

# SOUTH AFRICAN SCHOOLS ACT NO. 84 OF 1996

[\[View Regulation\]](#)

[ASSENTED TO 6 NOVEMBER, 1996]  
[DATE OF COMMENCEMENT: 1 JANUARY, 1997]

(Unless otherwise indicated)

*(English text signed by the President)*

This Act has been updated to <i>Government Gazette</i> 30637 dated 31 December, 2007.
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## as amended by

Education Laws Amendment Act, [No. 100 of 1997](#)

Education Laws Amendment Act, [No. 48 of 1999](#)

Education Laws Amendment Act, [No. 53 of 2000](#)

Education Laws Amendment Act, [No. 57 of 2001](#)

Education Laws Amendment Act, [No. 50 of 2002](#)

Education Laws Amendment Act, [No. 1 of 2004](#)

Education Laws Amendment Act, [No. 24 of 2005](#)

Education Laws Amendment Act, [No. 31 of 2007](#)

## ACT

**To provide for a uniform system for the organisation, governance and funding of schools; to amend and repeal certain laws relating to schools; and to provide for matters connected therewith.**

**Preamble.**—WHEREAS the achievement of democracy in South Africa has consigned to history the past system of education which was based on racial inequality and segregation; and

WHEREAS this country requires a new national system for *schools* which will redress past injustices in educational provision, provide an education of progressively high quality for all *learners* and in so doing lay a strong foundation for the development of all our people's talents and capabilities, advance the democratic transformation of society, combat racism and sexism and all other forms of unfair discrimination and intolerance, contribute to the eradication of poverty and the economic well-being of society, protect and advance our diverse cultures and languages, uphold the rights of all *learners, parents* and *educators*, and promote their acceptance of responsibility for the organisation, governance and funding of *schools* in partnership with the State; and

WHEREAS it is necessary to set uniform norms and standards for the education of *learners* at *schools* and the organisation, governance and funding of *schools* throughout the Republic of South Africa;

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#### CHAPTER 1

##### DEFINITIONS AND APPLICATION OF ACT

**1. Definitions.**—(1) In *this Act*, unless the context indicates otherwise—

**"Constitution"** means [the Constitution](#) of the Republic of South Africa, 1996 ([Act No. 108 of 1996](#));

[Definition of "[Constitution](#)" substituted by [s. 1 \(b\)](#) of [Act No. 100 of 1997](#).]  
[Wording of Sections](#)

**"Council of Education Ministers"** means the *Council of Education Ministers* established by the National Education Policy Act, 1996 ([Act No. 27 of 1996](#));

**"dangerous object"** means—

(a)

- any explosive material or device;
- (b) any firearm or gas weapon;
- (c) any article, object or instrument that may be employed to cause bodily harm to a person or damage to property, or to render a person temporarily paralysed or unconscious; or
- (d) any object that the *Minister* may, by notice in the *Gazette*, declare to be a dangerous object for the purpose of this Act;  
[Definition of "[dangerous object](#)" inserted by [s. 4 \(a\)](#) of [Act No. 31 of 2007](#).]

**"education department"** means the department established by [section 7 \(2\)](#) of the Public Service Act, 1994 ([Proclamation No. 103 of 1994](#)), which is responsible for education in a *province*;

**"educator"** means any person, excluding a person who is appointed to exclusively perform extracurricular duties, who teaches, educates or trains other persons or who provides professional educational services, including professional therapy and education psychological services, at a *school*;

[Definition of "[educator](#)" substituted by [s. 6 \(a\)](#) of [Act No. 48 of 1999](#).]

Wording of Sections

**"governing body"** means a *governing body* contemplated in [section 16 \(1\)](#);

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

**"Head of Department"** means the head of an *education department*;

**"illegal drug"** means—

- (a) any unlawful substance that has a psychological or physiological effect; or
- (b) any substance having such effect that is possessed unlawfully;

[Definition of "[illegal drug](#)" inserted by [s. 4 \(b\)](#) of [Act No. 31 of 2007](#).]

**"independent school"** means a *school* registered or deemed to be registered in terms of [section 46](#);

**"learner"** means any person receiving education or obliged to receive education in terms of this Act;

**"member of staff"** means a person employed at a *school*;

**"Member of the Executive Council"** means the *Member of the Executive Council* of a *province* who is responsible for education in that *province*;

**"Minister"** means the *Minister* of Education;

**"no fee threshold"** means the level of funding per *learner* contemplated in the *norms and standards* for *school* funding applicable to a *public school* which enables the *Minister* to declare a *school* a no fee *school* in terms of *this Act*;

[Definition of "[no fee threshold](#)" inserted by [s. 1 \(a\)](#) of [Act No. 24 of 2005](#).]

**"norms and standards for school funding"** means the national norms and standards for the funding of *schools* determined by the *Minister* in terms of [section 35](#);

[Definition of "[norms and standards for school funding](#)" inserted by [s. 1 \(a\)](#) of [Act No. 24 of 2005](#).]

**"officer"** means an employee of an *education department* appointed in terms of the *Educators Employment Act, 1994* ([Proclamation No. 138 of 1994](#)), or the *Public Service Act, 1994* ([Proclamation No. 103 of 1994](#));

**"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 referred to in [paragraphs \(a\)](#) and [\(b\)](#) towards the *learner's* education at *school*;

**"principal"** means an *educator* appointed or acting as the head of a *school*;

**"province"** means a *province* established by [section 124](#) of [the Constitution](#);

**"provincial legislature"** means a *provincial legislature* contemplated in [section 125](#) of [the Constitution](#);

**"public school"** means a *school* contemplated in [Chapter 3](#);

**"Registrar of deeds"** means the *registrar of deeds* referred to in [section 2](#) of the *Deeds Registries Act, 1937* ([Act No. 47 of 1937](#));

[Definition of "Registrar of deeds" inserted by [s. 1 \(a\)](#) of [Act No. 100 of 1997](#).]

**"school"** means a *public school* or an independent *school* which enrolls *learners* in one or more *grades* from *grade R* (Reception) to *grade twelve*;

[Definition of "[school](#)" substituted by [s. 1 \(c\)](#) of [Act No. 100 of 1997](#) and by [s. 6 \(b\)](#) of [Act No. 48 of 1999](#).]

#### [Wording of Sections](#)

**"school activity"** means any official educational, cultural, recreational or social activity of the *school* within or outside the *school* premises;

[Definition of "[school activity](#)" inserted by [s. 4 \(c\)](#) of [Act No. 31 of 2007](#).]

**"school fees"** means *school fees* contemplated in [section 39](#) and includes any form of contribution of a monetary nature made or paid by a person or body in relation to the attendance or participation by a *learner* in any programme of a *public school*;

[Definition of "[school fees](#)" inserted by [s. 1 \(b\)](#) of [Act No. 24 of 2005](#).]

**"this Act"** means *this Act* and all regulations promulgated under *this Act*.

[[Sub-s. \(1\)](#), previously [s. 1](#), amended by [s. 1](#) of [Act No. 50 of 2002](#).]

#### [Wording of Sections](#)

(2) Footnotes appearing in *this Act* must not be used in the interpretation of any provision of *this Act*.

[[Sub-s. \(2\)](#) added by [s. 1](#) of [Act No. 50 of 2002](#).]

<b>Wording of Sections</b>	<b>x</b>
def: <a href="#">Constitution</a> of Act 84 of 1996 prior to amendment by <a href="#">Act 100 of 1997</a>	
<b>Wording of Sections</b>	<b>x</b>
def: <a href="#">educator</a> of Act 84 of 1996 prior to amendment by <a href="#">Act 48 of 1999</a>	
<b>Repealed Act</b>	<b>x</b>
P 138 of 1994 has been repealed by s 137(1) of <a href="#">Act 76 of 1998</a>	

<b>Wording of Sections</b>	<b>x</b>
def: school of Act 84 of 1996 prior to amendment by <a href="#">Act 100 of 1997</a> def: school of Act 84 of 1996 prior to amendment by <a href="#">Act 48 of 1999</a>	
<b>Wording of Sections</b>	<b>x</b>
s 1(1), s 1 of Act 84 of 1996 prior to amendment by <a href="#">Act 50 of 2002</a>	

**2. Application of Act.**—(1) *This Act* applies to *school* education in the Republic of South Africa.

(2) A *Member of the Executive Council* and a *Head of Department* must exercise any power conferred upon them by or under *this Act*, after taking full account of the applicable policy determined in terms of the National Education Policy Act, 1996 ([Act No. 27 of 1996](#)).

(3) Nothing in *this Act* prevents a *provincial legislature* from enacting legislation for *school* education in a *province* in accordance with [the Constitution](#) and *this Act*.

[[Sub-s. \(3\)](#) amended by [s. 2](#) of [Act No. 100 of 1997](#).]

[Wording of Sections](#)

## CHAPTER 2 LEARNERS

<b>Wording of Sections</b>	<b>x</b>
s 2(3) of Act 84 of 1996 prior to amendment by <a href="#">Act 100 of 1997</a>	

**3. Compulsory attendance.**—(1) Subject to *this Act* and any applicable provincial law, every *parent* must cause every *learner* for whom he or she is responsible to attend a *school* from the first *school* day of the year in which such *learner* reaches the age of seven years until the last *school* day of the year in which such *learner* reaches the age of fifteen years or the ninth *grade*, whichever occurs first.

(2) The *Minister* must, by notice in the Government Gazette, determine the ages of compulsory attendance at *school* for *learners* with special education needs.

(3) Every *Member of the Executive Council* must ensure that there are enough *school* places so that every child who lives in his or her *province* can attend *school* as required by [subsections \(1\)](#) and [\(2\)](#).

(4) If a *Member of the Executive Council* cannot comply with [subsection \(3\)](#) because of a lack of capacity existing at the date of commencement of this Act, he or she must take steps to remedy any such lack of capacity as soon as possible and must make an annual report to the *Minister* on the progress achieved in doing so.

(5) If a *learner* who is subject to compulsory attendance in terms of [subsection \(1\)](#) is not enrolled at or fails to attend a *school*, the *Head of Department* may—

- (a) investigate the circumstances of the *learner's* absence from *school*;
- (b) take appropriate measures to remedy the situation; and
- (c) failing such a remedy, issue a written notice to the *parent* of the *learner* requiring compliance with [subsection \(1\)](#).

(6) Subject to *this Act* and any other applicable law—

- (a)

any *parent* who, without just cause and after a written notice from the *Head of Department*, fails to comply with [subsection \(1\)](#), is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding six months; or

(b)

any other person who, without just cause, prevents a *learner* who is subject to compulsory attendance from attending a *school*, is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding six months.

**4. Exemption from compulsory attendance.**—(1) A *Head of Department* may exempt a *learner* entirely, partially or conditionally from compulsory *school* attendance if it is in the best interests of the *learner*.

(2) Every *Head of Department* must maintain a register of all *learners* exempted from compulsory *school* attendance.

**5. Admission to public schools.**—(1) A *public school* must admit *learners* and serve their educational requirements without unfairly discriminating in any way.

(2) The *governing body* of a *public school* may not administer any test related to the admission of a *learner* to a *public school*, or direct or authorise the *principal* of the *school* or any other person to administer such test.

(3) No *learner* may be refused admission to a *public school* on the grounds that his or her *parent*—

(a)

is unable to pay or has not paid the *school* fees determined by the *governing body* under [section 39](#);

(b)

does not subscribe to the mission statement of the *school*; or

(c)

has refused to enter into a contract in terms of which the *parent* waives any claim for damages arising out of the education of the *learner*.

(4) (a) The admission age of a *learner* to a *public school* to—

*grade* R is age four turning five by 30 June in the year of admission; (i)

*grade* 1 is age five turning six by 30 June in the year of admission. (ii)

(b) Subject to the availability of suitable *school* places and other educational resources, the *Head of Department* may admit a *learner* who—

is under the age contemplated in [paragraph \(a\)](#) if good cause is shown; and (i)

complies with the criteria contemplated in paragraph (c). (ii)

(c) The *Minister* may, by regulation, prescribe—

criteria for the admission to a *public school*, at an age lower than the admission age, of an underage *learner* who complies with the criteria<sup>1</sup>; (i)

age requirements for different *grades* at a public school. (ii)

(d) For the purpose of [paragraph \(b\) \(i\)](#), good cause shown means that—

(i)  
it can be shown that exceptional circumstances exist which necessitate the admission of an underage *learner* because admission would be in his or her best interest; and

(ii)  
the refusal to admit that *learner* would be severely detrimental to his or her development.

[Sub-s. (4) substituted by s. 2 of Act No. 50 of 2002 with effect from 1 January, 2004.]

**Wording of Sections**

(5) Subject to *this Act* and any applicable provincial law, the admission policy of a *public school* is determined by the *governing body* of such *school*.

(6) In determining the placement of a *learner* with special education needs, the *Head of Department* and *principal* must take into account the rights and wishes of the *parents* of such *learner*.

(7) An application for the admission of a *learner* to a *public school* must be made to the *education department* in a manner determined by the *Head of Department*.

(8) If an application in terms of [subsection \(7\)](#) is refused, the *Head of Department* must inform the *parent* in writing of such refusal and the reason therefor.

(9) Any *learner* or *parent* of a *learner* who has been refused admission to a *public school* may appeal against the decision to the *Member of the Executive Council*.

**Footnotes**

1  
It is acknowledged that criteria for admission of an underage learner are complex and take some considerable time to develop. The criteria must be reliable and effective and their proper implementation will require the training of evaluators. The criteria must be based on an educationally sound basis in order to ensure that—

- (a) learners are admitted on an equitable basis;
- (b) there is no unfair discrimination to learners;
- (c) the admission is fair to the individual learner as well as other learners in the classroom;
- (d) recognition is given to the diversity of language, culture and economic background;
- (e) notice is taken of the differences between urban and rural environments; and
- (f) the physical, psychological and mental development of the child is taken into account.

Footnote	x
1 It is acknowledged that criteria for admission of an underage learner are complex and take some considerable time to develop. The criteria must be reliable and effective and their proper implementation will require the training of evaluators. The criteria must be based on an educationally sound basis in order to ensure that— (a) learners are admitted on an equitable basis; (b) there is no unfair discrimination to learners; (c) the admission is fair to the individual learner as well as other learners in the classroom; (d) recognition is given to the diversity of language, culture and economic background; (e) notice is taken of the differences between urban and rural environments; and (f) the physical, psychological and mental development of the child is taken into account.	1
Wording of Sections	x
<a href="#">s 5(4)</a> of Act 84 of 1996 prior to amendment by <a href="#">Act 50 of 2002</a>	

**5A. Norms and standards for basic infrastructure and capacity in public schools.—**

(1) The *Minister* may, after consultation with the Council of Education Ministers, by regulation prescribe minimum uniform norms and standards for—

- (a) *school* infrastructure;
- (b) capacity of a *school* in respect of the number of *learners* a *school* can admit; and
- (c) the provision of learning and teaching support material.

(2) The norms and standards contemplated in [subsection \(1\)](#) must provide for, but not be limited to, the following:

- (a) In respect of *school* infrastructure, the availability of—
  - (i) classrooms;
  - (ii) electricity;
  - (iii) water;
  - (iv) sanitation;
  - (v) a library;
  - (vi) laboratories for science, technology, mathematics and life sciences;
  - (vii) sport and recreational facilities;
  - (viii) electronic connectivity at a *school*; and
  - (ix) perimeter security;
- (b) in respect of the capacity of a *school*—
  - (i) the number of teachers and the class size;
  - (ii) quality of performance of a school;
  - (iii) curriculum and extra-curricular choices;
  - (iv) classroom size; and
  - (v) utilisation of available classrooms of a school;
- (c) in respect of provision of learning and teaching support material, the availability of—

- stationery and supplies; (i)
- learning material; (ii)
- teaching material and equipment; (iii)
- science, technology, mathematics and life sciences apparatus; (iv)
- electronic equipment; and (v)
- school furniture and other school equipment. (vi)

(3) When determining policy in terms of [sections 5 \(5\)](#) and [6 \(2\)](#) a *governing body* must comply with the norms and standards contemplated in [subsection \(1\)](#).

(4) A *governing body* must, within a period of 12 months after the *Minister* has prescribed the norms and standards contemplated in [subsection \(1\)](#), review any policy that it has determined in terms of [sections 5 \(5\)](#) and [6 \(2\)](#) to ensure that such policy complies with the norms and standards.

[S. 5A inserted by s. 5 of [Act No. 31 of 2007](#).]

**6. Language policy of public schools.**—(1) Subject to [the Constitution](#) and *this Act*, the *Minister* may, by notice in the Government Gazette, after consultation with the *Council of Education Ministers*, determine norms and standards for language policy in *public schools*.

(2) The *governing body* of a *public school* may determine the language policy of the *school* subject to [the Constitution](#), *this Act* and any applicable provincial law.

(3) No form of racial discrimination may be practised in implementing policy determined under this section.

(4) A recognised Sign Language has the status of an official language for purposes of learning at a *public school*.

**6A. Curriculum and assessment.**—(1) The *Minister* must, by notice in the Government Gazette, determine—

- (a) a national curriculum statement indicating the minimum outcomes or standards; and
- (b) a national process and procedures for the assessment of *learner* achievement.

(2) The curriculum and the process for the assessment of *learner* achievement contemplated in [subsection \(1\)](#) must be applicable to *public* and *independent schools*.

[S. 6A inserted by s. 3 of [Act No. 50 of 2002](#).]

**7. Freedom of conscience and religion at public schools.**—Subject to [the Constitution](#) and any applicable provincial law, religious observances may be conducted at a *public school* under rules issued by the *governing body* if such observances are conducted on an equitable basis and attendance at them by *learners* and *members of staff* is free and voluntary.

**8. Code of conduct.**—(1) Subject to any applicable provincial law, a *governing body* of a *public school* must adopt a code of conduct for the *learners* after consultation with the *learners*, *parents* and *educators* of the *school*.

(2) A code of conduct referred to in [subsection \(1\)](#) must be aimed at establishing a disciplined and purposeful *school* environment, dedicated to the improvement and maintenance of the quality of the learning process.

(3) The *Minister* may, after consultation with the *Council of Education Ministers*, determine guidelines for the consideration of *governing bodies* in adopting a code of conduct for *learners*.

(4) Nothing contained in *this Act* exempts a *learner* from the obligation to comply with the code of conduct of the *school* attended by such *learner*.

(5) (a) A code of conduct must contain provisions of due process safe-guarding the interests of the *learner* and any other party involved in disciplinary proceedings.

(b) The code of conduct must also provide for support measures or structures for counselling a *learner* involved in disciplinary proceedings.

[[Sub-s. \(5\)](#) substituted by [s. 6](#) of [Act No. 31 of 2007](#).]

**Wording of Sections**

(6) A *learner* must be accompanied by his or her *parent* or a person designated by the *parent* at disciplinary proceedings, unless good cause is shown by the *governing body* for the continuation of the proceedings in the absence of the *parent* or the person designated by the *parent*.

[[Sub-s. \(6\)](#) added by [s. 4](#) of [Act No. 50 of 2002](#).]

(7) Whenever disciplinary proceedings are pending before any *governing body*, and it appears to such *governing body* that it would expose a witness under the age of 18 years to undue mental stress or suffering if he or she testifies at such proceedings, the *governing body* may, if practicable, appoint a competent person as an intermediary in order to enable such witness to give his or her evidence through that intermediary.

[[Sub-s. \(7\)](#) added by [s. 4](#) of [Act No. 50 of 2002](#).]

(8) (a) An examination, cross-examination or re-examination of a witness in respect of whom a *governing body* has appointed an intermediary under [subsection \(7\)](#), except examination by the *governing body*, must not take place in any manner other than through that intermediary.

(b) Such intermediary may, unless the *governing body* directs otherwise, convey the general purport of any question to the relevant witness.

[[Sub-s. \(8\)](#) added by [s. 4](#) of [Act No. 50 of 2002](#).]

(9) If a *governing body* appoints an intermediary under [subsection \(7\)](#), the *governing body* may direct that the relevant witness must give his or her evidence at any place which—

- (a) is informally arranged to put that witness at ease;
- (b) is arranged in a manner in which any person whose presence may upset that witness, is outside the sight and hearing of that witness; and
- (c) enables the *governing body* and any person whose presence is necessary at the relevant proceedings to hear, through the medium of any electronic or other devices, that intermediary as well as that witness during his or her testimony.

[[Sub-s. \(9\)](#) added by [s. 4](#) of [Act No. 50 of 2002](#).]

**Wording of Sections**



[s 8\(5\)](#) of Act 84 of 1996 prior to amendment by [Act 31 of 2007](#)

**8A. Random search and seizure and drug testing at schools.**—(1) Unless authorised by the *principal* for legitimate educational purposes, no person may bring a *dangerous object* or *illegal drug* onto *school* premises or have such object or drug in his or her possession on *school* premises or during any *school activity*.

(2) Subject to [subsection \(3\)](#), the *principal* or his or her delegate may, at random, search any group of *learners*, or the property of a group of *learners*, for any *dangerous object* or *illegal drug*, if a fair and reasonable suspicion has been established—

(a) that a *dangerous object* or an *illegal drug* may be found on *school* premises or during a *school activity*; or

(b) that one or more *learners* on *school* premises or during a *school activity* are in possession of *dangerous objects* or *illegal drugs*.

(3) (a) A search contemplated in [subsection \(2\)](#) may only be conducted after taking into account all relevant factors, including—

(i) the best interest of the *learners* in question or of any other *learner* at the *school*;

(ii) the safety and health of the *learners* in question or of any other *learner* at the *school*;

(iii) reasonable evidence of illegal activity; and

(iv) all relevant evidence received.

(b) When conducting a search contemplated in [subsection \(2\)](#), the *principal* or his or her delegate must do so in a manner that is reasonable and proportional to the suspected illegal activity.

(4) Where a search contemplated in [subsection \(2\)](#) entails a body search of the *learners* in question, such search may only—

(a) be conducted by—

(i) the *principal*, if he or she is of the same gender as the *learner*; or

(ii) by the *principal's* delegate, who must be of the same gender as the *learner*;

(b) be done in a private area, and not in view of another *learner*;

(c) be done if one adult witness, of the same gender as the *learner*, is present; and

(d) be done if it does not extend to a search of a body cavity of the *learner*.

(5) Any *dangerous object* or *illegal drug* that has been seized must be—

(a) clearly and correctly labelled with full particulars, including—

(i) the name of *learner* in whose possession it was found;

(ii) the time and date of search and seizure;

- (iii) an incident reference number;
        - (iv) the name of person who searched the *learner*;
        - (v) the name of the witness; and
        - (vi) any other details that may be necessary to identify the item and incident;
      - (b) recorded in the school record book; and
      - (c) handed over to the police immediately to dispose of it in terms of [section 31](#) of the Criminal Procedure Act, 1977 ([Act No. 51 of 1977](#)).
- (6) If the police cannot collect the *dangerous object* or *illegal drug* from the *school* immediately, the *principal* or his or her delegate must—
  - (a) take the *dangerous object* or *illegal drug* to the nearest police station; and
  - (b) hand the *dangerous object* or *illegal drug* over to the police to dispose of it in terms of [section 31](#) of the Criminal Procedure Act, 1977 ([Act No. 51 of 1977](#)).
- (7) The police officer who receives the *dangerous object* or *illegal drug* must issue an official receipt for it to the *principal* or to his or her delegate.
- (8) The *principal* or his or her delegate may at *random* administer a urine or other non-invasive test to any group of learners that is on fair and reasonable grounds suspected of using *illegal drugs*, after taking into account all relevant factors contemplated in [subsection \(3\)](#).
- (9) A *learner* contemplated in [subsection \(8\)](#) may be subjected to a urine or other non-invasive test for *illegal drugs* only if—
  - (a) the test is conducted by a person of the same gender;
  - (b) it is done in a private area and not in view of another *learner*;
  - (c) one adult witness, of the same gender as the *learner*, is present;
  - (d) the sample is clearly and correctly labelled with full particulars as contemplated in [subsection \(5\)](#), with the necessary changes; and
  - (e) a device contemplated in [subsection \(11\)](#) is used.
- (10) The *principal* or his or her delegate must—
  - (a) within one working day, if practicable, inform the *parent* that a random test or search and seizure was done in respect of his or her child; and
  - (b) inform the *learner* and his or her *parent* of the result of the test immediately after it becomes available.
- (11) The *Minister* must—
  - (a)

identify the device with which the test contemplated in [subsection \(8\)](#) is to be done and the procedure to be followed; and

(b) publish the name of this device, and any other relevant information about it, in the *Gazette*.

(12) A *learner* may be subjected to disciplinary proceedings if—

(a) a *dangerous object* or *illegal drug* is found in his or her possession; or

(b) his or her sample tested positive for an *illegal drug*.

(13) Any disciplinary proceedings in respect of a *learner* must be conducted in terms of the code of conduct contemplated in [section 8](#).

(14) No criminal proceedings may be instituted by the *school* against a *learner* in respect of whom—

(a) a search contemplated in [subsection \(2\)](#) was conducted and a *dangerous object* or *illegal drug* was found; or

(b) a test contemplated in [subsection \(8\)](#) was conducted, which proved to be positive.

[[S. 8A](#) inserted by [s. 7](#) of [Act No. 31 of 2007](#).]

**9. Suspension and expulsion from public school.**—(1) The *governing body* may, on reasonable grounds and as a precautionary measure, suspend a *learner* who is suspected of serious misconduct from attending *school*, but may only enforce such suspension after the *learner* has been granted a reasonable opportunity to make representations to it in relation to such suspension.

[[Sub-s. \(1\)](#) amended by [s. 7](#) of [Act No. 48 of 1999](#) and substituted by [s. 2 \(a\)](#) of [Act No. 24 of 2005](#).]

#### Wording of Sections

(1A) A *governing body* must conduct disciplinary proceedings in the manner contemplated in [section 8](#) against a *learner* within seven *school* days after the suspension of such *learner*.

[[Sub-s. \(1A\)](#) inserted by [s. 2 \(a\)](#) of [Act No. 24 of 2005](#).]

(1B) If disciplinary proceedings are not conducted within seven *school* days after the suspension of a *learner*, the *governing body* must obtain the approval of the *Head of Department* for the continuation of the suspension of such *learner*.

[[Sub-s. \(1B\)](#) inserted by [s. 2 \(a\)](#) of [Act No. 24 of 2005](#).]

(1C) A *governing body* may, if a *learner* is found guilty of serious misconduct during the disciplinary proceedings contemplated in [section 8](#)—

(a) impose the suspension of such *learner* for a period not longer than seven *school* days or any other sanction contemplated in the code of conduct of the *public school*; or

(b) make a recommendation to the *Head of Department* to expel such *learner* from the *public school*.

[[Sub-s. \(1C\)](#) inserted by [s. 2 \(a\)](#) of [Act No. 24 of 2005](#).]

(1D) A *Head of Department* must consider the recommendation by the *governing body* referred to in [subsection \(1C\) \(b\)](#) and must decide whether or not to expel a *learner* within 14 days of receiving such recommendation.

[[Sub-s. \(1D\)](#) inserted by [s. 2 \(a\)](#) of [Act No. 24 of 2005](#).]

(1E) A *governing body* may suspend or extend the suspension of a *learner* for a period not longer than 14 days pending the decision by the *Head of Department* whether or not to expel such *learner* from the *public school*.

[Sub-s. (1E) inserted by s. 2 (a) of Act No. 24 of 2005.]

(2) A *learner* at a *public school* may be expelled only—

(a)

by the *Head of Department*; and

(b)

if found guilty of serious misconduct after disciplinary proceedings contemplated in [section 8](#) were conducted.

[Sub-s. 2 substituted by s. 2 (b) of Act No. 24 of 2005.]

(3) The *Member of the Executive Council* must determine by notice in the Provincial Gazette—

(a)

the behaviour by a *learner* at a *public school* which may constitute serious misconduct;

(b)

disciplinary proceedings to be followed in such cases;

(c)

provisions of due process safe-guarding the interests of the *learner* and any other party involved in disciplinary proceedings.

(4) A *learner* or the *parent* of a *learner* who has been expelled from a *public school* may appeal against the decision of the *Head of Department* to the *Member of the Executive Council* within 14 days of receiving the notice of expulsion.

[Sub-s. 4 substituted by s. 2 (c) of Act No. 24 of 2005.]

(5) If a *learner* who is subject to compulsory attendance in terms of [section 3 \(1\)](#) is expelled from a *public school*, the *Head of Department* must make an alternative arrangement for his or her placement at a *public school*.

(6) A *learner* who has appealed in the manner contemplated in [subsection \(4\)](#), must, pending the outcome of the appeal, be given access to education in the manner determined by the *Head of Department*.

[Sub-s. 6 added by s. 2 (d) of Act No. 24 of 2005.]

(7) The *Head of Department*, in determining the manner of attendance contemplated in [subsection \(6\)](#)—

(a)

must take reasonable measures to protect the rights of other *learners* at the *public school*; and

(b)

may consider an alternative method of providing education to the *learner* contemplated in [subsection \(6\)](#).

[Sub-s. 7 added by s. 2 (d) of Act No. 24 of 2005.]

(8) If the *Head of Department* decides not to expel a *learner* as contemplated in [subsection \(2\)](#), the *Head of Department* may, after consultation with the *governing body*, impose a suitable sanction on the *learner*.

[Sub-s. 8 added by s. 2 (d) of Act No. 24 of 2005.]

(9) If the *Head of Department* decides not to impose a sanction on the *learner*, the *Head of Department* must refer the matter back to the *governing body* for an alternative sanction in terms of the code of conduct contemplated in [section 8](#), other than expulsion.

[Sub-s. 9 added by s. 2 (d) of Act No. 24 of 2005.]

(10) The *governing body* must implement the sanction contemplated in [subsection \(8\)](#).

[Sub-s. 10 added by s. 2 (d) of Act No. 24 of 2005.]

## Wording of Sections

x

[s 9\(1\)](#) of Act 84 of 1996 prior to amendment by [Act 48 of 1999](#)  
[s 9\(1\)](#) of Act 84 of 1996 prior to amendment by [Act 24 of 2005](#)

**10. Prohibition of corporal punishment.**—(1) No person may administer corporal punishment at a *school* to a *learner*.

(2) Any person who contravenes [subsection \(1\)](#) is guilty of an offence and liable on conviction to a sentence which could be imposed for assault.

**10A. Prohibition of initiation practices.**—(1) A person may not conduct or participate in any initiation practices against a *learner* at a *school* or in a hostel accommodating *learners* of a *school*.

(2) (a) Any person who contravenes [subsection \(1\)](#) is guilty of misconduct and disciplinary action must be instituted against such a person in accordance with the applicable code of conduct, prescribed in [sections 8](#) and [18A](#) of *this Act* and [Schedule 2](#) to the Employment of Educators Act, 1998 ([Act No. 76 of 1998](#)).

(b) In addition to [paragraph \(a\)](#), a *learner* may institute civil action against a person or a group who manipulated and forced that *learner* to conduct or participate in any initiation practices.

(3) For the purposes of *this Act*, “**initiation practices**” means any act which in the process of initiation, admission into, or affiliation with, or as condition for continued membership of, a *school*, a group, intramural or extramural activities, interschools sports team, or organisation—

- (a) endangers the mental or physical health or safety of a person;
- (b) undermines the intrinsic worth of human beings by treating some as inferior to others;
- (c) subjects individuals to humiliating or violent acts which undermine the constitutional guarantee to dignity in the Bill of Rights;
- (d) undermines the fundamental rights and values that underpin [the Constitution](#);
- (e) impedes the development of a true democratic culture that entitles an individual to be treated as worthy of respect and concern; or
- (f) destroys public or private property.

(4) In considering whether the conduct or participation of a person in any initiation practices falls within the definition of [subsection \(3\)](#), the relevant disciplinary authority referred to in [subsection \(2\) \(a\)](#) must take into account the right of the *learner* not to be subjected to such practices.

[[S. 10A](#) inserted by [s. 5](#) of [Act No. 50 of 2002](#).]

**11. Representative council of learners.**—(1) A representative council of *learners* at the *school* must be established at every *public school* enrolling *learners* in the eighth *grade* or higher, and such council is the only recognised and legitimate representative *learner* body at the *school*.

[Sub-s. (1) substituted by s. 3 of [Act No. 100 of 1997](#) and by s. 1 (a) of [Act No. 57 of 2001](#).]

Wording of Sections

(2) Subject to policy made in terms of [section 3 \(4\) \(g\)](#) of the National Education Policy Act, 1996 ([Act No. 27 of 1996](#)), the Member of the Executive Council must, by notice in the Provincial Gazette, determine the functions and the procedures for the establishment and election of representative councils of *learners*.

[Sub-s. (2) substituted by s. 1 (b) of [Act No. 57 of 2001](#).]

Wording of Sections

(3) The *Member of the Executive Council* may, by notice in the Provincial Gazette, exempt a *public school* for *learners* with special education needs from complying with [subsection \(1\)](#) if it is not practically possible for a representative council of *learners* to be established at the *school*.

CHAPTER 3  
PUBLIC SCHOOLS

<b>Wording of Sections</b>	<b>x</b>
<a href="#">s 11(1)</a> of Act 84 of 1996 prior to amendment by <a href="#">Act 100 of 1997</a> <a href="#">s 11(1)</a> of Act 84 of 1996 prior to amendment by <a href="#">Act 57 of 2001</a>	
<b>Wording of Sections</b>	<b>x</b>
s 11(2) of Act 84 of 1996 prior to amendment by <a href="#">Act 57 of 2001</a>	

**12. Provision of public schools.**—(1) The *Member of the Executive Council* must provide *public schools* for the education of *learners* out of funds appropriated for this purpose by the *provincial legislature*.

