

Western Cape, South Africa

## Western Cape Colleges of Education Law Act 11 of 1994

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# Western Cape South Africa

## Western Cape Colleges of Education Law

Act 11 of 1994

Published in Western Cape Provincial Gazette 4910 on 30 December 1994

Assented to on 22 December 1994

Commenced on 1 July 1995 by Western Cape Colleges of Education Law: Commencement

*[This is the version of this document as it was from 30 December 1994 to 5 June 1997.]*

To provide for the establishment, declaration, maintenance, management and control of colleges of education, and for matters connected therewith.

BE IT ENACTED by the Premier and the Legislature of the Province of the Western Cape as follows:-

### 1. Definitions

In this Law, unless the context indicates otherwise-

"college" means a college of education;

"college council" means a college council referred to in [section 8](#);

"college of education" means a college of education referred to in [section 4](#) as well as a college of education referred to in [section 5](#);

"Constitution" means the [Constitution of the Republic of South Africa](#), 1993 ([Act No. 200 of 1993](#));

"council" means a college council;

"Department" means the department responsible for education in the province;

"education council" means the education council referred to in section 11 of the Western Cape School Education Law, 1994;

"financial head" means the person appointed in terms of section 149 of the [Constitution](#) as Member of the Executive Council responsible for the administration of the financial affairs of the province;

"fixed date" means the date of commencement of this Law;

"Head of Education" means the Head of the Department;

"Legislature" means the legislature established for the province under section 125 of the [Constitution](#);

"Member of the Executive Council" means the person appointed in terms of section 149 of the [Constitution](#) as Member of the Executive Council responsible for education in the province;

"national policy" means national education policy determined by a competent authority within the jurisdiction of the national government;

"organized parent community" means the organized parent community as defined in section 1 of the Western Cape School Education Law, 1994;

"organized teaching profession" means the organized teaching profession as defined in section 1 of the Western Cape School Education Law, 1994;

"past student" in relation to a college of education, means a person who obtained a diploma at the college of education concerned;

"**prescribed**" means prescribed by regulation;

"**province**" means the Province of the Western Cape, being one of the 35 provinces established under section 124 of the [Constitution](#);

"**Provincial Gazette**" means the official gazette in which government and other official notices of the provincial government are published;

"**rector**" means a person appointed to the post of rector at a college of education, or a person acting in that post;

"**regulation**" means a regulation made under this Law;

"**senate**" means a senate referred to in [section 11](#);

"**teacher education**" means the training of persons-

- (a) as teachers;
- (b) as trainers for the private sector; and
- (c) in related educationally directed vocational groups as determined by the Member of the Executive Council; and

"**this Law**" includes a regulation.

## 2. Application of Law

As from the fixed date the provisions of this Law shall, subject to national education policy determined by a competent authority within the jurisdiction of the national government, and to the provisions of any law applying to teacher education in general, apply in relation to teacher education in the province.

## 3. Determination of policy in respect of teacher education

- (1) The Member of the Executive Council may, after consultation with the education council, universities, technikons, colleges of education and the organized teaching profession in the province, from time to time determine the policy which is to be pursued in respect of teacher education in the province in order that-
  - (a) a person being educated as a teacher is being equipped to give effect to the policy determined by the Member of the Executive Council under section 4 of the Western Cape School Education Law, 1994;
  - (b) the demand for teachers may be met; and
  - (c) the appellation of certificates awarded to persons to indicate the acquisition of teaching competency or qualifications shall be the same.
- (2)
  - (a) The education council may appoint an advisory committee for teacher education to advise the education council, the universities, colleges of education and technikons in the province, and the Department on the co-ordination of teacher education in the province.
  - (b) If an education council appoints such a committee, it shall appoint thereto, in addition to representatives of the Department, also persons to represent universities, colleges of education, technikons, the organized teaching profession and the organized parent community.
- (3) Notice of any steps taken by the Member of the Executive Council in terms of subsection (1), shall be given by notice in the *Provincial Gazette*.
- (4) The Head of Education shall take such steps as may be necessary to carry into effect the policy determined by the Member of the Executive Council in terms of subsection (1).

