

Western Cape, South Africa

Procedures for the Election and Establishment of Governing Bodies at Public Schools Regulations, 2024

Provincial Notice 17 of 2024

Legislation as at 7 February 2024

FRBR URI: /akn/za-wc/act/pn/2024/17/eng@2024-02-07

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PDF created on 28 June 2024 at 13:23.

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Western Cape South Africa

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Provincial Notice 17 of 2024

[Published in Western Cape Provincial Gazette 8879 on 7 February 2024](#)

Commenced on 7 February 2024

*[This is the version of this document from 7 February 2024
and includes any amendments published up to 28 June 2024.]*

The Provincial Minister of Education in the Western Cape, under section 24, read with section 63, of the Western Cape Provincial School Education Act, 1997 (Act 12 of 1997), has made the regulations set out in the Schedule.

1. Definitions

In these regulations, unless stated otherwise, any word or expression to which a meaning has been assigned in the Act bears the meaning assigned to it and, unless the context indicates otherwise—

“**accepted parent candidate**” means a parent candidate whose nomination has been accepted by the school electoral officer in terms of regulation 18(6);

“**day**” means any day, excluding a public holiday and a day falling in a school holiday;

“**district electoral officer**” means the head of management and governance at an education district office;

“**e-election**” means a governing body election in which electronic means are used in one or more stages;

“**enfranchised member**” means a member of a governing body who has the right to vote;

“**e-voting**” means casting a vote in an e-election;

“**e-voting station**” means a voting station for e-voting;

“**Immigration Act**” means the Immigration Act, 2002 (Act 13 of 2002);

“**last day of the school year for educators**” means the Friday of the second week in December of each year;

“**last day of the school year for learners**” means the Wednesday of the second week in December of each year;

“**major disruptive event**” means an event that disturbs normal school functions, operations or processes, whether anticipated or unanticipated, and that results in displacement or discontinuity of the normal business of a school;

“**meeting**” means a single official gathering of the members of a governing body or a committee and includes a meeting convened online where all members present are clearly audible;

“**member**” means a member of a governing body;

“**nomination validation meeting**” means a meeting contemplated in regulation 16(1)(a)(i);

“**non-educator**” means a person, other than an educator, appointed at a school in a contract, temporary or permanent capacity in accordance with the Public Service Act, 1994 (Proclamation 103 of 1994), or by the public school in accordance with section 21A(5) of the Act, and includes a person who receives a stipend from the school for at least 12 months;

“**ordinary school**” means a school other than a school for learners with special education needs;

“**parent**” means—

- (a) the parent or guardian of a learner;
- (b) the person legally entitled to custody of a learner; or
- (c) the person who undertakes to fulfil the obligations of a person contemplated in paragraphs (a) and (b) towards the learner’s education at school;

“**Protection of Personal Information Act**” means the Protection of Personal Information Act, 2013 (Act 4 of 2013);

“**provincial electoral officer**” means the senior official of the Western Cape Education Department who is responsible for the management of the election of governing bodies in the province in terms of the organogram for the Western Cape Education Department signed by the Provincial Minister;

“**quorum of the meeting**”, in relation to a meeting of a governing body, means a quorum as contemplated in regulation 34(21);

“**school**” means an ordinary public school or a public school for learners with special education needs;

“**school electoral officer**” means an electoral officer appointed in terms of regulation 11(2);

“**school electoral team**” means the school electoral officer together with the persons appointed in terms of regulation 11(6) to assist the school electoral officer at a nomination validation meeting and election;

“**school holiday**” means a school holiday contemplated in the National Policy for Determining School Calendars for Public Schools in South Africa, made under Government Notice 57 in *Government Gazette* 38330 dated 30 January 2015;

“**second in charge**” means a deputy principal or the second most senior educator at a school;

“**sponsoring body**” means a body that provides financial support to a school for learners with special education needs;

“**system**”, in relation to an e-election, means the electronic system used for that election;

“**the Act**” means the Western Cape Provincial School Education Act, 1997 (Act 12 of 1997).

2. Composition of governing body

- (1) Subject to subregulation (21), the governing body of an ordinary secondary school, intermediate school or combined school must consist of—
 - (a) seven parents;
 - (b) two educators at the school;
 - (c) one non-educator at the school;
 - (d) two learners in the eighth grade or higher, elected by the representative council of learners from its own ranks; and
 - (e) the principal.
- (2) Subject to subregulation (21), the governing body of an ordinary primary school with a staff establishment of the principal, two or more educators and one or more non-educators must consist of—
 - (a) five parents;
 - (b) two educators at the school;
 - (c) one non-educator at the school; and

- (d) the principal.
- (3) Subject to subregulation (21), the governing body of an ordinary primary school with a staff establishment of the principal, one educator and one non-educator must consist of—
- (a) four parents;
 - (b) the educator at the school who is not the principal;
 - (c) the non-educator at the school; and
 - (d) the principal.
- (4) Subject to subregulation (21), the governing body of a school for learners with special education needs must consist of—
- (a) seven parents;
 - (b) two educators at the school;
 - (c) one non-educator at the school;
 - (d) two learners in the eighth grade or higher, elected by the representative council of learners from its own ranks, if reasonably practicable;
 - (e) the principal;
 - (f) one representative of sponsoring bodies, if applicable;
 - (g) one representative of organisations of parents of learners with special education needs, if applicable;
 - (h) one representative of organisations of persons with disabilities, if applicable;
 - (i) one person with disability, if applicable; and
 - (j) one expert in appropriate fields of special education needs.
- (5) The governance of an ordinary school with a staff establishment of a principal, and—
- (a) one educator;
 - (b) one non-educator; or
 - (c) neither an educator nor a non-educator,
- must be incorporated into a governing body of the nearest school and must be subject to shared governance.
- (6) A governing body contemplated in regulation 2(1), (2), (3) and (4) that does not have at least—
- (a) one parent;
 - (b) one educator;
 - (c) one non-educator;
 - (d) one learner, if applicable; or
 - (e) in the case of a school for learners with special education needs, one expert in appropriate fields of special education needs,
- is improperly constituted and is inoperative.
- (7) In the circumstances contemplated in subregulation (6), the principal must within five days of becoming aware that the governing body is improperly constituted and inoperative, notify the

district electoral officer who must instruct the school electoral officer to, within ten days of being notified, conduct elections for those categories in accordance with these regulations.

- (8) A decision taken by a governing body or action taken on the authority of a governing body is not invalid merely because a vacancy existed on that governing body or because a person who was not entitled to sit as an enfranchised member of that governing body sat on that governing body as such an enfranchised member at the time when the decision was taken or the action authorised, if the decision was taken or the action was authorised by a quorum of the meeting of the governing body, provided that the governing body was properly constituted and the motion that led to the decision was proposed by an enfranchised member and seconded by another enfranchised member.
- (9) A governing body of a school contemplated in subregulations (1), (2) and (3) may co-opt no more than five members of the community to capacitate the governing body to discharge the functions for which they were co-opted.
- (10) A co-option contemplated in subregulation (9) must be in writing and provide for the reason for the co-option and the period of the co-option.
- (11) A member of the community may not be co-opted in terms of subregulation (9) for more than three terms of 12 months each: Provided that the period of co-option may not extend beyond the tenure of the governing body.
- (12) Subject to regulation 3(4) and (5) and regulations 7(11) and 32(4), co-opted members do not have voting rights on the governing body and may not—
 - (a) propose a motion at a meeting of the governing body;
 - (b) second a motion at a meeting of the governing body; or
 - (c) chair a meeting of the governing body.
- (13) Parents of learners at a school must nominate and elect the parent members contemplated in subregulations (1)(a), (2)(a), (3)(a) and (4)(a).
- (14) Educators employed at a school must nominate and elect the educator members contemplated in subregulations (1)(b), (2)(b), (3)(b) and (4)(b): Provided that, in the circumstances contemplated in subregulations (1)(b), (2)(b) and (4)(b), if the school has only two educators, those members are automatically elected.
- (15) If an educator member contemplated in subregulation (1)(b), (2)(b), (3)(b) or (4)(b) is appointed to act as head of a school, the governing body must co-opt another educator who will have voting rights on recommendation of the educator staff of the same school onto the governing body for the duration of the period that the elected educator member acts as the head of the school.
- (16) Non-educator staff employed at a school must nominate and elect the non-educator member contemplated in subregulations (1)(c), (2)(c) and (4)(c): Provided that if the school has only one non-educator, that member is automatically elected.
- (17) In the circumstances contemplated in subregulation (3)(c), the non-educator member is automatically elected.
- (18) The representative council of learners at a school must nominate and elect the learner members contemplated in subregulations (1)(d) and (4)(d).
- (19) The governing body of a school for learners with special education needs must establish a committee on special education needs as contemplated in section 30(2) of the South African Schools Act.
- (20) The committee contemplated in subregulation (19) must—
 - (a) convene at least once a school term; and

