO REGISTRATION, THE REGISTER AND QUALIFICATIONS

4. Any person who—

- (1) by means of any false pretences becomes or attempts to become registered or provisionally registered or obtains or attempts to obtain for himself or any other person the issue of a certificate of registration in terms of these Regulations;
- (2) makes any unauthorised entry, alteration or cancellation in the register or in a copy of the register or any part thereof or in a certificate issued in terms of these Regulations;
- (3) wilfully destroys, harms or renders illegible any entry in the register;
- (4) forges or utters, knowing it to be forged, a certificate contemplated in regulation 2 (7) or a certificate of a qualification; or
- (5)
 - (a) pretends to be a person registered or provisionally registered in terms of the Act or these Regulations while he is not so registered; or
 - (b) pretends to be another person registered or provisionally registered in terms of the Act or these Regulations,

shall be guilty of an offence and on conviction liable to a fine not exceeding R100 or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

PROFESSIONAL CODE OF CONDUCT

5. The council shall, in consultation with the committee, draw up a professional code of conduct for registered and provisionally registered persons to promote the prestige of the White teaching profession, and this code of conduct shall be published in the *Gazette* for general information.

- (ii) 'n bedrag ooreenkomstig subregulasie (2) (b) vasgestel, aan die georganiseerde onderwysprofessie in die betrokke provinsie.

(b) Die bedrag in paragraaf (a) (ii) bedoel, word van tyd tot tyd vasgestel deur die onderwyshoof na oorlegpleging met die georganiseerde onderwysprofessie in die provinsie, en word aan die erkende onderwysersliggame en -verenigings in die betrokke provinsie oorbetalbaar ooreenkomstig 'n formule deur die betrokke onderwyshoof na oorlegpleging met die georganiseerde onderwysprofessie in die betrokke provinsie bepaal.

(3) Die volgende gelde is aan die raad betaalbaar:

- (a) Vir inskrywing of voorwaardelike inskrywing in die register van die naam van 'n persoon en die uitreiking van 'n sertifikaat van registrasie of voorwaardelike registrasie: R60;
- (b) vir uittreksels uit die register of gesertifiseerde afskrifte van sodanige uittreksel ten opsigte van 'n geregistreerde of voorwaardelik geregistreerde persoon: R5;
- (c) vir insae in die register: R5: Met dien verstande dat Staatsdepartemente in die Republiek van Suid-Afrika en die georganiseerde onderwysprofessie van hierdie bepaling vrygestel is;
- (d) vir 'n afskrif van 'n sertifikaat van registrasie of voorwaardelike registrasie: R5;
- (e) vir die uitreiking van 'n gewysigde registrasie sertifikaat: R5;
- (f) vir herinskrywing van 'n naam in die register: R60.

MISDRYWE IN VERBAND MET REGISTRASIE, DIE REGISTER EN KWALIFIKASIES

4. Iemand wat—

- (1) deur middel van valse voorwendsels geregistreer of voorwaardelik geregistreer word of poog om geregistreer of voorwaardelik geregistreer te word, of die uitreiking van 'n registrasiesertifikaat ingevolge hierdie Regulasies vir homself of iemand anders verkry, of poog of dit te verkry;
- (2) 'n ongemagtigde inskrywing, verandering of skraping aanbring in die register of in 'n eksemplaar van die register of deel daarvan of in 'n sertifikaat ingevolge hierdie Regulasies uitgereik;
- (3) 'n inskrywing in 'n register opsetlik vernietig, beskadig of onleesbaar maak;
- (4) 'n sertifikaat in regulasie 2 (7) bedoel of 'n sertifikaat van 'n kwalifikasie vervals of uitgee in die wete dat dit vervals is; of
- (5)
 - (a) hom voordoen as iemand wat ingevolge die Wet of hierdie Regulasies geregistreer of voorwaardelik geregistreer is, terwyl hy nie aldus geregistreer is nie; of
 - (b) hom voordoen as iemand anders wat ingevolge die Wet of hierdie Regulasies geregistreer of voorwaardelik geregistreer is,

is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens R100 of met gevangenisstraf vir 'n tydperk van hoogstens drie maande, of met sowel sodanige boete as sodanige gevangenisstraf.

PROFESSIONELE GEDRAGSKODE

5. Die raad moet, in oorleg met die komitee, 'n professionele gedragskode opstel vir geregistreerde en voorwaardelik geregistreerde persone om die aansien van die Blanke onderwysprofessie te bevorder en hierdie gedragskode word vir algemene kennisname in die *Staatskoerant* gepubliseer.

LODGING OF COMPLAINTS AND INSTITUTION OF INQUIRIES INTO ALLEGED CONTRAVENTIONS OF THE CODE OF CONDUCT

6. (1) If a complaint alleging contravention of the professional code of conduct is lodged against a registered or provisionally registered person the council may, after notice to the head of education concerned if such person is employed in a teaching post, inquire or cause an inquiry to be instituted into such complaint in the manner set forth below.

(2) If any person is after an inquiry found guilty of contravening any provision of the code of conduct, the council may—

- (a) reprimand or caution or reprimand and caution such person;
- (b) impose on him 'n fine exceeding R500;
- (c) impose on him the fine contemplated in paragraph (b) and reprimand or caution or reprimand and caution him; or
- (d) after consultation with the head of education concerned, if such person is employed in a teaching post strike his name off the register: Provided that, should the council suspend the operation of this penalty, the council may, in addition to this penalty, impose a fine not exceeding R500.

(3) If any person has been found guilty following an inquiry the council may—

- (a) postpone the imposition of a penalty for such period and on such conditions as it may determine; or
- (b) impose any penalty mentioned in subregulation (2) but suspend the operation thereof for such period and on such conditions as it may determine.

(4) If the council is satisfied, after the expiry of the period contemplated in subregulation 3 (a) of (b), that the person concerned has complied with all the conditions imposed, it shall inform such person that no penalty will be imposed or as the case may be, that the penalty imposed will not be brought into operation.