#### **4. Establishment, maintenance, amalgamation and closure of colleges of education**

The Member of the Executive Council may-

- (a) out of moneys appropriated for this purpose by the Legislature, and with the concurrence of the financial head, establish and maintain colleges of education;
- (b) after consultation with the councils of the colleges concerned, amalgamate two or more colleges of education, subject to the conditions he or she may determine; and
- (c) after consultation with the council of a college of education, close such college with effect from a date determined by him or her.

#### **5. Continued existence of certain colleges of education**

A college of education established in terms of a law repealed by this Law and which existed immediately prior to the fixed date, shall from that date be deemed to be a college of education established under this Law.

#### **6. Functions of colleges of education**

The functions of a college of education shall be-

- (a) to provide teacher education; and
- (b) to undertake research on education and related problems.

#### **7. Constitution of college of education**

A college of education shall consist of-

- (a) the rector;
- (b) a college council;
- (c) a senate;
- (d) the staff; and
- (e) the students.

#### **8. Constitution of college council**

(1) Every college of education shall have a college council which shall consist of-

- (a) the rector;
- (b) a maximum of two vice-rectors designated by the rector;
- (c) a maximum of two persons designated by the Head of Education;
- (d) a maximum of two school principals designated by the organized teaching profession;
- (e) a maximum of two persons designated by the organized parent community;
- (f) one person designated by each of the institutions with which the Department has concluded agreements in terms of [section 19](#), with a maximum of four persons;
- (g) a maximum of two donors designated in a manner determined by the council;
- (h) a maximum of two persons designated by those local authorities, institutions and organisations determined by the Member of the Executive Council;

- (i) a maximum of four other members appointed by the Member of the Executive Council after consultation with the rector;
  - (j) a maximum of two persons designated by the council; and
  - (k) a maximum of one past student designated by an organization of past students of the college of education or in a manner determined by the council.
- (2) In all cases where in subsection (1) a specific number of persons is not indicated, but only a maximum number, the number in respect of a particular council shall be determined by the Member of the Executive Council on the advice of the Head of Education, which advice shall be given after consultation with the institutions with which the Department has concluded agreements in terms of [section 19](#).
- (3) The Member of the Executive Council may, subject to the provisions of subsection (1), alter the constitution of a college council on the advice of the council.
- (4) A college council constituted prior to the fixed date in the manner set out in subsection (1) and which existed immediately prior to the fixed date, shall from that date be deemed to be constituted under this section.
- (5) In the case of a college council constituted prior to the fixed date in a manner different to that set out in subsection (1) and which existed immediately prior to the fixed date, the Member of the Executive Council shall constitute a college council as prescribed in subsection 1(a) to (k).
- (6) In the case of a newly established college of education the Member of the Executive Council shall constitute a college council as prescribed in subsection (1)(a) to (j).

## 9. Terms of office of members of college councils

- (1) Subject to the provisions of this Law, a member of a college council shall hold office for a term of three years from the date on which the council was constituted.
- (2) Notwithstanding the provisions of subsection (1), the members of a council shall, notwithstanding the expiration of their terms of office, hold office until a new council is constituted in accordance with [section 8](#).
- (3) If a casual vacancy occurs in a council, a new member shall be designated or appointed in accordance with the provisions of [section 8](#) and such member shall hold office for the unexpired term of office of his or her predecessor.

## 10. Office bearers of college councils

- (1) At the first meeting of a college council, such council shall, subject to the provisions of subsection (2), elect from its members a chairperson and a vice-chairperson.
- (2) A person in the employ of the Department or of an institution referred to in [section 19](#), may not hold the office of chairperson or vice-chairperson of a college council.
- (3) The rector shall preside at an election referred to in subsection (1).
- (4) The rector shall appoint a member of staff as secretary without vote.