- (b) consist of—
 - (i) the principal;
 - (ii) two parent members of the governing body;
 - (iii) one educator; and
 - (iv) if reasonably practicable, at least one and not more than five of any of the following persons:
 - (aa) a representative of sponsoring bodies;
 - (bb) a representative of organisations of parents of learners with special education needs;
 - (cc) a representative of organisations of persons with disabilities;
 - (dd) a person with disability; and
 - (ee) an expert in appropriate fields of special education needs.
- (21) The Head of Department may approve the composition and term of office of a governing body at a school that differs from the composition contemplated in subregulations (1), (2), (3) and (4) if—
- (a) the governing body of the school has applied in writing for such different composition and provided reasons therefor; or
 - (b) a governing body needs to be established to perform the functions of a governing body in the interim to facilitate the establishment of a new school,
- and the Head of Department is satisfied that such composition is in the interest of education at the school.
- (22) Except for a school referred to in section 12(1)(g) of the Act, in the circumstances contemplated in subregulation (21)(a), the number of parent members serving on a governing body of a school contemplated in subregulations (1), (2) and (3) must comprise one more than the combined total of other members who have voting rights.
- (23) The Head of Department may at any time at his or her discretion, withdraw the approval contemplated in subregulation (21)(b) and dissolve the interim governing body concerned, whereupon a new governing body must be composed in accordance with subregulation (1), (2), (3) or (4), as the case may be.
- (24) An interim governing body as contemplated in subregulation (21)(b) and regulations 3(8)(a) and 8(4) must consist of the—
- (a) district electoral officer as chairperson;
 - (b) circuit manager responsible for the school;
 - (c) school finance and records officer responsible for the school as treasurer;
 - (d) assistant director, who manages the school finance and records officer contemplated in paragraph (c), responsible for that education district as secretary;
 - (e) deputy chief education specialist for management and governance responsible for that education district as deputy chairperson; and
 - (f) principal.
- (25) The provincial electoral officer must submit the names and particulars contemplated in subregulation (24) to the Head of Department.

3. Co-option of parent members

- (1) If there is a vacancy in the number of parent members in a governing body or the principal becomes aware that a vacancy will occur in the governing body, he or she must within five days of becoming aware of the vacancy or becoming aware that a vacancy will occur, notify all parents of the learners at the school of the vacancy by handing a letter to each learner of the school with the oral instruction to hand it to his or her parents or by any other appropriate method as determined by the principal, and request the parents to indicate in writing to the principal within a period of two school days from the date of the notification whether the parent is willing to serve as a co-opted enfranchised member on the governing body.
- (2) In the notification to the parents contemplated in subregulation (1), the principal must request a parent who is willing to be co-opted as an enfranchised member on the governing body to submit a short motivation why he or she wants to serve on the governing body.
- (3) After the two school days contemplated in subregulation (1), the chairperson of the governing body must convene a special meeting of the governing body, after giving at least 48 hours' notice to the governing body members, to temporarily co-opt an enfranchised parent member, provided that the meeting to co-opt a parent member is quorate.
- (4) If the number of parents who are willing to be co-opted as enfranchised members is equal to or less than the number of vacancies, those parents will be deemed to be co-opted enfranchised members of the governing body, provided that they are eligible to serve as members on the governing body.
- (5) If the number of parents who are willing to be co-opted as enfranchised members is more than the number of vacancies, the enfranchised governing body members who form a quorate meeting must consider the motivation contemplated in subregulation (2) and co-opt parent members from these parents through a transparent, fair and democratic process, which may include voting.
- (6) The chairperson of a governing body may not convene a general meeting or special meeting of the governing body until an enfranchised parent member has been co-opted as contemplated in subregulations (4) and (5).
- (7) If the number of governing body members is insufficient to establish a quorum, the principal must without delay notify the provincial electoral officer that the governing body is inquorate.
- (8) In the circumstances contemplated in subregulation (7)—
 - (a) the Head of Department must within three days of becoming aware that there is no quorum establish an interim governing body for a period not exceeding 90 days;
 - (b) the school electoral officer must send out a notice contemplated in regulation 17(1) within 14 days of the Head of Department establishing the interim governing body; and
 - (c) a new governing body must be elected in terms of these regulations within the 90 days contemplated in paragraph (a).
- (9) If a parent is co-opted with voting rights as contemplated in subregulation (4) or (5), the co-option ceases when the vacancy has been filled through a by-election, which must be held within 90 days after the vacancy has occurred, in accordance with the same procedures as those for the election of parent members as detailed in these regulations.
- (10) Subject to subregulation (11), a parent co-opted in terms of subregulation (4) or (5) may not serve for more than 90 days as a co-opted member during the tenure of the governing body.
- (11) If the by-election contemplated in subregulation (9) is not held within 90 days after the vacancy has occurred as a result of a major disruptive event, the co-opted parent member continues to serve on the governing body until the major disruptive event ceases.
- (12) In the circumstances contemplated in subregulation (11), the by-election must be held within 30 days of the date of the cessation of the major disruptive event.

- (13) The secretary of the governing body must ensure that minutes are taken of the proceedings of a special meeting to co-opt a parent member as contemplated in subregulation (3).
- (14) The principal must retain in a file the minutes contemplated in subregulation (13) and the following documents:
 - (a) the notification contemplated in subregulations (1) and (2) informing parents of the vacancy;
 - (b) the written response from those parents who indicated their willingness to serve as a co-opted enfranchised member of the governing body;
 - (c) the notice contemplated in subregulation (3) convening the special meeting;
 - (d) the agenda of the special meeting;
 - (e) proof that the notice and agenda were sent to the enfranchised governing body members;
 - (f) the signed minutes of the special meeting; and
 - (g) the signed attendance register of the special meeting.
- (15) The nomination validation meeting and the by-election contemplated in subregulations (9) and (12) must be held in terms of these regulations.

4. Ineligibility to serve as members on governing body and disqualification of members of governing body

A person may not be nominated for, appointed or co-opted as an enfranchised member of a governing body or continue to be an enfranchised member of a governing body if he or she—

- (a) has at any time been convicted by a court of law of an offence for which he or she received a suspended prison sentence without the option of a fine, or was sentenced to imprisonment without the option of a fine, unless he or she has received a free pardon, or the period of suspension or imprisonment has expired at least three years before the date of his or her nomination or appointment as a member of the governing body;
- (b) has a child, including an adopted child, spouse, life partner, parent, sibling, grandfather, grandmother, father-in-law, mother-in-law, brother-in-law or sister-in-law who—
 - (i) is a member of the governing body concerned; or
 - (ii) works at the school concerned;
- (c) in the case of a parent member, works at or for the school;
- (d) has a financial, economic or personal interest in the school or works for a sole proprietor or juristic person that has a financial or economic interest in the school;
- (e) has been declared unsuitable to work with children in terms of the Children's Act, 2005 (Act 38 of 2005), or the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act 32 of 2007);
- (f) is mentally ill and has been declared as such by a court of law;
- (g) is an unrehabilitated insolvent;
- (h) is not listed on a voters' roll of the school concerned;
- (i) with the exception of the principal, in the case of an educator appointed in terms of the Employment of Educators Act, 1998 (Act 76 of 1998), has been found guilty of misconduct and has—
 - (i) received a fine;
 - (ii) been suspended without pay;

- (iii) been demoted; or
- (iv) received a combination of the sanctions contemplated in subparagraphs (i) to (iii),
unless the period of his or her sanction has expired at least three years before the date of his or her nomination or appointment as a member of the governing body;
- (j) in the case of a non-educator, has been found guilty of misconduct and has—
 - (i) been suspended without pay;
 - (ii) been demoted; or
 - (iii) received a combination of the sanctions contemplated in subparagraphs (i) and (ii),
unless the period of his or her sanction has expired at least three years before the date of his or her nomination or appointment as a member of the governing body;
- (k) in the case of a parent candidate, does not have a child enrolled as a learner at the school concerned;
- (l) in the case of a learner, has—
 - (i) in the preceding three years been expelled from any school by the Head of Department;
 - (ii) in the preceding three years been suspended by a governing body;
 - (iii) not progressed a grade in the preceding two years at any school; or
 - (iv) not been elected by the representative council of learners from its own ranks as contemplated in regulation 28;
- (m) has been removed from a governing body by the Head of Department in terms of regulation 6(8) during the previous three years.
- (n) is a principal at any other school; or
- (o) is an official of the Western Cape Education Department who has direct supervisory responsibilities at the school concerned.

5. Vetting

- (1) A person nominated to serve on a governing body as contemplated in regulations 18, 22, 25 and 27 must consent in writing to being vetted by an accredited vetting agency to determine compliance with regulation 4, where necessary.
- (2) For the purposes of these regulations, an accredited vetting agency may only vet—
 - (a) a person serving on the governing body as an enfranchised member;
 - (b) a person assisting on the governing body who is not an enfranchised member; and
 - (c) a person appointed for his or her expertise to a committee of a governing body.
- (3) If the vetting process determines that a person elected to serve on a governing body may not serve on the governing body, the membership of the governing body must be determined in terms of these regulations.
- (4) If an allegation is made by any person to a governing body against a member of the governing body that he or she does not comply with regulation 4, the chairperson of the governing body, or if the allegation has been made against the chairperson, the district electoral officer, must notify the member concerned in writing of the allegation and afford him or her an opportunity to make a written representation to the governing body within 14 days of receipt of the notification.