(2) The provision of *public schools* referred to in [subsection \(1\)](#) may include the provision of hostels for the residential accommodation of *learners*.

(3) A *public school* may be an ordinary *public school* or a *public school* for *learners* with special education needs.

(4) The *Member of the Executive Council* must, where reasonably practicable, provide education for *learners* with special education needs at ordinary *public schools* and provide relevant educational support services for such *learners*.

(5) The *Member of the Executive Council* must take all reasonable measures to ensure that the physical facilities at *public schools* are accessible to disabled persons.

(6) Nothing in this Act prohibits the provision of gender-specific *public schools*.

**12A. Merger of public schools.**—(1) Subject to [subsection \(2\)](#), the *Member of the Executive Council* may, by notice in the *Provincial Gazette*, merge two or more *public schools* into a single *school*.

(2) Before merging two or more *public schools* the *Member of the Executive Council* must—

(a)

give written notice to the *schools* in question of the intention to merge them;

(b)

publish a notice giving the reasons for the proposed merger in one or more newspapers circulating in the area where the *schools* in question are situated;

- (c) give the *governing bodies* of the *schools* in question and any other interested persons an opportunity to make representations within a period of not less than 90 days from the date of the notice referred to in [paragraph \(b\)](#);
- (d) consider such representations; and
- (e) be satisfied that the employers of staff at the *public schools* have complied with their obligations in terms of the applicable labour law.

(3) If one or more of the *schools* that are to be merged in terms of [subsection \(1\)](#) are *public schools* on private property, the *Member of the Executive Council* must also—

- (a) notify the owner of the private property of his or her intention to merge the *schools* in question;
- (b) consider his or her contractual obligations in terms of the agreement contemplated in [section 14](#);
- (c) renegotiate his or her obligations in terms of the existing agreement if necessary; and
- (d) negotiate a new agreement in terms of [section 14](#) if the single *school* contemplated in [subsection \(1\)](#) is to be situated on private property.

(4) The single *school* contemplated in [subsection \(1\)](#) must be regarded as a *public school*.

(5) All assets, liabilities, rights and obligations of the *schools* that are merged, must, subject to the conditions of any donation, bequest or trust contemplated in [section 37 \(4\)](#), vest in the single *school*.

(6) (a) The *governing bodies* of the *schools* that are merged must have a meeting before the merger to constitute a single interim *governing body* comprising of all the members of the *governing bodies* concerned.

(b) The interim *governing body* must decide on the budget and differences in codes of conduct and school fees, as well as any issue that is relevant to the merger or which is prescribed, until a new *governing body* is constituted in terms of [sections 23](#) and [28](#).

(7) The *governing body* of a *public school* to be merged, may appeal to the *Minister* against the decision as contemplated in [subsection \(1\)](#).

[S. 12A inserted by s. 8 of [Act No. 48 of 1999](#).]

**13. Public schools on State property.**—(1) In this section, immovable property owned by the State includes immovable property held in trust on behalf of a tribe by a trust created by statute.

(2) Subject to [section 20 \(1\) \(k\)](#), a *public school* which occupies immovable property owned by the State has the right, for the duration of the *school's* existence, to occupy and use the immovable property for the benefit of the *school* for educational purposes at or in connection with the *school*.

(3) The right referred to in [subsection \(2\)](#) may only be restricted—

- (a) by the *Member of the Executive Council*; and
- (b) if the immovable property is not utilised by the *school* in the interests of education.

(4) The *Member of the Executive Council* may not act under [subsection \(3\)](#) unless he or she has—

- (a) informed the *governing body* of the *school* of his or her intention so to act and the reasons therefor;
- (b) granted the *governing body* of the *school* a reasonable opportunity to make representations to him or her in relation to such action;
- (c) duly considered any such representations received.

(5) The right contemplated in [subsection \(2\)](#) is enforceable against any successor in title to the owner of the immovable property in question.

(6) No immovable property owned by the State and occupied by a *public school* may be alienated unless an agreement contemplated in [section 14](#) has been concluded between the *Member of the Executive Council* and the prospective owner of the immovable property.

(7) The *Registrar of deeds* may not execute, attest to or register a transfer deed in respect of the immovable property in question unless the owner has provided the *Registrar of deeds* with proof of the agreement contemplated in [subsection \(6\)](#).

[[Sub-s. \(7\)](#) substituted by [s. 4 \(a\)](#) of [Act No. 100 of 1997](#).]

[Wording of Sections](#)

(8) The provisions of the Deeds Registries Act, 1937 ([Act No. 47 of 1937](#)), do not apply to the right contemplated in [subsection \(2\)](#).

(9) On application by the owner and on production of the owner's copy of the title deed, the *Registrar of deeds* must endorse on the title deed and in his or her records the fact that a *public school* has been established on the land in terms of *this Act*.

[[Sub-s. \(9\)](#) added by [s. 4 \(c\)](#) of [Act No. 100 of 1997](#).]

Wording of Sections	x
<a href="#">s 13(7)</a> of Act 84 of 1996 prior to amendment by <a href="#">Act 100 of 1997</a>	

**14. Public schools on private property.**—(1) Subject to [the Constitution](#) and an expropriation in terms of [section 58](#) of land or a real right to use the property on which the *public school* is situated, a *public school* may be provided on private property only in terms of an agreement between the *Member of the Executive Council* and the owner of the private property.

[[Sub-s. \(1\)](#) substituted by [s. 2](#) of [Act No. 53 of 2000](#).]

[Wording of Sections](#)

(2) An agreement contemplated in [subsection \(1\)](#) must be consistent with *this Act* and in particular must provide for—

- (a) the provision of education and the performance of the normal functions of a *public school*;
- (b) governance of the *school*, including the relationship between the *governing body* of the *school* and the owner;
- (c) access by all interested parties to the property on which the *school* stands;
- (d) security of occupation and use of the property by the *school*;
- (e)

maintenance and improvement of the *school* buildings and the property on which the *school* stands and the supply of necessary services;

- (f) protection of the owner's rights in respect of the property occupied, affected or used by the *school*.

(3) The provisions of the Deeds Registries Act, 1937 ([Act No. 47 of 1937](#)), do not apply to a real right, excluding ownership, acquired by the State, a *public school* or another party in terms of an agreement contemplated in this section.

(4) The right contemplated in [subsection \(3\)](#) is enforceable against any successor in title to the owner of the immovable property in question.

(5) Despite [subsection \(3\)](#), a Registrar of deeds must endorse on the title deed of the affected property that the property is subject to an agreement contemplated in this section, if the *Registrar of deeds* receives—

- (a) an application for such endorsement by the owner of the property, or the *Member of the Executive Council* or any other holder of a right contemplated in [subsection \(3\)](#), together with the title deed of the property; and

- (b) affidavits by the owner of the property and the *Member of the Executive Council* stating that an agreement contemplated in this section has been concluded.

[[Sub-s. \(5\)](#) amended by [s. 5 \(a\)](#) of [Act No. 100 of 1997](#) (English only).]

**Wording of Sections**

(6) The *Minister* must, after consultation with the *Council of Education Ministers*, make regulations regarding the minimum requirements of an agreement contemplated in this section.

(7) The *Registrar of deeds* may cancel any endorsement made in accordance with [subsection \(5\)](#) if the owner of the property submits an affidavit from the *Member of the Executive Council* of the province in which the *public school* is situated to the effect that such *public school* has been closed in terms of [section 33](#).

[[Sub-s. \(7\)](#) inserted by [s. 5 \(b\)](#) of [Act No. 100 of 1997](#).]

(8) Any transfer duty, stamp duty, fees or costs payable in respect of the registration of a right in terms of [subsection \(3\)](#) may be paid in full or in part from funds appropriated by the *provincial legislature* for that purpose, but the *public school* contemplated in [subsection \(1\)](#) is not responsible for such duties, fees or costs.

[[Sub-s. \(8\)](#), previously [sub-s. \(7\)](#), renumbered by [s. 5 \(b\)](#) of [Act No. 100 of 1997](#).]

**Wording of Sections**

<b>Wording of Sections</b>	<b>x</b>
<a href="#">s 14(1)</a> of Act 84 of 1996 prior to amendment by <a href="#">Act 53 of 2000</a>	
<b>Wording of Sections</b>	<b>x</b>
<a href="#">s 14(5)</a> of Act 84 of 1996 prior to amendment by <a href="#">Act 100 of 1997</a>	
<b>Wording of Sections</b>	<b>x</b>
s 14(8), (7) of Act 84 of 1996 prior to amendment by <a href="#">Act 100 of 1997</a>	

**15. Status of public schools.**—Every *public school* is a juristic person, with legal capacity to perform its functions in terms of *this Act*.

**16. Governance and professional management of public schools.**—(1) Subject to this Act, the governance of every public school is vested in its governing body and it may perform only such functions and obligations and exercise only such rights as prescribed by the Act.

[Sub-s. (1) substituted by s. 2 of Act No. 57 of 2001.]

Wording of Sections

(2) A *governing body* stands in a position of trust towards the *school*.

(3) Subject to *this Act* and any applicable provincial law, the professional management of a *public school* must be undertaken by the *principal* under the authority of the *Head of Department*.

(4) The *Head of Department* may close a *public school* temporarily in the case of an emergency if he or she believes on reasonable grounds that the lives of *learners* and staff are endangered or that there is a real danger of bodily injury to them or of damage to property.

[Sub-s. (4) added by s. 9 of Act No. 48 of 1999.]

(5) When the *Head of Department* decides that the *school* should be re-opened, he or she must inform the *governing body* and the *principal* of the date on which the *school* must reopen.

[Sub-s. (5) added by s. 9 of Act No. 48 of 1999.]

(6) The *principal* or a person designated by the *Head of Department* must inform the *educators* and *parents* of the date contemplated in [subsection \(5\)](#).

[Sub-s. (6) added by s. 9 of Act No. 48 of 1999.]

(7) If a new *public school* is provided in terms of [section 12](#), the governance of that *school* vests in the *Head of Department* until a *governing body* has been constituted in terms of *this Act*.

[Sub-s. (7) added by s. 3 of Act No. 53 of 2000.]

**Wording of Sections**

✕

[s 16\(1\)](#) of Act 84 of 1996 prior to amendment by [Act 57 of 2001](#)

**16A. Functions and responsibilities of principal of public school.**—(1) (a) The *principal* of a *public school* represents the *Head of Department* in the *governing body* when acting in an official capacity as contemplated in [sections 23 \(1\) \(b\)](#) and [24 \(1\) \(j\)](#).

(b) The *principal* must prepare and submit to the *Head of Department* an annual report in respect of—

(i)  
the academic performance of that *school* in relation to minimum outcomes and standards and procedures for assessment determined by the *Minister* in terms of [section 6A](#); and

(ii)  
the effective use of available resources.

(c) (i) The *principal* of a *public school* identified by the *Head of Department* in terms of [section 58B](#) must annually, at the beginning of the year, prepare a plan setting out how academic performance at the *school* will be improved.

(ii) The academic performance improvement plan must be—

(aa)  
presented to the *Head of Department* on a date determined by him or her;  
and

(bb)  
tabled at a *governing body* meeting.

(iii) The *Head of Department* may approve the academic performance improvement plan or return it to the *principal* with such recommendations as may be necessary in the circumstances.

(iv) If the *Head of Department* approves the academic performance improvement plan the principal must, by 30 June, report to the *Head of Department* and the *governing* body on progress made in implementing that plan.

(v) The *Head of Department* may extend the date contemplated subparagraph (iv) on good cause shown.

(2) The *principal* must—

(a)

in undertaking the professional management of a *public school* as contemplated in [section 16 \(3\)](#), carry out duties which include, but are not limited to—

(i)  
the implementation of all the educational programmes and curriculum activities;

(ii)  
the management of all educators and support staff;

(iii)  
the management of the use of learning support material and other equipment;

(iv)  
the performance of functions delegated to him or her by the *Head of Department* in terms of this Act;

(v)  
the safekeeping of all school records; and

(vi)  
the implementation of policy and legislation;

(b)

attend and participate in all meetings of the *governing body*;

(c)

provide the *governing body* with a report about the professional management relating to the *public school*;

(d)

assist the *governing body* in handling disciplinary matters pertaining to *learners*;

(e)

assist the *Head of Department* in handling disciplinary matters pertaining to *educators* and support staff employed by the *Head of Department*;

(f)

inform the *governing body* about policy and legislation; and

(g)

provide accurate data to the *Head of Department* when requested to do so.

(3) The *principal* must assist the *governing body* in the performance of its functions and responsibilities, but such assistance or participation may not be in conflict with—

(a)

instructions of the *Head of Department*;

(b)

legislation or policy;

(c)

an obligation that he or she has towards the *Head of Department*, the *Member of the Executive Council* or the *Minister*; or

(d)

a provision of the Employment of Educators Act, 1998 ([Act No. 76 of 1998](#)), and the Personnel Administration Measures determined in terms thereof.

[[S. 16A](#) inserted by [s. 8](#) of [Act No. 31 of 2007](#).]

**17. Governing body serving two or more schools.**—(1) The *Member of the Executive Council* may determine that the governance of two or more *public schools* must vest in a single *governing body* if it is in the best interests of education at the *schools* in question.

(2) The *Member of the Executive Council* may not act under [subsection \(1\)](#) unless he or she has—

- (a) given notice in the Provincial Gazette of his or her intention so to act;
- (b) given interested parties an opportunity to make written submissions within a period of not less than 30 days; and
- (c) considered all such submissions.

**18. Constitution of governing body.**—(1) Subject to *this Act* and any applicable provincial law, the *governing body* of a *public school* must function in terms of a constitution which complies with minimum requirements determined by the *Member of the Executive Council* by notice in the Provincial Gazette.

(2) A constitution contemplated in [subsection \(1\)](#) must provide for—

- (a) a meeting of the *governing body* at least once every *school* term;
- (b) meetings of the *governing body* with *parents, learners, educators* and other staff at the *school*, respectively, at least once a year;
- (c) recording and keeping of minutes of *governing body* meetings;
- (d) making available such minutes for inspection by the *Head of Department*; and
- (e) rendering a report on its activities to *parents, learners, educators* and other staff of the *school* at least once a year.

(3) The *governing body* must submit a copy of its constitution to the *Head of Department* within 90 days of its election.

**18A. Code of conduct of governing body.**—(1) The *Member of the Executive Council* must, by notice in the Provincial Gazette, determine a code of conduct for the members of the *governing body* of a *public school* after consultation with associations of *governing bodies* in that province, if applicable.

(2) The code of conduct referred to in [subsection \(1\)](#) must be aimed at establishing a disciplined and purposeful *school* environment dedicated to the improvement and maintenance of a quality governance structure at a *public school*.

(3) All members of a *governing body* must adhere to the code of conduct.

(4) The code of conduct must contain provisions of due process, safeguarding the interests of the members of the *governing body* in disciplinary proceedings.

(5) The Head of Department may suspend or terminate the membership of a *governing body* member for a breach of the code of conduct after due process.

(6) A member of the *governing body* may appeal to the *Member of the Executive Council* against a decision of a *Head of Department* regarding the suspension or termination of his or her membership as a *governing body* member.

[S. 18A inserted by s. 6 of Act No. 50 of 2002.]

**19. Enhancement of capacity of governing bodies.**—(1) Out of funds appropriated for this purpose by the *provincial legislature*, the *Head of Department* must establish a programme to—

- (a) provide introductory training for newly elected *governing bodies* to enable them to perform their functions; and
- (b) provide continuing training to *governing bodies* to promote the effective performance of their functions or to enable them to assume additional functions.

(2) The *Head of Department* must ensure that *principals* and other officers of the *education department* render all necessary assistance to *governing bodies* in the performance of their functions in terms of *this Act*.

**20. Functions of all governing bodies.**—(1) Subject to *this Act*, the *governing body* of a *public school* must—

- (a) promote the best interests of the *school* and strive to ensure its development through the provision of quality education for all *learners* at the *school*;
- (b) adopt a constitution;
- (c) develop the mission statement of the *school*;
- (d) adopt a code of conduct for *learners* at the *school*;
- (e) support the *principal*, *educators* and other staff of the *school* in the performance of their professional functions;
- (eA) adhere to any actions taken by the Head of Department in terms of [section 16](#) of the Employment of Educators Act, 1998 ([Act No. 76 of 1998](#)), to address the incapacity of a *principal* or *educator* to carry out his or her duties effectively;  
[[Para. \(eA\)](#) inserted by [s. 9 \(a\)](#) of [Act No. 31 of 2007](#).]
- (f) determine times of the *school* day consistent with any applicable conditions of employment of staff at the *school*;
- (g) administer and control the *school's* property, and buildings and grounds occupied by the *school*, including *school* hostels, but the exercise of this power must not in any manner interfere with or otherwise hamper the implementation of a decision made by the *Member of the Executive Council* or *Head of Department* in terms of any law or policy;  
[[Para. \(g\)](#) substituted by [s. 9 \(b\)](#) of [Act No. 31 of 2007](#).]

### Wording of Sections

- (h) encourage *parents, learners, educators* and other staff at the *school* to render voluntary services to the *school*;
- (i) recommend to the *Head of Department* the appointment of *educators* at the *school*, subject to the Employment of Educators Act, 1998 ([Act No. 76 of 1998](#)), and the Labour Relations Act, 1995 ([Act No. 66 of 1995](#));  
[[Para. \(i\)](#) substituted by [s. 3](#) of [Act No. 57 of 2001](#).]  
Wording of Sections
- (j) recommend to the *Head of Department* the appointment of non-educator staff at the *school*, subject to the Public Service Act, 1994 ([Proclamation No. 103 of 1994](#)), and the Labour Relations Act, 1995 ([Act No. 66 of 1995](#));
- (jA) make the recommendation contemplated in [paragraph \(j\)](#) within the time frames contemplated in [section 6 \(3\) \(l\)](#) of the Employment of Educators Act, 1998 ([Act No. 76 of 1998](#)).  
[[Para. \(jA\)](#) inserted by [s. 9 \(c\)](#) of [Act No. 31 of 2007](#).]
- (k) at the request of the *Head of Department*, allow the reasonable use under fair conditions determined by the *Head of Department* of the facilities of the *school* for educational programmes not conducted by the *school*;  
[[Para. \(k\)](#) substituted by [s. 4](#) of [Act No. 53 of 2000](#).]  
Wording of Sections
- (l) discharge all other functions imposed upon the *governing body* by or under *this Act*; and
- (m) discharge other functions consistent with *this Act* as determined by the *Minister* by notice in the Government Gazette, or by the *Member of the Executive Council* by notice in the Provincial Gazette.

(2) The *governing body* may allow the reasonable use of the facilities of the *school* for community, social and *school* fund-raising purposes, subject to such reasonable and equitable conditions as the *governing body* may determine, which may include the charging of a fee or tariff which accrues to the *school*.

(3) The *governing body* may join a voluntary association representing *governing bodies* of *public schools*.

(4) Subject to *this Act*, the Labour Relations Act, 1995 ([Act No. 66 of 1995](#)), and any other applicable law, a *public school* may establish posts for *educators* and employ *educators* additional to the establishment determined by the *Member of the Executive Council* in terms of [section 3 \(1\)](#) of the Educators' Employment Act, 1994.

[[Sub-s. \(4\)](#) added by [s. 6](#) of [Act No. 100 of 1997](#).]

(5) Subject to *this Act*, the Labour Relations Act, 1995 ([Act No. 66 of 1995](#)), and any other applicable law, a *public school* may establish posts for non-educators and employ non-educator staff additional to the establishment determined in terms of the Public Service Act, 1994 ([Proclamation No. 103 of 1994](#)).

[[Sub-s. \(5\)](#) added by [s. 6](#) of [Act No. 100 of 1997](#).]

(6) An *educator* and a non-*educator* employed in a post established in terms of [subsection \(4\)](#) or [\(5\)](#) must comply with the requirements set for employment in *public schools* in terms of *this Act*, the Labour Relations Act, 1995 ([Act No. 66 of 1995](#)), and any other applicable law.

[[Sub-s. \(6\)](#) added by [s. 6](#) of [Act No. 100 of 1997](#).]

(7) A *public school* may only employ an *educator* in a post established in terms of [subsection \(4\)](#) if such *educator* is registered as an *educator* with the South African Council of Educators.

[[Sub-s. \(7\)](#) added by [s. 6](#) of [Act No. 100 of 1997](#).]

(8) The staff contemplated in [subsections \(4\)](#) and [\(5\)](#) must be employed in compliance with the basic values and principles referred to in [section 195](#) of [the Constitution](#), and the factors to be taken into account when making appointments include, but are not limited to—

- (a) the ability of the candidate;
- (b) the principle of equity;
- (c) the need to redress past injustices; and
- (d) the need for representivity.

[[Sub-s. \(8\)](#) added by [s. 6](#) of [Act No. 100 of 1997](#).]

(9) When presenting the annual budget contemplated in [section 38](#), the *governing body* of a *public school* must provide sufficient details of any posts envisaged in terms of [subsections \(4\)](#) and [\(5\)](#), including the estimated costs relating to the employment of staff in such posts and the manner in which it is proposed that such costs will be met.

[[Sub-s. \(9\)](#) added by [s. 6](#) of [Act No. 100 of 1997](#).]

(10) Despite [section 60](#), the State is not liable for any act or omission by the *public school* relating to its contractual responsibility as the employer in respect of staff employed in terms of [subsections \(4\)](#) and [\(5\)](#).

[[Sub-s. \(10\)](#) added by [s. 6](#) of [Act No. 100 of 1997](#).]

(11) After consultation as contemplated in [section 5](#) of the National Education Policy Act, 1996 ([Act No. 27 of 1996](#)), the *Minister* may determine norms and standards by notice in the *Gazette* regarding the funds used for the employment of staff referred to in [subsections \(4\)](#) and [\(5\)](#), but such norms and standards may not be interpreted so as to make the State a joint employer of such staff.

[[Sub-s. \(11\)](#) added by [s. 6](#) of [Act No. 100 of 1997](#).]

<b>Wording of Sections</b>	<b>x</b>
<a href="#">s 20(1)(g)</a> of Act 84 of 1996 prior to amendment by <a href="#">Act 31 of 2007</a>	
<b>Wording of Sections</b>	<b>x</b>
<a href="#">s 20(1)(i)</a> of Act 84 of 1996 prior to amendment by <a href="#">Act 57 of 2001</a>	
<b>Wording of Sections</b>	<b>x</b>
<a href="#">s 20(1)(k)</a> of Act 84 of 1996 prior to amendment by <a href="#">Act 53 of 2000</a>	

**21. Allocated functions of governing bodies.**—(1) Subject to *this Act*, a *governing body* may apply to the *Head of Department* in writing to be allocated any of the following functions:

- (a) To maintain and improve the *school's* property, and buildings and grounds occupied by the *school*, including *school* hostels, if applicable;
- (b) to determine the extra-mural curriculum of the *school* and the choice of subject options in terms of provincial curriculum policy;

- (c) to purchase textbooks, educational materials or equipment for the *school*;
- (d) to pay for services to the *school*;
- (dA) to provide an adult basic education and training class or centre subject to any applicable law; or  
[Para. (dA) inserted by s. 10 (b) of Act No. 48 of 1999.]
- (e) other functions consistent with *this Act* and any applicable provincial law.

(2) The *Head of Department* may refuse an application contemplated in [subsection \(1\)](#) only if the *governing body* concerned does not have the capacity to perform such function effectively.

(3) The *Head of Department* may approve such application unconditionally or subject to conditions.

(4) The decision of the *Head of Department* on such application must be conveyed in writing to the *governing body* concerned, giving reasons.

(5) Any person aggrieved by a decision of the *Head of Department* in terms of this section may appeal to the *Member of the Executive Council*.

(6) The *Member of the Executive Council* may, by notice in the Provincial Gazette, determine that some governing bodies may exercise one or more functions without making an application contemplated in [subsection \(1\)](#), if—

- (a) he or she is satisfied that the governing bodies concerned have the capacity to perform such function effectively; and
- (b) there is a reasonable and equitable basis for doing so.

**22. Withdrawal of functions from governing bodies.**—(1) The *Head of Department* may, on reasonable grounds, withdraw a function of a *governing body*.

(2) The *Head of Department* may not take action under [subsection \(1\)](#) unless he or she has—

- (a) informed the *governing body* of his or her intention so to act and the reasons therefor;
- (b) granted the *governing body* a reasonable opportunity to make representations to him or her relating to such intention; and
- (c) given due consideration to any such representations received.

(3) In cases of urgency, the *Head of Department* may act in terms of [subsection \(1\)](#) without prior communication to such *governing body*, if the *Head of Department* thereafter—

- (a) furnishes the *governing body* with reasons for his or her actions;
- (b) gives the *governing body* a reasonable opportunity to make representations relating to such actions; and
- (c) duly considers any such representations received.

(4) The *Head of Department* may for sufficient reasons reverse or suspend his or her action in terms of [subsection \(3\)](#).

(5) Any person aggrieved by a decision of the *Head of Department* in terms of this section may appeal against the decision to the *Member of the Executive Council*.

**23. Membership of governing body of ordinary public school.**—(1) Subject to *this Act*, the membership of the *governing body* of an ordinary *public school* comprises—

- (a) elected members;
- (b) the *principal*, in his or her official capacity;
- (c) co-opted members.

(2) Elected members of the *governing body* shall comprise a member or members of each of the following categories:

- (a) *Parents of learners* at the *school*;
- (b) *educators* at the *school*;
- (c) members of staff at the *school* who are not *educators*; and
- (d) *learners* in the eighth *grade* or higher at the *school*.

(3) A *parent* who is employed at the *school* may not represent *parents* on the *governing body* in terms of [subsection \(2\) \(a\)](#).

(4) The representative council of *learners* referred to in [section 11 \(1\)](#) must elect the *learner* or *learners* referred to in [subsection \(2\) \(d\)](#).

(5) The *governing body* of an ordinary *public school* which provides education to *learners* with special needs must, where practically possible, co-opt a person or persons with expertise regarding the special education needs of such *learners*.

(6) A *governing body* may co-opt a member or members of the community to assist it in discharging its functions.

(7) The *governing body* of a *public school* contemplated in [section 14](#) may co-opt the owner of the property occupied by the *school* or the nominated representative of such owner.

(8) Subject to [subsection \(10\)](#), co-opted members do not have voting rights on the *governing body*.

[[Sub-s. \(8\)](#) substituted by [s. 11 \(a\)](#) of [Act No. 48 of 1999](#).]

**Wording of Sections**

(9) The number of *parent* members must comprise one more than the combined total of other members of a *governing body* who have voting rights.

(10) If the number of *parents* at any stage is not more than the combined total of other members with voting rights, the *governing body* must temporarily co-opt *parents* with voting rights.

[[Sub-s. \(10\)](#) added by [s. 11 \(b\)](#) of [Act No. 48 of 1999](#).]

(11) If a *parent* is co-opted with voting rights as contemplated in [subsection \(10\)](#), the co-option ceases when the vacancy has been filled through a by-election which must be held

according to a procedure determined in terms of [section 28 \(d\)](#) within 90 days after the vacancy has occurred.

[[Sub-s. \(11\)](#) added by [s. 11 \(b\)](#) of [Act No. 48 of 1999](#).]

(12) If a person elected as a member of a *governing body* as contemplated in [subsection \(2\)](#) ceases to fall within the category referred to in that subsection in respect of which he or she was elected as a member, he or she ceases to be a member of the *governing body*.

[[Sub-s. \(12\)](#) added by [s. 11 \(b\)](#) of [Act No. 48 of 1999](#).]

Wording of Sections		X
<a href="#">s 23(8)</a> of Act 84 of 1996 prior to amendment by <a href="#">Act 48 of 1999</a>		

**24. Membership of governing body of public school for learners with special education needs.**—(1) The following categories of persons must be represented on a *governing body* of a *public school for learners* with special education needs, in each case by a member or members of the respective category:

- (a) *Parents of learners* at the *school*, if reasonably practicable;
- (b) *educators* at the *school*;
- (c) members of staff at the *school* who are not *educators*;
- (d) *learners* attending the eighth *grade* or higher, if reasonably practicable;
- (e) representatives of sponsoring bodies, if applicable;
- (f) representatives of organisations of *parents of learners* with special education needs, if applicable;
- (g) representatives of organisations of disabled persons, if applicable;
- (h) disabled persons, if applicable; and
- (i) experts in appropriate fields of special needs education.
- (j) the *principal* in his or her official capacity.

[[Para. \(j\)](#) added by [s. 7](#) of [Act No. 100 of 1997](#).]

(2) Subject to *this Act*, the *Member of the Executive Council* must, by notice in the Provincial Gazette, determine the number of members in each category referred to in [subsection \(1\)](#) and the manner of election or appointment of such members at every *public school for learners* with special education needs within his or her *province*.

(3) A notice contemplated in [subsection \(2\)](#) must give interested parties an opportunity to make written submissions within a period of not less than 30 days.

(4) The *Member of the Executive Council* must consider all such submissions, and thereafter may alter the notice contemplated in [subsection \(2\)](#).

**25. Failure by governing body to perform functions.**—(1) If the Head of Department determines on reasonable grounds that a *governing body* has ceased to perform functions allocated to it in terms of *this Act* or has failed to perform one or more of such functions, he or she must appoint sufficient persons to perform all such functions or one or more of such functions, as the case may be, for a period not exceeding three months.

[Sub-s. (1) substituted by s. 4 (a) of Act No. 57 of 2001.]

**Wording of Sections**

(2) The *Head of Department* may extend the period referred to in [subsection \(1\)](#), by further periods not exceeding three months each, but the total period may not exceed one year.

(3) If a *governing body* has ceased to perform its functions, the *Head of Department* must ensure that a *governing body* is elected in terms of *this Act* within a year after the appointment of persons contemplated in [subsection \(1\)](#).

[Sub-s. (3) substituted by s. 4 (b) of Act No. 57 of 2001.]

**Wording of Sections**

(4) If a *governing body* fails to perform any of its functions, the persons contemplated in [subsection \(1\)](#) must build the necessary capacity within the period of their appointment to ensure that the *governing body* performs its functions.

[Sub-s. (4) added by s. 4 (c) of Act No. 57 of 2001.]

**26. Recusal by members of governing body.**—A member of a *governing body* must withdraw from a meeting of the *governing body* for the duration of the discussion and decision-making on any issue in which the member has a personal interest.

**27. Reimbursement of members of governing body.**—(1) Necessary expenses incurred by a member of a *governing body* in the performance of his or her duties may be reimbursed by the *governing body*.

(2) No member of a *governing body* may be remunerated in any way for the performance of his or her duties.

**28. Election of members of governing body.**—Subject to *this Act* and any applicable provincial law, the *Member of the Executive Council* must, by notice in the Provincial Gazette, determine—

- (a) the term of office of members and office-bearers of a *governing body*;
- (b) the designation of an officer to conduct the process for the nomination and election of members of the *governing body*;
- (c) the procedure for the disqualification or removal of a member of the *governing body* or the dissolution of a *governing body*, for sufficient reason in each case;
- (d) the procedure for the filling of a vacancy on the *governing body*;
- (e) guidelines for the achievement of the highest practicable level of representativity of members of the *governing body*;
- (f) a formula or formulae for the calculation of the number of members of the *governing body* to be elected in each of the categories referred to in [section 23 \(2\)](#), but such formula or formulae must provide reasonable representation for each category and must be capable of application to the different sizes and circumstances of *public schools*; and

- (g) any other matters necessary for the election, appointment or assumption of office of members of the *governing body*.

**29. Office-bearers of governing bodies.**—(1) A *governing body* must, from amongst its members, elect office-bearers, who must include at least a chairperson, a treasurer and a secretary.

(2) Only a *parent* member of a *governing body* who is not employed at the *public school* may serve as the chairperson of the *governing body*.

(3) In the case of a *public school* for *learners* with special education needs any member of the *governing body* elected from the categories of persons referred to in [section 24 \(1\) \(a\), \(e\), \(f\), \(g\), \(h\) and \(i\)](#) may serve as the chairperson of that *governing body*.

[Sub-s. (3) added by s. 12 of [Act No. 48 of 1999](#).]

**30. Committees of governing body.**—(1) A *governing body* may—

- (a) establish committees, including an executive committee; and
- (b) appoint persons who are not members of the *governing body* to such committees on grounds of expertise, but a member of the *governing body* must chair each committee.

(2) A *governing body* of an ordinary *public school* which provides education to *learners* with special education needs must establish a committee on special education needs.

**31. Term of office of members and office-bearers of governing bodies.**—(1) The term of office of a member of a *governing body* other than a *learner* may not exceed three years.

(2) The term of office of a member of a *governing body* who is a *learner* may not exceed one year.

(3) The term of office of an office-bearer of a *governing body* may not exceed one year.

(4) A member or office-bearer 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.

**32. Status of minors on governing bodies of public schools.**—(1) A member of a *governing body* who is a minor may not contract on behalf of a *public school*.

(2) A member of a *governing body* who is a minor may not vote on resolutions of a *governing body* which impose liabilities on third parties or on the *school*.

(3) A member of a *governing body* who is a minor incurs no personal liability for any consequence of his or her membership of the *governing body*.

**33. Closure of public schools.**—(1) The *Member of the Executive Council* may, by notice in the Provincial Gazette, close a *public school*.