## 11. Constitution of senate

- (1) Every college of education shall have a senate which shall consist of-
  - (a) the rector who shall be chairperson of the senate;
  - (b) all vice-rectors and heads of department of the college;
  - (c) a maximum of two other members of the council designated by the council;

- (d) a maximum of two persons designated by the Head of Education;
  - (e) such members of the lecturing staff of the college as the council may determine;
  - (f) two persons designated by the lecturing staff from their ranks by a majority of votes;
  - (g) such members of the non-teaching staff as the council may from time to time determine, one of whom shall be appointed secretary by the rector;
  - (h) one person designated by each of the institutions with which the Department has concluded agreements in terms of [section 19](#), with a maximum of four persons; and
  - (i) a maximum of two students of the college concerned, elected in a manner determined by the council after consultation with the students' representative council.
- (2) In cases where in subsection (1) a specific number of persons is not indicated, but only a maximum number, the number in respect of a particular senate shall be determined by the Head of Education after consultation with the council.

## 12. Qualifications of members of councils and senates

No person shall be designated or appointed as a member of a council or senate, if he or she-

- (a) with the exception of a student representative appointed in terms of [section 8\(1\)\(i\)](#) or (j), [section 8\(3\)](#) or [section 11\(1\)\(i\)](#), is under the age of 21 years;
- (b) has been convicted of any offence for which he or she was sentenced to imprisonment without the option of a fine, unless he or she has received a free pardon or the period of his or her imprisonment has expired at least three years prior to the date of his or her designation or appointment;
- (c) is of unsound mind and has been so declared by a competent court;
- (d) is an unrehabilitated insolvent; or
- (e) is not a South African citizen, unless the Member of the Executive Council determines otherwise.

## 13. Powers and functions of senate

Subject to the provisions of this Law-

- (a) the organization of and control over the instruction and discipline of students at a college of education, in so far as they are assigned to the senate by the college council, shall vest in the senate of such a college of education;
- (b) the senate shall advise the college council in regard to any matter which the college council may refer to the senate for its advice;
- (c) the senate may make such recommendations as it may deem expedient to the college council on academic matters of interest to the college of education; and
- (d) the senate shall perform the functions assigned to it by the college council from time to time.

## 14. Committees of college council and senate

- (1)
  - (a) A college council may appoint one or more committees, which, subject to the instructions of that college council, may perform such functions of that college council as the 'college council may determine.
  - (b) A committee of a college council shall consist of the number of members determined by the college council and may include persons who are not members of that college council.
  - (c) A college council may at any time dissolve or reconstitute a committee.

- (d) One of the members of a committee of a college council shall be designated by that college council as chairperson of the committee.
  - (e) A college council shall not be divested of a function which in terms of this subsection has been assigned to a committee of that college council.
- (2) The provisions of subsection (1) shall *mutatis mutandis* apply to a senate.

#### **15. Allowances to members of college council, senate or committee**

The allowances payable to a member of a college council or senate of a college, or committee of such a college council or senate, who is not in the full-time service of the State, when he or she is engaged in the business of that college council or senate, shall be determined by the Member of the Executive Council with the concurrence of the financial head.

#### **16. Admission of students to college of education**

- (1) The requirements for admission of students to a college of education shall, within the framework of national policy, be determined by the Head of Education after consultation with the college council concerned.
- (2) A college council may refuse admission of a person as a student to a college of education if the council deems it necessary in the interest of the college of education and shall supply reasons for such refusal to the said person.

#### **17. Establishment of courses of study**

- (1) The council of a college of education shall only with the prior written approval of the Head of Education and within the framework of national policy, establish a course of study in respect of which state funds are appropriated at a college of education.
- (2) A course of study lawfully established prior to the fixed date at a college of education referred to in [section 5](#), and which existed immediately prior to the fixed date, shall be deemed to have been established in accordance with the provisions of this section.
- (3) The syllabus of a course established under subsection (1), shall be approved by the Head of Education.