(5) If the imposition or the operation of a penalty has been postponed or suspended under subregulation (3) and the person concerned fails to comply with a condition imposed, the council may impose a suitable penalty or enforce the penalty imposed, unless the person concerned satisfies the council that failure to comply with the relative condition was due to circumstances beyond his control.

(6) A person in respect of whom an inquiry is held, shall be afforded an opportunity to defend himself either personally or through a representative, against the complaint concerned.

(7) The council may, for the purposes of an inquiry under the hand of the executive officer of the council subpoena witnesses and through the chairman of the disciplinary committee administer an oath or affirmation to any witness and examine him and require him to produce any book, register, document or other thing which he has been subpoenaed to produce or which he has in his possession and examine any such book, register, document or other thing: Provided that the person in respect of whom the inquiry is being conducted shall have the right, either personally or through his representative, to cross-examine any witness not called at his request.

(8) A subpoena for the appearance of a witness before the council or for the production to it of any book register, document of other thing shall be substantially in the form of Annexure B and shall be served by registered post or in the same manner in which it would have been served if it were a subpoena issued by a magistrate's court.

(9) Any person who, without sufficient cause, fails to attend and give evidence relating to the inquiry at the time and place specified in the subpoena referred to in subregula-

INDIENING VAN KLAGTES EN INSTELLING VAN ONDERSOEKE NA BEWEERDE OORTREDINGS VAN DIE GEDRAGSKODE

6. (1) Indien 'n klagte van 'n beweerde oortreding van 'n bepaling van die professionele gedragskode teen 'n geregistreerde of voorwaardelik geregistreerde persoon aanhangig gemaak word, kan die raad, na kennisgewing aan die betrokke onderwyshoof indien die betrokke persoon in 'n onderwyspos in diens is op die wyse hieronder vermeld ondersoek instel of laat instel na sodanige klagte.

(2) Indien iemand, na 'n ondersoek, skuldig bevind word aan 'n oortreding van 'n bepaling van die professionele gedragskode, kan die raad—

- (a) hom berispe of waarsku of berispe en waarsku;
- (b) hom 'n boete van hoogstens R500 oplê;
- (c) hom die boete beoog in paragraaf (b) oplê en hom berispe of waarsku of berispe en waarsku; of
- (d) na oorlegpleging met die betrokke onderwyshoof, indien die persoon in 'n onderwyspos in diens is sy naam in die register skrap: Met dien verstande dat indien die raad die tenuitvoerlegging van hierdie straf opskort, die raad hom, benewens hierdie straf, 'n boete van hoogstens R500 kan oplê.

(3) Indien iemand na 'n ondersoek skuldig bevind is, kan die raad—

- (a) die oplegging van straf vir die tydperk en op die voorwaardes wat hy bepaal, uitstel; of
- (b) 'n straf vermeld in subregulasie (2) oplê, maar die tenuitvoerlegging daarvan opskort vir die tydperk en op die voorwaardes wat hy bepaal.

(4) As die raad na afloop van die tydperk bedoel in subregulasie (3) (a) of (b) oortuig is dat die betrokke persoon al die opgelegde voorwaardes nagekom het, deel hy die persoon mee dat geen straf opgelê sal word nie, of, na gelang van die geval, dat die opgelegde straf nie uitgevoer sal word nie.

(5) Indien die oplegging of die tenuitvoerlegging van straf kragtens subregulasie (3) uitgestel of opgeskort is en die betrokke persoon versuim om 'n opgelegde voorwaarde na te kom, kan die raad 'n gepaste straf oplê of die opgelegde straf ten uitvoer lê, tensy die betrokke persoon die raad oortuig dat die nie nakoming van die betrokke voorwaarde te wyte was aan omstandighede buite sy beheer.

(6) Iemand ten opsigte van wie ondersoek ingestel word, moet 'n geleentheid gegun word om, hetsy persoonlik of deur middel van 'n verteenwoordiger, hom teen die betrokke klagte te verdedig.

(7) Die raad kan vir die doeleindes van 'n ondersoek onder die handtekening van die uitvoerende beampite van die raad getuies dagvaar en, deur middel van die voorsitter van die tugkomitee, 'n getuie 'n eed oplê of van hom 'n bevestiging afneem, en hom ondervra en versoek dat hy 'n boek, register, stuk of ander voorwerp wat hy volgens die dagvaarding moet oorlê of wat hy in sy besit het, moet oorlê, en so 'n boek, register, stuk of ander voorwerp ondersoek: Met dien verstande dat die persoon ten opsigte van wie die ondersoek gevoer word, die reg het om persoonlik of deur sy verteenwoordiger 'n getuie te kruisvra wat nie op sy versoek geroep is nie.

(8) 'n Dagvaarding aan 'n getuie ooreenkomstig Aanhangsel B om voor die raad te verskyn of om aan die raad 'n boek, stuk of ander voorwerp voor te lê, moet beteken word per aangetekende pos of op dieselfde wyse waarop dit beteken sou gewees het as dit 'n getuiedagvaarding was wat deur 'n landdroshof uitgereik is.

(9) Iemand wat sonder voldoende rede in gebreke bly om op die tyd en plek vermeld in die dagvaarding bedoel in subregulasie (8) te verskyn en getuienis af te lê wat op die

tion (8), or refuses to take the oath or to make an affirmation or to produce any book, register, document or other thing in response a request in terms of subregulation (7), or to answer fully and satisfactorily and according to his honest belief any question lawfully put to him, shall be guilty of an offence and on conviction liable to a fine not exceeding R100: Provided that any person so subpoenaed shall be entitled to all the rights and privileges to which a witness giving evidence before a division of the Supreme Court of South Africa is entitled.

(10) If only documentary evidence is to be adduced at an inquiry or in any other case where the council deems it desirable, a person designated by the council may act *pro forma* as complainant and bring an alleged contravention under consideration.