(2) The *Member of the Executive Council* may not act under [subsection \(1\)](#) unless he or she has—

- (a) informed the *governing body* of the *school* of his or her intention so to act and his or her reasons therefor;

- (b) granted the *governing body* of the *school* a reasonable opportunity to make representations to him or her in relation to such action;
- (c) conducted a public hearing on reasonable notice, to enable the community to make representations to him or her in relation to such actions; and
- (d) given due consideration to any such representations received.

(3) If a *public school* is closed in terms of [subsection \(1\)](#) all assets and liabilities of such *school* must, subject to the conditions of any donation, bequest or trust contemplated in [section 37\(4\)](#), devolve on the State unless otherwise agreed between the *Member of the Executive Council* and the *governing body* of the *school*.

#### CHAPTER 4 FUNDING OF PUBLIC SCHOOLS

**34. Responsibility of State.**—(1) The State must fund *public schools* from public revenue on an equitable basis in order to ensure the proper exercise of the rights of *learners* to education and the redress of past inequalities in education provision.

(2) The State must, on an annual basis, provide sufficient information to *public schools* regarding the funding referred to in [subsection \(1\)](#) to enable *public schools* to prepare their budgets for the next financial year.

**35. Norms and standards for school funding.**—(1) Subject to [the Constitution](#) and *this Act*, the *Minister* must determine national quintiles for *public schools* and *national norms and standards for school funding* after consultation with the *Council of Education Ministers* and the Minister of Finance.

(2) The *norms and standards for school funding* contemplated in [subsection \(1\)](#) must—

- (a) set out criteria for the distribution of state funding to all *public schools* in a fair and equitable manner;
- (b) provide for a system in terms of which *learners* at all *public schools* can be placed into quintiles, referred to as national quintiles for *learners*, according to financial means;
- (c) provide for a system in terms of which all *public schools* in the Republic can be placed into quintiles referred to as national quintiles for *public schools*, according to the distribution of *learners* in the national quintiles for *learners*; and
- (d) determine the procedure in terms of which the *Member of the Executive Council* must apply the criteria contemplated in [paragraph \(a\)](#).

[S. 35 substituted by s. 3 of [Act No. 24 of 2005](#).]

[Wording of Sections](#)

**36. Responsibility of governing body.**—(1) A *governing body* of a *public school* must take all reasonable measures within its means to supplement the resources supplied by the State in order to improve the quality of education provided by the *school* to all *learners* at the *school*.

(2) Despite [subsection \(1\)](#), a *governing body* may not enter into any loan or overdraft agreement so as to supplement the *school fund*, without the written approval of the *Member of the Executive Council*.

[[Sub-s. \(2\)](#) added by [s. 5](#) of [Act No. 57 of 2001](#).]

(3) If a person lends money or grants an overdraft to a *public school* without the written approval of the *Member of the Executive Council*, the State and the *public school* will not be bound by the contract of lending money or an overdraft agreement.

[[S. 36](#) amended by [s. 5](#) of [Act No. 57 of 2001](#). [Sub-s. \(3\)](#) added by [s. 5](#) of [Act No. 57 of 2001](#).]

[Wording of Sections](#)

**37. School funds and assets of public schools.**—(1) The *governing body* of a *public school* must establish a *school fund* and Administer it in accordance with directions issued by the *Head of Department*.

(2) Subject to [subsection \(3\)](#), all money received by a *public school* including *school fees* and voluntary contributions must be paid into the *school fund*.

(3) The *governing body* of a *public school* must open and maintain one banking account, but a *governing body* of a *public school* may, with the approval of the *Member of the Executive Council*, invest surplus money in another account.

[[Sub-s. \(3\)](#) substituted by [s. 6 \(a\)](#) of [Act No. 57 of 2001](#).]

[Wording of Sections](#)

(4) Money or other goods donated or bequeathed to or received in trust by a *public school* must be applied in accordance with the conditions of such donation, bequest or trust.

(5) All assets acquired by a *public school* on or after the commencement of this Act are the property of the *school*.

(6) The *school fund*, all proceeds thereof and any other assets of the *public school* must be used only for—

- (a) educational purposes, at or in connection with such *school*;
- (b) educational purposes, at or in connection with another *public school*, by agreement with such other *public school* and with the consent of the *Head of Department*;
- (c) the performance of the functions of the *governing body*; or
- (d) another educational purpose agreed between the *governing body* and the *Head of Department*.

(7) (a) Money from the *school fund* of a *public school* may not be paid into a trust or be used to establish a trust.

(b) If a trust was established from a *school fund* of a *public school* or if such money was paid into a trust prior to 1 January 2002, such trust or payment is invalid and the money must be paid back into the *school fund*.

(c) A *governing body* of a *public school* may not collect any money or contributions from parents to circumvent or manipulate the payment of compulsory school fees and to use such money or contributions to establish or fund a trust, and if such money or contributions of parents were paid into a trust prior to 1 January 2002, the trust must pay such money or contributions into the *school fund*.

[[Sub-s. \(7\)](#) inserted by [s. 6 \(b\)](#) of [Act No. 57 of 2001](#).]

## Wording of Sections

x

[s 37\(3\)](#) of Act 84 of 1996 prior to amendment by [Act 57 of 2001](#)

**38. Annual budget of public school.**—(1) A governing body of a public school must prepare a budget each year according to prescriptions determined by the Member of the Executive Council in a Provincial Gazette, which shows the estimated income and expenditure of the school for the following financial year.

[[Sub-s. \(1\)](#) substituted by [s. 7](#) of [Act No. 57 of 2001](#).]

### Wording of Sections

(2) Before a budget referred to in [subsection \(1\)](#) is approved by the *governing body*, it must be presented to a general meeting of *parents* convened on at least 30 days' notice, for consideration and approval by a majority of *parents* present and voting.

(3) The notice contemplated in [subsection \(2\)](#) must also inform the *parents* that the budget will be available for inspection at the *school* at least 14 days prior to the meeting.

[[Sub-s. \(3\)](#) added by [s. 7](#) of [Act No. 50 of 2002](#).]

**38A. Prohibition of payment of unauthorised remuneration, or giving of financial benefit or benefit in kind to certain employees.**—(1) Subject to [subsection \(2\)](#), a governing body may not pay or give to a state employee employed in terms of the Employment of Educators Act, 1998 ([Act No. 76 of 1998](#)), or the Public Service Act, 1994 ([Proclamation No. 103 of 1994](#)), any unauthorised—

- (a) remuneration;
- (b) other financial benefit; or
- (c) benefit in kind.

(2) A governing body may apply to the employer for approval to pay a state employee any payment contemplated in [subsection \(1\)](#).

(3) Such application must be lodged in writing in the office of the employer and must state—

- (a) full details of the nature and extent of the payment;
- (b) the process and resources that will be used to compensate or remunerate the state employee; and
- (c) the extent of compliance with [section 20 \(5\)](#) to [\(9\)](#).

(4) The governing body must make the application contemplated in [subsection \(2\)](#) at least four months prior to the finalisation of the school's budget.

(5) Despite [subsection \(1\)](#), a governing body may pay travel and subsistence expenses relating to official school activities but such expenses may not be greater than those that would be payable to a public servant in similar circumstances.

(6) An employer must not unreasonably refuse an application contemplated in [subsection \(2\)](#).

(7) In considering the application, the employer must take into account—

- (a)

the implications for the employer in terms of the employment contract and labour law;

- (b) whether the service concerned in the application will interfere with the normal service delivery of the employee;
- (c) whether the service concerned in the application has already been paid for by the employer; and
- (d) whether the additional remuneration, other benefits or benefits in kind support the core activities and functions of the school.

(8) The payment contemplated in [subsection \(1\)](#) must be reflected in the school's budget, as presented to the general meeting of parents as contemplated in [section 38 \(2\)](#).

(9) If a governing body pays remuneration or gives any financial benefit or benefit in kind contemplated in [subsection \(1\)](#) to an employee without prior approval of the employer, the amount of money paid or benefit given must be recovered by the employer on behalf of the school from members of the governing body who took that decision, excluding a member of the governing body who is a minor.

(10) A governing body may appeal to the Member of the Executive Council against—

- (a) the refusal by the employer of an application contemplated in [subsection \(2\)](#); or
- (b) the failure of the employer to provide a decision on an application contemplated in [subsection \(2\)](#) within three months after the lodging of the application in the office of the employer.

[[S. 38A](#) inserted by [s. 2](#) of [Act No. 1 of 2004](#).]

**39. School fees at public schools.**—(1) Subject to *this Act*, school fees may be determined and charged at a *public school* only if a resolution to do so has been adopted by a majority of *parents* attending the meeting referred to in [section 38 \(2\)](#).

(2) A resolution contemplated in [subsection \(1\)](#) must provide for—

- (a) the amount of *school fees* to be charged;
- (b) equitable criteria and procedures for the total, partial or conditional exemption of *parents* who are unable to pay *school fees*; and
- (c) a *school* budget that reflects the estimated cumulative effect of—

(i)

the established trends of non-payment of *school fees*; and

(ii)

the total, partial or conditional exemptions granted to *parents* in terms of the regulations contemplated in [subsection \(4\)](#).

[[Sub-s. \(2\)](#) substituted by [s. 4 \(a\)](#) of [Act No. 24 of 2005](#).]

Wording of Sections

(3) The *governing body* must implement a resolution adopted at the meeting contemplated in [subsection \(1\)](#).

(4) The *Minister* must, after consultation with the *Council of Education Ministers* and the Minister of Finance, make regulations regarding the equitable criteria and procedures referred to in [subsection \(2\) \(b\)](#).

(5) No *public school* may charge any registration, administration or other fee, except *school fees* as defined in [section 1](#).

[[Sub-s. \(5\)](#) added by [s. 4 \(b\)](#) of [Act No. 24 of 2005](#).]

(6) A *public school* may not charge a *parent* of a *learner* at that *school* different *school fees* based on curriculum or extramural curriculum within the same *grade*

[[Sub-s. \(6\)](#) added by [s. 4 \(b\)](#) of [Act No. 24 of 2005](#).]

(7) Despite [subsection \(1\)](#), the *Minister* must by notice in the Government Gazette annually determine the national quintiles for *public schools* or part of such quintiles which must be used by the *Member of the Executive Council* to identify *schools* that may not charge *school fees*.

[[Sub-s. \(7\)](#) added by [s. 4 \(b\)](#) of [Act No. 24 of 2005](#).]

(8) The *Minister* may make a determination in terms of [subsection \(7\)](#) only if sufficient funding, not less than the *no fee threshold*, has been secured to fund *learners* at the *schools* affected by the determination.

[[Sub-s. \(8\)](#) added by [s. 4 \(b\)](#) of [Act No. 24 of 2005](#).]

(9) The *Member of the Executive Council* must identify and draw a list of all the *schools* contemplated in [subsection \(7\)](#) within his or her *province*.

[[Sub-s. \(9\)](#) added by [s. 4 \(b\)](#) of [Act No. 24 of 2005](#).]

(10) The *Minister* must—

(a)

consider the list of *schools* identified in terms of [subsection \(9\)](#);

(b)

compare the list with the determination contemplated in [section 35 \(1\)](#); and

(c)

publish the list per *province*, in the Government Gazette if it complies with the determination.

[[Sub-s. \(10\)](#) added by [s. 4 \(b\)](#) of [Act No. 24 of 2005](#).]

(11) The *schools* contemplated in [subsection \(7\)](#) may, despite that subsection, charge *school fees* if they receive less than the *no fee threshold* from the provincial *education department*.

[[Sub-s. \(11\)](#) added by [s. 4 \(b\)](#) of [Act No. 24 of 2005](#).]

(12) The right of the *school* to charge *school fees* in terms of [subsection \(11\)](#) is limited to an amount equal to the sum obtained if the actual amount received from the State is deducted from the *no fee threshold*.

[[Sub-s. \(12\)](#) added by [s. 4 \(b\)](#) of [Act No. 24 of 2005](#).]

#### Wording of Sections



[s 39\(2\)](#) of Act 84 of 1996 prior to amendment by [Act 24 of 2005](#)

**40. Parent's liability for payment of school fees.**—(1) A *parent* is liable to pay the *school fees* determined in terms of [section 39](#) unless or to the extent that he or she has been exempted from payment in terms of *this Act*.

(2) A *parent* may appeal to the *Head of Department* against a decision of a *governing body* regarding the exemption of such *parent* from payment of *school fees*.

(3) In deciding an appeal referred to in [subsection \(2\)](#), the *Head of Department* must follow due process which safeguards the interests of the *parent* and the *governing body*.

**41. Enforcement of payment of school fees.**—(1) A *public school* may by process of law enforce the payment of *school fees* by *parents* who are liable to pay in terms of [section 40](#).

(2) The exemption from payment of *school fees* must be calculated according to the regulations contemplated in [section 39 \(4\)](#).

(3) The exemption from payment of *school fees* in terms of *this Act* is calculated retrospectively from the date on which the *parent* qualifies for the exemption.

(4) A *public school* may act in terms of [subsection \(1\)](#) only after it has ascertained that—

- (a) the *parent* does not qualify for exemption from payment of *school fees* in terms of *this Act*;
- (b) deductions have been made in terms of regulations contemplated in [section 39 \(4\)](#), for a *parent* who qualifies for partial exemption; and
- (c) the *parent* has completed and signed the form prescribed in the regulations contemplated in [section 39 \(4\)](#).

(5) Despite [subsection \(4\)](#), a *public school* may act in terms of [subsection \(1\)](#) if—

- (a) that *school* can provide proof of a written notification to the *parent* delivered by hand or registered post that the *parent* has failed to apply for exemption contemplated in [section 39](#); and
- (b) despite the notice contemplated in [paragraph \(a\)](#), the *parent* fails to pay the *school fees* after a period of three months from the date of notification.

(6) A *public school* may not attach the dwelling in which a *parent* resides.

(7) A *learner* may not be deprived of his or her right to participate in all aspects of the programme of a *public school* despite the non-payment of *school fees* by his or her *parent* and may not be victimised in any manner, including but not limited to the following conduct:

- (a) Suspension from classes;
- (b) verbal or non-verbal abuse;
- (c) denial of access to—
  - (i) cultural, sporting or social activities of the *school*; or
  - (ii) the nutrition programme of the school for those *learners* who qualify in terms of the applicable policy; or
- (d) denial of a *school* report or transfer certificate.

[S. 41 substituted by s. (5) of [Act No. 24 of 2005](#).]

Wording of Sections

**Wording of Sections**

✕

[s 41](#) of Act 84 of 1996 prior to amendment by [Act 24 of 2005](#)

**42. Financial records and statements of public schools.**—The *governing body* of a *public school* must—

- (a) keep records of funds received and spent by the *public school* and of its assets, liabilities and financial transactions; and
- (b) as soon as practicable, but not later than three months after the end of each financial year, draw up annual financial statements in accordance with the guidelines determined by the *Member of the Executive Council*.

**43. Audit or examination of financial records and statements.**—(1) The *governing body* of a *public school* must appoint a person registered as an auditor in terms of the Auditing Profession Act, 2005 ([Act No. 26 of 2005](#)), to audit the records and financial statements referred to in [section 42](#).

[[Sub-s. \(1\)](#) substituted by [s. 10](#) of [Act No. 31 of 2007](#).]  
Wording of Sections

(2) If the audit referred to in subsection (1) is not reasonably practicable, the *governing body* of a *public school* must appoint a person to examine and report on the records and financial statements referred to in [section 42](#), who—

- (a) is qualified to perform the duties of an accounting officer in terms of [section 60](#) of the Close Corporations Act, 1984 ([Act No. 69 of 1984](#)); or
- (b) is approved by the *Member of the Executive Council* for this purpose.

(3) No person who has a financial interest in the affairs of the *public school* may be appointed under this section.

(4) If the *Member of the Executive Council* deems it necessary, he or she may request the Auditor-General to undertake an audit of the records and financial statements of a *public school*.

(5) A *governing body* must submit to the *Head of Department*, within six months after the end of each financial year, a copy of the annual financial statements, audited or examined in terms of this section.

(6) At the request of an interested person, the *governing body* must make the records referred to in [section 42](#), and the audited or examined financial statements referred to in this section, available for inspection.

**44. Financial year of public school.**—The financial year of a *public school* commences on the first day of January and ends on the last day of December of each year.

## CHAPTER 5 INDEPENDENT SCHOOLS

**45. Establishment of independent school.**—Subject to this Act and any applicable provincial law, any person may, at his or her own cost, establish and maintain an *independent school*.

**45A. Admission age to independent school.**—(a) The admission age of a *learner* to an *independent school* to—

(i)

grade R is age four turning five by 30 June in the year of admission; (ii)  
grade 1 is age five turning six by 30 June in the year of admission.

(b) An *independent school* may admit a *learner* who— (i)  
is under the age contemplated in [paragraph \(a\)](#) if good cause is shown; and (ii)  
complies with the criteria contemplated in paragraph (c).

(c) The *Minister* may, by regulation, prescribe— (i)  
criteria<sup>2</sup> for the admission to an *independent school* at an age lower than the (i)  
admission age of an underage *learner* who complies with the criteria; (ii)  
age requirements for different *grades* at an *independent school*.

(d) For the purpose of [paragraph \(b\) \(i\)](#), good cause shown means that— (i)  
it can be shown that exceptional circumstances exist which necessitate the (i)  
admission of an underage *learner* because admission would be in his or her best (ii)  
interest; and (ii)  
the refusal to admit that *learner* would be severely detrimental to his or her  
development.”.

[[S. 45A](#) inserted by [s. 8](#) of [Act No. 50 of 2002](#) with effect from 1 January, 2004.]

### Footnotes

2  
It is acknowledged that criteria for admission of an underage learner are complex and take some considerable time to develop. The criteria must be reliable, effective and their proper implementation will require the training of evaluators. The criteria must be based on an educationally sound basis in order to ensure that—

- (a) learners are admitted on an equitable basis;
- (b) there is no unfair discrimination to learners;
- (c) the admission is fair to the individual learner as well as other learners in the classroom;
- (d) recognition is given to the diversity of language, culture and economic background;
- (e) notice is taken of the differences between urban and rural environments; and
- (f) the physical, psychological and mental development of the child are taken into account.

#### Footnote



2  
It is acknowledged that criteria for admission of an underage learner are complex and take some considerable time to develop. The criteria must be reliable, effective and their proper implementation will require the training of evaluators. The criteria must be based on an educationally sound basis in order to ensure that—  
(a)

- (b) learners are admitted on an equitable basis;
- (b) there is no unfair discrimination to learners;
- (c) the admission is fair to the individual learner as well as other learners in the classroom;
- (d) recognition is given to the diversity of language, culture and economic background;
- (e) notice is taken of the differences between urban and rural environments; and
- (f) the physical, psychological and mental development of the child are taken into account.

**46. Registration of independent school.**—(1) No person may establish or maintain an *independent school* unless it is registered by the *Head of Department*.

(2) The *Member of the Executive Council* must, by notice in the Provincial Gazette, determine the grounds on which the registration of an *independent school* may be granted or withdrawn by the *Head of Department*.

(3) A *Head of Department* must register an *independent school* if he or she is satisfied that—

- (a) the standards to be maintained by such *school* will not be inferior to the standards in comparable *public schools*;
- (b) the admission policy of the *school* does not discriminate on the grounds of race; and
- (c) the *school* complies with the grounds for registration contemplated in [subsection \(2\)](#).

(4) Any person who contravenes [subsection \(1\)](#) is guilty of an offence and upon conviction liable to a fine or imprisonment for a period of three months.

**47. Withdrawal of registration of independent school.**—(1) No withdrawal of the registration of an *independent school* is valid unless—

- (a) the owner of such *independent school* has been furnished by the *Head of Department* with a notice of intention to withdraw the registration, stating the reasons why such withdrawal is contemplated;
- (b) the owner of such *independent school* has been granted an opportunity to make written representations to the *Head of Department* as to why the registration of the *independent school* should not be withdrawn; and
- (c) any such representations received have been duly considered.

(2) The owner of an *independent school* may appeal to the *Member of the Executive Council* against the withdrawal of the registration of such *independent school*.

**48. Subsidies to registered independent schools.**—(1) The *Minister* may, by notice in the Government Gazette, determine norms and minimum standards for the granting of subsidies to *independent schools* after consultation with the *Council of Education Ministers* and the Financial and Fiscal Commission and with the concurrence of the Minister of Finance.

(2) The *Member of the Executive Council* may, out of funds appropriated by the *provincial legislature* for that purpose, grant a subsidy to an *independent school*.

(3) If a condition subject to which a subsidy was granted has not been complied with, the *Head of Department* may terminate or reduce the subsidy from a date determined by him or her.

(4) The *Head of Department* may not terminate or reduce a subsidy under [subsection \(3\)](#) unless—

- (a) the owner of such *independent school* has been furnished with a notice of intention to terminate or reduce the subsidy and the reasons therefor;
- (b) such owner has been granted an opportunity to make written representations as to why the subsidy should not be terminated or reduced; and
- (c) any such representations received have been duly considered.

(5) The owner of an *independent school* may appeal to the *Member of the Executive Council* against the termination or reduction of a subsidy to such *independent school*.

**49. Declaration of independent school as public school.**—(1) The *Member of the Executive Council* may, with the concurrence of the Member of the Executive Council responsible for finance, enter into an agreement with the owner of an *independent school* in terms whereof such *independent school* is declared to be a *public school*.

(2) Notice of the change of status contemplated in [subsection \(1\)](#) must be published in the Provincial Gazette.

**50. Duties of Member of Executive Council relating to independent schools.**—

(1) The *Member of the Executive Council* must, by notice in the Provincial Gazette, determine requirements for—

- (a) the admission of *learners* of an *independent school* to examinations conducted by or under the supervision of the *education department*;
- (b) the keeping of registers and other documents by an *independent school*;
- (c) criteria of eligibility, conditions and manner of payment of any subsidy to an *independent school*; and
- (d) any other matter relating to an *independent school* which must or may be prescribed in terms of *this Act*.

(2) Different requirements may be made under [subsection \(1\)](#) in respect of different *independent schools*.

(3) The *Member of the Executive Council* must allow the affected parties a reasonable period to comment on any requirement he or she intends to determine under [subsection \(1\)](#).

**51. Registration of learner for education at home.**—(1) A *parent* may apply to the *Head of Department* for the registration of a *learner* to receive education at the *learner's* home.

(2) The *Head of Department* must register a *learner* as contemplated in [subsection \(1\)](#) if he or she is satisfied that—

- (a)

the registration is in the interests of the *learner*;

- (b) the education likely to be received by the *learner* at home—
- (i) will meet the minimum requirements of the curriculum at *public schools*; and
  - (ii) will be of a standard not inferior to the standard of education provided at *public schools*; and
- (c) the *parent* will comply with any other reasonable conditions set by the *Head of Department*.

(3) The *Head of Department* may, subject to [subsection \(4\)](#), withdraw the registration referred to in [subsection \(1\)](#).

(4) The *Head of Department* may not withdraw the registration until he or she—

- (a) has informed the *parent* of his or her intention so to act and the reasons therefor;
- (b) has granted the *parent* an opportunity to make representations to him or her in relation to such action; and
- (c) has duly considered any such representations received.

(5) A *parent* may appeal to the *Member of the Executive Council* against the withdrawal of a registration or a refusal to register a *learner* in terms of *this Act*.

## CHAPTER 6 TRANSITIONAL PROVISIONS

**52. Transitional provisions relating to schools other than private schools.**—(1) Any *school* which was established or was deemed to have been established in terms of any law governing *school* education in the Republic of South Africa and which existed immediately prior to the commencement of *this Act*, other than a private *school* referred to in [section 53](#) is deemed to be a *public school*.

(2) The assets and liabilities which vested in a *school* contemplated in [subsection \(1\)](#) immediately prior to the commencement of *this Act*, vest in the *public school* in question.

(3) Funds and other moveable assets used by, or held for or on behalf of, a *public school* contemplated in [subsection \(1\)](#) and which in law are the property of the State, remain at the disposal of the *school*, and devolve on the *school* on a date and subject to conditions determined by the *Minister* by notice in the Government Gazette, after consultation with the *Council of Education Ministers*.

(4) Any transaction entered into prior to the commencement of *this Act* by a *school* contemplated in [subsection \(1\)](#), which had the effect of transferring funds or other assets of such *school* to another person or body without value, is invalid.

**53. Transitional provisions relating to private schools.**—A private *school* which was registered or deemed to have been registered under the provisions of a law regulating *school* education in the Republic of South Africa and which existed immediately prior to the commencement of *this Act*, is deemed to be an *independent school*.

**54. Transitional provisions relating to governing bodies.**—(1) The *Minister* must, after consultation with the *Member of the Executive Council* and by notice in the Government Gazette, determine dates—

- (a) by which the election of members of *governing bodies* at all *public schools* in a *province* must be finalised in terms of *this Act*; and
- (b) from which the *governing bodies* referred to in subsection (1) (a) must function in terms of this Act.

(2) Different dates may be determined in terms of subsection (1) (b) in respect of *governing bodies* in the different provinces.

(3) Any *governing body*, management council or similar authority of a *public school*, which existed immediately prior to the commencement of *this Act*, continues to function until the day before the date on which the relevant *governing body* is elected and must perform all the functions it performed prior to the commencement of this Act which a *governing body* can lawfully perform in terms of *this Act*.

(4) Until a *governing body* begins to function in terms of subsection 1 (b), such *governing body* of a *school* deemed to be a *public school* in terms of [section 52 \(1\)](#) must perform the functions lawfully performed by its predecessor which are capable of being performed by a *governing body* in terms of *this Act*.

#### **55. Transitional provisions relating to immovable property of certain schools.—**

(1) The immovable property of a *school* which was declared to be a state-aided *school* under [section 29 \(2A\)](#) of the Education Affairs Act, 1988 (House of Assembly) ([Act No. 70 of 1988](#)), devolves upon the State on a date determined by the *Minister* by notice in the Government Gazette.

(2) The *Minister* may determine different dates in respect of different *schools* under [subsection \(1\)](#).

(3) Any notice determining a date or dates referred to in [subsection \(1\)](#) or [\(2\)](#) must grant all interested parties a period of not less than 30 days in which to make written submissions.

(4) The *Minister* must consider all such submissions received, and thereafter may alter any notice referred to in [subsection \(1\)](#).

(5) Any transfer duty, stamp duty, other fees or costs payable as a result of the transfer of the immovable property contemplated in [subsection \(1\)](#) must be paid in full or in part from funds appropriated by Parliament for that purpose.

(6) The *Minister* may, with the concurrence of the Minister of Finance, direct that no transfer duty, stamp duty, other fees or costs contemplated in [subsection \(5\)](#) be paid in respect of a particular transfer under this section.

(7) The rights of third parties with claims against the *school* in respect of the immovable property affected by the transfer contemplated in this section are not extinguished by the transfer and—

- (a) a third party acquires no right of execution against the immovable property as a result of such transfer alone;
- (b) a third party is obliged to excuse the *school* in question if the *school* fails to meet its commitments to the third party; and
- (c) the State indemnifies such a third party in its claims against the *school* which were secured by the immovable property, but the third party does not acquire a greater right against the State than that which it had against the *school* prior to the transfer.

(8) The fact that compensation for any land and real rights in or over land expropriated in terms of [subsection \(1\)](#) has not been finalised or paid, does not impede the transfer of such land and real rights in or over land to the State.

(9) Until the date contemplated in [subsection \(1\)](#), a *public school* referred to in that subsection may not let, sell or otherwise alienate its immovable property, or grant to any person any real right thereon or servitude thereon without the written consent of the *Member of the Executive Council*.

(10) Any claim for compensation arising from [subsection \(1\)](#) must be determined as contemplated in [the Constitution](#).

(11) The officer in charge of the deeds office or other office where the immovable property of a *school* is registered, must, on submission of the title deed in question, make such endorsement on the title deed and such entry in the register as may be required to register the transfer of the immovable property.

[[Sub-s. \(11\)](#) added by [s. 9](#) of [Act No. 100 of 1997](#) and substituted by [s. 13](#) of [Act No. 48 of 1999](#).]

#### Wording of Sections

(12) Any immovable property belonging to the State which was used by a *school* and not transferred or endorsed into the name of the *school* contemplated in [subsection \(1\)](#) remains the property of the State.

[[Sub-s. \(12\)](#) added by [s. 9](#) of [Act No. 100 of 1997](#).]

(13) Any immovable property which was transferred into the name of a *school* contemplated in [subsection \(1\)](#) must, if such *school* is subsequently closed in terms of *this Act* or any other applicable law, devolve upon the State.

[[Sub-s. \(13\)](#) added by [s. 9](#) of [Act No. 100 of 1997](#).]

#### Wording of Sections



[s 55\(11\)](#) of Act 84 of 1996 prior to amendment by [Act 48 of 1999](#)

**56. Transitional provisions relating to public schools on private property.**—If an agreement contemplated in [section 14](#) does not exist at the commencement of *this Act* in respect of a *school*, standing on private property and which is deemed to be a *public school* in terms of [section 52 \(1\)](#), the *Member of the Executive Council* must take reasonable measures to conclude such an agreement within six months of the commencement of *this Act*.

**57. Transitional provisions relating to private property owned by religious organisation.**—If the owner of the private property referred to in [section 56](#) is a religious organisation, such owner may require that the agreement contemplated in [section 14](#) must recognise, in an appropriate manner consistent with *this Act*, the distinctive religious character of the *school*.

#### CHAPTER 7 GENERAL PROVISIONS

**58. Expropriation.**—(1) The *Member of the Executive Council* may, if it is in the public interest to do so, expropriate land or a real right in or over land for any purpose relating to *school* education in a *province*.

(2) The *Member of the Executive Council* must give notice in the Provincial Gazette of his or her intention to expropriate in terms of [subsection \(1\)](#).

(3) A notice contemplated in [subsection \(2\)](#) must—

(a)

identify the land or any real right in or over the land;

(b)

give interested parties an opportunity to make written submissions regarding the expropriation within a period of not less than 30 days; and

(c)

invite any person claiming compensation as a result of the expropriation to enter into negotiations with the *Member of the Executive Council* in that regard, and draw attention to the provisions of [subsection \(5\)](#).

(4) The *Member of the Executive Council* may, after considering all such written submissions, expropriate the land or any real right in or over the land referred to in [subsection \(3\)](#) by notice in the Provincial Gazette.

(5) Any expropriation contemplated in [subsection \(4\)](#) takes effect immediately even though compensation payable in respect of such land or real right in or over such land has not been finally determined or paid.

(6) If the *Member of the Executive Council* and an owner of the land or real right fail to reach agreement regarding the payment of compensation, either party may refer the matter to a court for determination, or they may agree to refer the dispute to an arbitrator for arbitration.

(7) The arbitrator determines the time, venue and procedures which apply in the arbitration.

(8) The arbitrator determines the dispute and makes a written award giving reasons for such award as soon as possible after the arbitration, and his or her determination is binding.

(9) The arbitrator may not make an award of costs.

(10) The arbitrator is paid, out of moneys appropriated for this purpose by the *provincial legislature*, such fees and allowances as the *Member of the Executive Council* may determine, with the concurrence of the Member of the Executive Council responsible for finance.

(11) Any transfer duty, stamp duty, other fees or costs payable as a result of any transfer of land or a real right contemplated in [subsection \(1\)](#) may be paid in full or in part from funds appropriated by the *provincial legislature* for that purpose.

(12) Any claim to compensation arising from the expropriation contemplated in [subsection \(4\)](#) must be determined as contemplated in [the Constitution](#) and this section.

**58A. Alienation of assets of public school.**—(1) The *Head of Department* has the right to compile or inspect an inventory of all the assets of a *public school*.

(2) No person may alienate any assets owned by a *public school* to another person or body without the written approval of the *Member of the Executive Council*.

(3) Despite [subsection \(2\)](#), the *Member of the Executive Council* may—

(a)

determine that certain categories of assets below a certain value may be alienated without his or her written approval; and

(b)

determine and publish the value contemplated in [paragraph \(a\)](#) by notice in the Provincial Gazette.

(4) The assets of a *public school* may not be attached as a result of any legal action taken against the *school*.

[S. 58A inserted by s. 6 of [Act No. 24 of 2005](#).]

**58B. Identification of underperforming public schools.**—(1) The *Head of Department* must, annually, from the report contemplated in [section 16A \(1\) \(b\)](#) and from other relevant reports, identify any *public school* that is underperforming in relation to any matter referred to in [subsection \(2\) \(a\)](#), [\(b\)](#) or [\(c\)](#).

(2) The *Head of Department* must issue a written notice to the *school* contemplated in [subsection \(1\)](#), if he or she is satisfied that—

(a)

the standard of performance of *learners* is below the standards prescribed by the National Curriculum Statement and is likely to remain so unless the *Head of Department* exercises his or her power in terms of *this Act*;

(b) there has been a serious breakdown in the way the *school* is managed or governed which is prejudicing, or likely to prejudice, the standards of performance; or

(c) the safety of *learners* or staff is threatened.

(3) The written notice contemplated in [subsection \(2\)](#) must inform the *school* that it must—

(a) within 14 days after delivery of the notice, respond to the notice; and

(b) as soon as possible after that response, provide the *Head of Department* with a plan for correcting the situation.

(4) The *Head of Department* must take all reasonable steps to assist a *school* identified in terms of [subsection \(1\)](#) in addressing the underperformance.

(5) Without limiting the nature and extent of the steps contemplated in [subsection \(4\)](#), the *Head of Department* must consider—

(a) implementing the incapacity code and procedures for poor work performance referred to in [section 16](#) of the Employment of Educators Act, 1998 ([Act No. 76 of 1998](#));

(b) withdrawing the functions of the *governing body* in terms of [section 22](#); or

(c) appointing persons in terms of [section 25](#) to perform the functions or specified functions of the *governing body*.