#### **18. Recognition of examinations of other institutions**

The council of a particular college of education may with the concurrence of both the senate and the Head of Education-

- (a) recognize an examination which a student at that college of education has passed at any other college of education, for the purpose of the said student obtaining a certificate or diploma at the first-mentioned college of education; and
- (b) recognize an examination which in the opinion of the council is equivalent to the corresponding examination required by the council and which has been passed by any person at any other educational institution regarded by the council as equivalent to a college of education, for the purpose of such person obtaining a certificate or diploma at the college of education.

#### **19. The concluding of agreements**

The Department may on behalf of a college of education, conclude an agreement with a university, technikon, technical college or other colleges of education in respect of-

- (a) the provision of education by the one institution on behalf of the other institution;
- (b) access of students of the one institution to the other institution;



- (c) recognition of completed study at the one institution for further studies at the other institution;
- (d) the placing of staff of the one institution at the disposal of the other institution on a part-time basis;
- (e) the certification of qualifications of the one institution by the other institution;
- (f) mutually related financial transfers between the institutions concerned;
- (g) moneys payable by students who are trained at more than one institution; and
- (h) such other matters which may be necessary to make the co-operative training possible.

## **20. Medium of instruction of college of education**

- (1) The medium of instruction of a college of education shall be determined by the council in consultation with the Member of the Executive Council.
- (2) The language which was the medium of instruction of a college of education referred to in [section 5](#) immediately prior to the fixed date, shall from the said date be deemed to be the medium of instruction of that college of education determined under this section.
- (3) The council may change the medium of instruction of a college of education with the concurrence of the Member of the Executive Council.

## **21. Financial and other aid to students**

The Member of the Executive Council may out of moneys appropriated by the Legislature for this purpose, and on the basis and conditions determined by him with the concurrence of the financial head, provide financial or other material aid or financial as well as other material aid to a student admitted to a college of education.

## **22. Management and control of colleges of education**

- (1) Except in so far as this Law provides otherwise, the Head of Education shall be responsible for the management and control of colleges of education.
- (2) The Head of Education may on the recommendation of the College Council and with the approval of the Provincial Treasury determine fees payable by students for registration, tuition and boarding.

## **23. Powers and functions of council of college of education**

- (1) The council of a college of education shall advise the Head of Education on-
  - (a) the general administration of the college;
  - (b) the appointment of staff;
  - (c) the concluding of agreements with other institutions;
  - (d) the conduct of students;
  - (e) the conduct of staff;
  - (f) the use and maintenance of equipment, buildings and grounds;
  - (g) the establishment and functions of a students' representative council;
  - (h) the staff establishment of the college;
  - (i) the financial management of the college;
  - (j) the establishment and control of a college fund;

- (k) the constitution of the senate in accordance with [section 11](#);
  - (l) any other matter which the Head of Education may refer to the council for advice; and
  - (m) any matter which the council may deem necessary to advise the Head of Education on.
- (2) The council of a college of education shall, subject to the provisions of [section 17](#), be responsible for the establishment of courses of study for the training of teachers.
  - (3) The council of a college of education may on the advice of the senate, establish an educational course for the community which is financed from non-state sources.
  - (4) The council of a college of education shall administer the examinations of the college in the prescribed manner.
  - (5) The council of a college of education shall manage and control money or other goods donated or bequeathed to or received in trust by that college, in accordance with the conditions of the donation, bequest or trust concerned.
  - (6) The council of a college of education shall exercise such other powers and perform such other duties as this Law or the Head of Education may confer upon it or assign to it.

## **24. Certification of qualifications obtained at college of education**

Qualifications obtained through study at a college of education shall be certified by the Department, or by an institution with which an agreement in terms of [section 19](#) has been concluded and which provides for certification.

## **25. Inquiry at college of education**

After consultation with the council, the Member of the Executive Council may in writing authorize a person designated by the Department, to conduct an inquiry at a college of education into any matter in respect of which the Member of the Executive Council may deem an inquiry necessary.