- (5) The member against whom an allegation has been made as contemplated in subregulation (4) must withdraw from the meeting of the governing body for the duration of the discussion and decision-making on the allegation.
- (6) If the governing body decides to vet the member contemplated in subregulation (4) to determine compliance with regulation 4, the chairperson or the district electoral officer, as the case may be, must inform the member in writing of the decision within five days of the decision being taken.
- (7) In the circumstances contemplated in subregulation (6), the governing body must without delay approach an accredited vetting agency to vet the member within 14 days of the decision being taken to determine compliance with regulation 4.
- (8) If the vetting agency finds that the member does not comply with regulation 4, it must report in writing to the chairperson or district electoral officer, as the case may be, who must then, within 30 days of receiving the report—
 - (a) provide a copy of the report to the provincial electoral officer who must forward the report to the Head of Department with a recommendation that he or she terminates the membership of the member as contemplated in regulation 6(8); and
 - (b) notify the member concerned of the report and the recommendation contemplated in paragraph (a).
- (9) The Head of Department must consider the report and in writing notify the governing body and member concerned of his or her decision within 21 days of receipt of the report.
- (10) A person whose membership is terminated may appeal to the Provincial Minister within 14 days of receiving the notification contemplated in subregulation (9).
- (11) The Provincial Minister must consider the appeal and decide the matter in writing within 21 days of receipt of the appeal.
- (12) The school is responsible for any costs incurred by any vetting undertaken in terms of this regulation.

6. Term of office of members of governing body

- (1) Subject to subregulations (8) and (10) and regulations 7, 8, 30(3) and 32(16), the term of office of a member of a governing body who is not a learner is three years and is effective from the date when the school electoral officer declares the governing body freely and fairly elected.
- (2) If the last day of employment at a school of an educator member on the governing body is 31 December, then his or her last day to serve on the governing body is the last day of the school year for educators or the day on which his or her employment is terminated at the school by either the educator or the employer, whichever date comes first.
- (3) If the last day of employment at a school of a non-educator member on the governing body is 31 December, then his or her last day to serve on the governing body is 31 December or the day on which his or her employment is terminated at the school by either the non-educator or the employer, whichever date comes first.
- (4) If the last day of enrolment at a school of a child of a parent member on the governing body is the last day of the school year for learners, then the last day for the parent to serve on the governing body is the last day of the school year for learners or the date on which the enrolment of the child at the school is terminated by either the parent or the Head of Department, whichever date comes first.
- (5) The learner members on a governing body must be elected by 28 February each year.
- (6) The term of office of a learner member is one year.

- (7) A learner member must serve on a governing body until—
 - (a) a new learner member is elected to the governing body as contemplated in subregulation (5);
 - (b) he or she leaves the school; or
 - (c) the last day of the school year for learners if the learner is in grade 12.
- (8) The Head of Department may—
 - (a) at any time suspend or terminate the membership of a governing body member for a breach of the code of conduct as contemplated in section 26A of the Act; or
 - (b) terminate the membership of a governing body member—
 - (i) for not complying with regulation 4; or
 - (ii) in terms of regulation 7(3).
- (9) A member of a governing body whose membership has been suspended or terminated in terms of subregulation (8)(a) may appeal to the Provincial Minister as contemplated in section 21 of the Code of Conduct for Members of School Governing Bodies of Public Schools made under Provincial Notice 101/2012 published in *Provincial Gazette* 6982 dated 13 April 2012.
- (10) Subject to subregulation (11), if a person elected as a member of a governing body as contemplated in regulation 2(1), (2), (3) and (4) ceases to fall within the category contemplated in that regulation for which he or she was elected as a member, he or she ceases to be a member of the governing body.
- (11) If the term of office of a parent member is due to cease because the only child he or she has at the school is leaving the school and the parent member has already received written confirmation of acceptance from the school for the enrolment of a second child at the same school in the next school year, the parent may remain a member of the governing body on condition that the first child leaves the school on the last day of the preceding term and the second child starts at that school on the first day of the new term.
- (12) If a combined school or intermediate school is restructured as a—
 - (a) primary school, the composition of the governing body contemplated in regulation 2(1) remains unchanged, subject to subregulations (13) and (15), until the term of office of the members of the governing body expires; or
 - (b) secondary school, the composition of the governing body contemplated in regulation 2(1) remains unchanged, subject to subregulations (14) and (15), until the term of office of the members of the governing body expires.
- (13) In the circumstances contemplated in subregulation (12)(a), if there are more parents on the governing body than provided for in regulation 2(2) or (3), as the case may be, an election of parent members as contemplated in regulation 19 must be held within 90 days of the restructuring.
- (14) In the circumstances contemplated in subregulation (12)(b), if the number of the parents on the governing body is less than the number of parents provided for in regulation 2(1), parent members must be co-opted as contemplated in regulation 3 and an election of parent members as contemplated in regulation 19 must be held within 90 days of the restructuring.
- (15) In the circumstances contemplated in subregulation (12), in order to continue as a member of the governing body, the member must remain eligible in terms of these regulations to serve on the governing body of the primary school or the secondary school.
- (16) A member of a governing body may be re-elected or co-opted, as the case may be, after the expiry of his or her term of office if he or she is eligible to be a member in terms of these regulations.

7. Vacancies in governing body

- (1) A vacancy occurs in a governing body if an enfranchised member—
 - (a) tenders his or her written resignation and does not withdraw the resignation before it is formally noted by the governing body in a meeting;
 - (b) dies;
 - (c) is absent from three consecutive meetings of the governing body without a valid reason, after having been duly notified of the meetings;
 - (d) becomes ineligible as contemplated in regulation 4 or 6(10); or
 - (e) has been removed from office in terms of regulation 6(8).
- (2) In the circumstances contemplated in subregulation (1)(c)—
 - (a) the governing body must minute the absences;
 - (b) after the second absence, the secretary of the governing body must notify the absent member that the governing body will request the Head of Department to terminate his or her membership if he or she is absent a third time;
 - (c) after the third absence, the governing body must request the Head of Department to terminate the membership of the absent member; and
 - (d) the secretary must notify the absent member in writing that the governing body has requested the Head of Department to terminate his or her membership.
- (3) If the Head of Department is satisfied that the member was absent from three consecutive meetings of the governing body without a valid reason, the Head of Department must terminate the membership of the member and notify the member of the termination within 21 days of receiving the request contemplated in subregulation (2)(c).
- (4) A person whose membership is terminated as contemplated in subregulations (2) and (3) may appeal to the Provincial Minister within 14 days of receiving the notification contemplated in subregulation (3).
- (5) The Provincial Minister must consider the appeal and decide the matter in writing within 21 days of receipt of the appeal.
- (6) When a vacancy occurs—
 - (a) in a governing body composed in terms of regulation 2(21)(b), the Head of Department must appoint a member in the vacancy;
 - (b) in a governing body composed in terms of regulation 2(1), (2), (3), (4) or (21)(a), the vacancy must be filled—
 - (i) in the case of a parent member, through the process contemplated in regulation 3; and
 - (ii) in the case of an educator member, a non-educator member or learner member, through a by-election which must be held within 14 days after the vacancy has occurred, in accordance with the election procedures as detailed in these regulations.
- (7) A member appointed in accordance with subregulation (6)(a) or elected to fill a vacancy by means of a by-election in accordance with subregulation (6)(b)(ii) obtains membership for the unexpired period of the term of office of his or her predecessor, with voting rights, subject to regulation 6.
- (8) If a vacancy has been filled—
 - (a) in accordance with subregulation (6)(a), the Head of Department must; or

- (b) in accordance with subregulation (6)(b), the secretary of the governing body must, notify the principal in writing of the name of the person who is no longer a member of the governing body and of the name and address of that person's successor.
- (9) A temporary vacancy occurs in a governing body if a member is absent from three consecutive meetings of the governing body with a valid reason.
- (10) In the circumstances contemplated in subregulation (9), the member must notify the governing body that he or she will not be able to perform his or her functions on the governing body for three consecutive meetings and provide a reason for the absence.
- (11) If the governing body accepts the reason contemplated in subregulation (10) and consents to the absence, it must co-opt a person from the same category of members as the absent member to perform the functions of the absent member, including exercising voting rights, until such time as the absent member is able to resume his or her functions on the governing body.
- (12) If the governing body rejects the reason contemplated in subregulation (10) and does not consent to the absence, the member must tender his or her written resignation and the vacancy must be dealt with as contemplated in subregulation (6).
- (13) In the circumstances contemplated in subregulation (11), the secretary of the governing body must notify the principal in writing of the name of the member who is temporarily absent and the name and address of the person who is temporarily performing the functions of the absent member.