(6) The counselling of the *principal* as contemplated in [Item 2 \(5\) \(b\) \(ii\)](#) of [Schedule 1](#) to the Employment of Educators Act, 1998 ([Act No. 76 of 1998](#)), may include the appointment of an academic mentor to take over the functions and responsibilities of the *principal* for the period determined by the *Head of Department*.

(7) In order to assist the *Minister* in carrying out his or her duties referred to in [section 8](#) of the National Education Policy Act, 1996 ([Act No. 27 of 1996](#)), the *Member of the Executive Council* must report to the *Minister* within three months after the end of a *school* year on the action taken by the *Head of Department* in regard to an underperforming *public school*.

[[S. 58B](#) inserted by [s. 11](#) of [Act No. 31 of 2007](#).]

**58C. Compliance with norms and standards.**—(1) The *Member of the Executive Council* must, in accordance with an implementation protocol contemplated in [section 35](#) of the Intergovernmental Relations Framework Act, 2005 ([Act No. 13 of 2005](#)), ensure compliance with—

(a) norms and standards determined in terms of [sections 5A](#), [6 \(1\)](#), [20 \(11\)](#), [35](#) and [48 \(1\)](#);

(b) minimum outcomes and standards set in terms of [section 6A](#); and

(c) performance standards contemplated in [Item 2 \(2\)](#) of [Schedule 1](#) to the Employment of Educators Act, 1998 ([Act No. 76 of 1998](#)),

(in this section jointly referred to as “norms and standards”).

(2) The *Member of the Executive Council* must ensure that the policy determined by a *governing body* in terms of [sections 5 \(5\)](#) and [6 \(2\)](#) complies with the norms and standards.

(3) The *Member of the Executive Council* must, annually, report to the *Minister* the extent to which the norms and standards have been complied with or, if they have not been complied with, indicate the measures that will be taken to comply.

(4) Any dispute between the *Minister* and a *Member of the Executive Council* in respect of non-compliance with the norms and standards contemplated in [subsection \(1\)](#) must—

(a) be dealt with in accordance with the principles of co-operative governance referred to in [section 41 \(1\)](#) of [the Constitution](#) and the provisions of the Intergovernmental Relations Framework Act, 2005 ([Act No. 13 of 2005](#)); and

(b) whenever necessary, be settled in accordance with [Chapter 4](#) of the Intergovernmental Relations Framework Act, 2005.

(5) The *Head of Department* must comply with all norms and standards contemplated in [subsection \(1\)](#) within a specific *public school* year by—

(a) identifying resources with which to comply with such norms and standards;

(b) identifying the risk areas for compliance;

(c) developing a compliance plan for the province, in which all norms and standards and the extent of compliance must be reflected;

(d) developing protocols with the *schools* on how to comply with norms and standards and manage the risk areas; and

(e) reporting to the *Member of the Executive Council* on the state of compliance and on the measures contemplated in [paragraphs \(a\)](#) to [\(d\)](#), before 30 September of each year.

(6) The *Head of Department* must—

(a) in accordance with the norms and standards contemplated in [section 5A](#) determine the minimum and maximum capacity of a *public school* in relation to the availability of classrooms and *educators*, as well as the curriculum programme of such *school*; and

(b) in respect of each *public school* in the province, communicate such determination to the chairperson of the *governing body* and the *principal*, in writing, by not later than 30 September of each year.

[[S. 58C](#) inserted by [s. 11](#) of [Act No. 31 of 2007](#).]

**59. Duty of schools to provide information.**—(1) A *school* must make information available for inspection by any person, insofar as such information is required for the exercise and protection of such person's rights.

(2) Every *school* must provide such information about the *school* as is reasonably required by the *Head of Department* or the Director-General of the national Department of Education in consultation with the *Head of Department*.

[[Sub-s. \(2\)](#) substituted by [s. 10](#) of [Act No. 100 of 1997](#).]

[Wording of Sections](#)

## Wording of Sections



[s 59\(2\)](#) of Act 84 of 1996 prior to amendment by [Act 100 of 1997](#)

**60. Liability of State.**—(1) (a) Subject to [paragraph \(b\)](#), the State is liable for any damage or loss caused as a result of any act or omission in connection with any school activity conducted by a *public school* and for which such *public school* would have been liable but for the provisions of this section.

(b) Where a *public school* has taken out insurance and the *school* activity is an eventuality covered by the insurance policy, the liability of the State is limited to the extent that the damage or loss has not been compensated in terms of the policy.

[[Sub-s. \(1\)](#) substituted by [s. 12 of Act No. 31 of 2007](#).]

### Wording of Sections

(2) The provisions of the State Liability Act, 1957 ([Act No. 20 of 1957](#)), apply to any claim under [subsection \(1\)](#).

(3) Any claim for damage or loss contemplated in [subsection \(1\)](#) must be instituted against the *Member of the Executive Council* concerned.

[[Sub-s. \(3\)](#) added by [s. 14 of Act No. 48 of 1999](#).]

(4) Despite the provisions of [subsection \(1\)](#), the State is not liable for any damage or loss caused as a result of any act or omission in connection with any enterprise or business operated under the authority of a *public school* for purposes of supplementing the resources of the *school* as contemplated in [section 36](#), including the offering of practical educational activities relating to that enterprise or business.

[[Sub-s. \(4\)](#) added by [s. 14 of Act No. 48 of 1999](#).]

(5) Any legal proceedings against a *public school* for any damage or loss contemplated in [subsection \(4\)](#), or in respect of any act or omission relating to its contractual responsibility as employer as contemplated in [section 20 \(10\)](#), may only be instituted after written notice of the intention to institute proceedings against the *school* has been given to the *Head of Department* for his or her information.

[[Sub-s. \(5\)](#) added by [s. 14 of Act No. 48 of 1999](#).]

**61. Regulations.**—The *Minister* may make regulations—

- (a) to provide for safety measures at *public* and *independent schools*;
- (b) on any matter which must or may be prescribed by regulation under *this Act*;
- (c) to prescribe a national curriculum statement applicable to *public* and *independent schools*;
- (d) to prescribe a national process and procedures for the assessment of *learner* achievement in *public* and *independent schools*;
- (e) to prescribe a national process for the assessment, monitoring and evaluation of education in *public* and *independent schools*;
- (f) on initiation practices at *public* and *independent schools*;

- (g) to prescribe the age norm per grade in *public* and *independent schools*;
- (h) to provide for norms and minimum standards for *school* funding; and
- (i) on any matter which may be necessary or expedient to prescribe in order to achieve the objects of *this Act*.

[[S. 61](#) substituted by [s. 5](#) of [Act No. 53 of 2000](#) and by [s. 9](#) of [Act No. 50 of 2002](#).]

Wording of Sections

Wording of Sections	✕
<a href="#">s 61</a> of Act 84 of 1996 prior to amendment by <a href="#">Act 53 of 2000</a>	
<a href="#">s 61</a> of Act 84 of 1996 prior to amendment by <a href="#">Act 50 of 2002</a>	

**62. Delegation of powers.**—(1) The *Member of the Executive Council* may, subject to such conditions as he or she may determine, delegate any power conferred upon him or her by or under *this Act* to the *Head of Department* or an *officer*, except the power to publish a notice and the power to decide an appeal lodged with him or her in terms of *this Act*.

(2) The *Head of Department* may, subject to such conditions as he or she may determine, delegate to an *officer* any of his or her powers in terms of *this Act* or delegated to him or her in terms of [subsection \(1\)](#).

(3) A delegation under [subsection \(1\)](#) or [\(2\)](#) does not prevent the *Member of the Executive Council* or *Head of Department*, as the case may be, from exercising such power or performing such duty.

**63. Repeal and amendment of laws.**—(1) The laws listed in the first column of [Schedule 1](#) are hereby repealed to the extent set out in the third column of that Schedule.

(2) The Educators' Employment Act, 1994 ([Proclamation No. 138 of 1994](#)), is hereby amended to the extent set out in [Schedule 2](#).

Repealed Act	✕
P 138 of 1994 has been repealed by s 137(1) of <a href="#">Act 76 of 1998</a>	

**64. Short title and commencement.**—*This Act* is the South African Schools Act, 1996, and comes into operation on a date fixed by the President by proclamation in the Government Gazette.

**Schedule 1**

No. and year of Act	Short title	Extent of repeal
<a href="#">Act No. 47 of 1963</a>	Coloured Persons Education Act, 1963	Sections 1A, <a href="#">8</a> to <a href="#">20</a> , <a href="#">26</a> and <a href="#">28</a> to <a href="#">31</a>
<a href="#">Act No. 61 of 1965</a>	Indians Education Act, 1965	Sections 1B, <a href="#">8</a> to <a href="#">20</a> , <a href="#">26</a> , <a href="#">28</a> , <a href="#">29</a> , <a href="#">31</a> and 33 (1) (g)

<a href="#">Act No. 90 of 1979</a>	Education and Training Act, 1979	Sections 1A, <a href="#">3</a> , <a href="#">4</a> , <a href="#">11</a> to <a href="#">29</a> , <a href="#">31</a> , <a href="#">32</a> , <a href="#">43</a> and 44 (1) (h)
<a href="#">Act No. 104 of 1986</a>	Private Schools Act (House of Assembly), 1986	Section 1A
<a href="#">Act No. 70 of 1988</a>	Education Affairs Act (House of Assembly), 1988	<a href="#">Sections 3</a> and 65 and <a href="#">Chapter 7</a>

## Schedule 2

### AMENDMENT OF EDUCATORS' EMPLOYMENT ACT, 1994, BY [SECTION 63](#)

**1.** Amends [section 1](#) as follows:—paragraph (a) inserts the definitions of "Department", "educational institution", "Labour Relations Act", "public education institution", "[public school](#)", "state-aided college" and "unsubsidised post"; paragraph (b) substitutes the definitions of "[educator](#)", "employee member" and "employer"; and paragraph (c) deletes the definitions of "departmental education", "subsidised post", "state-aided educational institution", "Executive Council" and "Education Labour Relations Act".

**2.** Substitutes [section 3](#).

**3.** Inserts section 3A.

**4.** Substitutes [section 4](#).

**5.** Amends [section 5](#) as follows:—paragraph (a) substitutes subsection (1); and paragraph (b) deletes subsection (2).

**6.** Substitutes [section 6](#).

**7 to 9 inclusive.** Amend [sections 7](#), [8](#), and 10, respectively, by substituting the expression "public education institution" wherever it occurs, for the expression "state educational institution".

**10.** Amends [section 11](#) by substituting subsection (3).

**11 and 12.** Substitute [sections 22](#) and [23](#), respectively.

## REGULATIONS

### **GNR.1738 of 19 December 1997: Regulations relating to the minimum requirements of an agreement between the member of the executive council and the owner of a private property on which a public school is provided**

#### DEPARTMENT OF EDUCATION

I, Sibusiso Mandlenkosi Emmanuel Bengu, Minister of Education, after consultation with the Council of Education Ministers, and with organisations representing the owners of private properties on which public schools are provided, hereby make the regulations in [the Schedule](#) in terms of [sections 14 \(6\)](#), read with [section 61](#), of the South African Schools Act, 1996, relating to the minimum requirements of an agreement contemplated in [section 14](#).

S.M.E. BENGU  
Minister of Education

November 1997.

## SCHEDULE

### ARRANGEMENT OF REGULATIONS

- [1.](#) Definitions
- [2.](#) The nature and status of the agreement
- [3.](#) Provision of education and performance of the normal functions of a public school
- [4.](#) Governance of the public school
- [5.](#) Access by all interested parties to the school
- [6.](#) Security of occupation and use of the property by the school
- [7.](#) Maintenance and improvement of the school buildings and property and supply of the necessary services
- [8.](#) Protection of owner's rights
- [9.](#) Breach of agreement and dispute resolution
- [10.](#) Determination of responsibilities
- [Annexure 1](#) *Pro forma* agreement

**1. Definitions.**—In these regulations any word or expression to which a meaning has been assigned by the Act, shall have the same meaning assigned to it in the Act, and unless the context indicates otherwise—

**“agreement”** means the agreement between the Member of the Executive Council and the owner as contemplated in [section 14](#) of the Act and all amendments thereto;

**“owner”** means the owner of a private property on which a public school is or will be situated;

**“property”** means that portion, of the private property on which a public school is or will be situated which is referred to in [regulation 5 \(1\)](#);

**“the Act”** means the South African Schools Act, 1996 (Act [No. 84 of 1996](#)), and/or regulations promulgated in terms of the Act.

**2. The nature and status of the agreement.**—(1) In terms of [section 14 \(1\)](#) of the Act a public school may be provided on private property only in terms of an agreement.

(2) An agreement between the State and the owner which existed prior to the commencement of the Act remains in force to the extent that it is consistent with the Act, and may be amended by agreement between the Member of the Executive Council and the owner.

(3) The Member of the Executive Council must invite the governing body to make a written submission on the terms of the proposed agreement, and the Member of the Executive Council and the owner must take the views of the governing body into account before concluding the agreement.

(4) An agreement must be reached before a new public school is established on private property in which case the provision of subclause (3) will not apply.

(5) An agreement and all amendments thereto must be in writing and signed by both the Member of the Executive Council and the owner.

(6) An agreement remains valid as long as the public school exists. A school can only be closed in terms of [section 33](#) of the Act after prior consultation between the owner and the Member of the Executive Council.

(7) The governing body must make a copy of the agreement available on request, and must inform its members and learners, educators, parents and workers at the school, of the content of the agreement and any amendments thereto.

(8) A learner, educator, parent and worker at the school, member of the governing body, an official and a member of the public who has an interest in the educational activities of the school must honour the agreement.

(9) A *pro forma* agreement, [ANNEXURE 1](#), is given as a guideline to assist the parties to the agreement.

**3. Provision of education and performance of the normal functions of a public school.**—(1) Education must be provided in accordance with the prescribed curriculum for public schools and the applicable administrative directives and as otherwise provided for in the agreement.

(2) The owner may not interfere with the normal educational activities of the public school.

**4. Governance of the public school.**—(1) A public school situated on the property must be governed in accordance with the Act and any agreement contemplated in [subsection 14 \(1\)](#) of the Act or these regulations.

(2) The governing body must enter into an agreement with the owner if, in exercising any of its functions in terms of the Act, a right of the owner regarding the immovable or movable property of the owner or the religious character of the school is affected.

(3) If a religious organisation exercises its rights as contemplated in [section 57](#) of the Act, the agreement between the Member of the Executive Council and the religious organisation must record the recognised distinctive religious character of the school and the manner in which such distinctive character will be maintained. The recognised distinctive religious character of the school and the manner in which it will be maintained, must be consistent with the provisions of the Act.

(4) Subject to the agreement contemplated in [subregulation \(3\)](#) the governing body must enter into an agreement with the religious organisation to ensure the preservation of the distinctive religious character of such a public school.

(5) A written record must be kept of all meetings between the governing body and the owner, and must be signed by the owner and the authorised signatory of the governing body.

**5. Access by all interested parties to the school.**—(1) An accurate description of the property and all access roads to the school must be provided for in the agreement.

(2) Clear road signs giving directions to the public school must be erected on access roads to the school where access to the school is by way of private roads.

(3) The owner may not limit access to the school by a learner, educator, parent, worker at the school, member of the governing body, officer or member of the public who has a reasonable interest in the activities of the school.

(4) The owner has the right of access to the property.

**6. Security of occupation and use of the property by the school.**—(1) The public school may not be deprived of the occupation or use of the property for purposes related to the Act.

(2) The property and access roads to the school must be adequately fenced.

**7. Maintenance and improvement of the school buildings and property and supply of the necessary services.**—(1) Potable water and toilets must be provided and secured.

(2) The supply of electricity to the school must comply with national safety standards.

(3) The erection of new buildings and improvements to existing buildings may only be undertaken in terms of an agreement between the owner and the education department, or the governing body, if the governing body has been allocated such function in terms of [section 21 \(1\) \(a\)](#) of the Act.

(4) The agreement must provide for the maintenance of the property.

(5) Provision must be made in the agreement for compensation for improvements to the immovable property, if any, when a public school is closed.

**8. Protection of owner's rights.**—(1) If payment is due to the owner by the education department or the governing body for the use of the property or services supplied to the school, the agreement must provide for the terms and conditions of such payment.

(2) The governing body may enter into an agreement with the owner to perform its functions with respect to the Act after consultation with the owner.

**9. Breach of agreement and dispute resolution.**—(1) The agreement must provide for the procedure to be followed in the case of a breach of the agreement.

(2) The agreement must provide for a mechanism to resolve a dispute arising from a breach of the agreement or from any act or omission by any person who incurs a responsibility or obligation in terms of the agreement.

**10. Determination of responsibilities.**—The agreement must specify which person, body or authority is responsible for any function or obligation contemplated in these regulations.

### **Annexure 1**

#### **PRO FORMA AGREEMENT**

AGREEMENT MADE AND ENTERED INTO BY AND BETWEEN:

The Member of the Executive Council (hereinafter referred to as "the MEC") of  
(name of Province) herein represented by

(name and rank), duly authorised by the MEC

AND

(name of owner, hereafter referred to as "the Owner")

Postal address:

Physical address:

ID Number

Telephone

**PREAMBLE**

WHEREAS

\_\_\_\_\_ is the Owner of the immovable property on which  
(name of school, hereafter referred to as "the school") is situated

Postal address:

Physical address:

Telephone

WHEREAS the school is a public school offering education from grade

\_\_\_\_\_ to grade

\_\_\_\_\_ ; and

WHEREAS the MEC and the Owner have agreed to enter into this agreement pursuant to [sections 14 \(1\)](#) and [57](#) of the South African Schools Act (Act [No. 84 of 1996](#)) (hereafter referred to as "the Act"), whereby the school is established/deemed to be established as a public school on private property.

**IT IS HEREBY AGREED THAT:**

**Definitions**

1.

In this agreement any word or expression to which a meaning has been assigned by the Act or Regulations Relating to the Minimum Requirements for an Agreement between the Member of the Executive Council and the Owner of the Private Property on which a Public School is situated (hereafter referred to as "the Regulations"), has the same meaning assigned to it in the Act or Regulations, unless the context indicates otherwise.

**The status and description of the school**

2.

The school is a public school on private property in terms of [section 52 \(1\)](#) of the Act or established in terms of section \_\_\_\_\_ of \_\_\_\_\_ (Provincial Education Law).

3.

A description of the site and buildings and access roads to the school is as set out in Schedule 1.

**Proprietary rights held by the school**

4. The Owner declares himself or herself willing to give the right of use of the property referred to in paragraph 2 for the sole purpose of education in a public school on the property.

5. The Owner gives the right of use to the school free of charge.

**OR**

The Owner lets the property referred to in paragraph 2 to the MEC for the amount of R \_\_\_\_\_ per month/year which payment must be paid into the Owner's bank account No. \_\_\_\_\_

(Bank)

(Town)

not later than the first day of each month/first day of January each year.

6.

An agreement between the State and the Owner which existed prior to the commencement of the Act remains in force to the extent that it is consistent with the Act, and is only amended to the extent that it is in conflict with this agreement, in which case this agreement prevails.

7. The agreement is valid as long as the school exists. The school can only be closed in terms of [section 33](#) of the Act and after a reasonable period of notice has been given to the Owner by the MEC. A lease agreement, if it is in existence, terminates on the date on which the school is closed. All the improvements to the immovable property will become the property of the Owner free of charge

**OR**

after payment by the Owner to the State of an agreed sum of money calculated on the day of the closure of the school.

8. All reasonable maintenance, including insurance and security to the buildings and fixed assets and improvements, is done by [if such maintenance is the responsibility of the school an agreement must be entered into between the school and the Owner on the date such allocated function in terms of [section 21 \(1\)](#) of the Act is allocated to such school.] The extent of such maintenance is set out in Schedule 2.

**General**

9. The MEC undertakes to provide a copy of this agreement to the school and ensure that the school makes it available to the parents, learners and any third person if requested by them as contemplated in [Regulation 2 \(7\)](#).
10. must erect clear road signs giving directions to the public School on access roads to the school where access to the school is by way of private roads.
11. The curriculum offered at such public school is in accordance with the prescribed curriculum for public schools and the applicable administrative directives.
12. must ensure that a fresh drinking water supply is available at all times at such school.
13. may erect new buildings or effect improvements to the existing buildings. Such new buildings or improvements may only be effected after a separate agreement is concluded between the parties and stipulating the cost to be incurred and who carries the responsibility for effecting such changes concluded between the parties and stipulating the cost to be incurred and who carries the responsibility for effecting such changes.
14. must ensure that the supply of electricity to the school complies with the national safety standards.
15. must ensure that the property on which the school is situated and all access roads are safe for school purposes and all dangerous areas on the, property referred to in paragraph 2 are safeguarded.
16. The Owner guarantees access to the school by the public, school community and officials referred to in [Regulation 5 \(3\)](#) in relation to educational purposes.
17. The State indemnifies the Owner for any damage or loss claimed against such Owner as a result of the property being owned by the Owner and provided that such claim is related to any educational activity conducted by the school for which the Owner would have been liable.

**Recognition of the religious character**

18. This clause is applicable only in respect of an owner of private property who has exercised his or her rights as contemplated in [Section 57](#) of the Act.
- 18.1 The Member of the Executive Council recognises the distinctive religious character of the School as
- 18.2 The recognised distinctive religious character of the school referred to in subclause 18.1 will be maintained in the following manner:

**Dispute**

19.

Any dispute arising under this agreement must, as a first step, be resolved amicably through conciliation between the MEC and the Owner, or by any other manner mutually agreed upon by them.

20.

If any dispute arises (including a breach of contract), the aggrieved party must notify in writing the other party and any other party affected by the dispute, within 14 school days, stating the nature and extent of his or her complaint.

21.

A conciliation meeting between the parties to the dispute must take place within 7 school days of the notice referred to in paragraph 20.

22.

If a dispute is referred to a Magistrate’s court then the applicable cost structures must be agreed to.

**Selling of the immovable property**

23.

If the Owner sells the property on which the school is situated, he or she must notify—  
(a) the buyer of the existence of such school in writing before entering into an agreement with such buyer; and  
(b) the school and the MEC of such sale and attach the letter referred to in subparagraph (a) within 7 days of such sale.

**Amendments**

24.

This agreement comprises the agreement and all amendments and annexures thereto.

25.

This agreement may only be amended, varied or changed if both parties agree to such amendment, variation or change in writing and it is signed by both parties.

**Domicilium**

26.

The Owner chooses the following address as his or her *domicilium citandi et executandi* and for the purpose of serving any notice or any other correspondence according to this agreement:

Thus done and signed at

on this

day of

20

OWNER

AS WITNESSES:

1

2

Thus done and signed at

on this

day of

20

MEC FOR EDUCATION OF

(PROVINCE) or

DELEGATE OF THE MEC

*AS WITNESSES:*

1

2

**Schedule 1**

DESCRIPTION OF THE SITE, BUILDINGS AND ACCESS ROADS TO THE SCHOOLS

To be provided by the Owner in terms of paragraph 3 of the Agreement.

**Schedule 2**

DESCRIPTION OF MAINTENANCE

In terms of paragraph 8 of the Agreement.

**GNR.1293 of 12 October 1998: Exemption of parents from the payment of school fees regulations, 1998**

DEPARTMENT OF EDUCATION

The Minister of Education has, under [sections 39 \(4\)](#) and [61](#) of the South African Schools Act, 1996, (No. 84 of 1996), after consultation with the Council of Education Ministers and the Minister of Finance made the regulations in [the Schedule](#).

S.M.E. BENGU  
Minister of Education

October 1998

**SCHEDULE**

ARRANGEMENT OF REGULATIONS

<a href="#">1.</a>	Definitions
<a href="#">2.</a>	Scope
<a href="#">3.</a>	Categories for purpose of exemption
<a href="#">4.</a>	Procedures for application
<a href="#">5.</a>	Procedure for consideration of an application by Governing Body
<a href="#">6.</a>	Alteration of decision
<a href="#">7.</a>	Procedure for appeal
<a href="#">8.</a>	Assistance to parents
<a href="#">9.</a>	Voluntary contributions
<a href="#">10.</a>	Short title and commencement
<a href="#">Annexure A</a>	Application form for exemption

**1. Definitions.**—In these regulations any word or expression to which a meaning has been assigned in the Act, shall have the meaning so assigned to it and, unless the context indicates otherwise—

“**application**” means an application by a parent for exemption;

“**combined annual gross income of the parents**” means the gross income of all the parents of a learner as defined in the Act calculated together or, if a learner has only one parent, the total gross income of such parent;

“**exemption**” means the total, partial or conditional exemption of parents who are unable to pay school fees;

“**school fees**” means school fees determined in terms of [section 39](#) of the Act;

“**the Act**” means the South African Schools Act, 1996 (Act [No. 84 of 1996](#)).

**2. Scope.**—These Regulations must be interpreted within the framework set by Chapter 4 of the Act, and with reference to the National Norms and Standards for School Funding determined in terms of the Act.

**3. Categories for purpose of exemption.**—(1) If annual school fees are determined in terms of [section 39](#) of the Act, the following categories will be applicable for purposes of exemption of a parent from payment of such school fees—

(a) if the combined annual gross income of the parents is less than ten times the annual school fees per learner, the parent qualifies for full exemption;

(b)

if the combined annual gross income of the parents is less than thirty times but more than ten times the annual school fees per learner, the parent qualifies for partial exemption; and

- (c) if the combined annual gross income of the parents is more than thirty times the annual school fees per learner, the parent does not qualify for exemption.

(2) A person who has the responsibility of a parent of a learner placed in a foster home, foster care or a place of safety is exempted from payment of any school fees.

**4. Procedures for application.**—(1) The governing body must notify all parents in writing of—

- (a) the amount of the annual school fees to be paid and the equitable criteria and procedures for exemption determined in terms of [section 39](#) of the Act;
- (b) the fact that parents are liable to pay such fees in terms of [section 40](#) of the Act unless or to the extent that they have been exempted from payment thereof; and
- (c) the contents of [regulations 3, 4](#) and [5](#) and at the request of a parent, make a copy of these Regulations available to him or her.

(2) A parent who wishes to be exempted from payment of school fees for each individual learner at the particular school, must apply in writing to the chairperson of the governing body on a form similar to the form annexed as [Annexure A](#).

(3) An application referred to in [subregulation \(2\)](#) must contain sufficient particulars to enable the governing body to apply the criteria set out in [regulation 5 \(2\)](#) in order to determine in which category referred to in [regulation 3](#), the applicant falls.

(4) An applicant must furnish such relevant further particulars as requested by the governing body.

(5) The applicant must prove on a balance of probabilities that the information supplied by him or her on the matters mentioned in [regulations 3](#) and [5 \(2\)](#) is true and correct.

(6) An applicant must, if he or she so requests, be afforded an opportunity to present his or her application in person, or through a designated representative.

**5. Procedure for consideration of an application by Governing Body.**—(1) The governing body must consider the application subject to these Regulations and make a decision within fourteen days after receipt thereof.

(2) In considering an application a governing body must take into account—

- (a) the financial position of the applicant including—
- (i) the total gross annual income of the parents;
  - (ii) the total annual necessary expenses; and
  - (iii) a statement of assets and liabilities;
- (b) the number of dependants of the applicant;

- (c) the standard of living of the applicant; and
- (d) any other relevant information supplied by the applicant.

(3) If the applicant falls in—

- (a) the category referred to in [regulation 3 \(1\) \(a\)](#), the applicant is exempted in full;
- (b) the category referred to in [regulation 3 \(1\) \(b\)](#), the applicant is partially exempted to the extent determined by the governing body having regard to the criteria referred to in [subregulation \(2\)](#); and
- (c) the category referred to in [regulation 3 \(1\) \(c\)](#), the application is declined.

(4) A governing body may deviate from the provisions of [subregulation \(3\)](#) if the applicant proves facts which justify such deviation.

(5) A governing body may attach such conditions to an exemption granted to an applicant as it may deem reasonable.

(6) Information by the applicant in support of his or her application must be treated in confidence by the governing body and may not be divulged to a third party without the consent of the applicant.

(7) The governing body must notify each applicant in writing of its decision and the reasons therefor, within seven days after the decision is taken.

(8) If an application is declined or partially declined, the governing body must notify the applicant of his or her right of appeal in terms of [section 40 \(2\)](#) of the Act.

**6. Alteration of decision.**—(1) If a governing body obtains information that the financial position of a parent who was granted exemption, has changed substantially, the governing body may reconsider and rescind, amend, substitute or alter its decision to grant exemption.

(2) Before taking action in terms of [subregulation \(1\)](#) the governing body must—

- (a) notify the parent concerned of the intended action and of the information on which it will be based; and
- (b) afford the parent the opportunity to rebut the information and to show cause why the exemption should not be reconsidered.

**7. Procedure for appeal.**—(1) A parent who is dissatisfied with the decision referred to in [regulation 5 \(7\)](#) may appeal in writing against the decision to the Head of Department within 30 days after receipt of the notification of that decision.

(2) The appellant contemplated in [subregulation \(1\)](#) must furnish the Head of Department with—

- (a) the reasons for the appeal; and
- (b) all relevant information pertaining to the appeal.

(3) The Head of Department must within 14 days after receipt of the documentation referred to in [subregulation \(2\)](#)—

- (a) notify the chairperson of the governing body concerned of the appeal that has been lodged;
- (b) furnish to the chairperson a copy of the appellant's reasons for appeal; and
- (c) request the chairperson to forward to him or her within 14 days after receipt of the request—
  - (i) the minutes of the meeting of the governing body at which the application was discussed and was decided upon; and
  - (ii) any comments the governing body wishes to make with regard to the appellant's reasons for appeal, and any other information relevant to the appeal.

(4) After consideration of all information referred to in [subregulations \(2\) and \(3\)](#), the Head of Department must within 14 days of receipt of the documentation or information contemplated in [subregulation \(3\) \(c\)](#)—

- (a) uphold the appeal—
  - (i) in full;
  - (ii) partially; or
  - (iii) conditionally; or
- (b) dismiss the appeal.

(5) Within 7 days of deciding the appeal, the Head of Department must notify the appellant and the chairperson of the governing body concerned in writing of his or her decision and the reasons therefor.

**8. Assistance to parents.**—(1) A parent who, for whatever reason, needs assistance to apply for exemption or lodge an appeal as contemplated in [regulation 7](#), may request an educator or any other person to assist him or her in making the application or appeal.

(2) If no assistance is given to the parent after he or she has requested it as contemplated in [subregulation \(1\)](#), the principal must assist the parent in such application or appeal.

**9. Voluntary contributions.**—Nothing in these Regulations prevents a parent who is granted exemption from making a voluntary contribution to the school fund.

**10. Short title and commencement.**—These Regulations are called the Exemption of Parents from the Payment of School Fees Regulations, 1998 and will come into effect on the date of publication thereof.

**Annexure A**  
APPLICATION FORM FOR EXEMPTION

SOUTH AFRICAN SCHOOLS ACT, 1996 ([NO. 84 OF 1996](#))

**EXEMPTION OF PARENTS FROM THE PAYMENT OF SCHOOL FEES REGULATIONS, 1998**

PARTICULARS OF SCHOOL

Name :

:

Postal Address

Physical Address :

Tel :

Fax :

PARTICULARS OF APPLICANT

Name of parent\* :

Name/s of learner/s :

Residential address :

Tel :

Fax :

APPLICATION FOR—

1.

**Full exemption** ([Regulation 3 \(1\) \(a\)](#))

Combined annual gross income of parents : R

Annual school fees per learner : R

(Only applicable if combined annual income of a parent is less than 10 × the annual school fees per learner.)

2.

**Partial exemption** ([Regulation 3 \(1\) \(b\)](#))

Combined annual gross income of parents : R

Annual school fees per learner : R

(Only applicable if combined annual income of a parent is less than 30 × but more than 10 × the annual school fees per learner. Partial exemption may be granted on a sliding scale as contemplated in paragraph 132 in terms of the National Norms and Standards for Funding published in the same *Government Gazette* as this document.)

3.

Additional information which you request to be considered by the governing body:

4.

All supplementary documentation to prove the application for exemption must be attached for the consideration of the governing body.

5.

The application form and accompanying documents must be sealed in an envelope and addressed to the chairperson of the governing body and be marked for his/her attention.

\* **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 referred to in (a) and (b) towards the learner's education at school".

## GN 2433 of 19 October 1998: Age requirements for admission to an ordinary public school

### DEPARTMENT OF EDUCATION

(Editor's note: Notice 2433 was promulgated in terms of [section 3 \(4\) \(i\)](#) of the National Education Policy Act [No. 27 of 1996](#) and in terms of [section 5 \(4\)](#) of the South African Schools Act [No. 84 of 1996](#).)

This notice was first published in *Government Gazette* 19377 of 19 October 1998 and amended by:

Notice	Government Gazette	Date
1356	22928	11 December 2001

The Minister of Education, after consultation with each Member of the Council of Education Ministers, hereby give notice in terms of section 3 (4) (i) of the National Education Policy Act, 1996 ([No. 27 of 1996](#)) and [section 5 \(4\)](#) of the South African Schools Act, 1996 ([No. 84 of 1996](#)), of the age requirements for the admission of learners to an ordinary public school or different grades at a school, as set out in [the Schedule](#).

