

Buitengewone Provinsiale Koerant

5190

Vrydag, 31 Oktober 1997

Provincial Gazette Extraordinary

5190

Friday, 31 October 1997

Grahamstown Bar Library

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Registered at the Post Office as a Newspaper

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(*Herdrukke is verkrygbaar by Kamer 4-94, Provinsiale-gebou, Waalstraat, Kaapstad 8001.)

No.	Bladsy
Provinsiale Kennisgewing	
372	Regulasies betreffende ernstige wangedrag van leerders by openbare skole (uitgesonderd openbare skole vir leerders wat kragtens die Wet op Kindersorg, 1983 (Wet 74 van 1983), en/of die Strafproseswet, 1977 (Wet 51 van 1977), daarheen verwys of oorgeplaas is) in die Provinsie Wes-Kaap, en die dissiplinêre prosedures wat in sodanige gevalle gevolg moet word 2

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PROVINSIALE KENNISGEWING

Die volgende Provinsiale Kennisgewing word vir algemene inligting gepubliseer.

L. D. BARNARD,
DIREKTEUR-GENERAAL

Provinsiale-gebou,
Waalstraat,
Kaapstad.

P.K. 372/1997

31 Oktober 1997

REGULASIES BETREFFENDE ERNSTIGE WANGEDRAG VAN LEERDERS BY OPENBARE SKOLE (UITGESONDERD OPENBARE SKOLE VIR LEERDERS WAT KRAGTENS DIE WET OP KINDERSORG, 1983 (WET 74 VAN 1983), EN/OF DIE STRAFPROSESWET, 1977 (WET 51 VAN 1977), DAARHEEN VERWYS OF OORGEPLAAS IS) IN DIE PROVINSIE WES-KAAP, EN DIE DISSIPLINÊRE PROSEDURES WAT IN SODANIGE GEVALLE GEVOLG MOET WORD

Die Lid van die Uitvoerende Raad verantwoordelik vir Onderwys in die Provinsie Wes-Kaap het kragtens artikel 9(3) van die Suid-Afrikaanse Skolewet, 1996 (Wet 84 van 1996), die regulasies in die Bylae uitgevaardig.

BYLAE

REGULASIES BETREFFENDE ERNSTIGE WANGEDRAG VAN LEERDERS BY OPENBARE SKOLE (UITGESONDERD OPENBARE SKOLE VIR LEERDERS WAT KRAGTENS DIE WET OP KINDERSORG, 1983 (WET 74 VAN 1983), EN/OF DIE STRAFPROSESWET, 1977 (WET 51 VAN 1977), DAARHEEN VERWYS OF OORGEPLAAS IS) IN DIE PROVINSIE WES-KAAP, EN DIE DISSIPLINÊRE PROSEDURES WAT IN SODANIGE GEVALLE GEVOLG MOET WORD

1. WOORDOMSKRYWING

In hierdie regulasies het 'n woord of uitdrukking waaraan 'n betekenis in die Wet geheg is, die betekenis aldus daaraan geheg en, tensy uit die samehang anders blyk, beteken—

"beheerliggaam" die beheerliggaam van 'n skool soos beoog in artikel 16(1) van die Wet;

"Departementshoof" die hoof van die onderwysdepartement in die provinsie Wes-Kaap;

"die Wet" die Suid-Afrikaanse Skolewet, 1996 (Wet 84 van 1996);

"leerder" 'n leerder soos omskryf in artikel 1 van die Wet;

"Lid van die Uitvoerende Raad" die Lid van die Uitvoerende Raad verantwoordelik vir onderwys in die provinsie Wes-Kaap;

"ouer" 'n ouer soos omskryf in artikel 1 van die Wet;

"prinsipaal" 'n prinsipaal soos omskryf in artikel 1 van die Wet;

"skool" 'n openbare skool wat 'n koshuis kan insluit;

"skorsing" die tydelike verbod op 'n leerder om 'n skool by te woon; en

"uitsetting" die permanente verbod op 'n leerder om 'n skool by te woon.

2. ERNSTIGE WANGEDRAG

(1) Behoudens die bepalings van die Wet, is 'n leerder by 'n skool wat—

(a) deur 'n hof skuldig bevind is aan 'n misdryf en gevangenisstraf opgelê is, sonder die keuse van 'n boete; of

PROVINCIAL NOTICE

The following Provincial Notice is published for general information.

L. D. BARNARD,
DIRECTOR-GENERAL

Provincial Building,
Wale Street,
Cape Town.