8. Dissolution and recomposition of governing body

- (1) The Head of Department may dissolve a governing body if—
 - (a) he or she is of the opinion that, owing to the merger of schools or the division of a school or other re-organisation of school facilities, it is necessary to afford parents of the schools or school concerned an opportunity to elect members of a new governing body that will be properly representative of the parents of learners attending the schools or school after such merger, division or re-organisation;
 - (b) the governing body has failed to perform its functions satisfactorily or has acted in a manner that is not in the best interest of the school; or
 - (c) at least 60 per cent of all parents entitled to vote under regulation 9(1) vote, at a parents' meeting convened for this purpose, in favour of a motion of no confidence in the governing body.
- (2)
 - (a) The chairperson of a governing body must, within 14 days after he or she has been requested to do so in writing by not less than 30 per cent of the parents entitled to vote in terms of regulation 9(1), convene a parents' meeting referred to in subregulation (1)(c).
 - (b) If the chairperson does not respond to the request contemplated in paragraph (a), the parents may approach the district electoral officer, who must convene a mediation meeting between the governing body and a delegation of the parents within five days of being approached by the parents.
 - (c) If the governing body and parents do not reach agreement at the mediation meeting contemplated in paragraph (b), the district electoral officer must within five days of the mediation meeting appoint from the relevant education district office—
 - (i) the circuit manager; or
 - (ii) the head of management and governance,as chairperson for the parents' meeting contemplated in subregulation (1)(c) and request that chairperson to convene that meeting.

- (d) The chairperson contemplated in paragraph (c) must—
 - (i) without delay convene a parents' meeting contemplated in subregulation (1)(c), which meeting must be held within 14 days of the chairperson being appointed in terms of paragraph (c); and
 - (ii) within five days of being requested to do so by the district electoral officer, ensure that written notice of the meeting is given, either by handing the notice to each learner of the school with the oral instruction to hand it to his or her parents or by any other appropriate method as determined by the chairperson in consultation with the principal.
- (3) Where a governing body has been dissolved under subregulation (1), it becomes inoperative on a date fixed by the Head of Department.
- (4) The Head of Department must establish an interim governing body as contemplated in regulation 2(21)(b) for a period not exceeding 90 days from the date contemplated in subregulation (3).
- (5) A governing body must be elected under these regulations within 90 days after the establishment of the interim governing body contemplated in subregulation (4).
- (6) When the Provincial Minister closes a school in terms of section 18 of the Act, the governing body of that school dissolves on the last day of the school term preceding the date of the closure of the school.

9. Franchise

- (1) Every parent who has one or more children enrolled as learners at a school is entitled to vote for parent members of the governing body at that school and may vote only once for a particular nominee, with a maximum number of votes equal to the number of parent members to be elected.
- (2) A head of an orphanage or his or her delegate who has one or more children enrolled as learners at a school is entitled to vote for parent members of the governing body at that school and may vote only once for a particular nominee, with a maximum number of votes equal to the number of parent members to be elected.
- (3) In the circumstances contemplated in subregulation (1), no more than two parents per learner are permitted to vote.
- (4) Every educator employed at a school, including the principal, is entitled to vote for educator members of the governing body at that school and may vote only once for a particular nominee, with a maximum number of votes equal to the number of educator members to be elected.
- (5) Every member of a representative council of learners at a school is entitled to vote for learner members of the governing body at that school and may vote only once for a particular nominee, with a maximum number of votes equal to the number of learner members from the representative council to be elected.
- (6) Every member of the non-educator staff at a school is entitled to vote for the non-educator member of the governing body and has one vote: Provided that if the school has only one non-educator, that member is automatically elected.

10. Modes of election

- (1) The election of a governing body must take place by means of—
 - (a) a manual election;
 - (b) an e-election; or
 - (c) both a manual election and an e-election.

- (2) A voting station for the election of a governing body must—
 - (a) open no earlier than 07:00 and close no later than 20:00; and
 - (b) during the time contemplated in paragraph (a), be open for at least five hours in total.
- (3) When considering the mode of election contemplated in subregulation (1), the principal must consider whether—
 - (a) the mode of election will promote the best interests of the school community and the school and will allow for maximum participation of voters in the voting process;
 - (b) the mode of election will not discriminate unfairly against any potential voter or group of voters;
 - (c) sufficient provision is made for the nomination process; and
 - (d) sufficient resources are available for the preferred mode of election.
- (4) The principal must not less than 30 days before the date of the election of a governing body—
 - (a) notify the school electoral officer of the mode of election contemplated in subregulation (1) that will be used; and
 - (b) confirm that the school is able to conduct the mode of election contemplated in paragraph (a).
- (5) The school electoral officer must—
 - (a) inform the district electoral officer of the mode of election within two days of being informed of the mode of election by the principal as contemplated in subregulation (4); and
 - (b) submit a management plan for the election to the district electoral officer at least 25 days before the date of the election.
- (6) The management plan contemplated in subregulation (5)(b) must contain at least the following:
 - (a) the proposed date, time and venue for the election;
 - (b) the time slot during which the votes will be counted and the results announced;
 - (c) a schedule for the processes of the school electoral team members monitoring the nomination validation meeting, poll and counting of votes; and
 - (d) the names of the school electoral team members.

11. School electoral officer

- (1) The circuit manager must recommend to the district electoral officer the school from which the principal, or failing him or her, the second in charge contemplated in subregulation (2), must be appointed as school electoral officer.
- (2) The district electoral officer must appoint a principal or second in charge, if needed, of another school in writing as the school electoral officer to conduct the nomination and election, as the case may be, of parent, educator and non-educator members contemplated in regulation 2(1), (2), (3) and (4) to a governing body.
- (3) The district electoral officer may not appoint the principal or second in charge contemplated in subregulation (2) from outside the education district where the school conducting the nomination and election is located.
- (4) If the principal or second in charge as contemplated in subregulation (2) is temporarily not available to fulfil the duties contemplated in subregulation (7), the district electoral officer must,

subject to subregulations (3) and (5), appoint a school electoral officer from another school to fulfil these duties.

- (5) The principal or second in charge contemplated in subregulation (2) may not be appointed as school electoral officer at a school—
 - (a) if he or she has a child enrolled at that school;
 - (b) if he or she has not been trained and certified as a school electoral officer;
 - (c) if he or she is employed at the school where the election is taking place; or
 - (d) where the school electoral officer of his or her school is employed as a principal or second in charge.
- (6) The school electoral officer may appoint one or more educators or non-educators as the school electoral team to assist at a nomination validation meeting and election.
- (7) The school electoral officer must—
 - (a) ensure that the school electoral team understands the electoral process to be followed and complies with these regulations;
 - (b) preside over the election of members of a governing body, excluding the election of learner members and office-bearers;
 - (c) ensure that the school where the elections take place establishes an electoral office by providing a room with a telephone, cellphone with data as well as a computer and printer for the use of the school electoral officer and the school electoral team for the duration of the nomination validation meeting and for the polling and counting-of-votes processes;
 - (d) ensure that there is a suitable venue for the nomination validation meeting, the poll and the counting of votes;
 - (e) in the case of e-voting, ensure that one or more e-voting stations have been established;
 - (f) intervene in and resolve any disputes on the day of the nomination validation meeting, the poll and the counting of the votes;
 - (g) if so satisfied, declare the elections to be free and fair; and
 - (h) submit the results of the election to the district electoral officer.
- (8) A principal who has been appointed as a school electoral officer may not delegate the duties contemplated in subregulation (7) to the second in charge without the consent of the district electoral officer.
- (9) The principal must support and assist the school electoral officer in the execution of his or her duties.
- (10) The school electoral team must use the school stamp from the school where the school electoral officer is employed when stamping the nomination forms and ballot papers.

12. Duties of district electoral officer

A district electoral officer must—

- (a) co-ordinate the governing body election processes in the education district;
- (b) advise the education district office on the proposed strategy and implementation of the governing body elections in the education district and ensure that the process is conducted as agreed upon with the provincial electoral officer;
- (c) compile a management plan to implement the governing body elections;

- (d) ensure that each school has an electoral officer and that the school electoral team is established;
- (e) appoint the school electoral officers contemplated in paragraph (a);
- (f) ensure that all school electoral officers are properly trained and certified;
- (g) ensure that the school electoral officers have the forms contemplated in the annexures and all necessary documents for the election process;
- (h) ensure that all school electoral teams are adequately trained and are aware of what their role entails;
- (i) ensure that school electoral team members receive these regulations and other documents relevant to the elections timeously;
- (j) ensure that election advocacy is conducted as planned;
- (k) ensure that the education district officials monitor the election process;
- (l) ensure that the names and contact details of the persons elected to the governing bodies are submitted to the provincial electoral officer within seven days of the elections taking place;
- (m) ensure that the names of the office-bearers are submitted to the provincial electoral officer within seven days of the receipt thereof from the principal;
- (n) ensure that the names of members who have been—
 - (i) co-opted to the governing body as contemplated in regulations 2(9) and 3; or
 - (ii) appointed or elected to the governing body to fill a vacancy as contemplated in regulation 7(6),are submitted to the provincial electoral officer within 14 days of receipt of these names from the principal;
- (o) develop and maintain a database of newly elected members of governing bodies in the education district and submit it to the provincial electoral officer; and
- (p) compile a written report on the governing body elections and submit it to the provincial electoral officer.