(11) The council may appoint a legally qualified assessor to be present at an inquiry and to advise it on matters of law, procedure and evidence.

(12) The provisions of section 154 (3) and (5) of the Criminal Procedure Act, 1977 (Act 51 of 1977), shall apply *mutatis mutandis* in relation to any witness who is under the age of 18 years and who in terms of this regulation has attended and given evidence before the council or in respect of whom documentary evidence has been so adduced to the council, as if such a witness were a witness at criminal proceedings.

(13) If the conduct forming the subject of an inquiry against any person is connected with the commission of an offence of which such person has been convicted by a court of law, the record of the relevant court proceedings shall, when submitted at such an inquiry, be *prima facie* proof of the commission of that offence.

(14) When the council has been notified that a registered or provisionally registered person has been found guilty of an offence by a court of law, it shall for the purposes of subregulation (1) be deemed that a complaint of an alleged contravention of the professional code of conduct has been lodged with the council.

(15) The council and a member or an employee thereof shall, subject to the provisions of the Act and these Regulations, not be liable to any person for damage arising out of any act performed in terms of these Regulations.

COMMITTEES OF THE COUNCIL

7. (1) A committee of preliminary inquiry and a disciplinary committee shall be appointed by the council and shall perform those functions assigned to them by these Regulations.

(2) The Department (including a provincial education department), the organised teaching profession and the organised parent community shall be represented in the disciplinary committee appointed in terms of subregulation (1).

(3) Should the Department (including a provincial education department), after conclusion of an inquiry at which a person employed in a teaching post is found guilty of misconduct in terms of an act governing education or the teaching profession submit the record of such inquiry to the council, the disciplinary committee contemplated in subregulation (1) shall consider on the basis of the record whether the name of such person should be struck off the register, in which event the disciplinary committee shall submit its decision to the council for confirmation.

ondersoek betrekking het, of weier om die eed af te lê of 'n bevestiging te doen, of om 'n boek, register, stuk of ander voorwerp na 'n versoek ingevolge subregulasie (7) oor te lê, of om 'n vraag wat regmatiglik aan hom gestel is ten volle en bevredigend volgens sy eerlike oortuiging te beantwoord, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens R100: Met dien verstande dat 'n aldus gedagvaarde persoon op al die regte en voorregte geregtig is waarop 'n getuie wat voor 'n afdeling van die Hooggeregshof van Suid-Afrika getuienis aflê, geregtig is.

(10) Indien slegs skriftelike getuienis by 'n ondersoek voorgelê gaan word of in enige ander geval waar die raad dit wenslik ag, kan iemand wat deur die raad aangewys is, *pro forma* as klaer optree en die beweerde oortreding aanhangig maak.

(11) Die raad kan 'n regsgekwalfiseerde assessor aanstel om 'n ondersoek by te woon ten einde die raad met betrekking tot regsrae, prosedures en bewyslewering van advies te dien.

(12) Die bepalings van artikel 154 (3) en (5) van die Strafproseswet, 1977 (Wet 51 van 1977), is *mutatis mutandis* met betrekking tot 'n getuie wat onder die ouderdom van 18 jaar is en wat ingevolge hierdie regulasie voor die raad verskyn en getuienis afgelê het of ten opsigte van wie skriftelike getuienis aldus aan die raad voorgelê is, van toepassing asof so 'n getuie 'n getuie by strafregtelike verrigtinge is.

(13) Indien die gedrag wat die onderwerp is van 'n ondersoek teen iemand, in verband staan met die pleeg van 'n misdryf waaraan so iemand deur 'n geregshof skuldig bevind is, is die notule van die betrokke hofverrigtinge by so 'n ondersoek by oorlegging daarvan *prima facie*-bewys van die pleeg van daardie misdryf.

(14) Wanneer die raad in kennis gestel word dat 'n geregistreerde of voorwaardelik geregistreerde persoon deur 'n geregshof aan 'n misdryf skuldig bevind is, word daar by die toepassing van subregulasie (1) geag dat 'n klagte van 'n beweerde oortreding van die professionele gedragskode by die raad ingedien is.

(15) Die raad of 'n lid of 'n werknemer daarvan is nie behoudens die bepalings van die Wet en hierdie Regulasies teenoor iemand aanspreeklik vir skade wat voortspruit uit 'n handeling wat ingevolge hierdie Regulasies verrig is nie.

KOMITEES VAN DIE RAAD

7. (1) 'n Komitee vir voorlopige ondersoek en 'n tugkomitee word deur die raad aangestel en verrig die werksaamhede wat ingevolge hierdie Regulasies aan hom opgedra word.

(2) Die Departement (met inbegrip van 'n provinsiale onderwysdepartement); die georganiseerde onderwysprofessie en die georganiseerde ouergemeenskap moet in die tugkomitee wat ingevolge subregulasie (1) aangestel word, verteenwoordig wees.

(3) Indien die Departement (met inbegrip van 'n provinsiale onderwysdepartement) na afhandeling van 'n ondersoek waarby 'n persoon in 'n onderwyspos skuldig bevind is aan wangedrag ingevolge 'n wet op onderwys of die onderwysberoep die oorkonde van die ondersoek aan die raad voorlê, moet die tugkomitee vermeld in subregulasie (1) aan die hand van die oorkonde oorweeg of die naam van so 'n persoon in die register geskrap moet word, in welke geval die tugkomitee sy besluit aan die raad vir bekragtiging voorlê.

PROCEDURES FOR THE LODGING OF COMPLAINTS AND AT INQUIRIES

8. (1) A complainant shall lodge a complaint in respect of an alleged contravention in writing to the executive officer of the council, preferably by means of an affidavit, and must be prepared to bring evidence in support thereof: Provided that such written statement shall contain a clear indication of the alleged contravention.