Minister of Education  
October 1998

## SCHEDULE

### ARRANGEMENT OF REGULATIONS

- [1-2.](#) Interpretation
- [3-6.](#) Age requirements for admission to an ordinary public school
- [7.](#) Application
- [8.](#) Short title and commencement

**1. Interpretation.**—In this notice any expression to which a meaning has been assigned in the South African Schools Act, 1996 (No. 84 of 1996) and the National Education Policy Act, 1996 (No. 27 of 1996) shall have that meaning.

**2.** In this notice a reference to grade R will have the same meaning as grade O in the South African Schools Act, 1996.

**3. Age requirements for admission to an ordinary public school.**—The statistical age norm per grade is the grade number plus 6.

Example:

Grade		= age 7
	1 + 6	
Grade		= age 15
	9 + 6	
Grade		= age 18
	12 + 6	

**4.** A learner must be admitted to grade 1 if he or she turns seven in the course of that calendar year. A learner who is younger than this age may not be admitted to grade 1.

**4A.** Despite paragraph 4, the Head of Department may allow a learner who wants to be admitted to grade 1, but who will not be turning 7 during the year of such admission, to be admitted at a lower age. This deviation by the Head of Department may only occur if, in the opinion of the Head of Department, reasonable grounds exist to show that such learner is, based on educational principles, school ready for Grade 1 and it is in the best interest of such a learner to

be admitted as an underage learner to a public school. The parent of the learner must show that the refusal to be admitted to a school will have a detrimental effect on the child's development.

[Para. 4A inserted by GN 1356 of 2001.]

**5.** A learner may be admitted to grade R only if he or she turns six in the course of that calendar year. Attendance of grade R is not compulsory.

**6.** The age requirements for learners with special education needs who are able to be admitted to attend ordinary public schools are the same as for other learners in ordinary public schools.

**7. Application.**—These age requirements, and any deviations from the age norm per grade, must be applied in accordance with the Admission Policy for Ordinary Public Schools, published in the same government notice.

**8. Short title and commencement.**—This notice is called the Age Requirements for Admission to an Ordinary Public School, and it comes into effect on 1 January 2000.

**GN 1040 of 12 October 2001: Regulations for safety measures public schools**

**as amended by**

**Notice**  
R.1128

**Government Gazette**  
29376

**Date**  
10 November 2006

DEPARTMENT OF EDUCATION

The Minister of Education, after consultation with the Council of Education Ministers, hereby gives notice in terms of section 61 of the South African Schools Act, 1996 of the regulations relating to safety measures at public schools as set out in [the Schedule](#).

PROFESSOR KADER ASMAL, MP  
Minister of Education

**SCHEDULE**

ARRANGEMENT OF REGULATIONS

- [1.](#) Definitions
- [2.](#) Scope of applicability
- [3.](#) Application of other laws
- [4.](#) Violence and drug free public schools
- [5.](#) Access to public schools premises
- [6.](#) Exemption of certain persons
- [7.](#) Visits to public schools by public and political office bearers
- [8.](#) Visits to public schools by parents
- [9.](#) General
- [10.](#) Delegation of powers
- [11.](#) Short title and commencement
- [Schedule 1](#) Application for approval for undertaking a school activity where transport is involved

**1. Definitions.**—In these Regulations any word or expression to which a meaning has been assigned in the Act, shall have that meaning and, unless the context indicates otherwise—

**“dangerous object”** means—

- (a) any explosive material or device;
- (b) any firearm or gas weapon;
- (c) any article, object or instrument which may be employed to cause bodily harm to a person, or to render a person temporarily paralysed or unconscious, or to cause damage to property; or
- (d) any object which the Minister may by notice in the *Gazette* declare to be a dangerous object for the purposes of these regulations;

unless such objects are used for education purposes;

**“HOD”** means the Head of Education Department in a province;

**“illegal drug”** means any unlawful intoxicating or stupefying substance;

**“public school premises”** includes a building, structure, hall, room, office, convenience, land, enclosure, which is under the control of a public school, to which a member of the public has a right of access, or is usually admitted, or to which he or she may be admitted;

**“school activity”** means any educational, cultural, sporting or social activity of the school within or outside the premises;

[Definition of “[school activity](#)” inserted by r. 2 of GNR.1128 of 10 November 2006.]

**“supervision”** means the management and control of learners at school and during school activities.

[Definition of “[supervision](#)” inserted by r. 2 of GNR.1128 of 10 November 2006.]

**2. Scope of applicability.**—These regulations apply to all public schools.

**3. Application of other laws.**—Notwithstanding the provisions of these Regulations, a public school is not exempted from complying with the provisions of any other applicable law and these Regulations are intended to support such applicable laws.

**4. Violence and drug free public schools.**—(1) All public schools are hereby declared drug free and dangerous object free zones.

(2) No person may—

- (a) allow any dangerous object in the public school premises;
- (b) carry any dangerous object in the public school premises;
- (c) store any dangerous object in the public school premises except in officially designated places identified by the principal;
- (d) possess illegal drugs on public school premises;
- (e) enter public school premises while under the influence of an illegal drugs or alcohol;
- (f) cause any form of violence or disturbances which can negatively impact on any public school activities;
- (g) wittingly condone, connive, hide, abet, encourage possession of dangerous objects or refuse, fail, neglect to report the sighting or presence of any dangerous objects to the departmental authorities or the police as soon as possible;
- (h) directly or indirectly cause harm to anyone, who exposes another person who makes an attempt to frustrate the prevention of the dangerous objects and activities.

(3) A police official or in his absence, the principal or delegate may, without warrant—

- (a) search any public school premises if he or she has a reasonable suspicion that a dangerous object or illegal drugs may be present in the public school premises in contravention of the regulations;

- (b) search any person present on the public school premises; and
  - (c) seize any dangerous object or illegal drugs present on public school premises or on the person in contravention of these regulations.
- (4) No educator, parent or learner, and no other person, may possess or use -
- (a) alcohol;
  - (b) illegal drugs;
  - (c) any illegal substance; or
  - (d) dangerous objects,

during any school activity.

[[Sub-r. \(4\)](#) inserted by r. 3 of GNR.1128 of 10 November 2006.]

**5. Access to public schools premises.**—(1) Subject to the Constitution, laws and national and provincial policies, the HOD or principal of any public school may and for such timeframes as may be necessary—

- (a) take such steps as he or she may consider necessary for the safeguarding of the public school premises, as well as for the protection of the people therein; and
- (b) direct that the school may only be entered in accordance with the provisions of [subregulation \(2\)](#).

(2) No person shall without the permission of the principal or HOD enter into any public school premises in respect of which a direction has been issued under [subregulation \(1\) \(a\)](#), and for the purpose of the granting of that permission the principal or HOD may require of the person concerned to—

- (a) furnish his or her name, address and any other relevant information required by the principal or HOD;
- (b) produce proof of his or her identity to the satisfaction of the principal or HOD if necessary;
- (c) declare whether he or she has any dangerous object or illegal drugs in his or her possession or custody or under his or her control;
- (d) declare what the contents are of any vehicle, suitcase, attache case, bag, handbag, folder, envelope, parcel or container of any nature which he or she has in his or her possession or custody or under his or her control, and show those contents to him or her;
- (e) subject himself or herself and anything which he or she has in his or her possession or custody or under his or her control to a search by a person of the same gender, an examination by an electronic device, sniffer dogs or other apparatus in order to determine the presence of any dangerous object or illegal drug; and

( f )

hand to the principal or HOD anything which he or she has in his or her possession or custody or under his or her control for examination or custody until he or she leaves the premises.

(3) Without derogation of the provisions of the Trespass Act, 1959 (Act [No. 6 of 1959](#)), the principal or HOD may at any time remove any person from any public school premises if—

(i)  
that person enters the public school premises concerned without the permission contemplated in [subregulation \(2\)](#);

(ii)  
that person refuses or fails to observe any steps contemplated in [subregulation \(1\)\(a\)](#); and

(iii)  
the principal or HOD considers it necessary for the safeguarding of the public school premises concerned or for the protection of the people thereon.

(4) If it is not practicable to examine or keep in custody, on or in the public school premises concerned, anything which may be examined, or kept in custody under [subregulation \(2\)](#), it may be removed to a suitable place for that purpose.

**6. Exemption of certain persons.**—The provisions of [regulation 5](#) do not apply in respect of any member of a police service established by or under any law, a member of the South African Defence Force, the Minister of Education, the Member of the Executive Council responsible for education in a province or an official of the Department or provincial departments of Education who is required in the performance of his or her functions to enter or enters upon any public school premises and who produces proof of his or her identity to the satisfaction of the principal or HOD concerned.

**7. Visits to public schools by public and political office bearers.**—(1) Members of the public and political office bearers, public representatives and the media have a right to visit public schools in the interests of public accountability, but this right must be regulated to ensure that schools are not disrupted by such visits, and to avoid the politicisation of such visits. This right is subjected to reasonable controls to ensure the proper functioning of education.

(2) If such visits are desired, the person intending to visit must request and obtain written permission from the principal or HOD prior to the visit. The request must be made at least thirty days before the intended visit, unless there are sound reasons for a shorter notification period. This request must clearly indicate the date, time and purpose of the visit, the names of all participants, and the aspects, which are intended to be looked at. The principal of the public school shall not refuse reasonable access to a person who has such written permission.

(3) In cases where the written permission is granted by the HOD, the HOD, before granting such permission must consult the principal of the public school to be visited, to determine whether it is feasible for them to receive such a visit, and whether or not the school programme is likely to be seriously affected thereby.

(4) Wherever possible a Departmental office-based representative should accompany such visitors.

**8. Visits to public schools by parents.**—(1) Parents have the right to visit the public school where their children have been admitted but such visits may not disrupt any of the school activities.

(2) Parents are required to make an appointment with the principal of the school for a personal appointment with him or her prior to the visit and must state the reason for the visit and the persons who may be involved during the visit.

**8A School activities.**—(1) A public school must ensure that—

- (a) it completes the application form contemplated in [Schedule 1](#) to the Regulations in duplicate if the school activity involves transporting of learners;
- (b) the application is approved by an official representing the provincial education department before such school activity is undertaken; and
- (c) a copy of the approved application form is handed to the school and the original is kept by the official representing the provincial education department.

(2) A public school must take measures to ensure the safety of learners during any school activity, including—

- (a) insuring against accidents, injuries, general medical expenses, hospitalisation and theft that may occur, depending on the availability of funds;
- (b) ensuring, where reasonably practicable, that learners are under the supervision of an accompanying educator at all times;
- (c) requesting parents or other adults to assist in the supervision of learners;
- (d) ensuring that the educator-learner ratio is at least—
  - (i) one educator, parent or other adult for every 20 learners in primary schools; or
  - (ii) one educator, parent or other adult for every 30 learners in secondary schools; and
- (e) ensuring that, in respect of the adult-learner ratio, gender is taken into account.

(3) An insurer of a school as contemplated in [regulation 8A \(2\) \(a\)](#) may not rely on [section 60](#) of the South African Schools Act [84 of 1996](#) to avoid liability in terms of the Insurance Policy.

(4) If an insurer is liable in the event of injury suffered by a learner, the school must assist the parent in claiming from the insurer on behalf of the learner.

(5) If the Road Accident Fund is liable in the event of injury suffered by a learner, the school must assist the parent in claiming from the Fund on behalf of the learner.

(6) A public school must assist a parent in any claim made in terms of [section 60](#) of the South African Schools Act [84 of 1996](#).

(7) A public school must take measures to ensure that—

- (a) if a learner is on medication and will require medication during the course of school activities, the parent has seen to it that the learner has sufficient quantities of the medication for the duration of the school activities;
- (b) if it is necessary for a learner to carry a doctor's prescription for medication, the parent has provided the learner and the supervising educator with certified copies of such prescription;
- (c) a parent is advised to report to the school, in writing, the medical condition of a learner;

(d) before a school activity, the principal provides a supervising educator with a report on the medical condition of a learner; and

(e) a parent is informed about any travelling to or through a high-risk disease area during the course of the school activity.

(8) A public school must take measures to ensure that, if a learner is injured or falls ill during the course of a school activity and requires medical treatment, the supervising educator—

(a) takes measures to contact the parent of the learner concerned in order to obtain consent for such medical treatment; and

(b) determines whether or not to consent to such medical treatment if he or she is unable to contact the parent of the learner.

[R. 8A inserted by r. 4 of GNR.1128 of 10 November 2006.]

**8B Organisation of a school activity.**—(1) A public school must, in writing, supply the following information to the parent of the learner who will undertake the school activity—

(a) The purpose of the school activity;

(b) the nature of the activities to be undertaken during the school activity;

(c) the full itinerary of the school activity, with contact details of the hosts and of the supervising educators;

(d) the nature of transport, accommodation and catering arrangements;

(e) where applicable, the fact that the learner will need to acquire travelling documents and an inoculation certificate, and where they can be obtained;

(f) the fact that the travelling documents must be obtained at least seven days prior to the date of departure; and

(g) any other relevant details.

(2) Immediately after returning from a school activity, the supervising educator must submit a report to the principal if any of the following has occurred—

(a) accident;

(b) injury to a learner, educator or driver or to any other person; or

(c) any act of misconduct on the part of a learner, educator or driver or of any other person.

(3) The report must include the following information—

(a) The nature of the incident;

- (b) the nature of the injury, if applicable;
- (c) the time, date and place of the incident;
- (d) procedures that were followed in dealing with the incident; and
- (e) the name of the supervising educator.

(4) The principal must submit the report to the official who approved the school activity and to the chairperson of the school governing body.

[R. 8B inserted by r. 4 of GNR.1128 of 10 November 2006.]

**8C Consent.**—(1) A public school must obtain written consent from the parent of the learner who will be undertaking the school activity.

(2) A public school may not request a parent to sign an indemnity form that indemnifies the school against any legal action that may arise as a result of the school activity.

[R. 8C inserted by r. 4 of GNR.1128 of 10 November 2006.]

**8D Transport.**—(1) A public school must ensure that—

- (a) if it owns vehicles for transporting learners, such vehicles have insurance and roadworthy certificates;
- (b) the drivers of such vehicles are in possession of valid driving licences and professional driving permits;
- (c) the transport company or the owner of the vehicles provides the school with the following:
  - (i) insurance and roadworthy certificates for each vehicle;
  - (ii) passenger liability insurance; and
  - (iii) valid driving licence and professional driving permit of the driver;
- (d) the transport company or the owner of the vehicle provides a substitute driver and a transport support system en route; and
- (e) the vehicle transporting learners has a fire extinguisher.

(2) The principal, supervising educator or member of the school governing body must intervene if there is any doubt about the roadworthiness of the vehicle or the competence of the driver of the vehicle.

(3) The principal, supervising educator or member of the school governing body must liaise with the driver or the owner of the vehicle in connection with reporting any accident to the police, and must report the accident himself or herself, within 48 hours, if the driver or the owner of the vehicle fails to do so.

[R. 8D inserted by r. 4 of GNR.1128 of 10 November 2006.]

**8E Physical activities.**—(1) No learner may be allowed to participate in physical activities, including sports, games or gymnastics, if—

- (a) the principal has reason to believe that such activity will be detrimental to the learner's health; or
- (b) the parent has provided a medical certificate that prevents the learner from participating in such activity.

(2) The principal must ensure that learners are informed about the dangers of, and safety measures regarding, water.

(3) The safety measures regarding water contemplated in [subregulation \(2\)](#) apply to any swimming or water sports activities at—

- (a) a swimming pool;
- (b) a river;
- (c) a dam; or
- (d) the ocean.

(4) The principal must ensure that learners are supervised during all swimming activities, during visits to the sea, rivers and dams, and when they are taking part in water sports.

(5) If a public school has a swimming pool, the principal must ensure that notices regarding safety measures are displayed around the swimming pool.

[[R. 8E](#) inserted by r. 4 of GNR.1128 of 10 November 2006.]

**8F Emergency and fire procedures.**—(1) A public school must ensure that—

- (a) it establishes emergency evacuation procedures;
- (b) the emergency evacuation procedures are displayed in all offices, classrooms and amenities; and
- (c) where reasonably practicable, the local fire chief assesses and reviews all fire evacuation procedures every year.

(2) A public school must take measures to install—

- (a) fire extinguishers, which the principal must ensure are checked regularly; and
- (b) fire alarms that are audible in all parts of the school premises, depending on the availability of funds.

(3) The principal must ensure that staff members and, where applicable, learners who are in grades 8 or higher are trained to use the fire extinguishers.

(4) If a bomb threat is received or a suspicious object is discovered—

- (a) the principal must immediately report it to the police;
- (b)

the object, or anything related to the bomb threat, must be left untouched; and

- (c) the public school must apply emergency evacuation procedures.

[R. 8F inserted by r. 4 of GNR.1128 of 10 November 2006.]

**8G Early release from school.**—(1) A public school must have an early release procedure that allows parents or designated persons to collect learners from school early.

(2) A public school must keep a written record to be used in cases of early release that indicates—

- (a) the name of the learner;
- (b) the grade of the learner;
- (c) the name of the person collecting the learner; and
- (d) the time, date and purpose of the early release.

(3) If the learner is to be collected by a person designated by a parent—

- (a) that person must produce proof of such designation;
- (b) the public school must ensure that the designated person is known to the learner; and
- (c) the public school must take measures to contact the parent of a learner if there is any doubt about the identity of the person collecting the learner.

(4) A public school must inform the parents in advance if the learners are going to be released from school early.

[R. 8G inserted by r. 4 of GNR.1128 of 10 November 2006.]

**9. General.**—(1) All public schools must display clear signs at the entrance that any person who enters the school may be subjected to a search.

(2) Any person who contravenes these regulations may be removed from the public school premises.

(3) Public schools must cooperate with police stations to ensure that visible policing is present during all sporting and cultural events at the school.

(4) Public schools must encourage governing body members and parents to participate in community policing forums.

(5) Public schools must develop action plans to counter threats of violence which have the potential to have a negative impact on school activities and to implement [regulation 4 \(1\)](#).

(6) The plans in [subregulation \(5\)](#) must ensure the safety of all learners, staff members and parents during school activities.

(7) Public schools must engage in advocacy campaigns to communicate to the public the status of the schools concerning the regulations and the right to protection against violence.

(8) The HOD must provide guidelines to assist the public schools in developing the action plans contemplated in [subregulations \(5\) to \(7\)](#).

(9) The HOD must be provided with action plans contemplated in [subregulations \(5\)](#) to [\(7\)](#) within 6 months after the commencement of the Regulations.

**10. Delegation of powers.**—The HOD may, on such conditions as he or she may determine, delegate the exercise of any of his or her powers under this regulations and the performance of any of his or her duties in terms of these regulations to any employee in the Provincial Department of Education.

**11. Short title and commencement.**—These regulations may be cited as the *Regulations for Safety Measures at Public Schools* and come into operation on the date of publication thereof.

**Schedule 1**  
**Application for approval for undertaking a school activity where transport is involved**

**The principal of the applicant public school must complete this application form.**

**1.**

**Details of school**

1.1.	Province	
1.2.	District or region	
1.3.	Name of school	
1.4.	School EMIS number	
1.5.	Name of principal	

**2.**

**Governing body contact details**

	<i>SGB official</i>	<i>Full names</i>	<i>ID number</i>	<i>Contact telephone number</i>	<i>Expiry date of term of office</i>

**3.**

**Purpose of school activity**

Objective:	
Curriculum linkage:	
Overnight or day visit:	No. of days:
If overnight: Type of accommodation:	
Catering arrangements:	

**4.**

**Activities of learners during school activity**

**5.**

**Composition of school activity party**

<i>Number of learners</i>	<i>Total</i>	<i>Number of Educators</i>	<i>Total</i>	<i>Number of parents or</i>	<i>Total</i>

						<i>other adults</i>		
<i>Boys</i>	<i>Girls</i>		<i>Male</i>	<i>Female</i>		<i>Male</i>	<i>Female</i>	

6.

**Names of educators and parents or other adults who will accompany the learners**

7.

**Details of funding arrangements for the school activity**

Cost of the school activity, per person:
Support strategy for learners whose parents cannot afford to pay for their participation in the school activity:

8.

**Transport details**

8.1.

Name of company providing transport or of owner of vehicle:

8.2.

Address:

8.3.

Roadworthy certificate:

Date of issue:      Expiry date:

8.4.

Details of the driver:

Name of the driver

Driving licence and code

Expiry date

Expiry date of professional driving permit

Company's or vehicle owner's insurance (name and policy number)

8.5.

Details of the substitute driver:

Name of the substitute driver

Driving licence and code

Expiry date

Expiry date of professional driving permit

Company's or vehicle owner's insurance (name and policy number)

8.6.

Details of transport support system en route

9.

**Accommodation arrangements**

Type of accommodation:

No. of persons per room:

10.

**Documents to be submitted with application**

Copies of the following documents must be submitted with the application:

10.1

A full itinerary;

10.2

if the school activity is taking place on invitation, a letter confirming such invitation; and

10.3

any other documentation that will support the application.

**11.**

**Date and signature**

Principal: _____ (Print name)	Signature: _____	Date: _____
Chairperson of Governing Body: _____ (Print name)	Signature: _____	Date: _____

For official use:

Head of Provincial Education Department or his or her delegate:	
Date:	

Tour approved:
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Yes
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No
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Reasons for refusal of the application:

Signature (HOD or his or her delegate):

[["Schedule 1"](#) inserted by r. 5 of GNR.1128 of 10 November 2006.]

## **GN 1589 of 13 December 2002: Regulations to Prohibit Initiation Practices in Schools**

### DEPARTMENT OF EDUCATION

The Minister of Education, after consultation with the Council of Education Ministers, hereby gives notice in terms of section 61 (f) as read with the Preamble to the South African Schools Act, 1996 and in compliance with [section 4 \(3\)](#) of the Promotion of Administrative Justice Act, 2000 (Act [No. 3 of 2000](#)), of the regulations relating to the prohibition of initiation practices as set out in the Schedule.

PROFESSOR KADER ASMAL,  
MP Minister of Education

### **SCHEDULE**

#### ARRANGEMENT OF REGULATIONS

- [1.](#) Scope of application
- [2.](#) Definitions
- [3.](#) Principles and values
- [4.](#) Prohibited initiation practices
- [5.](#) Responsibilities of principals and governing bodies
- [6.](#) Responsibilities of educators
- [7.](#) Short title and commencement

**1. Scope of application.**—These regulations apply to all public and independent schools.

**2. Definitions.**—In these Regulations, any word or expression to which a meaning has been assigned in the Act, shall have that meaning and, unless the context indicates otherwise—

**“assault”** means the unlawful and intentional—

- (a) application of force, directly or indirectly, to another person, or
- (b) threatening another with immediate personal violence in circumstances which lead the threatened person to believe that other intends or has the power to carry out the threat;

**“crimen iniuria”** means the unlawful and intentional violation of the dignity or privacy of another, in circumstances where such violation is not of a trifling nature;

**“degradation”** means any behaviour towards humiliating another, causing loss of respect or standing in the school community;

**“harassment”** means behaviour which is hostile or offensive to a reasonable person and which unreasonably interferes with an individual’s work, academic performance or social life and any behaviour that creates an undermining of the integrity or dignity of an individual. Such behaviour can make a reasonable person feel uncomfortable, unsafe, frightened, embarrassed, and may be physical, verbal or non-verbal. The common link is that the behaviour would be unwanted by any reasonable person and could not be justified through a personal or family relationship;

**“humiliation”** means any word or act which causes another to lose self-respect or the respect of others;

**“initiation practice”** means any act which in the process of initiation, admission into, or affiliation with, or as condition for continued membership of a school, a group, intramural or extramural activities, interschools sports team, or organization—

- (a) endangers the mental or physical health or safety of a person;
- (b) seeks to undermine the intrinsic worth of human beings by treating some as inferior to others;
- (c) subjects individuals to humiliating or violent acts which undermine the constitutional guarantee to dignity in the Bill of Rights;
- (d) undermines the fundamental rights and values that underpin the Constitution;
- (e) impedes the development of a true democratic culture that entitles an individual to be treated as worthy of respect and concern; or
- ( f ) destroys public or private property;

any activity irrespective of its designation other than that referred to in [regulation 3.5.4](#) which has a similar effect and object as initiation is deemed to be an initiation practice;

**“in loco parentis”** means acting in the place of a parent who has entrusted the custody and control of his or her child to an educator or another person during normal intramural or extramural school activities;

**“intimidation”** means any act by a person with the intent to compel or induce a particular person to do or to abstain from doing any act or to assume or to abandon a particular standpoint by means of—

- (a) assault, injury or causing damage to that person or any other person; or
- (b) threats to kill, assault, injure or cause damage to that person or any other person;

**“peer pressure”** means the influencing factor—

- (a) whereby a learner feels pressured by any learner to act or not to act and to participate or not to participate in an activity in order not to be ostracized;
- (b) whereby a learner would not come forward after being initiated for fear of victimization;

**“protect”** means the act of guarding a person or an object against current or future loss, damage or harm.

**3. Principles and Values.**—The Preamble to the Act requires that rights of learners, parents and educators are upheld and to promote the acceptance of responsibility for the organization and governance of schools in partnership with the State. Such rights include but are not limited to the following:

3.1

*Non-discrimination and equality*

No person may unfairly discriminate against a learner. All learners shall enjoy equal treatment before the law and shall receive equal protection and benefits of the law.

3.2

Privacy, respect and dignity

3.2.1

Every learner has the right to privacy, which includes the right not to have his or her person or property searched or his or her possessions seized. Notwithstanding this the principal or an educator may search learners based on his or her reasonable suspicion that the learner is in possession of an illegal object, using search methods that are reasonable in scope.

### 3.2.2

Every learner has a right to dignity and has the right to have his or her human dignity respected. Recognizing a right of dignity is an acknowledgement of the intrinsic worth of human beings. That implies mutual respect including respect for one another's convictions and cultural traditions.

## 3.3

### *Non-violence and the freedom and security of a person*

#### 3.3.1

Every learner has the right to freedom and security of his or her person, which includes the right to be free from all forms of violence or assault, and not to be treated or punished in a cruel, inhuman or degrading way.

#### 3.3.2

Learners have the right not to be locked up in solitary confinement or detention or to be locked out of safe environments.

## 3.4

### *Protection from maltreatment, neglect, abuse or degradation*

Every child has the right to be protected from maltreatment, neglect, abuse or degradation. All appropriate social and educational measures must be taken to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of any person who acts in loco parentis.

## 3.5

### School environment and discipline

#### 3.5.1

A safe environment that is conducive to education including security of property, security of person, well-cared for school facilities, school furniture and equipment, toilet facilities, absence of harassment in attending classes, writing tests and examinations, partaking in extramural activities or sport, all create an atmosphere that is conducive to education and training. All parties have a responsibility to maintain such an environment.

#### 3.5.2

Discipline must be maintained in the school and the classroom to ensure that the education of learners proceeds without disruptive behaviour and offences. The Act empowers school authorities to discipline learners, but it is unlawful to delegate this authority to learners.

#### 3.5.3

Learners have the responsibility to learn and develop their own full potential and to allow fellow learners, without any hindrance, to reach their full potential.

#### 3.5.4

Schools are encouraged to engage in positive orientation which involves a process of induction that seeks to introduce learners to their new academic environment in a manner where dignity is enhanced as learners are advised, guided and mentored. This process focuses on self-discipline, self-motivation and self-respect together with academic and sporting achievements.

## **4. Prohibited initiation practices**

### 4.1

No principal, educator or learner may allow or participate in any act or practice which involves initiation practices or may cause or contribute to the humiliation, degradation, harassment, assault, *crimen iniuria*, intimidation or maltreatment of learners.

4.2

There should be a relationship of mutual trust and respect between learners, and between learners and educators. Victimisation of the one by the other is unacceptable, and peer pressure cannot be regarded as a justification for engaging in acts of victimisation.

4.3

The Learner Representative Council should represent the interests and views of all the learners and promote proper conduct of learners. However, no learner has the right or authority to punish other learners.

4.4

Learners should be protected from abuse by adults or other learners and learners' behaviour must be free of any violence and in line with the democratic values of human dignity, equality and freedom.

## **5. Responsibilities of principals and governing bodies**

5.1

A principal must ensure that no initiation practices take place in his or her school, including hostels, or during any school activities away from the school premises. The principal must put systems in place to encourage learners to bring such practices to his attention and to ensure that such learners be free from victimisation. The Head of Department must ensure that this system is in place in every school in his or her province within a year after the commencement of these regulations.

5.2

The principal, as head of the institution in terms of section 16 (3) of the Act, has a primary responsibility to ensure that learners are not subjected to *crimen iniuria*, assault, harassment, maltreatment, degradation, humiliation or intimidation from educators or learners and must protect learners from such practices. A principal must also take reasonable steps to ensure that such practices are not caused by peer pressure.

5.3

A disciplinary system is based on human dignity and on respect and consideration for others and not on fear or assault. Educators have a duty to care for and protect learners from violence because of their in loco parentis status.

5.4

If any initiation practices or acts take place through the actions of learners, the school governing body as the authority responsible for the discipline of learners, must take appropriate action in terms of section 8 of the Act or a Code of Conduct to prevent such practices and to protect learners from such practices.

5.5

If any initiation practices or acts take place in a school and members of staff are involved or allow such actions to take place or fail to take the necessary precautions to prevent such practices from taking place, the employer must take disciplinary actions in terms of applicable law against such perpetrators.

## **6. Responsibilities of educators**

6.1

Educators must protect, promote and respect the rights of learners as contemplated in [clause 3](#).

6.2

Every educator is responsible to assist the school governing body with discipline at the school and school related activities.

6.3

Every educator has a duty to control the actions of learners when such actions may inflict harm to others or to the learner, or violate the rights of other learners or educators. Educators must take reasonable measures where necessary to prevent a learner from harming himself or herself or others.

6.4

In cases where a learner cannot adjust to the school and where his or her behaviour is objectionable in that it violates the rights of others, an educator has the obligation to refer such a learner to the principal and to inform the learner's parents and the school governing body.

6.5

An educator at the school has the same rights and obligations as a parent to protect, control and discipline a learner according to the Code of Conduct during the time the learner is in attendance at the school, or at any school function, school excursion or school related activity.

**7. Short title and commencement.**—These regulations may be cited as the Regulations to Prohibit Initiation Practices in Schools and come into operation on the date of publication thereof.

# GN 975 of 20 August 2004: Regulations relating to Safety Measures at Independent Schools

## DEPARTMENT OF EDUCATION

I, Grace Naledi Mandisa Pandor, Minister of Education, after consultation with the Council of Education Ministers and in terms of [section 61 \(a\)](#) of the South African Schools Act, 1996 (Act [No. 84 of 1996](#)), hereby publish the regulations relating to safety measures at independent schools, set out in [the Schedule](#).

(signed)  
GRACE NALEDI MANDISA PANDOR, MP  
Minister of Education  
Date: 20 July 2004

## SCHEDULE

### ARRANGEMENT OF REGULATIONS

- [1.](#) Definitions
- [2.](#) Scope of application
- [3.](#) Application of other laws
- [4.](#) Violence- and drug-free independent schools
- [5.](#) Access to independent school premises
- [6.](#) Exemption of certain persons
- [7.](#) Visits to independent schools by public representatives, political office bearers and the media
- [8.](#) Visits to independent schools by parents
- [9.](#) General
- [10.](#) Short title

**1. Definitions.**—In these Regulations, any word or expression to which a meaning has been assigned in the Act, has that meaning and, unless the context indicates otherwise—

**“dangerous object”** means—

- (a) any explosive material or device;
- (b) any firearm or gas weapon;
- (c) any article, object or instrument that may be employed to cause bodily harm to a person or damage to property, or to render a person temporarily paralysed or unconscious; or
- (d) any object that the Minister may, by notice in the *Gazette*, declare to be a dangerous object for the purposes of these regulations,

unless such objects are used for educational purposes;

**“HOD”** means the Head of the Education Department in a province;

**“illegal drug”** means any unlawful intoxicating or stupefying substance;

**“independent school premises”** includes a building, structure, hall, room, office, convenience, piece of land or enclosure that is under the control of an independent school and to which a member of the public has a right of access or is usually admitted, or to which he or she may be admitted;

**“owner”** means a person in whose name an independent school is registered in terms of [section 46](#) of the South African Schools Act, 1996 (Act [No. 84 of 1996](#)).

**2. Scope of application.**—These regulations apply to all independent schools.

**3. Application of other laws.**—Notwithstanding the provisions of these Regulations, an independent school is not exempted from complying with the provisions of any other applicable law, and these Regulations are intended to supplement such applicable laws.

**4. Violence- and drug-free independent schools.**—(1) All independent schools are hereby declared drug-free and dangerous-object-free zones.

(2) No person may—

- (a) allow any dangerous object in independent school premises;
- (b) carry any dangerous object in independent school premises;
- (c) store any dangerous object in independent school premises, except in officially designated places identified by the principal;
- (d) possess illegal drugs in independent school premises;
- (e) enter independent school premises while under the influence of alcohol or an illegal drug;
- (f) cause any form of violence or disturbance that can negatively impact on any independent school activities;
- (g) wittingly condone, connive in, hide, abet someone in, or encourage, the possession of dangerous objects or refuse, fail or neglect to report the sighting or presence of any dangerous object to the principal or police as soon as possible;
- (h) directly or indirectly, cause harm to anyone who exposes a person who is trying to hamper the prevention of dangerous activities or the prevention of the presence of dangerous objects.