13. Duties of provincial electoral officer

The provincial electoral officer must—

- (a) compile a provincial implementation management plan for the governing body elections;
- (b) ensure that there is adequate advocacy regarding the election dates;
- (c) co-ordinate all resources to conduct efficient and fair governing body elections;
- (d) ensure that all district electoral officers are properly trained;
- (e) monitor and evaluate the election process in the province; and
- (f) consolidate a database of elected governing body members in the province.

14. Code of conduct for electoral officials

A school electoral officer, district electoral officer, provincial electoral officer and school electoral team member must—

- (a) act honestly and courteously;
- (b) act in a fair and unbiased manner;

- (c) be familiar with the election process and applicable legislation pertaining to governing body elections;
- (d) conduct the election according to these regulations;
- (e) co-operate with the principal;
- (f) manage the election process in a fair and just manner; and
- (g) not exceed his or her powers.

15. Voters' rolls

- (1) The principal must make a voters' roll for each of the following categories of voters, containing the names of all parents, educators and non-educators at the school who are entitled to vote as contemplated in regulation 9, as follows:
 - (a) the voters' roll for parents must be based on the school admission register and must consist of those persons whose names are recorded in the admission register as parents, or who can show proof that they are parents of learners enrolled at the school;
 - (b) the voters' roll for educators must consist of all educators employed at the school; and
 - (c) the voters' roll for non-educators must consist of all non-educators employed at the school.
- (2) The principal must ensure that there are no duplicate names on the voters' rolls and ensure that there is a maximum number of two parents per learner reflected on the voters' roll for parents contemplated in subregulation (1)(a).
- (3) The voters' roll for parents must be made available to parents for scrutiny at least 10 days before the notice contemplated in regulation 17 is sent to the parents.
- (4) The parents may check the voters' roll for parents to determine whether their names appear on it and raise a dispute within five days of the voters' roll being made available as contemplated in subregulation (3).
- (5) The principal must consider a dispute contemplated in subregulation (4) and, where necessary, amend the voters' roll within five days of receiving notice of the dispute.
- (6) The principal must finalise the voters' roll for parents, educators and non-educators at least two days before the notice contemplated in regulation 17 is sent to the parents, and no names may be added subsequent to finalisation.
- (7) The principal must follow the principle of inclusion and ensure compliance with the Protection of Personal Information Act when compiling the voters' roll.
- (8) The school electoral officer must verify the voters' rolls within two days after the principal has finalised them in terms of subregulation (6).

16. Date, time and venue of nomination validation meeting and election of parent members

- (1) The school electoral officer after consultation with the principal must—
 - (a) determine a date, time slots and venue for—
 - (i) a meeting to validate the nominations from parents, which meeting must be held at least 13 days before the election;
 - (ii) an election of parent members; and
 - (iii) the counting of votes; and

- (b) inform the principal in writing thereof.
- (2) The nomination and election of parent members must be preceded by the election of the other categories of members of the governing body as contemplated in regulations 25, 26, 27 and 28.
- (3) In the case of a new school, the meeting to validate the nominations from parents and the election of parent members must be held not later than 90 days after the opening of the school to learners.
- (4) The Head of Department may, if it is reasonably required in the circumstances, allow an extension in writing of the period contemplated in subregulation (3), but such extension may not exceed six months after the establishment of the school.

17. Notice of nomination validation meeting and election of parent members

- (1) The school electoral officer must prepare a notice, in the form of Annexure A, of the nomination validation meeting and election contemplated in regulation 16 and a nomination form, in the form of Annexure B, and must, at least 21 days before the election, provide the principal with a copy of the notice and nomination form in order that the provisions of subregulation (4) may be implemented.
- (2) The notice to the parents must—
 - (a) state the date of the election;
 - (b) state the mode of election as contemplated in regulation 10(1);
 - (c) in the case of a manual election, state the time and venue of the nomination validation meeting;
 - (d) state that parent candidates may attend the nomination validation meeting of a manual election;
 - (e) state the date, time slots and venue of the poll;
 - (f) include a reminder that parents must bring a form of identification to be allowed to vote;
 - (g) inform parents that they may lodge with the school electoral officer an objection in writing to any nomination not more than two days after the nomination validation meeting;
 - (h) encourage parents to take the following factors into account when nominating and voting for parent candidates:
 - (i) the principle of equity;
 - (ii) the need to redress past injustices; and
 - (iii) the need for representivity;
 - (i) inform parents that information about nominated candidates may only be requested and made available in terms of the Protection of Personal Information Act; and
 - (j) inform parents who are nominated that they must give their permission for their information to be shared with the voters.
- (3) The identification contemplated in subregulation (2)(f) must be a South African identity card, a green barcoded identity document, a temporary identity document issued by the Department of Home Affairs or, in the case of a foreigner, a permit issued in terms of the Immigration Act: Provided that in the event of such identification not being available, an alternative form of identification may be accepted by a member of the school electoral team.
- (4) The principal must at least 21 days before the date of the election for parent members—
 - (a) ensure that the educators hand copies of the notice and nomination form to every learner of the school concerned with the oral instruction to hand it to his or her parents;

- (b) ensure that copies of the notice and nomination form are sent to the parents of every learner at the school by post, if he or she deems it expedient;
 - (c) use a combination of the two notification methods contemplated in paragraphs (a) and (b);
or
 - (d) use any other appropriate method as he or she may determine to notify the parents of every learner at the school of the nomination validation meeting and election of parent members, as long as the method of notification does not place any parents at a disadvantage or impede their participation in the election process.
- (5) The school electoral officer must ensure that the notice contemplated in subregulation (1) is displayed in the school at least 11 days before the date of the nomination validation meeting contemplated in subregulation (2)(c).

18. Nomination process in manual election

- (1) To nominate a parent candidate in a manual election, the parent of a learner at the school must lodge with the school electoral officer, by not later than 13:00 on the fourteenth day before the election, a nomination form in the form of Annexure B, duly completed by the proposer, seconder and parent candidate.
- (2) A nomination contemplated in subregulation (1) must be seconded by another parent.
- (3) A parent may not nominate himself or herself.
- (4) The duly completed and signed nomination forms must be placed in a sealed ballot box at the school concerned and must not be removed from the school.
- (5) The school electoral officer must ensure that—
 - (a) for each nominee there is a proposer and seconder;
 - (b) the nominee, proposer and seconder are listed in the voters' roll; and
 - (c) the nomination validation meeting is informed of the nominations received by the date and time contemplated in subregulation (1).
- (6) At the nomination validation meeting, the school electoral team must consider the nominations and reject the nomination of any parent who—
 - (a) has not been nominated in accordance with subregulation (1);
 - (b) is ineligible as contemplated in regulation 4; or
 - (c) nominated himself or herself,

and thereafter the school electoral officer must compile a nomination list and notify the principal of the names of the parents whose nominations have been accepted.

- (7) The principal, at least two days before the date of the election for parent members—
 - (a) must ensure that the educators hand copies of the nomination list contemplated in subregulation (6) to every learner of the school concerned with the oral instruction to hand it to his or her parents; or
 - (b) may use any other appropriate method as he or she may determine to notify the parents of every learner at the school of that nomination list, as long as the method of notification does not place any parents at a disadvantage or impede their participation in the election process.
- (8) If the total number of accepted parent candidates is more than the number of members determined in terms of regulation 2(1)(a), (2)(a), (3)(a) or (4)(a) for the governing body concerned, a poll must be held in accordance with regulation 19.

- (9) If the total number of accepted parent candidates is less than or equal to the number of members determined for the governing body concerned, the school electoral officer must declare every accepted parent candidate to be a duly elected member of the governing body.
- (10) If the total number of accepted parent candidates is less than the required number of members for the governing body concerned, the school electoral officer must convene a second nomination validation meeting, with a notice period of at least three days, not more than five days after the date of the first nomination validation meeting to fill the outstanding parent member positions on the governing body.
- (11) The number of parent candidate nominations received by not later than 13:00 on the day prior to the second nomination validation meeting must be dealt with in accordance with subregulation (8), (9) or (10), as the case may be.
- (12) If the number of parent candidate nominations received at the second nomination validation meeting is less than the outstanding number of parent members for the governing body concerned, the school electoral officer must convene a third nomination validation meeting, with a notice period of at least three days, not more than five days after the date of the second nomination validation meeting to fill the outstanding parent member positions on the governing body.
- (13) The number of parent candidate nominations received by not later than 13:00 on the day prior to the third nomination validation meeting must be dealt with in accordance with subregulation (8), (9) or (14), as the case may be.
- (14) If the number of parent candidate nominations received at the third nomination validation meeting is still less than the outstanding number of parent members on the governing body concerned—
 - (a) the duly elected parent members must co-opt the outstanding number of parent members who will have voting rights to serve on the governing body provided that the meeting to co-opt the parent members is quorate; or
 - (b) the process contemplated in regulation 16(1) must be followed if the number of duly elected parent members is insufficient to establish a quorum to convene a meeting contemplated in paragraph (a).
- (15) The co-option contemplated in subregulation (14)(a) ceases when the required number of parents are elected to the governing body concerned through a by-election, which must be held within 90 days of the third nomination validation meeting contemplated in subregulation (13).
- (16) A quorum contemplated in subregulation (14) consists of one more than half the number of parent members determined in terms of regulation 2(1)(a), (2)(a), (3)(a) or (4)(a).