## **26. Delegation of powers**

- (1) The Member of the Executive Council may, subject to such conditions as he or she may determine, delegate any of his or her powers under this Law, except the power to make regulations, and assign any of his or her duties in terms of this Law, to the Head of Education or a person employed by the Department, or to a college council.
- (2) The Head of Education may, subject to such conditions as he or she may determine, delegate any of his or her powers under this Law or delegated to him or her in terms of subsection (1), or assign any of his or her duties in terms of this Law or assigned to him or her in terms of subsection (1), to a person employed by the Department, or to a college council.
- (3) A college council may, subject to such conditions as it may determine, delegate any of its powers under this Law or delegated to it in terms of subsection (2), or assign any of its duties in terms of this Law or assigned to it in terms of subsection (2), to the senate or the rector of the college of education concerned.
- (4) The rector of a college of education may, subject to such conditions as he or she may determine, delegate any of the powers delegated to him or her in terms of this section, or assign any of the duties assigned to him or her in terms of this section, to a member of the college staff.
- (5) A delegation under subsection (1), (2), (3) or (4) shall not prevent the Member of the Executive Council, Head of Education, college council or rector, as the case may be, from exercising such power or performing such duty, as the case may be, himself or itself.

## 27. Regulations

- (1) The Member of the Executive Council may-
  - (a) after consultation with the council of the college concerned, make regulations as to the convening of meetings of a college council or senate, the procedure and rules at, and the quorum for such meetings, and the keeping of minutes of those meetings;
  - (b) make regulations as to any matter which shall or may be prescribed under this Law; and
  - (c) make regulations as to any matter which he or she may deem necessary or expedient to prescribe in order to achieve the objects of this Law.
- (2) Different regulations may be made under subsection (1) in respect of different colleges of education or different categories of colleges of education.
- (3) A regulation made under subsection (1) may, for a contravention thereof or a failure to comply therewith, prescribe a penalty not exceeding a fine of R4 000 or imprisonment for a period of two years.

## 28. Repeal of laws, and savings

- (1) Subject to the provisions of subsection (2), the laws mentioned in the Schedule are hereby repealed to the extent indicated in the third column of the Schedule.
- (2) Anything which was done or deemed to have been done in terms of a provision of a law repealed by subsection (1) and which may or shall be done in terms of this Law, shall be deemed to have been done in terms of the corresponding provision of this Law.
- (3) All laws, regulations, notices and directives issued under any law repealed by this Law which were in force immediately prior to the fixed date shall, notwithstanding such repeal, remain in force except in so far as they are incompatible with or in conflict with this Law, until they are repealed, withdrawn or amended by the Member of the Executive Council by regulation, notice or directive, as the case may be, made or issued under this Law.

## 29. Short title and commencement

This Law shall be called the Western Cape Colleges of Education Law, 1994, and shall come into operation on a date fixed by the Premier by proclamation in the *Provincial Gazette*.

## Schedule

### Laws Repealed

No. and year of law	Title	Extent of repeal
<a href="#">Act No. 47 of 1963</a> <a href="#">Act No 61 of 1965</a> <a href="#">Act No 90 of 1979</a> <a href="#">Act No 67 of 1992</a> <a href="#">Ordinance No 29 of 1956</a> (Cape)	Coloured Persons Act Education, 1963 Indians Education Act 1965 Education and Training Act.1979 Education Ordinance Amendment Act (House of Assembly) 1992 Education Ordinance 1956	In so far as it relates to collage of education excluding sections 1A, 8 to 20, 26 and 28 to 31  In so far as it relates to collage of education excluding section 1B, 3B, 8 to 20, 26, 28, 29, 31 and 33(1)(g)  In so far as it relates to collage of education excluding sections 1A, 3, 4, 11 to 29, 31, 32,41 and 44(1)(b)  The whole  Part C (Chapter 11 to 16 and in so far as it relates to the establishment and maintenance of training colleges for the training of Europeans teachers