(2) The executive officer of the council shall submit such complaint to the chairman of the committee of preliminary inquiry: Provided that if the conduct forming the subject of the complaint against a registered or provisionally registered person is connected with the commission of an offence of which such person has been convicted by a court of law, the executive officer of the council shall also submit the record of the court proceedings to the chairman of the committee of preliminary inquiry: Provided further that the chairman of the committee of preliminary inquiry may, before taking any action, direct the executive officer of the council to call for further information from the complainant or to inform the accused in writing by registered post of the nature of the complaint and to ask him if he desires to submit a written explanation within 30 days from the date of the executive officer of the council's letter, warning him that such explanation may be used in evidence against him.

(3) The committee of preliminary inquiry may, before taking any action, direct the executive officer of the council—

- (a) to call for further information from the complainant;
- (b) to obtain such legal or other advice as may be deemed necessary by the committee of preliminary inquiry; or
- (c) if the chairman of the committee of preliminary inquiry has not acted in terms of subregulation (2), to inform the accused in writing, by registered post, of the nature of the complaint, charge or allegation and to ask him if he desires to give a written explanation within 30 days from the date of the executive officer of the council's letter, warning him that such explanation may be used in evidence against him.

(4) (a) The committee of preliminary inquiry may consult with or collect information from any person, including the person against whom the charge was laid, the complaint lodged or the allegation made.

(b) The committee of preliminary inquiry shall, following action in terms of subregulation (2), (3) or (4) (a), determine on the basis of the information available whether such an inquiry should be held.

(5) The committee of preliminary inquiry shall—

- (a) if an inquiry is resolved upon, direct the executive officer of the council to refer the case, together with the decision of the committee of preliminary inquiry, to the disciplinary committee; or
- (b) if an inquiry is not resolved upon, request the executive officer of the council to submit its decision for information to the council at its next meeting; and
- (c) if an inquiry is not resolved upon and the chairman of the committee of preliminary inquiry has acted in terms of subregulation (2) or the committee of preliminary inquiry has acted in terms of subregulation (3) or (4) (a), inform the person against whom a complaint was lodged, a charge was laid or an allegation was made, as well as the complainant, of the decision: Provided that such decision shall be subject to confirmation by the council.

PROSEDURES BY DIE INDIENING VAN KLAGTES EN BY ONDERSOEKE

8. (1) 'n Klaer moet 'n klagte betreffende 'n beweerde oortreding skriftelik, verkieslik by wyse van 'n beëdigde verklaring, by die uitvoerende beampste van die raad indien en moet bereid wees om getuienis ter staving daarvan te lewer: Met dien verstande dat sodanige skriftelike verklaring 'n duidelike aanduiding van die beweerde oortreding moet bevat.

(2) Die uitvoerende beampste van die raad moet sodanige klagte aan die voorsitter van die komitee vir voorlopige ondersoek voorlê: Met dien verstande dat indien die gedrag wat die onderwerp is van die klagte teen 'n geregistreerde of voorwaardelik geregistreerde persoon in verband staan met die pleeg van 'n misdryf waaraan so iemand deur 'n geregshof skuldig bevind is, die uitvoerende beampste van die raad ook die notule van die hofverrigtinge aan die voorsitter van die komitee vir voorlopige ondersoek moet voorlê: Met dien verstande voorts dat voordat die voorsitter van die komitee vir voorlopige ondersoek optree, hy die uitvoerende beampste van die raad opdrag kan gee om verdere inligting van die klaer aan te vra of die beskuldigde skriftelik per aangetekende pos van die aard van die klagte te verwittig en hom te vra of hy 'n skriftelike verduideliking binne 30 dae vanaf die datum van die uitvoerende beampste van die raad se skrywe wil indien en hom te waarsku dat sodanige verduideliking as getuienis teen hom gebruik kan word.

(3) Die komitee vir voorlopige ondersoek kan, voordat hy optree, die uitvoerende beampste van die raad opdrag gee om—

- (a) verdere inligting van die klaer aan te vra;
- (b) sodanige regsadvies of ander advies in te win as wat die komitee vir voorlopige ondersoek nodig ag; of
- (c) indien die voorsitter van die komitee vir voorlopige ondersoek nie kragtens subregulasie (2) opgetree het nie, die beskuldigde skriftelik per aangetekende pos van die aard van die klagte, beskuldiging of bewering te verwittig en hom te vra of hy 'n skriftelike verduideliking binne 30 dae vanaf die datum van die uitvoerende beampste van die raad se skrywe wil indien en hom te waarsku dat sodanige verduideliking as getuienis teen hom gebruik kan word.

4. (a) Die komitee vir voorlopige ondersoek kan oorleg pleeg met of inligting inwin van enige persoon, met inbegrip van die persoon teen wie die klagte of beskuldiging ingebring of bewering gemaak is.

(b) Die komitee vir voorlopige ondersoek moet na optrede ingevolge subregulasie (2), (3) of (4) (a) aan die hand van die beskikbare inligting besluit of 'n ondersoek gehou moet word.

(5) Die komitee vir voorlopige ondersoek moet, indien—

- (a) hy besluit dat 'n ondersoek gehou moet word, die uitvoerende beampste van die raad versoek om die saak, tesame met die komitee vir voorlopige ondersoek se besluit, na die tugkomitee te verwys; of
- (b) hy besluit dat 'n ondersoek nie gehou moet word nie, die uitvoerende beampste van die raad versoek om sy besluit vir kennisname aan die raad by sy volgende vergadering voor te lê; en
- (c) hy besluit dat 'n ondersoek nie gehou moet word nie en die voorsitter van die komitee vir voorlopige ondersoek ingevolge subregulasie (2) of die komitee vir voorlopige ondersoek ingevolge subregulasie (3) of (4) (a) opgetree het, die persoon teen wie 'n klagte, beskuldiging of bewering aanhangig gemaak is, asook die klaer, van die besluit in kennis stel: Met dien verstande dat sodanige besluit onderworpe is aan bekragting deur die raad.