19. Poll at election of parent members in manual election

- (1) The poll contemplated in regulation 18(8) must be held on the date and at the time and venue determined in accordance with the nomination and election process.
- (2) The school electoral officer must—
 - (a) request the parents who have accepted their nominations to provide a photograph of themselves that was taken within the preceding three months and which is similar in style to a photograph reflected in a South African identity card or green barcoded identity document;
 - (b) with the permission of the parents who have accepted their nomination, list the names of the nominees in alphabetical order, together with their photographs, in the voting venue together with a clear written instruction to voters to only vote for the required number of candidates;
 - (c) prepare ballot papers containing the names of all nominated candidates in alphabetical order together with a clear written instruction to voters to only vote for the required number of candidates; and

- (d) issue every parent who is entitled to and wishes to vote with a ballot paper contemplated in paragraph (c) on which the school stamp contemplated in regulation 11(10) appears.
- (3) A parent must record his or her vote confidentially on the ballot paper contemplated in subregulation (2): Provided that if a parent is on account of illiteracy, blindness or any other physical defect unable to record his or her vote, the school electoral officer may, at the request of that parent and in the presence of a witness chosen by the parent, record the vote for the parent candidate or parent candidates indicated by that parent.
- (4) The parent must place the ballot paper recording his or her vote in a ballot box provided for that purpose.

20. Counting of votes

- (1) The school electoral officer must open the ballot box in the presence of the school electoral team and parent candidates who wish to be present.
- (2) The school electoral officer must scrutinise every ballot paper and reject a ballot paper—
 - (a) on which the school stamp contemplated in regulation 19(2)(d) does not appear;
 - (b) on which more votes are recorded than the number of members to be elected in accordance with regulation 2; or
 - (c) that is completed in such a way that it is in the opinion of the school electoral officer unclear for which parent candidate or parent candidates a vote was recorded.
- (3) After the school electoral officer has rejected any spoiled ballot papers as contemplated in subregulation (2), he or she must—
 - (a) in the presence of every parent candidate who wishes to be present, ensure that the votes recorded for every parent candidate are counted by the school electoral team; and
 - (b) declare the determined number of parents in terms of regulation 2(1)(a), (2)(a), (3)(a) or (4) (a) for the governing body concerned for whom the greatest number of votes were recorded to be duly elected members of the governing body and state the number of votes recorded for every parent candidate.
- (4) If the number of votes recorded for two or more parent candidates is equal and it affects the result of the poll, the school electoral officer must, in the presence of the school electoral team and every parent candidate who wishes to be present, draw lots to determine which of the parents is successfully elected.
- (5) No proxy votes are accepted for governing body elections.

21. Role of school in selecting e-election

In selecting the e-election mode of election, the principal must—

- (a) inform parents about the e-election;
- (b) before the election provide guidance to the parents by means of a manual on how to use the e-election mode;
- (c) ensure that a person who has thorough knowledge of the operation of an e-election is available to provide technical support before and on the day of the election;
- (d) set up at least one e-voting station at the school for the duration of the election to make provision for those who wish to vote at the school;
- (e) ensure that there is a generator available in the case of no electricity supply;

- (f) provide and allocate staff members who will be available to assist the school electoral team for the duration of the nomination, polling and counting-of-votes processes; and
- (g) ensure that parents register to vote with a selection of security questions at least five days before the election.

22. Nomination process for e-election

- (1) The nomination process contemplated in regulation 18 applies, unless the system provides for the nomination process for an e-election to be undertaken online, in which case the nomination process contemplated in regulation 18 applies with the necessary changes.
- (2) Where the nomination process is to be undertaken online, the system must be programmed to—
 - (a) provide a parent with log-on details with a unique one-time personal identification number to enable him or her to nominate parent candidates;
 - (b) verify the identification of the parent when he or she logs on through the personal identification number contemplated in paragraph (a), based on the voters' roll for parents; and
 - (c) provide an online nomination form to the parent to enable him or her to nominate parent candidates.
- (3) A parent must log off after making nominations.
- (4) The staff members contemplated in regulation 21(f) must assist parents to upload documents when required to do so.

23. Poll during e-election

- (1) The system must be programmed to—
 - (a) provide a parent with log-on details with a unique one-time personal identification number to enable him or her to vote in the poll;
 - (b) verify the identification of the parent when he or she logs on through the personal identification number contemplated in paragraph (a), based on the voters' roll for parents; and
 - (c) provide an online ballot paper to the parent to enable him or her to vote for the required number of parent candidates.
- (2) A parent must log off after voting.

24. Counting of votes during e-election

- (1) The system must be programmed to be able to calculate and provide results as soon as the election time has lapsed.
- (2) The school electoral officer must verify the results of the poll contemplated in regulation 23.
- (3) If the number of votes recorded for two or more parent candidates is equal and it affects the result of the poll, the school electoral officer must, in the presence of the school electoral team and every parent candidate who wishes to be present, draw lots to determine which of the parents are successfully elected.

25. Nomination and election meeting of educator members

- (1) The school electoral officer must, in a notice in the form of Annexure C, indicate a date, time and venue for a meeting for the nomination and election of educator members of a governing body, which must be held at least 13 days before the election of parent members.
- (2) To nominate an educator, an educator on the establishment of the same school must—
 - (a) lodge with the school electoral officer, not more than eight days before the date of the nomination and election meeting, a nomination form in the form of Annexure D, duly completed by the proposer, seconder and educator candidate; or
 - (b) propose an educator as a member of the governing body during the nomination and election meeting.
- (3) A nomination contemplated in subregulation (2)(b) must be seconded by another educator, and a nomination form in the form of Annexure D must be duly completed by the proposer, the seconder and, if present, the educator nominee and must be lodged with the school electoral officer within the time contemplated in subregulation (4).
- (4) If a quorum as contemplated in regulation 26(3) is reached, the school electoral officer must determine the time to be allowed for the nomination of educator candidates during the nomination and election meeting and must inform the meeting thereof.
- (5) An educator may not nominate himself or herself.
- (6) After expiry of the time contemplated in subregulation (4), the school electoral officer must consider the nominations and reject the nomination of any educator who—
 - (a) has not been nominated in accordance with subregulation (2)(a) or (3);
 - (b) is ineligible as contemplated in regulation 4;
 - (c) in the case of a nomination contemplated in subregulation (2)(b), has not completed the nomination form, unless written proof to the satisfaction of the school electoral officer is submitted before the expiry of the time contemplated in subregulation (4) that the educator candidate is willing to serve as a member of the governing body; or
 - (d) has nominated himself or herself,and thereafter the school electoral officer must announce the names of the educator candidates whose nominations have been accepted.
- (7) If the total number of educator candidates whose nominations have been accepted as contemplated in subregulation (6)—
 - (a) is less than the number of members determined in terms of regulation 2(1)(b), (2)(b), (3)(b) or (4)(b) for the governing body concerned, a new meeting at which new educator candidates must be nominated must be convened, which meeting is to be held within seven days of the first meeting in accordance with the procedures as set out in these regulations;
 - (b) is equal to the number of members determined in terms of regulation 2(1)(b), (2)(b), (3)(b) or (4)(b) for the governing body concerned, the school electoral officer must declare every accepted educator candidate to be a duly elected member of the governing body; or
 - (c) is more than the number of members determined in terms of regulation 2(1)(b), (2)(b), (3)(b) or (4)(b) for the governing body concerned, a poll must be held in accordance with regulation 26.
- (8) If there are 10 or fewer educators on the establishment of a school, the procedure for the nomination of educator members is not followed, but the procedure for the poll contemplated in regulation 26 must be followed.