P.N. 372/1997

31 October 1997

REGULATIONS RELATING TO SERIOUS MISCONDUCT OF LEARNERS AT PUBLIC SCHOOLS (EXCLUDING PUBLIC SCHOOLS FOR LEARNERS SENT OR TRANSFERRED THERETO IN TERMS OF THE CHILD CARE ACT, 1983 (ACT 74 OF 1983), AND/OR THE CRIMINAL PROCEDURE ACT, 1977 (ACT 51 OF 1977)) IN THE PROVINCE OF THE WESTERN CAPE AND THE DISCIPLINARY PROCEDURES THAT MUST BE FOLLOWED IN SUCH CASES

The Member of the Executive Council responsible for Education in the Province of the Western Cape has, in terms of section 9(3) of the South African Schools Act, 1996 (Act 84 of 1996), promulgated the regulations set out in the Schedule.

SCHEDULE

REGULATIONS RELATING TO SERIOUS MISCONDUCT OF LEARNERS AT PUBLIC SCHOOLS (EXCLUDING PUBLIC SCHOOLS FOR LEARNERS SENT OR TRANSFERRED THERETO IN TERMS OF THE CHILD CARE ACT, 1983 (ACT 74 OF 1983), AND/OR THE CRIMINAL PROCEDURE ACT, 1977 (ACT 51 OF 1977)) IN THE PROVINCE OF THE WESTERN CAPE AND THE DISCIPLINARY PROCEDURES THAT MUST BE FOLLOWED IN SUCH CASES

1. DEFINITIONS

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

"expulsion" means the permanent prohibition of a learner from attending a school;

"governing body" means the governing body as contemplated in section 16(1) of the Act;

"Head of Department" means the head of the education department in the Province of the Western Cape;

"learner" means a learner as defined in section 1 of the Act;

"Member of the Executive Council" means the Member of the Executive Council responsible for education in the Province of the Western Cape;

"parent" means a parent as defined in section 1 of the Act;

"principal" means a principal as defined in section 1 of the Act;

"school" means a public school which may include a hostel;

"suspension" means the temporary prohibition of a learner from attending a school; and

"the Act" means the South African Schools Act, 1996 (Act 84 of 1996).

2. SERIOUS MISCONDUCT

(1) Subject to the provisions of the Act, a learner at a school who—

(a) has been convicted by a court of a criminal offence and sentenced to imprisonment without the option of a fine; or

- (b) bedwelmende drank of ander dwelmmiddels op die skoolterrein of tydens 'n skoolaktiwiteit gebruik of in besit het; of
- (c) hom of haar skuldig gemaak het aan aanranding, diefstal of onsedelike gedrag; of
- (d) herhaaldelik sonder verlof van die skool en/of klasse afwesig is; of
- (e) hom of haar, na die mening van die beheerliggaam, op 'n skandelijke, onbehoorlike of onbetaamlike wyse gedra, skuldig aan ernstige wangedrag.

- (2) Behoudens die bepalings van die Wet, kan 'n leerder by 'n skool, indien hy of sy ná 'n regverdige verhoor aan ernstige wangedrag soos in subregulasie (1) bedoel, skuldig bevind is, deur die beheerliggaam van die skool geskors word of deur die Departementshoof uit die skool gesit word.

3. SKORSING EN UITSETTING VAN LEERDERS

- (1) Waar dit onder die aandag van die beheerliggaam kom dat die gedrag van 'n leerder sodanig is dat dit ingevolge regulasie 2(1) as eerste wangedrag beskou kan word, welke gedrag afbreuk sal doen aan die belange van die skool indien daar nie dissiplinêre maatreëls toegepas word nie, moet die beheerliggaam:
- (a) die leerder asook sy of haar ouer(s) skriftelik van die wangedrag in kennis stel;
 - (b) 'n vergadering van die beheerliggaam belê waartydens aan die betrokke leerder en/of sy of haar ouer(s) of verteenwoordiger die geleentheid gebied word om mondelinge of skriftelike verhoor te rig waarom die leerder nie geskors of uitgesit behoort te word nie; en
 - (c) na die aanhoor van die verhoer besluit of die leerder vir 'n tydperk van hoogstens een week geskors moet word as 'n korrektiewe maatreël, of besluit om by die Departementshoof aan te beveel dat die leerder uit die skool gesit word.
- (2) Waar 'n beheerliggaam by die Departementshoof aanbeveel dat 'n leerder uit die skool gesit word, word sodanige leerder nie toegelaat om die skool by te woon nie, in afwagting van 'n beslissing deur die Departementshoof in hierdie verband.
- (3) Waar 'n beheerliggaam besluit om by die Departementshoof aan te beveel dat 'n leerder uit die skool gesit word, moet die ouer(s) van die leerder skriftelik dienooreenkomstig ingelig word met 'n opgaaf van redes vir die besluit en die volgende dokumente binne 14 dae na die datum van die besluit aan die Departementshoof voorgelê word:
- (a) 'n volledige verslag van die omstandighede wat tot die besluit aanleiding gegee het;
 - (b) die notule van die vergadering waartydens die besluit geneem is; en
 - (c) enige skriftelike verhoer van die leerder/ouer(s)/vertteenwoordiger.
- (4) Die Departementshoof moet binne 14 dae na ontvangs van die dokumente in subregulasie (3) bedoel, besluit of die leerder uit die skool gesit of tot die skool hertoegelaat moet word en sodanige besluit moet onmiddellik skriftelik aan die beheerliggaam en ouer(s) bekend gemaak word.