INQUIRIES

9. (1) If an inquiry is resolved upon, the executive officer of the council shall issue on behalf of the council a summons to the accused substantially in the form of Annexure A to appear before the disciplinary committee on the day appointed which summons shall be served on the accused in the same manner as it would be served if it were a summons issued by a magistrate's court, or forwarded to him by registered post to his registered address: Provided that, if the accused fails to appear, the disciplinary committee may proceed and deal with the complaint in terms of these Regulations: Provided further that conclusive proof of service of the summons shall have been submitted to the disciplinary committee.

(2) (a) If the complainant, the disciplinary committee or the accused desires that witnesses be subpoenaed, the executive officer of the council shall issue on behalf of the council a summons substantially in the form of Annexure B to each of such witnesses and if such witnesses attend the inquiry, they (the accused's witnesses excluded) shall be entitled to such allowances as the council may from time to time determine.

(b) If the accused desires to have a witness subpoenaed, he shall deposit a sum of money sufficient to cover the costs involved and the council may pay such costs from the amount so deposited.

(3) The disciplinary committee may at its discretion or at the request of the accused or his representative postpone or adjourn the hearing of an inquiry to such time and place and on such conditions as it may determine.

(4) Any person who hinders or disturbs the proceedings during an inquiry, may be ejected by order of the chairman of the disciplinary committee.

(5) A complete record shall be kept of the proceedings at an inquiry.

(6) Inquiries shall not be conducted in public.

(7) (a) At the commencement of the proceedings the chairman of the disciplinary committee or the executive officer of the council shall put the complaint to the accused.

(b) (i) The accused shall then be asked by the chairman of the disciplinary committee to plead to the complaint against him: Provided that if the accused, by a letter signed by him personally, notifies the executive officer of the council before the hearing that he pleads "guilty" to the complaint against him, this may be entered as his plea in his absence, in which case it shall rest with the disciplinary committee to decide whether or not to hear evidence pertaining to the complaint: Provided further that if the accused pleads "not guilty", the disciplinary committee shall hear evidence pertaining to the complaint.

(ii) If the accused refuses or fails to plead, the disciplinary committee shall enter a plea of "not guilty" on behalf of the accused and a plea so entered shall have the same effect as if it had in fact been so pleaded.

(8) Where evidence in respect of any complaint of an alleged contravention is adduced, the complainant shall be given the opportunity of stating his case and thereafter of leading evidence in its support and on the conclusion of such evidence the complainant's case shall be closed.

(9) (a) the accused or his representative shall be given the opportunity of stating his case in defence and of leading evidence in support thereof: Provided that the accused shall be allowed to present his defence in writing, should he so wish, in which case such written exposition shall be read to the disciplinary committee.

ONDERSOEKE

9. (1) Indien daar op 'n ondersoek besluit word, reik die uitvoerende beampte van die raad namens die raad 'n dagvaarding ooreenkomstig Aanhangsel A aan die beskuldigde uit, wat op dieselfde wyse aan hom beteken word as sou dit 'n dagvaarding deur 'n landdroshof wees, of wat per aangezekende pos aan hom na sy geregistreerde adres gestuur word, om op die vasgestelde dag voor die tugkomitee te verskyn: Met dien verstande dat, indien die beskuldigde versuim om te verskyn, die tugkomitee die ondersoek ingevolge hierdie Regulasies kan voortsit en afhandel: Met dien verstande voorts dat daar afdoende bewys van betekening van die dagvaarding voor die tugkomitee is.

(2) (a) Indien die klaer, die tugkomitee of die beskuldigde verlang dat getuies gedagvaar word, reik die uitvoerende beampte van die raad namens die raad 'n dagvaarding in die vorm van Aanhangsel B aan elk van sodanige getuies uit en indien sodanige getuies die ondersoek bywoon, is hulle (uitgesluit die beskuldigde se getuies) geregtig op die toeslaes wat die raad van tyd tot tyd bepaal.

(b) Indien die beskuldigde verlang dat 'n getuie gedagvaar word, moet hy 'n deposito betaal om die koste daaraan verbonde te dek en die raad kan sodanige koste betaal uit die bedrag wat aldus gestort is.

(3) Die tugkomitee kan na goeddunke of op ondersoek van die beskuldigde of sy verteenwoordiger die verhoor van 'n ondersoek uitstel of verdaag tot 'n tyd en plek en op die voorwaardes wat hy bepaal.

(4) 'n Persoon wat die verrigtinge tydens 'n ondersoek belemmer of steur, kan op las van die voorsitter van die tugkomitee verwyder word.

(5) 'n Volledige rekord word gehou van die verrigtinge tydens 'n ondersoek.

(6) Ondersoeke word nie in die openbaar gehou nie.

(7) (a) By die aanvang van die verrigtinge stel die voorsitter van die tugkomitee of die uitvoerende beampte van die raad die klagte aan die beskuldigde.

(b) (i) Die beskuldigde word dan deur die voorsitter van die tugkomitee gevra om te pleit op die klagte teen hom: Met dien verstande dat indien die beskuldigde voor die verhoor die uitvoerende beampte van die raad skriftelike by wyse van 'n brief deur hom persoonlik onderteken, verwittig het dat hy "skuldig" pleit op die klagte teen hom, dit in sy afwesigheid as sy pleit aangeteken kan word, in welke geval dit by die tugkomitee berus om te besluit of hy getuienis oor die klagte wil aanhoor of nie: Met dien verstande voorts dat indien die beskuldigde "onskuldig" pleit, die tugkomitee getuienis ten opsigte van die klagte moet aanhoor.

(ii) Indien die beskuldigde weier of in gebreke bly om regstreeks te pleit, teken die tugkomitee 'n pleit van "onskuldig" namens die beskuldigde aan en 'n pleit aldus aangeteken, het dieselfde gevolg asof dit inderdaad gepleit is.