26. Poll at election of educator members

- (1) The school electoral officer must prepare a notice of the nomination and election meeting and must distribute a copy of the notice to every educator on the establishment of the school at least eight days before the poll.
- (2) The principal must give the school electoral officer a list of all educators who are employed at the school, which constitutes the voters' roll for the educators.
- (3) A quorum at the poll consists of the presence of one more than half of the total number of educators on the establishment of the school.
- (4) The school electoral officer must issue each educator who wishes to cast his or her vote with an approved ballot paper on which the school stamp contemplated in regulation 11(10) appears.
- (5) An educator contemplated in subregulation (1) who wishes to vote must cast his or her vote by writing the names of not more than two educator candidates on the ballot paper.
- (6) The school electoral officer must open the ballot box in the presence of the school electoral team and educator candidates who wish to be present.
- (7) The school electoral officer must scrutinise every ballot paper and reject a ballot paper—
 - (a) on which the school stamp contemplated in subregulation (4) does not appear;
 - (b) on which the names of more than two educator candidates appear; or
 - (c) that is completed in such a way that in the opinion of the school electoral officer it is unclear for which educator candidate or educator candidates a vote was recorded.
- (8) After the school electoral officer has rejected any spoiled ballot papers as contemplated in subregulation (7), he or she must, in the presence of every educator candidate who wishes to be present, ensure that the votes recorded for every educator candidate are counted by the school electoral team.
- (9) The two educator candidates for whom the greatest number of votes have been recorded must be declared by the school electoral officer as duly elected.
- (10) If no educator candidate receives a majority of the votes, the candidate who receives the lowest number of votes must be eliminated and a further vote taken on the remaining candidates in accordance with these regulations.
- (11) The procedure contemplated in subregulation (10) must be repeated until there are two educator candidates, who must be declared by the school electoral officer as duly elected.
- (12) When applying subregulation (10), if two or more educator candidates each have the lowest number of votes, a separate vote must be taken on those candidates and repeated as often as may be necessary to determine which candidate is to be eliminated.

27. Nomination and election of non-educator member

- (1) The procedure for the nomination and election of educator members applies, with the necessary changes, to the nomination and election of a non-educator member.
- (2) If there are only two non-educators employed at a school, the school electoral officer must draw lots to determine which non-educator is successfully elected.

28. Nomination and election of learner members

The two learner members contemplated in regulation 2(1)(d) and (4)(d) must be elected by the representative council of learners from its own ranks as contemplated in the Determination of the Functions and Procedures for the Establishment and Election of Representative Councils of Learners at

Public Schools made by the Provincial Minister under Provincial Notice 272/2014 in *Provincial Gazette* 7317 dated 13 October 2014.

29. Decisions of school electoral officer

- (1) The school electoral officer must decide and settle all matters connected with the nomination of candidates and election of members.
- (2) Subject to regulation 30(1), all disputes about the nomination and election process must be reported to the school electoral officer.
- (3) The school electoral officer must endeavour to resolve all disputes in order to declare the elections undisputed.
- (4) A decision of the school electoral officer during the nomination and election process is final.
- (5) The school electoral officer must decide and settle an objection to a nomination contemplated in regulation 17(2)(g) after the election.
- (6) Should there be a dispute that the school electoral officer is unable to resolve, the nominations and elections must be finalised.

30. Decisions of district electoral officer

- (1) Any person who wishes to lodge an objection against a decision of a school electoral officer must, within seven days after the election of members in the category concerned, lodge the objection in writing with the district electoral officer concerned.
- (2) Any person may, within seven days after the election of members in the category concerned, refer an unresolved dispute contemplated in regulation 29(6) to the district electoral officer.
- (3) The district electoral officer must consider the objection contemplated in subregulation (1) or the referral contemplated in subregulation (2) or (4) and respond in writing to the person who lodged the objection or referred the dispute or alleged irregularity within seven days of receipt of the objection or referral informing that person of his or her decision and the reasons for the decision.
- (4) Any person who becomes aware of an alleged irregularity in the election process after the election may refer the alleged irregularity to the district electoral officer within seven days after the announcement of the governing body members.

31. Procedure after election of governing body

- (1) After the election of a governing body, the school electoral officer must—
 - (a) make a scanned copy of all documents used in the nomination and election of the members, including all completed ballot papers used in the election and all nomination forms received and—
 - (i) forward a scanned copy to the principal; and
 - (ii) retain a scanned copy;
 - (b) place the original documents contemplated in paragraph (a) in envelopes, seal the envelopes and give them to the district electoral officer, who must keep them in safe custody for a period of at least three years from the date of the election of the governing body;
 - (c) if so satisfied, declare the election to be free and fair;
 - (d) notify each elected member in writing of his or her election;
 - (e) notify the principal and the district electoral officer within three days of the date of the election of the governing body in writing of the names and addresses of the persons elected as members; and

- (f) submit an undisputed election declaration, where this was the case, or a declaration detailing any disputes to the district electoral officer.
- (2) The principal must ensure that the governing body election data is completed on the Western Cape Education Department's online management information system within 14 days of the date of the election.
- (3) The outgoing governing body ceases to exist when the school electoral officer announces the newly elected parent members and declares the election to be free and fair.

32. First meeting of governing body

- (1) The first meeting of a newly elected governing body must—
 - (a) be convened by the principal within five days after he or she received the notice contemplated in regulation 31(1)(e);
 - (b) be held within 10 days after the election;
 - (c) be chaired by the principal;
 - (d) elect the office-bearers of the governing body; and
 - (e) determine the signatories for financial matters.
- (2) The signatories contemplated in subregulation (1)(e) must be given signing powers within seven days of the meeting contemplated in subregulation (1).
- (3) The principal must—
 - (a) convene and chair a meeting between the outgoing governing body and the newly elected governing body to be held within seven days of the first meeting contemplated in subregulation (1) to enable the orientation process to take place;
 - (b) manage the orientation process by—
 - (i) ensuring that the chairperson of the outgoing governing body and the chairperson of the newly elected governing body sign off on a list of the documentation to be transferred; and
 - (ii) answering any questions that the members of the newly elected governing body might have; and
 - (c) make the enfranchised members of the incoming governing body aware of their duties, including the need to ensure that office-bearers are as representative as possible of the gender and racial diversity of the school concerned.
- (4) At the first meeting of a governing body of a school for learners with special education needs, the members contemplated in regulation 2(4)(a) (b), (c), (d) and (e) must co-opt the members contemplated in regulation 2(4)(f), (g), (h), (i) and (j) who will have voting rights.
- (5) At the first meeting of the governing body contemplated in subregulation (1), the body must from among its enfranchised members elect officer-bearers, who must comprise at least a chairperson, a deputy chairperson, a treasurer and a secretary.
- (6) No member may hold more than one office of the governing body simultaneously unless the governing body consists of fewer than five members.
- (7) In the circumstances contemplated in regulation 2(1), (2) and (3), only a parent member of a governing body with voting rights may serve as chairperson or deputy chairperson of the governing body.

- (8) In the circumstances contemplated in regulation 2(4), any member of a governing body may serve as chairperson or deputy chairperson, except the principal of the school, an educator at the school, a non-educator at the school or a learner.
- (9) Subject to subregulations (7) and (8), any enfranchised member of a governing body, excluding the principal, may serve as an office-bearer.
- (10) Subject to subregulation (11), the term of office of an office-bearer may not exceed one year from his or her election.
- (11) Subject to subregulation (1), the principal must by the end of February each year convene a meeting of the governing body to elect from among its enfranchised members the office-bearers contemplated in subregulation (5).
- (12) An office-bearer of a governing body may be re-elected as an office-bearer after the expiry of his or her term of office, provided that he or she still qualifies to be a member of the governing body.
- (13) If for any reason the office of an office-bearer becomes vacant, the governing body must at the first meeting after the vacancy has occurred, elect one of its members to fill the vacancy for the unexpired term of office of his or her predecessor.
- (14) The principal must preside at an election contemplated in subregulations (5), (12) and (13).
- (15) The principal must, after a meeting at which any office-bearer has been elected in accordance with this regulation, notify the Head of Department by means of the Western Cape Education Department's online management information system of the date of the meeting, the name and address of the person elected and the office into which he or she has been elected.
- (16) Subject to regulations 8 and 31(3), at the expiry of his or her term of office, an outgoing office-bearer must perform his or her functions until the election of the new office-bearer who is to replace him or her has taken place, provided that the new office-bearer qualifies to be a member of the governing body.

33. Committees

- (1) A governing body—
 - (a) must establish a finance committee and a disposal committee;
 - (b) may establish as many other committees as it deems necessary; and
 - (c) may appoint persons who are not enfranchised members of the governing body to a committee contemplated in paragraph (a) or (b) on the grounds of expertise to capacitate the committee to discharge the function for which they were appointed.
- (2) Only an enfranchised member may serve as chairperson of a committee of the governing body.
- (3) A person contemplated in subregulation (1)(c)—
 - (a) may—
 - (i) propose a motion at a committee meeting;
 - (ii) second a motion at a committee meeting; and
 - (iii) vote on a proposal at a committee meeting; and
 - (b) may not chair a meeting of the committee.
- (4) The number of enfranchised governing body members on a finance committee and a disposal committee contemplated in subregulation (1)(a) must comprise at least one more than the persons contemplated in subregulation (1)(c).