(3) A police official or, in his or her absence, the principal or his or her delegate may, without a warrant—

- (a) search any independent school premises if he or she has a reasonable suspicion that a dangerous object or illegal drugs may be present in the independent school premises in contravention of the regulations;
- (b) search any person present in the independent school premises if he or she has a reasonable suspicion that such a person has in his or her possession a dangerous object or illegal drugs; and
- (c) seize any dangerous object or illegal drugs present in independent school premises or on the person who is in contravention of these regulations.

**5. Access to independent school premises.**—(1) Subject to the Constitution, laws of the country and national and provincial policies, the owner or principal of an independent school may, for such periods as may be necessary—

- (a) take such steps as he or she may consider necessary for the safeguarding of the independent school premises, as well as for the protection of the people therein; and
- (b) direct that the school may be entered only in accordance with the provisions of [subregulation \(2\)](#).

(2) No person may, without the permission of the owner or principal, enter any independent school premises in respect of which a direction has been issued under [subregulation \(1\) \(a\)](#), and, for the purpose of the granting of that permission, the owner or principal may require of the person concerned to—

- (a) furnish his or her name, address and any other relevant information required by the owner or principal;
- (b) produce proof of his or her identity to the satisfaction of the owner or principal, if necessary;
- (c) declare whether he or she has any dangerous object or illegal drugs in his or her possession or custody or under his or her control;
- (d) declare what the contents are of any vehicle, suitcase, attaché case, bag, handbag, folder, envelope, parcel or container of any nature that he or she has in his or her possession or custody or under his or her control, and to show those contents to the owner or principal;
- (e) subject himself or herself, and anything that he or she has in his or her possession or custody or under his or her control, to a search by a person of the same gender or an examination by an electronic device, sniffer dogs or other apparatus in order to determine the presence of any dangerous object or illegal drug; and
- (f) hand to the owner or principal, for examination or for custody until he or she leaves the premises, anything that he or she has in his or her possession or custody or under his or her control.

(3) Without derogation of the provisions of the Trespass Act, 1959 (Act [No. 6 of 1959](#)), the owner or principal may at any time remove any person from any independent school premises if—

- (a) that person enters the independent school premises concerned without the permission contemplated in [subregulation \(2\)](#);
- (b) that person refuses or fails to observe any steps contemplated in [subregulation \(1\) \(a\)](#); and
- (c) the owner or principal considers it necessary for the safeguarding of the independent school premises concerned or for the protection of the people therein.

(4) If it is not practicable to examine or keep in custody, on or in the independent school premises concerned, anything that may be examined or kept in custody under [subregulation \(2\)](#), such object may be removed to a suitable place for that purpose.

**6. Exemption of certain persons.**—The provisions of [regulation 5](#) do not apply in respect of any member of a police service established by or under any law, a member of the South African Defence Force, the Minister of Education, the Member of the Executive Council responsible for education in a province, or an official of the Department or provincial departments of Education or a member or representative of the South African Council for Educators who is required, in the performance of his or her functions, to enter any independent school premises and who produces proof of his or her identity to the satisfaction of the owner, principal or HOD concerned.

**7. Visits to independent schools by public representatives, political office bearers and the media.**—(1) Political office bearers, public representatives and the media have a right to visit independent schools in the interests of public accountability, but this right must be regulated to ensure that schools are not disrupted by such visits, and to avoid the politicisation of such visits. This right is subject to reasonable controls to ensure the proper functioning of education.

(2) The person intending to pay such a visit must, in writing, request permission for the visit and must obtain such permission, in writing, from the owner, principal or HOD prior to the visit. The request must be made at least 30 days before the intended visit, unless there are sound reasons for a shorter notification period. This request must clearly indicate the date, time and purpose of the visit, the names of all participants, and the aspects that they intend to look at. The owner or principal of the independent school must not refuse reasonable access to a person who has such written permission.

(3) In cases where the written permission is granted by the HOD, he or she, before granting such permission, must consult the owner or principal of the independent school to be visited, to determine whether it is feasible for the school to receive such a visit, and whether or not the school programme is likely to be seriously affected by such a visit.

(4) Wherever possible, a representative from the Departmental office should accompany such visitors.

**8. Visits to independent schools by parents.**—(1) Parents have the right to visit the independent schools that their children attend, but such visits may not disrupt any of the school activities.

(2) Parents are required, prior to the visit, to make an appointment with the principal of the school for a personal meeting with him or her, to state the reason for the visit and to name the persons who may be involved during the visit.

**9. General.**—(1) All independent schools must display clear signs at the entrance that any person who enters the school may be subjected to a search.

(2) Any person who contravenes these regulations may be removed from the independent school premises.

(3) Independent schools must cooperate with police stations to ensure that visible policing is present during all sporting and cultural events at the school.

(4) Independent schools must encourage governing board members and parents to participate in community policing forums.

(5) Independent schools must develop action plans to counter threats of violence that could have a negative impact on school activities, and to implement [regulation 4 \(1\)](#).

(6) The plans in [subregulation \(5\)](#) must ensure the safety of all learners, staff members and parents during school activities.

(7) Independent schools must engage in advocacy campaigns to communicate to the public the status of the schools concerning the regulations and their right to protection against violence.

(8) The HOD must provide guidelines to assist independent schools in developing the action plans contemplated in [subregulations \(5\) to \(7\)](#).

**10. Short title.**—These regulations are called the Regulations Relating to Safety Measures at Independent Schools, and come into operation on the date of publication in the *Government Gazette*.

**GN 744 of 20 July 2005: National Policy regarding Further Education and Training Programmes: Approval of the Document, the National Senior Certificate: A Qualification at Level 4 on the National Qualifications Framework (NQF)**

**as amended by**

<b>Notice</b>	<b>Government Gazette</b>	<b>Date</b>
385	29851	30 April 2007
830	30267	7 September 2007
1041	32678	3 November 2009

DEPARTMENT OF EDUCATION

**SCHEDULE**

ARRANGEMENT OF REGULATIONS

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- [2.](#) Declaration of National Education Policy  
[Acronyms](#)

[CHAPTER 1](#)

INTRODUCING THE POLICY FOR THE NATIONAL SENIOR CERTIFICATE (NSC)

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- [2.](#) Type of qualification
- [3.](#) Entrance requirements for NCS Grades 10-12 (General)
- [4.](#) Promotion requirements for Grades 10-12
- [5.](#) Duration and general requirements of the NCS Grades 10-12 (General)

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- [8.](#) Rules of subject combination
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### REPEAL OF POLICY AND TRANSITIONAL ARRANGEMENTS

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20. Transitional arrangements  
21. Commencement and date of implementation
- Definitions
- Annexure A Nationally approved subjects that comply with the requirements of the NCS Grades 10-12 (General)  
Annexure B Nationally approved subjects that comply with the programme requirements of the NCS Grades 10-12 (General)  
Annexure C Recognition of subjects not listed in the National Curriculum Statement Grades 10-12 (General)  
Annexure D Subject coding for assessment purposes

#### 1. BACKGROUND

On 24 May 2005 I, by means of a *Government Notice, No 488*, published in the *Government Gazette Vol.479, No. 27607*, called for public comments on the document, *Policy for the Further Education and Training Certificate (FETC) Grades 10-12 (General)*.

The closing date for public comments was 17 June 2005 and sixty (60) comments were received from a variety of stakeholder organisations, national teacher unions, provincial departments of education, individual schools, individuals in their private capacity, statutory bodies, Higher Education South Africa (HESA), Universities, and other organisations and institutions.

All comments and recommendations were scrutinised, considered, and where deemed necessary, the document was amended accordingly.

The major change was the change in the name of the certificate, namely from *Policy for the Further Education and Training Certificate (FETC) Grades 10-12 (General)*, to *The National Senior Certificate: A qualification at Level 4 on the National Qualifications Framework (NQF)*.

#### 2. DECLARATION OF NATIONAL EDUCATION POLICY

I, Grace Naledi Mandisa Pandor, Minister of Education, hereby, in terms of [Sections 3 \(4\) \(l\) and 7](#) of the *National Education Policy Act, 1996 (Act No. 27 of 1996)* and [Sections 6 \(a\) and 61](#) of the *South African Schools Act, 1996 (Act. No. 84 of 1996)*, approve the document, *Policy for the National Senior Certificate (NSC) Grades 10-12 (General)*, as set out in [the Schedule](#), as national education policy.

Grace Naledi Mandisa Pandor, MP  
Minister of Education  
Date:

#### SCHEDULE



#### Education

Department of Education

REPUBLIC OF SOUTH AFRICA

### THE NATIONAL SENIOR CERTIFICATE: A QUALIFICATION AT LEVEL 4 ON THE NATIONAL QUALIFICATIONS FRAMEWORK (NQF)

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## ACRONYMS

GET	General Education and Training
GETC	General Education and Training Certificate
LOLT	Language of Learning and Teaching
NCS	National Curriculum Statement
NQF	National Qualifications Framework
NSC	National Senior Certificate
SAQA	South African Qualifications Authority

## CHAPTER 1

### INTRODUCING THE POLICY FOR THE NATIONAL SENIOR CERTIFICATE (NSC)

**1. Purpose of the document.**—(1) This policy describes the regulations, rules and provisos for the award of the National Senior Certificate (NSC) at Level 4 of the National Qualifications Framework (NQF). The NSC is to be awarded for the achievement of the exit level learning outcomes stipulated in the National Curriculum Statement (NCS) Grades 10-12 (General).

(2) This policy is based on norms and standards to which all assessment bodies in terms of *Sections 3 (4) (l) and 7 of the National Education Policy Act, 1996 (Act No. 27 of 1996)* and *Sections 6 (a) and 61 of the South African Schools Act, 1996 (Act. No. 84 of 1996)*, must give effect.

**2. Type of qualification.**—(1) The NSC is a 130 credit certificate at Level 4 on the National Qualifications Framework (NQF).

(2) This qualification will be offered by full-time, part-time and private candidates. These candidates will offer subjects selected from the subjects listed in [Annexure A](#). For this purpose full-time, part-time and private candidates are defined as follows:

(a)

Full-time, part-time and private candidates—

(i)

A full-time candidate is a learner who has enrolled for tuition and who offers a NCS Grades 10-12 (General) programme in a full-time capacity at a public or independent school or any other registered institution and who presents seven (7) subjects in terms of the NCS Grades 10-12 (General) programme requirements. Such a candidate must fulfill all internal assessment requirements of the NCS Grades 10-12 (General), including oral and practical requirements where applicable.

(ii)

A part-time candidate is a learner who does not receive full-time tuition, and may register for a maximum of six (6) of the seven (7) required subjects for the NSC in a single examination sitting. Part-time candidates who are attached to a learning institution or distance learning centre must comply with the internal assessment requirements of the NSC including evidence of practical work where applicable.

(iii)

A private candidate is a learner who has enrolled at a private institution that does not offer tuition on full-time basis. A private candidate may enroll for any number of subjects in one examination sitting. Private candidates must comply with the internal assessment requirements of the NSC including evidence of practical work where applicable.

(2) In terms of this policy document the NSC qualification must:

(a)

represent a planned combination of Learning Outcomes that has a defined purpose or purposes, and is intended to provide qualifying learners with applied competence and a basis for further learning;

(b)

enrich the qualifying learner;

(c)

provide benefits to society and the economy;

(d)

comply with the objectives of the NQF;

(e)

where applicable, be internationally comparable;

(f)

incorporate integrated assessment; and

(g)

indicate the rules governing the award of the qualification.

**3. Entrance requirements for NCS Grades 10-12 (General).**—The minimum entrance requirement for Grade 10 is an official Grade 9 school report which indicates promotion to Grade 10 or a General Education and Training Certificate (GETC) for Adult Basic Education and Training (ABET), or a NQF Level 1 Certificate, or a recognised equivalent qualification obtained at NQF Level 1.

**4. Promotion requirements for Grades 10-12.**—The requirements stipulated in this document are for the issuing of an NSC. These are also the promotion requirements for Grades 10 and 11.

**5. Duration and general requirements of the NCS Grades 10-12 (General).**—(1) The duration of the NCS Grades 10-12 (General) programme is three years, namely Grades 10, 11 and 12. To obtain a NSC a learner must:

- (a) Complete the programme requirements for Grades 10, 11 and 12 separately and obtain the distinct outcomes and associated assessment standards of all three years; and
- (b) Comply with the internal assessment requirements for Grades 10, 11 and 12 and the external assessment requirements of Grade 12 as contemplated in the Subject Statements and the Subject Assessment Guidelines of the various subjects listed in [Annexure A](#).

**6. Changing subjects in Grades 10, 11 and 12.**— (1) A learner may change a maximum of **two** subjects in Grade 10, subject to the approval of the Principal of the school where the learner is registered.

(2) A learner may change **two** subjects in Grade 11, subject to the approval of the Principal of the school where the learner is registered.

(3) In exceptional cases a learner may change **one** subject in Grade 12, provided it is done before 31 January of the Grade 12-year.

(4) Approval for changing a subject in Grade 12 must be obtained from the Head of the assessment body. The following must be furnished:

- (a) a letter of motivation from the learner's parent or guardian;
- (b) a letter from the Principal, either supporting or providing reasons for not supporting the change; and
- (c) a letter from the subject teacher, outlining the programme to be followed to assist the learner in covering those aspects of the curriculum statements for the previous grade that were not covered.

(5) The closing date for changing a subject or subjects in Grade 10 and 11 must be determined by the Head of the assessment body, based on the impact of the change on the internal assessment programme.

[R. 6 substituted by r. 6 of GN 1041 of 3 November 2009.]

## CHAPTER 2 PROMOTION REQUIREMENTS OF THE NSC GRADES 10-12 (GENERAL)

**7. Organising fields.**—(1) The NCS Grades 10-12 (General) uses the twelve Organising Fields of the National Qualifications Framework (NQF) for organising purposes and registration on the NQF. These Organising Fields are linked to various disciplines and occupational fields in the world of work and are therefore designed to provide a framework for organising qualifications in a coherent and co-ordinated manner.

(2) The Organising Fields listed at [Annexure A](#), are used for classification and grouping purposes.

**8. Rules of subject combination.**—(1) The approved subjects for the NCS Grades 10-12 (General) at [Annexure A](#) are grouped in two main categories in [Annexure B](#), namely **Group A** and **Group B**. A learner, under certain conditions as contemplated in *paragraph 9*, must select four subjects, namely two official languages, Mathematical Literacy or Mathematics, and Life Orientation from **Group A**, and a minimum of any three subjects from **Group B**.

**9. Requirements of the NSC.**— (1) Subject to *paragraphs 1, 11 and 20*, an NSC shall be issued to a candidate who has complied with the following requirements:

- (a) Offered and completed the internal and external assessment requirements in not fewer than seven (7) subjects selected as follows from [Annexure B](#):
- (i) Four subjects from **Group A** selected as follows: Two (2) official languages selected from [Annexure B, Table A1](#), provided that one of the two official languages is offered on the Home Language level, and the other, on either Home or First Additional Language level, and provided further that one of the two languages is the language of learning and teaching (LOLT).
  - (ii) Mathematics or Mathematical Literacy selected from [Annexure B, Table A2](#).
  - (iii) Life Orientation in [Annexure B, Table A3](#).
  - (iv) A minimum of any three subjects selected from **Group B** [Annexure B, Tables B1-B8](#). Of the minimum three required subjects, a maximum of two additional languages over and above the two official languages contemplated in [paragraph 9 \(1\) \(a\) \(i\)](#), may be offered from both [Tables A1 and B4](#).

**10. Provisos.**—(1) A candidate that has met the minimum programme requirements of the NSC as contemplated in *paragraph 9*, may offer more than the required minimum of seven (7) subjects provided that he or she complies with the following requirements:

- (a) The additional subjects must be offered for all three years of the NCS programme, namely Grades 10-12.
- (b) All the internal assessment requirements for the required subjects, and the practical assessment where applicable, must be met for all three (3) years of study, namely Grades 10-12.
- (2) Not more than one language shall be offered from the same group, namely:
- (a) isiXhosa, isiZulu, SiSwati and isiNdebele; and
  - (b) Sepedi, Sesotho and Setswana.

(3) The same language shall not be offered as a Home and a First or Second Additional Language, or as a First and Second Additional Language.

(4) A candidate may not offer both Mathematics and Mathematical Literacy.

(5) A maximum of one subject developed and assessed by an accredited assessment body, and approved by the Minister for this purpose may be offered to meet the requirements of three (3) Group B subjects as contemplated in paragraph 9 (1) (a) (iv). Such subjects are listed in Annexure C. Additional approved subjects will be added to Annexure C from time to time.

(6) Where a candidate has completed more than one Practical Music programme of one of the listed Music assessment bodies, namely the Associated Board of Royal Schools Practical Music Examination or Trinity College of London Practical Music Examination or Unisa Practical Music Examination, only the highest level of achievement obtained by the candidate from that assessment body will be recognised for the NSC.

(7) N1-N3 National Certificate, National Intermediate Certificate and National Senior Certificate subjects as listed in the technical college policy document, namely, *Formal Technical College Instructional Programmes in the RSA, Report 191 (2001/08)* will not be considered for the NSC. This applies to all learners registering for the NCS Grades 10-12 (General) in 2006.

(8) Institutions that allow part-time learners to offer subjects with a practical component must ensure that all the practical requirements of the NSC are met as set out in the Subject Assessment Guidelines.

(9) A candidate may not offer both Computer Applications Technology and Information Technology.

[Sub-reg. (9) inserted by GN 385 of 2007.]

(10) A candidate may not offer both Consumer Studies and Hospitality Studies.

[Sub-reg. (10) inserted by GN 385 of 2007.]

**11. Promotion and certification requirements.**— (1) Subject to the provisions of *Paragraph 16 (4) (d) and (e) of the General and Further Education and Training Quality Assurance Act, 2001 (Act No. 58 of 2001)*, and subject to paragraph 9 of this document, an NSC shall be issued to a candidate who has complied with the following promotion requirements:

(a)

To obtain the National Senior Certificate a learner must achieve 40% in three subjects, one of which is an official language at Home Language level, and 30% in three subjects, provided that a complete portfolio of evidence in the school-based assessment component is submitted in the subject failed.

[Para. (a) substituted by GN 385 of 2007.]

(b)

To obtain the National Senior Certificate a learner must achieve 40% in three subjects, one of which is an official language at Home Language level, and 30% in three subjects, provided that a complete portfolio of evidence in the school-based assessment component is submitted in the subject failed.

[Para. (b) substituted by GN 385 of 2007.]

(c)

To obtain the National Senior Certificate a learner must achieve 40% in three subjects, one of which is an official language at Home Language level, and 30% in three subjects, provided that a complete portfolio of evidence in the school-based assessment component is submitted in the subject failed.

[Para. (c) substituted by GN 385 of 2007.]

(d)

To obtain the National Senior Certificate a learner must achieve 40% in three subjects, one of which is an official language at Home Language level, and 30% in three subjects, provided that a complete portfolio of evidence in the school-based assessment component is submitted in the subject failed.

[Para. (d) substituted by GN 385 of 2007.]

(e) To obtain the National Senior Certificate a learner must achieve 40% in three subjects, one of which is an official language at Home Language level, and 30% in three subjects, provided that a complete portfolio of evidence in the school-based assessment component is submitted in the subject failed.

[[Para. \(e\)](#) substituted by GN 385 of 2007.]

(f) To obtain the National Senior Certificate a learner must achieve 40% in three subjects, one of which is an official language at Home Language level, and 30% in three subjects, provided that a complete portfolio of evidence in the school-based assessment component is submitted in the subject failed.

[[Para. \(f\)](#) substituted by GN 385 of 2007.]

(g) Learners who offer a Music programme from either the Associated Board of Royal Schools Practical Music Examination or Trinity College of London Practical Music Examination or Unisa Practical Music Examination, must obtain the following ratings:

(i)  
The Associated Board of Royal Schools Practical Music Examination: at least 65%.

(ii)  
Trinity College of London Practical Music Examination: at least 65%.

(iii)  
Unisa Practical Music Examination: at least 50%.

(4) A condonation of a maximum of one (1) subject will be applied if a candidate requires a maximum of 2%, either to obtain a pass at 30% or 40%. Such a condonation will be applied in only one subject, provided the application of the condonation allows the candidate to obtain the National Senior Certificate qualification.

[[Sub-r. \(4\)](#) inserted by r. 7 of GN 1041 of 3 November 2009.]

(Editorial Note: Numbering as per original *Government Gazette*.)

## **12. Concessions.—(1) Immigrants—**

(a) An immigrant candidate is:

(i)  
A child or a dependent of a diplomatic representative of a foreign government accredited in South Africa; or

(ii)  
a person who:

(aa) first enrolled at and entered a South African school in Grade 7 or a more senior grade, or

(bb) having begun his or her schooling at a school in South Africa, has attended school outside South Africa for two or more consecutive years after Grade 6 or its equivalent.

(iii)  
An immigrant candidate as contemplated above may offer only one (1) official language on at least First Additional Language Level and obtain a rating of 30% in that language, provided that another subject from Group B is offered in lieu

of the one official language that is not offered, provided further that the immigrant candidate complies with the promotion requirements as contemplated in [paragraph 11 \(1\) \(e\)](#).

(iv)

Instead of offering another subject from Group B in lieu of the one official language that is not offered, an immigrant candidate may offer his or her home language in lieu of that one official language, subject to the following:

(aa)

offer his or her home language on the A-Level of the General Certificate of Education (GCE) of the United Kingdom, or an examination recognised by the Department of Education as equivalent to Home Language level for this purpose.

(bb)

The marks as supplied by the concerned assessment body will be taken into account, or if the actual marks are not available the results will be converted in accordance with the table below, with the proviso that the candidate may not offer two similarly named languages.

<b>PROGRAMME REQUIREMENTS</b>			
<b>A Level</b>		<b>National Policy</b>	
<b>Symbol</b>	<b>%</b>	<b>%</b>	<b>Marks</b>
A	70-100	70	280
B	60-69	60	240
C	55-59	55	220
D	50-54	50	200
E	40-49	40	160
	30-39	35	140

(v)

To be classified as an immigrant candidate, such a candidate must be in possession of:

(aa)

The relevant official documentation issued by the Department of Home Affairs; and

(bb)

The relevant official documentation issued by the school where the learner entered the South African school system for the first time.

[[Sub-r. \(1\)](#) substituted by r. 8 of GN 1041 of 3 November 2009.]

### CHAPTER 3 ASSESSMENT

**13. Assessment in Grades 10 and 11.**— (1) Learners will be assessed internally according to the requirements as specified in the Subject Assessment Guidelines. The internal assessment mark allocated to assessment tasks completed during the school year will be 25% and the end-of-year assessment mark 75% of the total mark.

(2) The end-of-the-year assessment must consist of tasks that are internally set, marked and moderated, as specified in the Subject Assessment Guidelines.

**14. Assessment in Grade 12.**— (1) The internal assessment mark will be 25%, and the external assessment mark 75% of the total mark, as specified in the Subject Assessment Guidelines. This requirement applies to full-time, part-time candidates and private candidates. The internal assessment will be externally moderated.

(2) The weighting for assessment in the subject Life Orientation in Grade 12 is an exception. The internal assessment component will be 100% of the total mark. The internal assessment will be externally moderated.

The final mark is rounded down if the first decimal is less than 5 and rounded up if the decimal is 5 and above e.g. a final mark of 70,3 will be rounded down to 70 and a final mark of 70,6 is rounded up to 71.

[R. 14 amended by r. 9 of GN 1041 of 3 November 2009.]

**15. Recording and reporting.**—Seven levels of competence have been described for each subject in the Subject Assessment Guidelines. These descriptions will assist teachers to assess learners and grade them at the correct level. The various achievement levels and their corresponding percentage bands are as shown in [Table 1](#) below. Teachers/examiners may either work from mark allocation/percentages to rating codes, or from rating codes to percentages.

**Table 1:  
SCALE OF ACHIEVEMENT FOR THE NATIONAL CURRICULUM STATEMENT GRADES 10-12  
(GENERAL)**

<i>RATING CODE</i>	<i>RATING</i>	<i>MARKS %</i>
7	Outstanding achievement	80 - 100
6	Meritorious achievement	70 - 79
5	Substantial achievement	60 - 69
4	Adequate achievement	50 - 59
3	Moderate achievement	40 - 49
2	Elementary achievement	30 - 39
1	Not achieved	0 - 29

**16. Supplementary examinations.**—A supplementary examination will be granted under the following conditions to a full-time, repeat and part-time candidate:

(1) If a candidate has not met the minimum promotion and certification requirements, but requires a maximum of two subjects to obtain a National Senior Certificate, he or she may:

(a)

Register for a maximum of two subjects for the supplementary examinations in the following year. These two subjects must be, subject to *subparagraph (c)*, offered in the previous end-of-year examination.

Register for a supplementary examination in a maximum of two subjects. This option may only be exercised once by a part-time candidate, namely after completion of the National Senior Certificate, that is, his or her final end-of-year examination.

(b)

Register for Life Orientation, which is internally assessed, as one of the two subjects to be registered for the supplementary examination in *subparagraph (a)*.

The re-assessment of Life Orientation must be completed within the period in which the supplementary examination is conducted.

(c)

Be allowed to combine the one or more repeated subjects with those already passed to enable them to obtain a National Senior Certificate in terms of the current National Senior Certificate requirements.

That in the combination of the subjects, the performance in the seven (7) subjects would be taken into consideration, provided that the combination meets the programme requirements of the *National Senior Certificate as contemplated in paragraphs 9 and 10 of the policy document. National Senior Certificate: A Qualification at Level 4 on the National Qualifications Framework (NQF)*, promulgated in *Government Gazette* No. 27819 as Government Notice, No. 744 of 20 July 2005.

(2) if a candidate is medically unfit and, as a result, is absent from one or more external examinations, he or she may register for the supplementary examination.

(3) A candidate who does not satisfy the minimum higher education requirements or the requirements for the specific occupation in the end-of-year examination may be allowed to register for the supplementary examination in the year following the end-of-year National Senior Certificate examination, in a maximum of two subjects, subject to the following:

(a)

a candidate who is one requirement short of meeting the minimum admission requirements for Higher Certificate, Diploma and Bachelor's degree programmes requiring a National Senior Certificate; or

(b)

a candidate that provides documentary evidence that he or she qualifies for admission to a higher education institution or for an occupation, but does not satisfy the higher education faculty requirements or the requirements for the specific occupation. For this purpose, the end-of-year and the supplementary examinations will be regarded as one examination sitting.

(4) If there is a death in the immediate family of a candidate, or other special reasons for the candidate's absence, he or she may register for the supplementary examination.

(5) In cases contemplated in *subparagraphs (1) to (4) above*, the School-Based Assessment mark of the Grade 12-year will be used, including practical or oral assessment marks where applicable, in order to meet the internal assessment and external examination requirements.

(6) In a case where an irregularity is being investigated, provisional enrolment for the supplementary examination may be granted to the candidate concerned, pending the outcome of the investigation.

(7) A candidate who did not write or complete the end-of-year-examination with a valid reason, has the opportunity to write the supplementary examination for the specific examination question paper he or she did not write in the end-of-year-examination. However, should the candidate select to write the entire subject, even though he or she has been absent for one or more examination question papers, the candidate should be allowed to exercise this option.

[R. 16 substituted by r. 10 of GN 1041 of 3 November 2009.]

#### CHAPTER 4 TIME ALLOCATION FOR SUBJECTS

**17. Introduction.**—(1) In terms of *Section 4 of the Employment of Educators Act, 1998*, all school-based educators should be at school during the formal school day. Each school day should be at least seven hours, allowing for 35 hours per week.

(2) The contact time for teaching NCS Grades 10-12 (General) for Grades 10, 11 and 12 will be 27,5 hours per week, excluding the time allocated to breaks, assemblies and extramural activities.

**18. Time allocation.**—(1) The 27,5 hours of teaching contact time per week must be used as follows:

- (a) Languages: 9 hours per week, that is, 4,5 hours per week for each of the two languages;
- (b) Mathematical Literacy or Mathematics: 4,5 hours per week;
- (c) Life Orientation: 2 hours per week; and
- (d) Time allocation for the Group B subjects (12,0 hours): 4,0 hours per week should be allocated to each of the three subjects comprising the Group B subjects.

(2) [Table 2](#) gives a summary of the time allocations.

**Table 2:  
SUMMARY OF THE TIME ALLOCATION FOR SUBJECTS OFFERED FOR THE NCS Grades 10-12 (General)**

<i>Subject</i>	<i>Time allocation (hours per week)</i>
Language	4,5
Language 2 (LOLT)	4,5
Mathematics and Mathematical Literacy	4,5
Life Orientation	2,0
Group B subjects (3 x 4hours)	12,0
Total	27,5

(3) The allocated 27,5 hours per week may be utilised only for the minimum required NCS Grades 10-12 (General) subjects as specified above, and may not be used for any additional subjects added to the list of minimum subjects. Should a learner wish to offer additional subjects, additional time must be allocated for the offering of these subjects.

## CHAPTER 5 REPEAL OF POLICY AND TRANSITIONAL ARRANGEMENTS

**19. Repeal of policy.**—(1) The NCS Grade 10-12 (General) will be introduced in 2006 in Grade 10. This means that learners entering Grade 12 in 2008 will write the NSC examination.

(2) The policy document, a *Résumé of instructional programmes in schools, Report 550 (2001/08)* containing the programme requirements for the Senior Certificate, is repealed subject to *paragraph 21*.

(3) The policy document, *National Curriculum Statement Grades 10-12 (General) Overview* and *National Curriculum Statement Grades 10-12 (General) Qualifications and Assessment Policy Framework*, are repealed subject to *paragraph 21*.

**20. Transitional arrangements.**—(1) Unsuccessful Senior Certificate candidates in the Senior Certificate examination of 2007, as well as part-time candidates enrolled for the Senior Certificate, will be given an opportunity until May/June 2011 to complete the Senior Certificate programme. All Senior Certificate subjects successfully completed prior to 2006 will be recognised for the issuing of the Senior Certificate until May/June 2011.

[Sub-reg. (1) substituted by GN 830 of 2007.]

(2) No new enrolments of full-time or part-time learners will be accepted in Grades 10 for any subjects of Report 550 from 1 January 2006.

(3) All learners in Grade 10 in 2006 will offer the NCS grades 10-12 (General).

(4) A candidate who has enrolled for the Senior Certificate examination at any accredited assessment body prior to the promulgation of this policy, and who has received a certificate from either the South African Certification Council, or Umalusi, the Council for General and Further Education and Training Quality Assurance, indicating that the candidate obtained certain credits, shall retain such subject credits for the NSC.

(5) The Minister may, if deemed necessary, in terms of *Sections 3 (4) (l) and 7* of the *National Education Policy Act, 1996 (Act No. 27 of 1996)*, amend the transitional arrangements as contemplated in *paragraph 20*. Should the Minister regard it as essential that such amendments to the transitional arrangements be regulated, she may promulgate such regulations in terms of *Section 61* of the *South African Schools Act, 1996 (Act. No. 84 of 1996)*.

**21. Commencement and date of implementation.**—This policy will commence on the day of its promulgation in the *Government Gazette* and becomes effective from January 2006 in Grades 10, January 2007 in Grade 11 and January 2008 in Grade 12.

#### **Definitions.—**

**“applied competence”** – the ability to put into practice in the relevant context the exit- level Learning Outcomes and Assessment Standards required for obtaining the qualification

**“assessment body”** – a body approved by the Minister of Education to conduct the external assessment of all or some of the subjects for the NCS Grades 10-12 (General).

**“condonation”** – the waiving of promotion requirements in the case of a learner who comes very close to meeting such requirements

**“full-time candidate”** – is a learner who has enrolled for tuition and who offers a NSC in a full-time capacity at a public or independent school or any other registered institution and who presents seven (7) subjects in terms of the NSC requirements. Such a candidate must fulfill all internal assessment requirements, including oral and practical requirements where applicable.

**“grade”** – means that part of an educational programme, which a learner may complete in one school year, or any other education programme, which the Member of the Executive Council (MEC) may deem to be equivalent thereto.

**“Head of Department”** – refers to the Head of a provincial education department.

**“Head of the Institution”** – refers to the educator appointed as principal or acting as principal of a school or the head of any other registered learning institution.

**“immigrant candidate”** – refers to a learner who enters the South African school system at a late stage and as a result thereof was not exposed to the full spectrum of all the South African official languages. Such a candidate will under certain conditions be exempted from complying with the language requirements of the NSC (General).

**“independent school”** – is in terms of the *South African Schools Act, 1996 (Act. No. 84 of 1996)* as amended and the *Further Education and Training Act, 1998 (Act No. 98 of 1998)*, a school or learning institution or distance learning college not registered as a public school or Adult Basic Education and Training (ABET) centre at a provincial education department.

**“language levels”** – refers to all official and non-official languages and may be offered at the following three levels, namely Home Language, First Additional Language and Second Additional Language. Home Language is first acquired by children through immersion at home, the language in which they think. First Additional language provides for levels of language proficiency that meet the threshold levels necessary for effective learning across the curriculum. In the Second Additional Language the emphasis is on listening and speaking skills.

**“learner”** – refers to any person, including part-time learners, receiving education at a public or independent school or learning institution linked to an accredited assessment body.

**“National Qualifications Framework (NQF)”** – is an eight-level framework to provide for the registration of national standards and qualifications.

**“National Senior Certificate”** – is a certificate that will be awarded in 2008 for the first time to candidates who comply with the national policy requirements set out in this document.

**“part-time candidate”** – is a person who does not receive full-time tuition, and may register for a maximum six of the seven required subjects for the NSC in a single examination sitting.

**“promotion”** – the progression of a learner from one grade to the next when that learner meets the minimum requirements for the achievement of outcomes in the particular grade.