(8) Waar getuienis ten opsigte van enige klagte van 'n beweerde oortreding aangevoer word, moet die klaer geleentheid gegee word om sy saak uiteen te sit en daarna om getuienis ter stawing daarvan te lei en na beëindiging van sodanige getuienis is die klaer se saak gesluit.

(9) (a) Die beskuldigde of sy verteenwoordiger moet die geleentheid gegee word om sy saak ter verdediging uiteen te sit en om getuienis ter stawing daarvan te lei: Met dien verstande dat die beskuldigde toegelaat moet word om, indien hy dit verlang, sy verdediging skriftelike te stel, in welke geval sodanige skriftelike uiteensetting aan die tugkomitee voorgelees moet word.

(b) If the accused is absent and is not represented, any letter, explanation or statement submitted by him shall be read to the disciplinary committee by the *pro forma* complainant and shall be received as evidence.

(10) After the accused or his representative has led his evidence, or his written exposition has been read, his case shall be closed.

(11) The disciplinary committee may, if it considers it desirable, allow further evidence to be led by either the complainant or the accused or his representative or by both after their cases have been closed.

(12) The complainant and the accused shall be allowed, after all evidence has been given, to address the disciplinary committee on the evidence and the legal position irrespective of whether the accused or his representative has led evidence.

(13) If it sees fit, the disciplinary committee may allow the complainant to reply on questions of law which the accused or his representative has raised.

(14) A party in an inquiry or his representative shall be entitled to cross-examine any witness of his opposing party, after such witness has given evidence, after which the chairman of the disciplinary committee shall be entitled to put to the witness any questions which he wishes to put or which members of the disciplinary committee wish to put with his consent: Provided that if evidence has been led, the person who led the evidence shall be entitled to re-examine the witness, but shall confine his re-examination to matters on which the witness was cross-examined or on which the chairman of the disciplinary committee or a member of the committee put questions to the witness.

(15) (a) All oral evidence shall be taken on oath or solemn declaration, which shall be administered by the chairman of the disciplinary committee, and the disciplinary committee may refuse the evidence of any witness, or deponent to a document, who is not present for or refuses to submit to cross-examination.

(b) The statement of a person lodging a complaint and who is not present in person, or of any witness in support of the complaint of a contravention, shall be in the form of an affidavit: Provided that the accused or his representative may object to the admissibility of such evidence if he is not allowed the opportunity of cross-examining the witness.

(16) (a) Upon conclusion of the inquiry the disciplinary committee shall deliberate *in camera* upon the finding.

(b) Where an accused is charged on various counts, separately or in the alternative, the disciplinary committee shall make a finding on each of the counts.

(c) If the accused is found not guilty of the complaint of a contravention preferred against him, he shall be advised accordingly forthwith and the disciplinary committee shall report its finding to the council.

(d) If the accused is found guilty by the disciplinary committee of a contravention, it shall announce its finding and the complainant shall adduce evidence of previous convictions of a contravention, if any, of the accused.

(e) Evidence of previous convictions of a contravention shall be adduced by means of a certificate under the hand of the executive officer of the council and such certificate shall contain the complaint preferred against the accused at the time, the complete finding, the penalty imposed and an extract from the minutes of the meeting of the disciplinary committee if the penalty was a reprimand or a caution or a reprimand and a caution, or an extract from the minutes of the meeting of the council at which the finding and penalty were confirmed or amended if the penalty was imposed in

(b) Indien die beskuldigde afwesig is en hy nie verteenwoordig is nie, word enige skrywe of verduideliking of verklaring wat hy voorgelê het, aan die tugkomitee voorgelees deur die *pro forma*-klaer en as getuienis ontvang.

(10) Nadat die beskuldigde of sy verteenwoordiger sy getuienis gelei het, of, in die plek daarvan, sy skriftelike uiteensetting voorgelees is, is sy saak gesluit.

(11) Die tugkomitee kan, indien hy dit wenslik ag, toelaat dat verdere getuienis of deur die klaer of deur die beskuldigde of sy verteenwoordiger, of deur albei, gelei word nadat hulle sake reeds gesluit is.

(12) Die klaer en die beskuldigde kan, nadat alle getuienis afgelê is, die tugkomitee toespreek oor die getuienis en die regsposisie ongeag daarvan of die beskuldigde of sy verteenwoordiger getuienis gelei het.

(13) Die tugkomitee kan na goeë dunde die klaer toelaat om repliek te lewer op regsrae wat die beskuldigde of sy verteenwoordiger geopper het.

(14) 'n Party by 'n ondersoek of sy verteenwoordiger is geregtig om 'n getuie van sy teenparty, nadat sodanige getuie getuig het, te kruisvra, waarna die voorsitter van die tugkomitee geregtig is om enige vrae wat hy self of lede van die tugkomitee met sy toestemming wil stel, aan die getuie te stel: Met dien verstande dat indien getuienis gelei is, die persoon wat die getuienis gelei het, daarop geregtig is om die getuie te herondervra, maar hy moet sy herondervraging beperk tot aangeleenthede waarvoor die getuie gekruisvra is of waarvoor die voorsitter van die tugkomitee of 'n lid van die komitee aan die getuie vrae gestel het.

(15) (a) Alle mondelinge getuienis moet onder eed of plegtige bevestiging wat deur die voorsitter van die tugkomitee opgelê word, afgelê word en die tugkomitee kan weier om getuienis toe te laat van enige getuie of deponent by 'n dokument, wat nie vir kruisondervraging aanwesig is nie of wat weier om hom daaraan te onderwerp.

(b) Die verklaring van 'n persoon wat 'n klagte aanhangig maak en wat nie persoonlik aanwesig is nie, of van enige getuie ter stawing van die klagte van 'n oortreding, moet in die vorm van 'n beëdigde verklaring wees: Met dien verstande dat die beskuldigde of sy verteenwoordiger egter teen die toelaatbaarheid van sodanige getuienis beswaar kan maak indien hy nie die geleentheid gegun word om die getuie te kruisvra nie.