4. APPEL

Enige appel deur die leerder of die ouer(s) van die leerder teen die besluit van die Departementshoof moet binne 10 dae nadat die skriftelike kennisgewing van sodanige besluit ontvang is, by die Lid van die Uitvoerende Raad aangeteken word en die beslissing van die Lid van die Uitvoerende Raad is finaal.

- (b) used or had in his or her possession intoxicating liquor or other drugs on the school grounds or during a school activity; or
- (c) is guilty of assault, theft or immoral conduct; or
- (d) has been repeatedly absent without leave from school and/or classes; or
- (e) conducts himself or herself, in the opinion of the governing body, in a disgraceful, improper or unbecoming manner, shall be guilty of serious misconduct.

- (2) Subject to the provisions of the Act, a learner at a school may be suspended by the governing body of the school or expelled by the Head of Department if, after a fair hearing, he or she is found guilty of serious misconduct as contemplated in subregulation (1).

3. SUSPENSION AND EXPULSION OF LEARNERS

- (1) Where it is brought to the attention of the governing body that the conduct of a learner is such that it may constitute serious misconduct in terms of regulation 2(1) and which conduct will be prejudicial to the interests of the school if disciplinary measures are not taken, the governing body must:
- (a) notify the learner as well as his or her parent(s) in writing of the misconduct;
 - (b) convene a meeting of the governing body during which an opportunity is afforded the learner concerned and/or his or her parent(s) or representative to make oral or written representations why the learner should not be suspended or expelled; and
 - (c) after the hearing of the representation and finding a learner guilty of misconduct, decide if, as a correctional measure, the learner should be suspended for a period not longer than one week, or decide if it should be recommended to the Head of Department that the learner be expelled.
- (2) Where a governing body recommends to the Head of Department that a learner be expelled, such a learner shall not be allowed to attend the school, pending a decision by the Head of Department in this regard.
- (3) Where a governing body recommends to the Head of Department that a learner be expelled, the parent(s) of the learner must be notified accordingly, in writing, stating reasons for the decision, and the following documentation must be submitted, within 14 days of the decision, to the Head of Department:
- (a) a full report of the circumstances that led to the decision;
 - (b) the minutes of the meeting during which the decision was taken; and
 - (c) any written representations of the learner/parent(s)/representative.
- (4) The Head of Department must, within 14 days of receipt of the documents referred to in subregulation (3), decide whether the learner should be expelled from or re-admitted to the school and the governing body and the parent(s) must immediately be informed, in writing, of such decision.

4. APPEAL

Any appeal by the learner or the parent(s) of the learner against the decision of the Head of Department must be lodged with the Member of the Executive Council, within 10 days of receipt of the written notice. The decision of the Member of the Executive Council is final.

5. GEVOLGE VAN UITSETTING

- (1) Waar daar besluit word om 'n leerder wat aan verpligte skoolbywoning onderhewig is, uit te sit, moet die Departementshoof reëlings tref vir die plasing van sodanige leerder by 'n alternatiewe skool.
- (2) Enige leerder wat nie aan verpligte skoolbywoning onderhewig is nie en wat weens ernstige wangedrag uit 'n skool gesit is, moet die geleentheid gebied word om die finale eksamen van die jaar waarin hy of sy uit die skool gesit is, af te lê. Met dien verstande dat sodanige leerder die eksamen aflê in 'n lokaal apart van die leerders van die skool wat hy of sy bygewoon het ten tyde van sy of haar uitsetting.

6. OORTREDING VAN KOSHUISREËLS

Enige oortreding van koshuisreëls word vir die doeleindes van die toepassing van hierdie regulasies ook beskou as 'n oortreding van skoolreëls.

5. CONSEQUENCES OF EXPULSION

- (1) Where it is decided to expel a learner who is subject to compulsory school attendance, the Head of Department must make arrangements for the placement of such a learner at an alternative school.
- (2) Any learner who is not subject to compulsory school attendance and who is expelled from a school because of serious misconduct must be afforded the opportunity to write the final examination of the year in which he or she was expelled: Provided that such learner writes the examination in a venue separate from the learners of the school which he or she attended at the time of his or her expulsion.

6. CONTRAVENTION OF HOSTEL RULES

Any contravention of hostel rules is, for the purposes of the application of these regulations, also regarded as a contravention of school rules.