**“qualification”** – a planned combination of exit-level Learning Outcomes and Assessment Standards, which has a defined purpose and that is intended to provide learners with applied competence and a basis for further learning. This culminates in the formal recognition of learning achievement through the award of a formal certificate.

**“school”** – in this document, a “school” is a public school or an independent school which enrolls learners in Grades 10 to 12.

**“Subject Assessment Guidelines”** – Guideline documents that specify the internal and external assessment requirements for each of the listed subjects in the NCS Grades 10-12 (General).

**“Umalusi”** – Umalusi, the Council for Quality Assurance in General and Further Education and Training established in terms of the *General and Further Education and Training Quality Assurance Act, 2001 (Act No. 58 of 2001)*.

<b>Repealed Act</b>	<b>x</b>
Act 98 of 1998 has been repealed by s 58 (1) of <a href="#">Act 16 of 2006</a>	

**Annexure A**  
 NATIONALLY APPROVED SUBJECTS THAT COMPLY WITH THE REQUIREMENTS OF THE NCS  
 GRADES 10-12  
 (GENERAL)

<i>No</i>	<i>Organising fields of learning</i>	<i>Subjects</i>
1.	Agriculture and Nature Conservation	Agricultural Management Practices; Agricultural Sciences; Agricultural Technology
2.	Culture and Arts	Dance Studies; Design; Dramatic Arts; Music; Visual Arts.
3.	Business, Commerce and Management Studies	Accounting; Business Studies; Economics
4.	Communication Studies and Language	All official languages, and a number of non-official languages
5.	Education, Training and Development	

6.	Manufacturing, Engineering and Technology	Civil Technology; Electrical Technology; Mechanical Technology; Engineering Graphics and Design
7.	Human and Social Studies	Religion Studies; Geography; History; Life Orientation
8.	Law, Military Science and Security	
9.	Health Sciences and Social Services	
10.	Physical, Mathematical, Computer and Life Sciences	Computer Applications Technology; Information Technology; Life Sciences; Mathematical Literacy; Mathematics; Physical Sciences
11.	Services	Consumer Studies; Hospitality Studies; Tourism.
12.	Physical Planning and Construction	

### Annexure B

NATIONALLY APPROVED SUBJECTS THAT COMPLY WITH THE PROGRAMME REQUIREMENTS OF THE NCS GRADES 10-12 (GENERAL)

### GROUP A

**TABLE A1: OFFICIAL LANGUAGES AT HOME AND FIRST ADDITIONAL LEVEL**

SUBJECT	SUBJECT NUMBER		
	Grade 10	Grade 11	Grade 12
Afrikaans Home Language	04010012	04010023	04010034
Afrikaans First Additional Language	04020042	04020053	04020064
English Home Language	04010102	04010113	04010124
English First Additional Language	04020132	04020143	04020154
IsiNdebele Home Language	04010192	04010203	04010214
IsiNdebele First Additional Language	04020222	04020233	04030244
IsiXhosa Home Language	04010282	04010293	04010304
IsiXhosa First Additional Language	04020312	04020323	04020334
IsiZulu Home Language	04010372	04010383	04010394
IsiZulu First Additional Language	04020402	04020413	04020424
Sepedi Home Language	04010462	04010473	04010484
Sepedi First Additional Language	04020492	04020503	04020514
Sesotho Home Language	04010552	04010563	04010574
Sesotho First Additional Language	04020582	04020593	04020604
Setswana Home Language	04010642	04010653	04010664
Setswana First Additional Language	04020672	04020683	04020694
SiSwati Home Language	04010732	04010743	04010754
SiSwati First Additional Language	04020762	04020773	04020784
Tshivenda Home Language	04010822	04010833	04010844
Tshivenda First Additional Language	04020852	04020863	04020874
Xitsonga Home Language	04010912	04010923	04010934

Xitsonga First Additional Language	04020942	04020953	04020964
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**TABLE A2:  
MATHEMATICAL SCIENCES**

<i>SUBJECT</i>	<i>SUBJECT NUMBER</i>		
	<b>Grade 10</b>	<b>Grade 11</b>	<b>Grade 12</b>
Mathematical Literacy	10030012	10030023	10030034
Mathematics	10040042	10040053	10040064

**TABLE A3:  
HUMAN AND SOCIAL STUDIES**

<i>SUBJECT</i>	<i>SUBJECT NUMBER</i>		
	<b>Grade 10</b>	<b>Grade 11</b>	<b>Grade 12</b>
Life Orientation	07050012	07050023	07050034

**GROUP B**

**TABLE B1: AGRICULTURE**

<i>SUBJECT</i>	<i>SUBJECT NUMBER</i>		
	<b>Grade 10</b>	<b>Grade 11</b>	<b>Grade 12</b>
Agricultural Management Practices	01060012	01060023	01060034
Agricultural Science	01060042	01060053	01060064
Agricultural Technology	01060072	01060083	01060094

**TABLE B2:  
CULTURE AND ARTS**

<i>SUBJECT</i>	<i>SUBJECT NUMBER</i>		
	<b>Grade 10</b>	<b>Grade 11</b>	<b>Grade 12</b>
Dance Studies	02060012	02060023	02060034
Design	02060042	02060053	02060064
Dramatic Arts	02060072	02060083	02060094
Music	02060102	02060113	02060124
Visual Arts	02060132	02060143	02060154

**TABLE B3:  
BUSINESS, COMMERCE AND MANAGEMENT STUDIES**

<i>SUBJECT</i>	<i>SUBJECT NUMBER</i>		
	<b>Grade 10</b>	<b>Grade 11</b>	<b>Grade 12</b>
Accounting	03060012	03060023	03060034
Business Studies	03060042	03060053	03060064
Economics	03060072	03060083	03060094

**TABLE B4:  
OFFICIAL LANGUAGES AT SECOND ADDITIONAL LEVEL, AND NON-OFFICIAL LANGUAGES**

<i>SUBJECT</i>	<i>SUBJECT NUMBER</i>
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	<b>Grade 10</b>	<b>Grade 11</b>	<b>Grade 12</b>
Afrikaans Second Additional Language	04060072	04060083	04060094
English Second Additional Language	04060162	04060173	04060184
IsiNdebele Second Additional Language	04060252	04060263	04060274
IsiXhosa Second Additional Language	04060342	04060353	04060364
IsiZulu Second Additional Language	04060432	04060443	04060454
Sepedi Second Additional Language	04060522	04060533	04060544
Sesotho Second Additional Language	04060612	04060623	04060634
Setswana Second Additional Language	04060702	04060713	04060724
SiSwati Second Additional Language	04060792	04060803	04060814
Tshivenda Second Additional Language	04060882	04060893	04060904
Xitsonga Second Additional Language	04060972	04060983	0406994
Arabic Second Additional Language	04061002	04061013	04061024
French Second Additional Language	04061032	04061043	04061054
German Home Language	04061062	04061073	04061084
German Second Additional Language	04061092	04061103	04061114
Gujarati Home Language	04061122	04061133	04061144
Gujarati First Additional Language	04061152	04061163	04061174
Gujarati Second Additional Language	04061182	04061193	04061204
Hebrew Second Additional Language	04061212	04061223	04061234
Hindi Home Language	04061242	04061253	04061264
Hindi First Additional Language	04061272	04061283	04061294
Hindi Second Additional Language	04061302	04061313	04061324
Italian Second Additional Language	04061332	04061343	04061354
Latin Second Additional Language	04061362	04061373	04061384
Portuguese Home Language	04061392	04061403	04061414
Portuguese First Additional Language	04061422	04061433	04061444
Portuguese Second Additional Language	04061452	04061463	04061474
Spanish Second Additional Language	04061482	04061493	04061504
Tamil Home Language	04061512	04061523	04061534
Tamil First Additional Language	04061542	04061553	04061564
Tamil Second Additional Language	04061572	04061583	04061594
Telegu Home Language	04061602	04061613	04061624
Telegu First Additional Language	04061632	04061643	04061654
Telegu Second Additional Language	04061662	04061673	04061684
Urdu Home Language	04061692	04061703	04061714
Urdu First Additional Language	04061722	04061733	04061744
Urdu Second Additional Language	04061752	04061763	04061774

**TABLE B5:  
ENGINEERING AND TECHNOLOGY**

<i>SUBJECT</i>	<i>SUBJECT NUMBER</i>
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	<b>Grade 10</b>	<b>Grade 11</b>	<b>Grade 12</b>
Civil Technology	06060012	06060023	06060034
Electrical Technology	06060042	06060053	06060064
Mechanical Technology	06060072	06060083	06060094
Engineering Graphics and Design	06060102	06060113	06060124

**TABLE B6:  
HUMAN AND SOCIAL STUDIES**

<i>SUBJECT</i>	<i>SUBJECT NUMBER</i>		
	<b>Grade 10</b>	<b>Grade 11</b>	<b>Grade 12</b>
Geography	07060042	07060053	07060064
History	07060072	07060083	07060094
Religion Studies	07060102	07060113	07060124

**TABLE B7:  
PHYSICAL, MATHEMATICAL, COMPUTER AND LIFE SCIENCES**

<i>SUBJECT</i>	<i>SUBJECT NUMBER</i>		
	<b>Grade 10</b>	<b>Grade 11</b>	<b>Grade 12</b>
Computer Applications Technology	10060072	10060083	10060094
Information Technology	10060102	10060113	10060124
Life Sciences	10060132	10060143	10060154
Physical Sciences	10060162	10060173	10060184

**TABLE B8:  
SERVICES**

<i>SUBJECT</i>	<i>SUBJECT NUMBER</i>		
	<b>Grade 10</b>	<b>Grade 11</b>	<b>Grade 12</b>
Consumer Studies	11060012	11060023	11060034
Hospitality Studies	11060042	11060053	11060064
Tourism	11060072	11060083	11060094

**Annexure C**

RECOGNITION OF SUBJECTS NOT LISTED IN THE NATIONAL CURRICULUM STATEMENT GRADES 10-12

[Annexure C substituted by r. 11 of GN 1041 of 3 November 2009.]

**C.1**

**THE STATUS OF SUBJECTS OFFERED BY OTHER ASSESSMENT BODIES**

Learners may offer a maximum of one subject developed by accredited assessment bodies other than the Department of Education, provided that such a subject is accommodated in national education policy. A maximum of 20 credits may be allocated to such subjects. Accredited providers that wish to offer their subjects as part of the National Curriculum Statement Grades 10-12 may do so, subject to the approval of the Department of Education.

The subjects listed in *paragraph C2* are approved subjects from other accredited assessment bodies. Only in exceptional cases will additional subjects in this category be considered by the Department of Education.

Since the rating scale of the external examining body is not in accordance with that of the National Senior Certificate – the rating (1 – 7) will not be indicated on the statement of results and on the final certificate issued by Umalusi.

The actual mark obtained by the candidate will be reflected on the Statement of Results, with an asterisk denoting that this subject was offered by an external assessment body and that the pass mark in this subject is stipulated by the assessment body.

**SUBJECTS OF OTHER ASSESSMENT BODIES THAT ARE APPROVED BY THE MINISTER OF EDUCATION**

**TABLE C1  
AGRICULTURE**

<b>SUBJECT</b>	<b>SUBJECT NUMBER</b>		
	<b>Grade 10</b>	<b>Grade 11</b>	<b>Grade 12</b>
Equine Studies	10361002	10361013	10361024

**TABLE C2  
CULTURE AND ARTS**

<b>SUBJECT</b>	<b>NUMBER</b>
Associated Board of Royal Schools of Music Practical Music Examination Grade 4	11361002
Associated Board of Royal Schools of Music Practical Music Examination Grade 5	11361013
Associated Board of Royal Schools of Music Practical Music Examination Grade 6	11361024
Associated Board of Royal Schools of Music Practical Music Examination Grade 7	11361034
Trinity College of London Practical Music Examination Grade 4	11361072
Trinity College of London Practical Music Examination Grade 5	11361083
Trinity College of London Practical Music Examination Grade 6	11361094
Trinity College of London Practical Music Examination Grade 7	11361104
UNISA Practical Music Examination Grade 4	11361152
UNISA Practical Music Examination Grade 5	11361163
UNISA Practical Music Examination Grade 6	11361174
UNISA Practical Music Examination Grade 7	11361184

Learners who offer the Associated Board of Royal Schools, Trinity College of London or UNISA Practical Music Examination, Grades 6 and 7 must comply with the prerequisite theoretical components as offered by the respective three institutions, namely the Associated Board of Royal Schools, Trinity College of London and UNISA, namely Grades 6 for the Theory of the Associated Board of Royal Schools and Trinity College of London, and Grade 5 for UNISA.

**TABLE C3  
BUSINESS, COMMERCE AND MANAGEMENT STUDIES**

<i>SUBJECT</i>	<i>SUBJECT NUMBER</i>		
	<i>Grade 10</i>	<i>Grade 11</i>	<i>Grade 12</i>
Maritime Economics	12361002	12361013	12361024

**TABLE C4  
NON-OFFICIAL LANGUAGES**

<i>SUBJECT</i>	<i>SUBJECT NUMBER</i>		
	<i>Grade 10</i>	<i>Grade 11</i>	<i>Grade 12</i>
Modern Greek Second Additional Language	13361002	13361013	13361024

**TABLE C5  
ENGINEERING AND TECHNOLOGY**

<i>SUBJECT</i>	<i>SUBJECT NUMBER</i>		
	<i>Grade 10</i>	<i>Grade 11</i>	<i>Grade 12</i>
Nautical Science	15361002	15361013	15361024

**TABLE C6  
HUMAN AND SOCIAL STUDIES**

<i>SUBJECT</i>	<i>SUBJECT NUMBER</i>		
	<i>Grade 10</i>	<i>Grade 11</i>	<i>Grade 12</i>
Sport and Exercise Science	16351122	16351133	16351144

**Annexure D  
SUBJECT CODING FOR ASSESSMENT PURPOSES**

**D.1**

**Subjects**

The subject codes for the subjects listed in [Annexures A and B](#) consist of eight digits that have the following meaning:

- > first and second digits: NQF organising field (up to two digits) ([Table D1](#));
- > third and fourth digits: the subject groupings, as defined below ([Table D2](#));
- > fifth, sixth and seventh digits: unique subject codes within each NQF organising field; and
- > eighth digit: NQF level of the subject.

**TABLE D1  
NQF organising fields as they relate to the subject coding system Digit NQF Organising Field**

<i>DIGIT</i>	<i>NQF ORGANISING FIELD</i>
--------------	-----------------------------

01	Agriculture and Nature Conservation
02	Arts and Culture
03	Business, Commerce and Management Studies
04	Communication and Language Studies
05	Education, Training and Development
06	Manufacturing, Engineering and Technology
07	Human and Social Studies
08	Law, Military Science and Security
09	Health Science and Social services
10	Physical, Mathematical, Computer and Life Sciences
11	Services
12	Physical Planning and Construction

**TABLE D2**  
**Subject Groupings**

<i>DIGIT</i>	<i>SUBJECT GROUP</i>
1	Group A Official Languages at Home Language level
2	Group A Official Languages at First Additional Level
3	Group A Mathematical Literacy
4	Group A Mathematics
5	Group A Life Orientation
6	Group B Subjects
7	Subjects from other assessment bodies recognised by the Department of Education to be offered as Group B subjects

**GN 1044 of 21 October 2005: Regulations for the Conduct, Administration and Management of Assessment for the Senior Certificate**

**as amended by**

**Notice**  
830  
1152

**Government Gazette**  
30267  
31535

**Date**  
7 September 2007  
31 October 2008

DEPARTMENT OF EDUCATION

I, Grace Naledi Mandisa Pandor, Minister of Education, after consultation with the Council of Education Ministers, hereby make the regulations in terms of sections 6A and 61 of the *South African Schools Act (No. 84 of 1996)*, read with section 27 of the *General and Further Education and Training Quality Assurance Act (No. 58 of 2001)*, as set out in [the Schedule](#).

(Signed)

**GRACE NALEDI MANDISA PANDOR, MP**  
**MINISTER OF EDUCATION**

DATE: 17 October 2005

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## CHAPTER 1

**1. Definitions.**—In these regulations, any word or expression to which a meaning has been assigned in the Act, shall have the meaning so assigned to it, unless the context indicates otherwise.

**“Administrative errors or omissions”** mean irregularities that are of a technical nature, where the candidate or an examination official unintentionally fails to follow the prescribed administrative procedure. The learner may be disadvantaged by this error or omission and there must be clear evidence that the candidate did not act in a manner to gain an unfair advantage;

**“Acts of Dishonesty”** means any act of dishonesty or action or activity that may result in the candidate obtaining an unfair advantage;

**“Assessment Body”** means a body as contemplated in section 1 of the *General and Further Education and Training Quality Assurance Act (No. 58 of 2001)*;

**“Assessment process”** refers to the following:

- (a) Registration of candidates;
- (b) Designing of assessment instruments;
- (c) Moderation of assessment;
- (d) All activities relating to the security and integrity of the assessment, either Internal or external;
- (e) Administration of assessment instrument;
- ( f ) Marking of assessment evidence;
- (g) Processing of assessment results;
- (h) Certification of results; and
- (i) Any action connected therewith.

**“Assessment irregularity”** means any event, act or omission, and any alleged event, act or omission, which may undermine or threaten to undermine the integrity, credibility or the security, or the fairness of the examination and assessment process;

**“Behavioural Offences”** mean misbehaving, creating a disturbance or wilfully disobeying legitimate instructions, which may have an adverse effect on the examination process or the outcome of the examinations;

**“Candidate”** means a learner who is registered to sit for the Senior Certificate examination;

**“Chief Examiner or Examiner”** means a person who sets a question paper and the accompanying memorandum for the examination;

**“Chief Executive Officer”** means the Chief Executive Officer contemplated in section 11 of the *General and Further Education and Training Quality Assurance Act (No. 58 of 2001)*;

**“Chief Invigilator”** means the principal or head of an institution that serves at an assessment centre or another person specifically appointed to take responsibility for the administration of the Senior Certificate examination and other related assessment matters at the assessment centre;

**“Chief Marker”** means a person who is responsible and accountable for the marking of a question paper written under the jurisdiction of an assessment body accredited by Umalusi;

**“Dangerous weapon”** means—

- (a) any explosive material or device;
- (b) any firearm or gas weapon;
- (c) any article, object or instrument that may be used to cause bodily harm to a person or damage to property, or to render a person temporarily paralysed or unconscious; or
- (d)

any object that the Minister may, by notice in the *Government Gazette*, declare to be a dangerous object for the purpose of these regulations, unless such objects are used for assessment purposes;

**"Deputy Chief Marker"** means a person who assists a Chief Marker in all his or her duties;

**"Educator portfolio"** means the full and final record of all the tasks that must be presented by the learner in his or her portfolio for a particular subject, for the assessment in the Senior Certificate. The educator portfolio will also include the marking guidelines and the assessment rubrics;

**"Examination"** means a component of the assessment process and refers to the culmination of the summative assessment process when learners in Grade 12 are subjected to a final sitting at the end of the academic year;

**"Examinations Board"** is an advisory body comprising education stakeholders in the field of assessment, in the General and Further Education and Training Bands, appointed by the Member of the Executive Council (MEC) or private assessment body to advise the assessment body on all matters relating to assessment and examinations in the GET and FET bands;

**"Examination Centre"** means a centre registered by an accredited assessment body to conduct assessment and examinations;

**"Examination sitting"** means an examination sitting during May and June each year from 2008 until 2011;

[Definition of "[Examination sitting](#)" substituted by GN 830 of 2007.]

**"FET"** means further education and training;

**"Full-time candidate"** means a candidate who has enrolled for full-time tuition and registered for a minimum of six subjects for the Senior Certificate at a public or independent school or any other registered institution for that particular examination sitting;

**"Hard copy"** means a paper copy of a question paper, marking guideline or any other assessment material;

**"Head of Department"** means the Head of Department contemplated in section 1 of the *South African Schools Act (No. 84 of 1996)* or the head of any other assessment body registered with Umalusi;

**"HEDCOM"** means the Heads of Education Departments Committee;

**"Head of institution"** means an educator appointed or acting as a principal of a school or the head or acting head of any other registered learning institution;

**"Hearing"** takes place after all the appropriate evidence has been assembled and the main purpose of a hearing is to allow the individual implicated by the alleged assessment irregularity to provide a response to the allegations made. The hearing should culminate in a decision;

**"Internal assessment"** means the assessment contemplated in section 1 of the *General and Further Education and Training Quality Assurance Act (No. 58 of 2001)*;

**"Investigation"** encompasses all activities relating to the collection of evidence in respect of the reported irregularity. This may include interviews or submission of written reports from various examination officials, candidates or any other person that may assist in providing information on the reported irregularity. All investigations must be conducted under the auspices of the PEIC and reported to the Head of Department;

**"Invigilator"** means any person appointed and responsible to assist the Chief Invigilator in the conduct of an examination or any other related activity at the assessment centre;

**"Learner"** means a learner contemplated in section 1 of *South African Schools Act (No. 84 of 1996)*;

**"Learner portfolio"** means the collection of the learner's evidence that is used to compile his or her Internal assessment mark;

**“Marker”** means a person who is appointed to mark an examination script;

**“MEC”** means Member of Executive Council responsible for education in a province;

**“Moderation”** means the moderation contemplated in section 1 of the *General and Further Education and Training Quality Assurance Act (No. 58 of 2001)*;

**“NEIC”** means the National Examinations Irregularities Committee established by the Department of Education to coordinate the handling of irregularities by the assessment bodies;

**“Part-time candidate”** means a learner who does not attend or receive full-time tuition;

**Personnel Administration Measures** is the policy document that outlines and governs the remuneration and other service conditions of educators employed in terms of the *Employment of Educators Act (No. 76 of 1998)*;

**“PEIC”** means the Provincial Examinations Irregularities Committee established by the provincial assessment body to investigate, conduct hearings regarding Internal and external assessment irregularities and make recommendations to the Head of Department.

**“Provider”** means a body as contemplated in section 1 of the *General and Further Education and Training Quality Assurance Act (No. 58 of 2001)*;

**“Registration Centre”** refers to the place where the candidate is registered to sit for the Senior Certificate examination;

**“School, learning institution or learning site”** means the environment or location where learners receive the opportunity to access the learning programme;

**“Senior Certificate”** means the certificate that is awarded as a final exit qualification at the end of Grade 12 to candidates who have complied with the requirements contemplated in the *Resumé of Instructional Programmes in Schools, Report 550 (0905)*;

**“Senior Marker”** means a person who assists the Chief Marker in the marking process and takes responsibility for a group of markers at the marking centre;

**“Service contract”** means a binding and legal agreement between a provincial education department, as an assessment body, and an independent school or learning institution or a college for distance learning, registered as an assessment centre, in respect of the administration and management of an examination or other assessment activities;

**“Subject grade”** means the level or degree of complexity at which a particular subject is offered for the Senior Certificate. This currently refers to Higher, Standard or, in special circumstances, Lower Grade;

**“Umalusi”** means the Council for Quality Assurance in General and Further Education and Training, established in terms of the *General and Further Education and Training Quality Assurance Act (No. 58 of 2001)*;

**“Venue Manager”** means the official appointed by the assessment body to be in charge of a Marking Centre.

**2. Objectives, Scope and Application.**—(1) The purpose of these regulations is to control the management of the Senior Certificate examination and assessment process.

(2) These Regulations apply to both public and private assessment bodies.

**3. The Examinations Board.**—(1) The MEC may establish an Examinations Board to advise him or her on all matters relating to examinations and assessment of the Senior Certificate.

(2) Private assessment bodies may establish an Examinations Board to advise them on matters relating to examinations and assessment of the Senior Certificate.

**4. Composition and Structure.**—(1) The MEC must determine the composition of the Examinations Board taking into account the following:

- (a) Knowledge and understanding of examinations and assessment processes in schools and other learning institutions;
- (b) Representivity on the basis of race, gender, inclusivity and equity; and
- (c) Representation of, *inter alia*, the following stakeholders:
  - (i) Heads of schools and other institutions;
  - (ii) Recognised teacher unions;
  - (iii) School governing bodies of public schools or learning institutions;
  - (iv) Higher Education Councils;
  - (v) FET College councils; and
  - (vi) Private assessment bodies.

(2) The MEC must invite, consider and appoint members from the nominations received from the above stakeholders.

(3) Private assessment bodies must determine the composition of the Examinations Board and appoint its members.

(4) The Minister may appoint additional members, with observer status, to serve on the Examinations Board of the private assessment bodies.

**5. Functions of the Examinations Board.**—(1) Advise on policy and related matters in the Senior Certificate, as it relates to the assessment body.

(2) Advises the Head of Department on matters relating to examinations and assessment.

(3) Deal with all examinations and assessment matters referred to it by the Head of Department, as the case may be.

(4) The Examinations Board will be accountable to the Head of Department for the execution of its functions.

(5) The Examinations Board may establish an Executive Committee to deal with special matters referred to it by the Examinations Board.

(6) The Director-General or his or her nominee, must convene a minimum of two meetings annually with the Chairpersons of the Examinations Board to discuss matters that would enhance the credibility of the Senior Certificate examinations.

**6. Term of Office.**—Members of the Examinations Board, who are bound by an obligation of confidentiality, should hold office for a period not exceeding three years and a member may be reappointed when his or her term of office expires.

**7. Appointment of Chairperson.**—(1) The MEC must appoint the Chairperson and Deputy Chairperson.

(2) The Board members must elect other members of the Executive from among themselves.

(3) The Chairperson must appoint a Secretary to the Board.

**8. Termination of Membership.**—(1) If members are unable to attend a meeting, a written apology must be sent to the Secretary of the meeting prior to the scheduled meeting.

(2) In the event of a member being absent from two consecutive meetings of the Examinations Board without an apology or an acceptable reason, his or her membership must forthwith be terminated and the member must be advised accordingly.

(3) The Chairperson must make a recommendation to the Head of Department relating to the termination of membership of a member on account of incompetence or misconduct.

(4) The MEC must terminate the membership of a member of the Examinations Board on the request of such a member or the stakeholder represented by the member.

(5) All resignations must be submitted in writing to the MEC.

**9. Vacancies of Members.**—If a vacancy arises on the Examinations Board, the MEC must fill such a vacancy on the basis of nominations received for the specific category, in which the vacancy exists.

**10. Frequency of Meetings.**—The Examinations Board should meet as often as circumstances require, but hold a minimum of two ordinary meetings annually. Permission for fewer meetings should be obtained from the Head of Department.

**11. Quorum for a Meeting.**—(1) A minimum of 50% of the membership constitutes the quorum.

(2) The quorum must be applicable with respect to *ad hoc* committees and working groups.

**12. Procedure for a Meeting.**—(1) Conventional procedures for a meeting must apply in meetings of the Examinations Board, *ad hoc* committees and working groups.

(2) The Secretary of the Examinations Board must give notice 14 days prior to the meeting and keep a record of the names of members attending the meeting.

(3) Ordinary meeting agenda items must be requested by the Secretary in writing 30 days before a meeting and received within ten days thereafter, except for urgent matters which may be included on the agenda at the meeting, provided that no member registers an objection.

(4) For special meetings, notice of seven days is required, specifying the agenda for an Examinations Board meeting, which must be the sole agenda item for the meeting.

(5) No decision of the Examination Board may be changed or recalled except by a two-thirds majority of members present or except where this is rendered unavoidable.

(6) In instances where members cannot attend a meeting, comments and views on issues to be deliberated must be made known in advance and in writing to the Secretary. Apologies for absence must reach the secretary at least one week before a meeting is scheduled to enable him or her to decide on a possible postponement of the meeting.

(7) The Secretary must circulate copies of minutes and other documentation as may be applicable to each member within one month after every Examinations Board meeting.

(8) The Secretary must furnish all minutes, correspondence or other documents relating to the activities or functioning of the Examinations Board to the section responsible for assessment and examination for safe record keeping.

(9) By the end of August of every calendar year, the Examinations Board must determine the financial implications of its activities for the next financial year and submit this information to the section responsible for assessment and examination before the end of September of that calendar year.

**13. Allowances and Remuneration for *Ad Hoc* Committees and Working Groups.—**

The assessment body may reimburse Examinations Board members who are not employed by government for legitimate subsistence and travel expenses in accordance with government tariff guidelines.

CHAPTER 3  
PREPARATION FOR THE EXAMINATION PROCESS

**14. The Examination Cycle.—**(1) The assessment body must develop a management plan in respect of the entire examination cycle.

(2) The examination cycle commences with the appointment of Examiners and Internal Moderators to set and moderate the question papers for the scheduled examination and concludes with the release of the examination results.

(3) Planning and preparations for the conduct of external examinations must commence at least 24 months prior to the scheduled examination date.

(4) All processes must be concluded at least six months prior to the commencement of the external examination.

(5) The Department of Education will monitor the entire examination cycle to ensure system readiness to deliver a credible examination.

**15. Security and Confidentiality.—**(1) The assessment body must ensure the security and confidentiality of the assessment process.

(2) Examination officials must disclose any information regarding the participation of their children or relatives in the examination.

(3) Examination officials involved in the assessment process must sign a Contract of Confidentiality.

**16. Appointment of Examiners and Internal Moderators.—**(1) The assessment body must appoint—

(a) an Examiner for each paper; or

(b)

an additional Examiner to assist the Examiner contemplated in [paragraph \(a\)](#); or

- (c) a panel of Examiners, if the candidates must write more than one paper for a subject and the Examiners must work together in setting all the papers for the subject;
- (d) Examiners for setting different grades of the same subject who must work together;
- (e) a Chief Examiner for a panel of Examiners, who serves as a convener to ensure the quality and standard of the paper;
- (f) an Internal Moderator who takes final responsibility in ensuring the standard and quality of the paper, before it is submitted to the External Moderator.

(2) In the appointment of Examiners and Internal Moderators for provincially set question papers, an advertisement in a provincial newspaper and an Internal circular, should invite educators in the employ of the provincial education department or other educators in the province to apply for appointment.

(3) In the appointment of Examiners and Internal Moderators for nationally set question papers, an advertisement in a national newspaper should invite educators to apply for appointment.

(4) The selection panel for the nationally set question papers should be made up of—

- (a) assessment and examination officials from the Department of Education;
- (b) one external Moderator from Umalusi; and
- (c) one representative from each of the recognised educator labour unions, who will serve as observers.

(5) In the case of provincially appointed Examiners and Moderators, the selection panel should comprise of—

- (a) assessment and examination officials from the provincial education department as determined by the Head of Department; and
- (b) one representative from each of the recognised educator labour unions who will serve as observers.

(6) The selection panel will make their selection on the basis of *curriculum vitae* or other written submissions and interviews may be conducted where necessary.

(a) The criteria for the selection and appointment of Internal Moderators and Examiners for the public assessment bodies will be in accordance with:

- (i) the Personnel Administrative Measures, and
- (ii) any other additional criteria as determined and approved by HEDCOM.

(7) The list of persons recommended for appointment by the selection panel must be submitted to the Director-General in the case of nationally set question papers or the Head of Department or his or her nominee, in the case of provincially set question papers, within 14 days of finalisation, for formal approval and appointment.

(8) The private assessment body must appoint Examiners and Internal Moderators in accordance with criteria and processes approved by the Examinations Board.

(9) The Director-General or the Head of the Department or his or her nominee will make the final decision with regard to the appointment of Internal Moderators and Examiners.

(10) Successful applicants must be informed in writing and be required to sign a written undertaking of confidentiality with the Department of Education or provincial education department.

(11) Internal Moderators and Examiners should be appointed for a minimum period of two years and a maximum of four years.

(12) Letters of appointment for both Internal Moderators and Examiners must clearly indicate the period of appointment.

(13) The Internal Moderator or Examiner must, for the period of appointment and subject to the appropriate provisions, be responsible for the question paper for which he or she has been appointed.

(14) An Internal Moderator should be appointed for each question paper at every level for which the subject is presented and this does not preclude two question papers from being moderated by the same Internal Moderator.

(15) There is no requirement that an Internal Moderator must always be appointed from the ranks of serving educators.

(16) A person serving as Internal Moderator or Examiner on a National Examination Panel may be considered for appointment as either Internal Moderator or Examiner for a question paper written under the auspices of the Assessment Body.

(17) Where an Examiner or Internal Moderator becomes unavailable and adequate time is not available for the prescribed appointment procedure to be followed, a replacement may be appointed from the list of recommendations made to the Director-General or Heads of Department or Head of private assessment body, taking the individual next in the rank order.

(18) The assessment body must terminate the appointment of an Examiner or Internal Moderator, if he or she does not comply with the conditions under which he or she has been appointed. The termination must not compromise the examination process.

(19) All officials involved in the Senior Certificate examination must be required by the assessment body to sign a Contract of Confidentiality.

**17. Functions of the Internal Examiners and Moderators.**—(1) Examiners must perform the following functions:

- (a) Setting of question papers that are of the appropriate standard, quality and in the language of instruction as specified by the assessment body;
- (b) Drafting of additional question papers.
- (c) Drafting of memoranda of the question papers contemplated in (a) and (b).  
[Sub-reg. (1) substituted by GN 830 of 2007.]

(2) The Internal Moderator must perform the following functions:

- (a) Ensure that the question paper is of the appropriate standard and quality;
- (b) Ascertain that a question paper conforms to the core syllabus, adequately provides for differentiation, and includes questions addressing the different cognitive levels;
- (c) Attend the memorandum discussions;
- (d)

- Approve and sign off the finally agreed upon memorandum;
- (e) Moderate the marked scripts;
- (f) Liaise with External Moderators;
- (g) Give advice, support and guidance to Examiners;
- (h) Recommend the necessary changes to the question papers to the assessment body; and
- (i) Submit a report to the External Moderator.