- (5) The treasurer or, failing him or her, the deputy chairperson of a governing body must serve as the chairperson of the finance committee, the disposal committee and any delegation of the governing body dealing with finance matters.
- (6) A finance committee must meet at least twice per quarter.
- (7) A disposal committee must meet at least once a year.
- (8) A committee contemplated in subregulation (1)(b) must meet as the need to do so arises.
- (9) The chairperson of a committee must—
 - (a) determine the date, time and venue of a committee meeting; and
 - (b) notify each of the committee members in writing of the meeting contemplated in paragraph (a) at least five days before the committee meeting.
- (10) The chairperson of a committee may not convene a meeting contemplated in subregulations (6), (7) and (8) on a public holiday or on a day falling in a school holiday.
- (11) The principal or the person acting as the head of a school must attend and participate in all committee meetings.
- (12) A committee contemplated in subregulation (1)(a) may make decisions as stipulated in the duly approved constitution or finance policy of the governing body.
- (13) A committee contemplated in subregulation (1)(b) may only make recommendations to the governing body.
- (14) A quorum for a committee meeting consists of the presence of one more than half the total number of members of the committee.
- (15) The tenure of a committee may not exceed the tenure of the governing body that established it.

34. Meetings of governing body

- (1) A governing body must meet at least once every school term.
- (2) The meeting contemplated in subregulations (1), (5), (10) and (14) may not be convened on a public holiday or on a day falling in a school holiday.
- (3) The chairperson of a governing body must after consultation with the principal and the secretary of the governing body—
 - (a) determine the date, time and venue of the meeting contemplated in subregulation (1); and
 - (b) ensure that a schedule of planned meetings for the year or part thereof compiled by the principal and chairperson be given to all governing body members within two months after the first meeting of the governing body contemplated in regulation 32 or before the start of the new school year, whichever date comes first.
- (4) The secretary must after consultation with the chairperson and principal—
 - (a) notify each member in writing of the meeting contemplated in subregulation (1) at least 14 days before the meeting;
 - (b) provide an agenda and any other relevant documents for the meeting to each member of the governing body; and
 - (c) ensure that the agenda contemplated in paragraph (b) is in the form of Annexure E.
- (5) If the chairperson of a governing body is of the opinion that a matter requires urgent attention at a special meeting of the governing body, the secretary of the governing body must give each member at least 48 hours' notice of the special meeting.

- (6) No more than three matters for which the meeting was convened may be discussed at a special meeting contemplated in subregulation (5).
- (7) If the principal is of the opinion that a matter requires immediate attention that cannot be addressed in a meeting of the governing body contemplated in subregulation (1) or a special meeting of the governing body contemplated in subregulation (5), he or she may request the chairperson to convene an emergency meeting.
- (8) In the circumstances contemplated in subregulation (7), the secretary of the governing body must ensure that each member is given at least four hours' notice of the emergency meeting to discuss only the matter for which the meeting has been convened.
- (9) An emergency meeting contemplated in subregulation (7) may be convened on any day.
- (10) The chairperson of a governing body must, after consultation with the principal and the secretary of the governing body, determine the date, time and venue of the general meeting of parents where the annual budget of the school must be presented to the parents for consideration and approval.
- (11) An educator or a non-educator may attend the general meeting of parents where the budget is considered if he or she—
 - (a) is an enfranchised member of the governing body;
 - (b) is a parent of a child enrolled at the school; or
 - (c) has been invited to attend by the governing body.
- (12) In the circumstances contemplated in subregulation (11)(c), the educator or non-educator may not—
 - (a) propose a motion at the meeting;
 - (b) second a motion at the meeting;
 - (c) vote on a proposal at the meeting; or
 - (d) sit together with the parents and governing body members at the meeting.
- (13) The principal, after consultation with the chairperson and secretary of the governing body, must ensure that parents and governing body members are notified in writing of the general meeting of parents contemplated in subregulation (10) at least 30 days before the meeting.
- (14) The principal must after consultation with the chairperson and secretary—
 - (a) determine the date, time and venue of the meetings contemplated in section 18(2)(b) of the South African Schools Act; and
 - (b) ensure that parents, educators, non-educators and learners are notified in writing of the meeting contemplated in paragraph (a) at least 14 days before the meeting.
- (15) A governing body must meet with parents, educators, non-educators and learners at the school, respectively as contemplated in subregulation (14), at least once a year.
- (16) In the circumstances contemplated in subregulation (14), the governing body may meet with the parents, educators, non-educators and learners in a single meeting or with each category in separate meetings.
- (17) The meetings contemplated in subregulations (5), (7), (10) and (14) do not stand in the stead of a meeting contemplated in subregulation (1).
- (18) Any person may on the written invitation of a governing body be present at a meeting of the body and take part in the discussion but may not—
 - (a) propose a motion at a meeting of the governing body;

- (b) second a motion at a meeting of the governing body; or
 - (c) vote on a proposal at a meeting of the governing body, and must leave the meeting when the governing body makes a decision.
- (19) A governing body may require any educator or non-educator of the school concerned to attend a meeting of the body in connection with any matter relating to the functions of the governing body.
- (20) An educator and non-educator contemplated in subregulation (19) may take part in the discussion but may not—
 - (a) propose a motion at a meeting of the governing body;
 - (b) second a motion at a meeting of a governing body; or
 - (c) vote on a proposal at a meeting of the governing body, and must leave the meeting when the governing body makes a decision.
- (21) A quorum for any meeting of a governing body consists of one more than half of the number of all the enfranchised members of the governing body.
- (22) The principal or the person acting as the head of a school must attend and participate in all meetings of the governing body.
- (23) A member of a governing body who is a learner may not vote on resolutions that impose liabilities on the school or third parties.
- (24) Learner members of a governing body must remain present throughout governing body meetings.
- (25) No proxy votes are accepted at governing body meetings.
- (26) A quorum of a meeting and the attendance of the principal at the meeting are prerequisites for a valid governing body meeting to start or to continue, as the case may be.
- (27) The last governing body meeting for the year must be held on or before the last day of the school year for educators unless an extraordinary event necessitates a meeting during the remainder of the year.

35. Minutes of proceedings of meetings

- (1) The secretary of a governing body must ensure that—
 - (a) minutes are taken of the proceedings of every meeting of the governing body; and
 - (b) each member of the governing body is provided with a copy of the minutes at least 14 days before the next meeting.
- (2) The secretary of a governing body must provide the principal with a copy of the minutes, and the principal must retain the minutes and other documents of the governing body in a file.
- (3) The principal must provide, on reasonable request and for a specific purpose, the Head of Department, or any person duly designated by the Head of Department, with a copy of the minutes.
- (4) The principal must provide, on reasonable request, a parent of a learner at the school or an educator or a non-educator at the school with a copy of those parts of the minutes relevant to the protection of the rights or interests of the parent or his or her child or the educator or non-educator, as the case may be.
- (5) In the circumstances contemplated in subregulations (3) and (4), there must be no violation of the rights of any other persons or breach of confidentiality.
- (6) The minutes of a meeting of a governing body or a committee thereof must at the next meeting of the governing body or committee thereof, as the case may be, be submitted for approval and signing.

- (7) Upon the dissolution of a governing body or the expiry of its term of office, all minutes and other documents of the governing body and any committee thereof must be handed to the principal of the school for filing and safekeeping.
- (8) At the closure of a school, the principal must hand all minutes and other documents of the governing body or any committee thereof to the relevant district electoral officer for safekeeping.
- (9) The governing body must render a report on its activities to parents, educators, non-educators and learners at the school at least once a year.

36. Transitional provisions

A governing body at a public school which, at the commencement of these regulations, was validly constituted in terms of the Procedures for the Establishment and Election of Governing Bodies at Public Schools Regulations, 2021, published under Provincial Notice 23/2021 in *Provincial Gazette* 8398 dated 12 March 2021, is regarded as being constituted in terms of these regulations.

37. Repeal

The Procedures for the Establishment and Election of Governing Bodies at Public Schools Regulations, 2021, published under Provincial Notice 23/2021 in *Provincial Gazette* 8398 dated 12 March 2021, are repealed.

38. Short title

These regulations are called the Procedures for the Election and Establishment of Governing Bodies at Public Schools Regulations, 2024.

Annexure A (Regulations 18, 19, 22 and 23 of the Procedures for the Election and Establishment of Governing Bodies at Public Schools Regulations, 2024)

Notice of Nomination Validation Meeting and Election

Election of Parents of Learners to Governing Body

[Editorial note: The form has not been reproduced.]

Annexure B (Regulations 18, 19, 22 and 23 of the Procedures for the Election and Establishment of Governing Bodies at Public Schools Regulations, 2024)

Nomination Form

Election of Parents of Learners as Members of Governing Body

[Editorial note: The form has not been reproduced.]

**Annexure C (Regulations 25, 26 and 27 of the Procedures for the Election
and Establishment of Governing Bodies at Public Schools Regulations, 2024)**

Notice of Nomination and Election Meeting

Election of Educators / Non-Educators to Governing Body

[Editorial note: The form has not been reproduced.]

**Annexure D (Regulations 25, 26 and 27 of the Procedures for the Election
and Establishment of Governing Bodies at Public Schools Regulations, 2024)**

Nomination Form

Election of Educators / Non-Educator as Members of Governing Body

[Editorial note: The form has not been reproduced.]

Annexure E

Agenda

[Editorial note: The form has not been reproduced.]