(16) (a) Na afloop van die ondersoek moet die tugkomitee *in camera* beraadslag oor die bevinding.

(b) Wanneer die beskuldigde onder verskillende hoofde, afsonderlik of in die alternatief, aangekla word, moet die tugkomitee onder elke hoof tot 'n bevinding geraak.

(c) Indien die beskuldigde onskuldig bevind word aan die klagte teen hom ingebring, moet hy onmiddellik dienooreenkomstig in kennis gestel word en die tugkomitee moet sy bevinding aan die raad rapporteer.

(d) Indien die tugkomitee die beskuldigde skuldig bevind aan 'n oortreding, moet hy sy bevinding bekend maak en moet die klaer bewys aanvoer van vorige skuldigbevindings aan 'n oortreding, as daar is, van die beskuldigde.

(e) Bewys van vorige skuldigbevindings aan 'n oortreding moet aangevoer word deur middel van 'n sertifikaat onder die hand van die uitvoerende beampste van die raad en sodanige sertifikaat moet die klagte bevat wat indertyd teen die beskuldigde ingebring is, die volledige bevinding, die straf opgelê en 'n uittreksel uit die notule van die vergadering van die tugkomitee indien die straf 'n berisping of waarskuwing of 'n berisping en 'n waarskuwing was, of 'n uittreksel uit die notule van die vergadering van die raad waarop die bevinding en straf bekragtig of gewysig is indien

terms of regulation 6 (2) (b), (c) or (d): Provided that the accused or his representative shall be entitled to challenge the correctness of such certificate, in which case a copy of the minutes of the proceedings of the inquiry at which the accused was found guilty, together with a copy of the minutes of the meeting of the council at which the finding and the penalty were confirmed if a penalty other than a reprimand or a caution or a reprimand and a caution was imposed by the disciplinary committee, shall be produced.

(f) The chairman of the disciplinary committee shall then afford the complainant an opportunity to make representations regarding the penalty to be imposed.

(g) The chairman of the disciplinary committee shall afford the accused or his representative the opportunity of addressing the disciplinary committee in mitigation of the penalty to be imposed.

(h) (i) The disciplinary committee shall deliberate *in camera* upon the penalty to be imposed: Provided that if the disciplinary committee decides that the penalty to be imposed shall be a reprimand or a caution or a reprimand and a caution, the penalty imposed on the accused shall be communicated immediately to the accused by the chairman of the disciplinary committee, or at a later date by registered post, as the disciplinary committee may direct: Provided further that the disciplinary committee shall report its action to the council.

(ii) If the disciplinary committee decides that a penalty other than a reprimand or a caution or a reprimand and a caution be imposed, it shall forward all documents, with a record of the evidence and its finding and decision in regard to the penalty to be imposed, to the council, which may vary, confirm or refuse to confirm such finding and decision.

(iii) The decision of the council shall be communicated immediately to the parties concerned or within 14 days by registered post to the accused or his representative: Provided that the confirmation of a recommendation that the name of a person be struck off the register, shall take place after consultation with the head of education concerned if such person is employed in a teaching post.

(iv) The accused or his representative shall be entitled to make representations to the council regarding the exercise of its discretion concerning the variation or confirmation of the imposition of the penalty: Provided that such representations shall be made by means of a written memorandum only and shall be addressed to the executive officer of the council for submission to the council and that such representations shall reach the executive office of the council within 30 days after the disciplinary committee has made its finding public.

(17) No provision of these Regulations shall be construed as depriving the council of its power to refer a case back to the disciplinary committee for further inquiry or to conduct such inquiry itself: Provided that the procedure laid down in this regulation shall apply *mutatis mutandis* to an inquiry held by the council.

BOOKKEEPING AND AUDITING

10. (1) The council shall cause proper records to be kept of all moneys received or spent by it, of all its assets and liabilities and of all financial transactions entered into by it, and shall as soon as possible after the end of every financial year cause statements of account and a balance sheet to be prepared showing, with all the appropriate particulars, the moneys received and the expenditure incurred by it in connection with its functions during, and its assets and liabilities at the end, of that financial year.

'n straf ingevolge regulasie 6 (2) (b), (c) of (d) opgelê is: Met dien verstande dat die beskuldigde of sy verteenwoordiger die reg het om die korrektheid van sodanige sertifikaat te betwis, in welke geval 'n afskrif van die notule van die verrigtinge by enige ondersoek waarop die beskuldigde skuldig bevind is, voorgelê moet word, tesame met 'n afskrif van die notule van die vergadering van die raad waarop die bevinding en straf bekragtig is indien 'n ander straf as 'n berisping of 'n waarskuwing of 'n berisping en 'n waarskuwing deur die tugkomitee opgelê is.

(f) Die voorsitter van die tugkomitee moet aan die klaer die geleentheid bied om vertoë te rig in verband met die oplegging van 'n straf.

(g) Die voorsitter van die tugkomitee moet die beskuldigde of sy verteenwoordiger die geleentheid bied om die tugkomitee ter versagting van die straf wat opgelê staan te word, toe te spreek.

(h) (i) Die tugkomitee moet *in camera* beraadslaag oor die straf wat opgelê staan te word: Met dien verstande dat indien die tugkomitee besluit dat die straf wat opgelê moet word 'n berisping of 'n waarskuwing of 'n berisping en 'n waarskuwing moet wees, die straf aan die beskuldigde opgelê onmiddellik daarna aan die beskuldigde meegedeel moet word deur die voorsitter van die tugkomitee, of op 'n later datum per aangetekende pos, al na gelang die tugkomitee gelas: Met dien verstande voorts dat die tugkomitee sy optrede aan die raad moet rapporteer.

(ii) Indien die tugkomitee besluit dat 'n ander straf as 'n berisping of 'n waarskuwing of 'n berisping en 'n waarskuwing opgelê moet word, moet die tugkomitee alle stukke met 'n verslag van die getuienis en sy bevinding en besluit in verband met die straf wat opgelê moet word, aan die raad stuur, wat sodanige bevinding en besluit kan wysig of bekragtig of kan weier om dit te bekragtig.

(iii) Die raad se besluit moet onmiddellik aan die betrokke partye bekend gemaak word, of binne 14 dae per aangetekende pos aan die beskuldigde of sy verteenwoordiger meegedeel word: Met dien verstande dat die bekragtiging van 'n aanbeveling dat 'n persoon se naam in die register geskrap word, geskied na oorlegpleging met die betrokke onderwyshoof indien hy in 'n onderwyspos in diens is.

(iv) Die beskuldigde of sy verteenwoordiger is geregtig om vertoë tot die raad te rig ten opsigte van die uitoefening van die raad se diskresie met betrekking tot die wysiging of bekragtiging van die oplegging van die straf: Met dien verstande dat sodanige vertoë geskied slegs by wyse van 'n skriftelike memorandum gerig aan die uitvoerende beampte van die raad vir voorlegging aan die raad en die uitvoerende beampte van die raad binne 30 dae nadat die tugkomitee sy bevinding bekend gemaak het, bereik.

(17) Geen bepaling van hierdie Regulasies word uitgelê as sou dit die raad die bevoegdheid ontnem om 'n saak na die tugkomitee terug te verwys vir verdere ondersoek of om self sodanige ondersoek te hou nie: Met dien verstande dat die prosedure in hierdie regulasie voorgeskryf *mutatis mutandis* van toepassing is op 'n ondersoek wat die raad instel.

BOEKHOUDING EN OUDITERING

10. (1) Die raad laat behoorlike aantekeninge hou van al die geld deur hom ontvang of bestee, van al sy bates en laste en van al die finansiële transaksies deur hom aangegaan, en moet so spoedig doenlik na die einde van elke boekjaar rekeningstate en 'n balansstaat laat opmaak wat, met al die gepaste besonderhede, die geld deur hom ontvang en die uitgawes deur hom aangegaan in verband met sy werksaamhede gedurende, en sy bates en laste aan die einde van daardie boekjaar aantoon.

(2) The council shall appoint a chartered accountant who shall audit the records, statements of account and balance sheet contemplated in subregulation (1).

(3) The council shall transmit a copy of every document drawn up under subregulation (2) to the Minister.

ANNEXURE A FORM OF SUMMONS

To

(Name of accused and his address)

You are hereby summoned to appear on the day of 19..... at (place) at (time) before the disciplinary committee of the Teachers' Federal Council when the following complaint which has been preferred against you will be considered:.....

If you fail to appear the council or the disciplinary committee may consider and deal with the complaint in accordance with regulation 9 (1).

If you desire your letter dated (or any further written communication which you wish to submit) to constitute your explanation or defence, please notify me to this effect as soon as possible and not later than

You are, however, hereby warned that any such communication may be used in evidence against you.

A copy of the regulations concerned in respect of the Teachers' Federal Council is enclosed.

Given under the hand of the executive officer of the council this day of 19.....

Executive Officer of the Council

ANNEXURE B

FORM OF SUMMONS TO APPEAR BEFORE THE TEACHERS' FEDERAL COUNCIL

To

(Name and address of person summoned)

You are hereby summoned to appear at (place) on (date) at (time) before the disciplinary committee of the Teachers' Federal Council to give evidence regarding:.....

and you are required to bring with you

(specify the book, record, document or object if applicable).

A copy of the regulations concerning the Teachers' Federal Council is enclosed.

Given under the hand of the executive officer of the council this day of 19.....

Executive officer of the Council

(2) Die raad moet 'n geoktrooieerde rekenmeester aanstel wat die aangekeninge, rekeningstate en balansstaat bedoel in subregulasie (1), moet ouditeer.

(3) Die raad moet afskrifte van stukke wat kragtens subregulasie (2) opgestel word, aan die Minister stuur.

AANHANGSEL A VORM VAN DAGVAARDING

Aan

(Naam van beskuldigde en sy adres)

Hierby word u gedagvaar om op die dag van 19..... om te voor die tugkomitee van die Federale Onderwysersraad te verskyn wanneer die volgende klagte teen u ingebring, oorweeg sal word:.....

As u versuim om te verskyn, kan die raad of die tugkomitee die klagte ooreenkomstig regulasie 9 (1) oorweeg en afhandel.

As u verkies dat u brief van (of enige verdere skriftelike mededeling wat u wil indien) as u verduideliking of verweer moet dien, moet u my dienooreenkomstig so spoedig moontlik en nie later nie as in kennis stel, maar u word hierby gewaarsku dat enige sodanige mededeling as getuienis teen u gebruik kan word.

'n Kopie van die betrokke Regulasies met betrekking tot die Federale Onderwysersraad is ingesluit.

Gegee onder die hand van die uitvoerende beampte van die raad, op hede die dag van 19.....

Uitvoerende beampte van die Raad

AANHANGSEL B

VORM VAN DAGVAARDING OM TE VERSKYN VOOR DIE FEDERALE ONDERWYSERSRAAD

Aan

(Naam en adres van gedagvaarde)

Hierby word u gedagvaar om in (plek) op (datum) om (tyd) te verskyn voor die tugkomitee van die Federale Onderwysersraad om getuienis af te lê aangaande

en u word gelas om

(vermeld die betrokke boek, aantekeninge, dokumente of voorwerp indien van toepassing) saam te bring.

'n Kopie van die betrokke regulasies met betrekking tot die Federale Onderwysersraad is ingesluit.

Gegee onder die hand van die uitvoerende beampte van die raad, op hede die dag van 19.....

Uitvoerende beampte van die Raad

Use it.

Don't abuse  it.

water is for everybody

Werk mooi daarmee.

Ons leef  daarvan.

water is kosbaar

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