**18. Process of Setting Question Papers.**—(1) Internal Moderators and Examiners must comply with all instructions issued by assessment bodies.

(2) Assessment bodies must give Examiners and Internal Moderators guidelines in respect of setting question papers, which must include the following:

- (a) Number of question papers;
- (b) The duration of the question paper;
- (c) Maximum marks;
- (d) Format of the question paper; and
- (e) Any other requirement that it may deem necessary.

(3) Assessment bodies must ascertain that Internal Moderators and Examiners perform their functions.

(4) The assessment bodies must comply with the changes recommended by the Internal Moderator.

(5) An assessment body must mediate and make a decision if there is a disagreement between an Internal Moderator and an Examiner.

(6) If there is a dispute between an Internal Moderator and an External Moderator, the assessment body and Umalusi must mediate an agreement, failing which the decision of the Chief Executive Officer of Umalusi will be final.

(7) The assessment bodies must comply with the requirements of Umalusi regarding the moderation of Senior Certificate examination question papers.

(8) Changes effected by the External Moderator must be communicated in writing and these changes must be complied with.

(9) Assessment bodies must—

- (a) ensure the safekeeping of the question papers before the writing of the examination;
- (b) adopt the appropriate mechanisms for the distribution of the question papers;

- (c) ensure that all persons involved in the handling of question papers sign a Contract of Confidentiality;
- (d) ensure that the distribution chain and number of persons involved are kept to a minimum;
- (e) ensure that the transfer of question papers from one official to another is carefully checked and controlled; and
- ( f ) report any irregularities discovered during the setting of question papers to Umalusi and the Department of Education.

(10) The assessment body must inform educators and learners about any changes in the format of the question paper.

**19. Editing, Translation and Approval of Question Papers for Printing.**—(1) A senior examination official must supervise the typing of all examination-related material in a secure area.

(2) Competent language practitioners must edit and translate all question papers.

(3) The Internal Moderator must do the final editing.

(4) The Internal Moderator must sign to certify that he or she is satisfied that the question paper is ready for printing.

(5) The Examiner, Internal Moderator and External Moderator are jointly responsible for the accuracy, quality and standard of the question paper.

(6) A senior official must supervise the printing and approve the quality and standard of the printed question paper, regardless of whether the printing is done in-house or outsourced.

**20. Registration of Examination Centres.**—(1) All public schools must be audited by the section responsible for examinations and assessment in the provincial department of education, to ensure that the public school has the appropriate facilities to serve as an examination centre.

(2) Private providers wishing to write the examination of a private assessment body must register with the private assessment body as an examination centre in accordance with the requirements of the private assessment body.

(3) Private providers wishing to write the Senior Certificate examination of the provincial education department must apply for registration as a private examination centre in October of the year preceding the examination.

(4) The assessment body must make available a prescribed form for application of the registration of a private examination centre.

(5) Private providers writing the Senior Certificate examination of the provincial education department must complete a Service Contract with the provincial education department before 15 March of the year in which the examination is to be written.

(6) A registered examination centre may not establish a subsidiary or satellite centre.

(7) Prisons must register as examination centres, if examinations are conducted at the prison.

(8) Private providers, including distance education providers, may request the provincial education departments to accommodate their private candidates for the examination, if need be.

(9) The maximum number of candidates at an examination centre may not exceed 500, except with the approval of the Head of Department.

(10) Private providers must comply with the following minimum criteria for registration of examination centres:

- (a) Registration of the centre as an educational institution;
- (b) Suitability of the venue to accommodate all candidates;
- (c) Security of the venue;
- (d) Compliance of the venue with the local health and fire services by-laws;
- (e) Sufficient lighting;
- (f) Availability of water and ablution facilities;
- (g) Availability of suitable educators who can be trained as invigilators;
- (h) Availability of a strong room for the safekeeping of assessment material; and
- (i) Availability of the necessary equipment and facilities required for the proper assessment of all learners with special needs who are registered at that particular centre.

(11) The assessment body must issue a centre number if the application for registration is successful.

(12) The assessment body must review the registration of private centres at least once in three years.

(13) The Head of Department must de-register a private examination centre if the following occurs:

- (a) Physical relocation of the examination centre to another venue from the premises approved by the assessment body;
- (b) The centre's officials and candidates commit serious irregularities in respect of the question papers before or during examinations;
- (c) Maladministration resulting in the disadvantage to candidates and an adverse effect on the centre's ability to render effective services;
- (d) Officials of the examination centre not complying with the regulations and directives issued by the assessment body and Umalusi; or
- (e) Examination centre no longer complying with the criteria in [subregulation \(10\)](#).

(14) The assessment body may take over the administration of the conduct of the examination at the private centre if, after an investigation, there is evidence that the examination may have been compromised.

**21. Registration of Candidates.**—(1) Public and private providers may register part-time candidates for the Senior Certificate examinations.

(2) The closing date for registration must be on or before 30 September prior to the year of examination.

[Sub-r. (2) substituted by GN 1152 of 31 October 2008.]

(3) Each examination body must determine the format of the registration form and the procedure for registration.

(4) A candidate may sit for the May/June 2008 examination as a supplementary examination, subject to the conditions stipulated in [regulation 46](#).

(5) In 2009, 2010 and 2011 learners will register as part-time candidates.

[[Reg. 21](#) substituted by GN 830 of 2007.]

**22. External Examinations written outside the Republic of South Africa.**—(1) A candidate registered for the Senior Certificate examination may apply in writing to the Head of Department, for permission to write the external examination outside the country.

(2) The following are the categories of candidates who qualify in terms of [subregulation \(1\)](#):

- (a) Children or wards of diplomats or personnel in a South African Diplomatic Mission;
- (b) Candidates whose parents or guardians have been transferred by their employers to other countries;
- (c) A candidate who has been transferred to another country by his or her employer; and
- (d) A candidate who represents the country in a recognised and registered sports or cultural event.

(3) Only South African Diplomatic Missions or centres approved by the relevant assessment bodies may be examination centres.

(4) The candidate must bear all additional costs of the assessment.

(5) Only candidates already registered for the Senior Certificate examination may be considered for this concession.

(6) All examinations written outside the country must conform to the South African time, i.e. they must be written at the same time as the paper in South Africa.

#### CHAPTER 4 INTERNAL ASSESSMENT/CONTINUOUS ASSESSMENT (CASS)

**23. Requirements for an Internal Assessment Mark for the Senior Certificate.**—(1) The final promotion mark for full-time candidates registered for a Senior Certificate must include an Internal assessment mark.

(2) The assessment body must ensure that all Internal assessments are conducted in terms of the provisions of these regulations.

(3) Full-time candidates must comply with all the requirements of Internal assessment, regardless of the subject or grade.

(4) Full-time candidates who register for more than six subjects must comply with all the requirements relating to internal assessment. This also applies to candidates that may offer an additional subject or subjects at another institution.

(5) The internal assessment mark in respect of the final promotion mark must count 25%.

(6) For subjects with a practical component, the internal assessment mark must, where applicable, also include a practical assessment counting 25% or any other percentage as determined in the syllabus.

(7) Umalusi may issue directives for internal assessment as stipulated in section 17 (1) of the *General and Further Education and Training Quality Assurance Act (No. 58 of 2001)*.

**24. Administration Requirements for Internal Assessment.**—(1) A learner must comply with the full requirements of the internal assessment in order to be awarded a final internal assessment mark. Exceptional cases will be dealt with in terms of the Umalusi directives.

(2) A learner who does not comply with the full requirements of internal assessment, and does not submit a valid reason for such non-compliance, cannot be awarded a Senior Certificate even though he or she satisfies all other requirements of the certificate and he or she must be designated as “incomplete” on the computer system.

(3) In the case of a learner not being able to comply with the requirements of internal assessment and valid reasons are provided, he or she must be granted another opportunity to be assessed in the assigned tasks. In such a case a learner will be granted three calendar weeks, from the date on which the concession is granted, to submit outstanding work or present himself or herself for the internal assessment.

**25. Completion of Mark Sheets for Internal Assessment.**—(1) A teacher must complete mark sheets in black or blue ink.

(2) The teacher and the principal or Head of Institution and an appointed Moderator must write their names and sign the mark sheets.

(3) The stamp of the school or institution must appear on the mark sheet.

(4) The teacher must allocate a mark to every learner on the mark sheet.

(5) The principal must submit the completed mark sheets according to the prescriptions of the assessment body.

(6) The assessment body must enter an appropriate code for learners whose practical component marks are missing.

(7) The principal or Head of the Institution must report to the assessment body, all cases where learners do not appear on the official mark sheets.

(8) The teacher must complete handwritten mark sheets accompanied by suitable written explanations, for all the learners contemplated in [subregulation \(7\)](#).

(9) A teacher may indicate an outstanding practical or internal assessment mark with a “777” mark until the learner presents himself or herself for the internal assessment or practical mark.

(10) A teacher may indicate with a “999” on the mark sheet, if a learner has registered for the wrong subject or grade.

(11) Despite [subregulation \(10\)](#), the teacher must write a report explaining the reasons for the incorrect entry, which must be accompanied by a handwritten mark sheet.

(12) A teacher may indicate with a “999” in a mark sheet, if the candidate leaves the system after registration.

(13) The teacher must convert a “777” mark to a “999” mark if a candidate does not present himself or herself for internal assessment within the prescribed period, prior to the submission of the internal assessment mark sheet to the examination section of the assessment body.

(14) . . . . .

[Sub-reg. (14) repealed by GN 830 of 2007.]

(15) A "777" converted to a "999" implies that the learner must re-register for that subject in the following examination.

**26. Moderation of Internal Assessment.**—(1) Each assessment body must have a policy that clearly stipulates how internal moderation will be implemented at school, district/region and provincial level.

(2) The internal moderation policy of the assessment body must be approved by Umalusi, the Council for Quality Assurance in General and Further Education and Training.

(3) The internal assessment marks for the Senior Certificate must be subjected to the quality assurance processes of Umalusi before they are combined with the examination mark.

## CHAPTER 5 CONDUCT OF EXAMINATIONS

**27. Appointment of Chief Invigilators/Invigilators.**—(1) The assessment body reserves the right to appoint any competent school or office-based educator as a Chief Invigilator, should the principal or Head of Institution be found not to be capable of upholding the integrity of the external examinations.

(2) The Chief Invigilator must appoint Invigilators in accordance with the requirements of the assessment body.

(3) The Chief Invigilator may delegate his or her duties in writing to his or her deputy if he or she is absent, and inform the district or regional office accordingly.

(4) The Chief Invigilator must appoint educators as Invigilators, in writing, before the Senior Certificate examination begins and provide the head of examinations, district or regional office with a copy of the invigilation roster.

(5) The assessment body may appoint private invigilators, including the Chief Invigilator, where necessary.

(6) In cases where the assessment body appoints private Chief Invigilators and Invigilators, the principal or the Head of the Institution is still finally accountable for the conduct of the examinations at that centre, except where the principal has been relieved of his or her examination responsibilities by the Head of Department or his or her nominee.

(7) The Chief Invigilator must have a thorough knowledge of the procedures, rules and regulations regarding the examinations.

(8) The Chief Invigilator must train the Invigilators before the Senior Certificate examination begins.

(9) One Invigilator must be appointed for every 30 candidates writing the examination. This must be translated as follows:

- (a) 0 – 30 candidates = 1 invigilator;
- (b) 31 – 60 candidates = 2 invigilators; and
- (c) 61 – 90 candidates = 3 invigilators, etc.

**28. Roles and Responsibilities of the Chief Invigilator.**—(1) The Chief Invigilator is responsible for the management of the entire examination.

(2) The Chief Invigilator must appoint relief invigilators.

(3) The Chief Invigilator or his or her deputy must—

- (a) draw up an invigilation and relief timetable and submit these to the district director or manager;
- (b) draw up a seating plan, indicating the exact seating of candidates in the examination room. This must be submitted for each question paper written;
- (c) ensure that in the examination room—
  - (i) not more than one candidate occupies a table or desk;
  - (ii) charts, including drawings, formulae and any other written material are removed from the walls or chalkboard;
  - (iii) candidates are seated at least one metre apart from each other; and
  - (iv) there is sufficient ventilation and lighting;
- (d) read all instructions to candidates before the start of the examination, in the language of instruction;
- (e) inform the candidates that if one is found guilty of contravening any of the rules, his or her results may be declared null and void;
- (f) open the sealed envelope in the presence of the candidates, ensure that it is the correct question paper and remain in the examination room until the question papers have been issued to the candidates;
- (g) visit the examination room/s on a regular basis and ensure that there are no unauthorised persons in and around the examination room;
- (h) ensure that candidates are informed timeously of any equipment required for the writing of a question paper; and
- (i) assist in relief invigilation.

**29. Roles and Responsibilities of the Invigilator.**—(1) Invigilators must—

- (a) admit part-time candidates into the examination room only if the candidate produces proof of identity and an admission letter;
- (b) admit a full-time candidate at a school, on producing an admission letter only;
- (c) if a candidate fails to produce the required documents, admit the candidate on condition that he or she produces the documents after the examination, failing

which the assessment body must institute irregularity proceedings against the candidate;

- (d) ensure that candidates are seated 30 minutes before the start of the examination;
- (e) ensure that the candidates have the complete question paper;
- (f) give the candidates 10 minutes reading time before the commencement of the examinations;
- (g) ensure that no writing takes place during the reading time;
- (h) not admit a candidate after one hour after the official start of the examination;
- (i) admit a candidate within the first hour after the examination has commenced, provided a legitimate reason is provided but no additional time must be allowed;
- (j) only allow a candidate to leave the examination room in the case of an emergency or to go to the toilet, and in these cases, this must be done under supervision;
- (k) not allow a candidate to leave the examination room before the first hour of the examination has lapsed or during the last 15 minutes of the examination session;
- (l) move around in the examination room without disturbing the candidates;
- (m) refer any violation of the rules and regulations by a candidate to the Chief Invigilator immediately;
- (n) ensure that the candidate's examination number is written on each answer book and on loose sheets of paper used by the candidate during the examination;
- (o) ensure that the times specified in the examination timetable are adhered to; and
- (p) ensure that the candidates answer the question paper in the language of instruction, unless stated otherwise in the question paper.

(2) The Invigilator may not provide candidates with an extra answer book for rough work.

(3) The Invigilator must collect all used and unused answer books including spoiled answer books that are left on the desk or table by a candidate.

(4) The Invigilator may not issue a second answer book unless he or she is satisfied that the first one is full.

(5) The Invigilator must collect all material belonging to the institution, used by the candidate in the examination, at the end of the examination.

(6) After distributing the question papers the Invigilator must—

- (a) go through the question paper with the candidates, checking that—

the correct question paper is issued;

(i)

- the numbering is correct; (ii)
  - name of the question paper is the same on each page; (iii)
  - all the pages are printed; and (iv)
  - annexures are complete. (v)
- (b) check against the mark sheet that all the candidates have received the correct question paper;
- (c) not read aloud any question or part thereof to a candidate;
- (d) not draw attention to any error he or she may have observed in the examination material unless the error is included in the erratum;
- (e) refrain from explaining any question to a candidate; and
- ( f ) switch off his or her cellphone.
- (7) The Invigilator must not—
- (a) read or do any work that will hinder him or her from properly performing his or her duties;
  - (b) use a cellphone;
  - (c) assist a candidate in answering any examination question;
  - (d) invigilate a subject that he or she teaches in any grade;
  - (e) leave the examination session unattended;
  - ( f ) speak to another invigilator in a manner that disturbs the candidates;
  - (g) hand over a copy of the question paper to any person outside the examination room or take the question paper out of the examination room before the examination has ended;
  - (h) allow candidates to violate the rules and regulations of the examination;
  - (i) smoke in the examination room; and
  - ( j ) carry a dangerous weapon in the examination room.

**30. Entry into an Examination Room.**—(1) Only a candidate registered for the specific question paper, the Invigilator, Chief Invigilator or an authorised representative of the assessment body, officials of the Department of Education or Umalusi may be present during an examination.

(2) An Examiner appointed by the assessment body to conduct an oral examination, a reader or a scribe may be present in the examination room but only for the period necessary for him or her to perform his or her duties.

**31. Instructions to Candidates.**—(1) The Chief Invigilator or his or her deputy must read out the following instructions to the candidates before the start of the examinations:

- (a) No explanation of examination questions may be asked or given by any person;
- (b) No candidate is allowed to leave the examination room within the first hour of the examination, except in an emergency and under supervision;
- (c) As soon as a candidate hands in his or her answer script, he or she must leave the examination room;
- (d) A candidate must carefully read and comply with the instructions, which appear on the front cover of his or her answer book and also those on the question paper and the examination timetable;
- (e) A candidate is not allowed to assist another candidate or try to assist him or her or communicate with another candidate;
- (f) All questions must be directed to the invigilator;
- (g) A candidate may not cause a disturbance in the examination room or behave in an improper or unseemly manner;
- (h) A candidate may not disregard the instructions of the invigilator;
- (i) Unless otherwise stipulated as a requirement for the particular examination, a candidate may not be in possession of—
  - (i) any written material, eg. books, examination memorandums, notes, etc;
  - (ii) maps or aerial photographs;
  - (iii) unused examination paper;
  - (iv) other documents, papers or material which may be of help to a candidate in the examination;
  - (v) programmable calculators; or
  - (vi) any electronic receiver or transmission devices, eg. cell phones.
- (j)

The excuse that a candidate has forgotten or was not aware that he or she has the unauthorised material listed in paragraph 1 (i) in his or her possession will not be accepted;

- (k) Calculators may only be used by a candidate in subjects where these are indicated on the question paper as being necessary;
- (l) All answer scripts, answer sheets and any other aids issued to the candidate must be handed in before the candidate leaves the examination room, otherwise these will not be recognised for evaluation;
- (m) The Invigilator will tick off the name of the candidate on the mark sheet to confirm the presence or absence of the candidate;
- (n) The Invigilator will read any erratum on a specific question paper to the candidates concerned;
- (o) Candidates are allowed ten minutes reading time before the official commencement of the examination during which no writing of any kind may take place;
- (p) All work, including rough work, must be completed in the answer script provided;
- (q) A candidate may only use a separate answer script for a particular section of the question paper if the instructions on the question paper specifically require that to be done;
- (r) Candidates must number the answer scripts in numerical order if more than one answer script is used;
- (s) The name of the candidate or the institution where he or she is enrolled must not appear anywhere in the answer script;
- (t) A candidate must not remove any used or unused answer books from the examination room; and
- (u) If a candidate does not obey these instructions, he or she may render himself or herself liable for suspension from this and future examinations.

**32. Examination Monitoring.**—(1) It is the responsibility of the Department of Education to develop and implement a monitoring policy.

(2) The Director-General must ensure compliance with the national monitoring policy, which assessment bodies may adapt with the approval of the Head of Department.

(3) Umalusi will verify the monitoring system and ensure that the outcome of the system is valid.

(4) All assessment bodies must establish appropriate structures and processes to monitor the examination cycle.

(5) The examinations will be monitored to ensure that they are conducted in accordance with the regulations and policies applicable to the examination.

(6) The monitoring must cover all stages of the examination, commencing with the preparatory phase and concluding with the release of the results.

(7) The assessment body must determine the composition of the monitoring team, which may include representatives from outside the provincial education department so as to ensure the credibility of the monitoring team.

(8) The monitoring team must visit a sample of the examination centres while the examination is in progress and report on, amongst others, the following:

- (a) General management of the examination;
- (b) Invigilation;
- (c) Condition of examination rooms;
- (d) Seating of candidates;
- (e) Administration of reading time; and
- (f) Return of scripts.

(9) The marking process should also be closely monitored. The monitoring team should visit the marking centres to observe the marking process and to ensure compliance with the relevant policy and regulations.

(10) The monitoring team must report to the assessment body during the writing of the examinations, on a prescribed format, at least once a week.

(11) The assessment body must also monitor the implementation of Internal assessment at school level.

(12) Umalusi may request the assessment body to submit a report regarding the monitoring of the Senior Certificate examinations.

## CHAPTER 6 MARKING PROCESS

**33. Marking Centres.**—(1) Provincial assessment bodies must submit a comprehensive marking plan to the Inter Provincial Examinations Committee, which must then be monitored by the Department of Education.

(2) An assessment body must develop guidelines for the establishment and management of marking centres.

(3) The Department of Education must ensure a common national standard for the marking processes.

(4) A marking centre must comply with the following:

- (a) Adequate marking space;
- (b) Catering facilities;
- (c) Overnight accommodation, if required;
- (d)

Security;

- (e) Mechanisms for the prevention of entry of unauthorised persons;
- (f) Control centre; and
- (g) Information Communication Technology facilities, if required.

(5) Centre Managers must be appointed from amongst senior officials in the unit responsible for examinations and assessment.

**34. Appointment of Markers.**—(1) Markers for the public assessment bodies must be appointed in terms of—

- (a) the Personnel Administration Measures; and
- (b) any other additional criteria as determined and approved by HEDCOM.

(2) Markers for the private assessment bodies must be appointed in terms of criteria and processes approved by the Examinations Board.

(3) All selection panels of markers should be chaired by the relevant Head of Examinations or his or her nominee.

(4) The process of appointing markers must commence at least six months prior to the commencement of the specific marking session.

(5) The information on the application for marking must be verified by the district manager, a designated official or a sworn affidavit.

(6) The assessment body must select additional markers for a reserve list, to provide for the case of appointed markers failing to report for duty.

(7) Markers, Senior Markers and Chief Markers must be appointed annually.

(8) Markers, Senior Markers and Chief Markers, who are outside the employ of the Department of Education, may be appointed at the discretion of the Head of Department, in exceptional cases.

**35. Duties of the Marker, Chief Marker and Senior Marker.**—(1) The Chief Marker must perform, *inter alia*, the following functions:

- (a) Take responsibility for the management of marking in the specified subject;
- (b) Ensure that the marking of the specified subject is in keeping with the marking guidelines;
- (c) Ensure the security and control of scripts assigned to him or her;
- (d) Attend and take responsibility for the memorandum discussions;
- (e) Oversee the training of Markers and Senior Markers;
- (f)

Ensure that at least 10% of the scripts are moderated to promote consistency in the marking process;

(g) Report all alleged irregularities identified during the marking process to the head of examinations or his or her nominee; and

(h) Compile a report on marking as required by the assessment body.

(2) The Senior Marker must perform the following functions:

(a) Support the Chief Marker in ensuring the efficient and effective marking of scripts;

(b) Take responsibility for the marking of scripts amongst the Markers assigned to him or her;

(c) Take responsibility for the mark sheets and answer scripts assigned to him or her;

(d) Ensure that the Markers under his or her supervision mark the scripts in accordance with the marking memorandum;

(e) Moderate at least 10% of the scripts marked by the Markers under his or her supervision, to ensure consistency within the marking process; and

(f) Report all alleged irregularities identified during the marking process to the Chief Marker.

(3) The Marker must perform the following functions:

(a) Mark the scripts assigned to him, according to the marking memorandum;

(b) Take responsibility for the scripts and mark sheets assigned to him or her;

(c) Accurately transfer the marks from the script to the mark sheet; and

(d) Identify and report all alleged irregularities identified during the marking process to the Senior or Chief Marker.

**36. Marking Procedure.**—(1) Marking may commence in one or selected subjects while the rest of the examination is still in progress or at the end of the examination.

(2) The Markers may mark all the questions in the answer script or only the questions allocated to him or her, as instructed by the chief marker.

(3) If a candidate is required to answer only a selected number of questions in a question paper, the Marker must mark only the required number of questions in the answer script.

(4) The Marker must mark the questions stipulated in [subregulation \(3\)](#) in the order in which they appear in the answer script and ignore the extra questions.

(5) The Marker may use only black ink on the mark sheet or any other official document.

**37. Release of Memoranda and Question Papers.**—(1) The assessment body must release the memoranda and question papers of the November examination of the previous year, before the end of April of the following year.

(2) . . . . .

[[Sub-reg. \(2\)](#) repealed by GN 830 of 2007.]

## CHAPTER 7 STANDARDISATION, PROCESSING AND RELEASE OF RESULTS

**38. Minimum Requirements for a Computer System.**—(1) An assessment body must formulate the minimum requirements for a computer program used in the assessment process, which must be approved by HEDCOM or the Examination Board in the case of the private assessment body.

(2) An assessment body must monitor and manage the computer system that conforms to the minimum requirements for a computer program.

**39. Processing of Marks.**—(1) The marks obtained by learners, as reflected on the mark sheets, must be captured by specifically trained staff.

(2) In order to ensure accuracy in the capture of marks, all marks must be verified using the double-capture method or a verification method approved by HEDCOM.

(3) The assessment body must closely monitor the capture of marks.

(4) The results of the Senior Certificate examination will be printed in a common format for all provincial departments of education, taking into consideration provincial differences.

**40. Standardisation of Senior Certificate Results.**—(1) Mark adjustments are done by Umalusi in conjunction with the assessment body, based on the norms and standards set by the Umalusi Council.

(2) The data and evidence required for the standardisation of the results are determined by Umalusi.

**41. Release of Results.**—(1) With regard to the release of results, the release date must be decided upon by the Council of Education Ministers on the recommendation of HEDCOM, on an annual basis.

(2) The results can only be released subject to approval by Umalusi.

## CHAPTER 8 RE-MARKING, RE-CHECKING AND VIEWING OF SCRIPTS

**42. Fees.**—(1) The Director-General, after consultation with the Heads of Departments, may determine fees for—

(a) re-marking of answer scripts, which must be refunded to the candidate if the re-marking results in an improvement of the symbol;

(b)

supplementary examinations;

- (c) re-checking;
- (d) viewing; and
- (e) statement of results.

[Sub-reg. (1) substituted by GN 830 of 2007.]

(2) Learners may be exempt from paying examination-related fees, if the candidate can prove that he or she has been exempt from the payment of school fees in terms of the poverty-ranking formula.

(3) The Minister, in consultation with the Council of Education Ministers, will handle appeals relating to the examination fees.

**43. Re-checking and Re-marking of Examination Scripts.**—(1) A candidate may apply for the re-checking or re-marking of his or her answer scripts for the May/June 2008 examinations, within 30 days of the official date of release of results.

[Sub-reg. (1) substituted by GN 830 of 2007.]

(2) The statement of results must indicate the prescribed fee for re-checking or re-marking.

**44. Viewing of Scripts.**—(1) A candidate or his or her parent has a right to view a script in terms of the *Promotion of Access to Information Act (No. 2 of 2000)*.

(2) The candidate or his or her parents may apply to view a script, if after the re-checking and re-marking process, the candidate is still not satisfied with the result.

(3) This application must be made within 30 days of release of the results of the re-check and re-mark and the application must contain the reasons for the request.

(4) If the application is successful, the candidate or his or her parent may only view the script in the presence of an examination official and may not remove the script from the viewing room.

(5) The purpose of viewing is for the candidate and/or the candidate's parent/guardian to satisfy himself/herself that—

- (a) the script belongs to the candidate concerned;
- (c) the script has been marked in its entirety;
- (d) the marks have been correctly totalled; and
- (d) all parts of the script are intact.

(6) The examination official may not permit any other document in the viewing room.

(7) The examination official may not allow any writing on the script.

(8) The candidate or his or her parent may request a copy of the script at a prescribed fee.

**45. Appeals.**—(1) After re-marking and or viewing of scripts, a candidate may apply to the Head of Department, for a final re-mark.

(2) If the candidate is not satisfied with the outcome, he or she may appeal to the Member of the Executive Committee for Education in the Provincial Legislature or Umalusi in the case of private assessment bodies.

## CHAPTER 9 SUPPLEMENTARY EXAMINATIONS

**46. May/June 2008: Examinations.**—(1) A full time candidate who did not register for a subject in the October/November 2007 examination, may not be permitted to write an examination in that subject in the May/June 2008 examination.

(2) Only the following candidates qualify to write the May/June 2008 examination:

(Editorial Note: Spelling as per original Government Gazette. It is suggested that the word "examinationation" was meant to be "examination".)

- (a) A candidate who becomes ill during the October/November 2007 examination, on condition that he or she produces a medical certificate;
- (b) A candidate who has not met the minimum promotion requirements in the examination but requires one or more subject to obtain a final promotion. Such a candidate will not be limited to a pre-determined number of subjects, however, will be restricted to subjects but not the grade for which they registered in the November 2007 examination sitting.
- (c) A candidate who obtains a conditional exemption, i.e. one requirement short of a Senior Certificate with matriculation endorsement in the October/November 2007 examination, may register for the Senior Certificate examination in May/June 2008 as a supplementary examination. For this purpose, the October/November 2007 and the May/June 2008 examinations will be regarded as one examination sitting;
- (d) A candidate who provides documentary evidence that he or she qualifies for admission to university or any other higher {p26}education institution but does not satisfy the higher education faculty/department/subject requirements. Such a candidate will not be limited to a pre-determined number of subjects, but will, however, be restricted to subjects and grades for which they registered in the November 2007 examination sitting;
- (e) In the case of a death in the family or other special reasons for absence, admission to the May/June 2008 examination as a supplementary examination is at the discretion of the Head of Department.
- (f) The Umalusi Council shall endorse Senior Certificates that have to be endorsed in terms of *paragraphs 3, 4 and 5* of the matriculation endorsement requirements on the first day of the month following the month in which the requirements for endorsement were satisfied, provided that in the case of a candidate who satisfied, the requirements for endorsement at two or more examination sittings, the dates on which the subjects were passed at the relevant examination sittings shall also be indicated on the Senior Certificate.

(3) An assessment body may permit a candidate who is unable to write the final October/November 2007 examination due to an injury or illness or any other valid reason, to write the May/June 2008 examination based on the following conditions:

- (a) The candidate produces documentary evidence in support of his request and submits a copy thereof to the assessment body, within 14 days from the date on which the specific examination was written;
- (b) The Head of the Institution countersigns the evidence; and
- (c) The Head of the Institution makes a recommendation on whether the candidate should be permitted to write the examination.

(4) If a candidate does not write a final October/November 2007 examination for reasons other than an injury or illness, such as participating in international sports fixtures, the candidate may apply for special permission as stipulated in [sub-regulation \(2\)](#). The examination body may allow the candidate to register for the May/June 2008 examination as a supplementary examination.

(5) The examination body may provisionally grant a candidate admission to the May/June 2008 examination as a supplementary examination in the case where an irregularity regarding the candidate is being investigated.

(6) If in the case of [subregulation \(5\)](#), the candidate is found guilty, the results of the May/June 2008 examination are declared null and void.

(7) A candidate may not change a subjecte in the May/June 2008 examination as a supplementary examination. The subject grade may, however be changed.

(Editorial Note: Spelling as per original Government Gazette. It is suggested that the word "subjecte" was meant to be "subject".)

(8) A candidate who did not write the 2007 Senior Certificate examination or part thereof due to the reasons stated in *sub-regulation 2 (a) and (e)*, may be granted permission to write the May/June 2008 examination as a supplementary examination only in the paper or papers that he or she did not write.

[[Reg. 46](#) substituted by GN 830 of 2007.]

## CHAPTER 10 EXAMINATION DATA

**47. Accessibility of Examination Information.**—(1) The Minister of Education is the custodian of the examination data. The Director-General or the Head of the Provincial Education Department approves access to examination data by the members of the public, provided that the Department of Education is satisfied of its usage.

(2) Assessment bodies must ensure that all examination material is properly filed to allow for easy retrieval.

(3) The assessment body must keep all answer scripts and other examination related documentation, for at least six months from the date of release of examination results.

(4) The assessment body may shred the answer scripts after six months unless litigation is still pending, for instance scripts of candidates involved in irregularities.

**48. Certification Records.**—(1) The assessment body must submit approved learner records for certification to Umalusi subject to the directives issued by Umalusi.

(2) The provincial assessment body must immediately transfer the certification records to the historical certification records of the Department of Education. Under exceptional circumstances, this should not exceed a period of three months.

(3) The Department of Education must ensure that there are back-up copies of the historical certification records of provincial assessment bodies.

(4) The assessment body must ensure stringent security measures during the following processes:

- (a) Queries;
- (b) Combination of results; and
- (c) Verification of results.

(5) The assessment body must have secure methods, measures and procedures in place, to ensure safekeeping of examination records, subject to directives issued by Umalusi.

## CHAPTER 11 EXAMINATION/ASSESSMENT IRREGULARITIES

### **49. Categorisation of Examination/Assessment Irregularities.—** Examination/Assessment Irregularities must be categorised as follows:

- (1) Administrative errors or omissions
- (2) Behavioural Offences
- (3) Acts of Dishonesty

### **50. Assessment Irregularities that occur during the Internal Assessment Process.—** (1) Irregularities involving learners during Internal assessment may include the following:

- (a) A candidate who refuses to abide by any or all of the minimum requirements in respect of the compilation of a mark for Internal assessment in a subject, with no valid reason. The School's Assessment Irregularities Committee (SAIC) must approve the validity of the reason presented;
- (b) A candidate who presents work that is not his or her original work. This may take various forms and may include the following:
  - (i) Copying verbatim from another source. In this case, if the teacher is suspicious and has evidence of sections or the complete assignment or project being lifted verbatim from another source, this must be declared an irregularity;
  - (ii) An assignment/project that is not his or her own effort. This may have been completed by another learner, his or her parent, or purchased;
  - (iii) Reproduction of an assignment or project from another learner and there is evidence of such copying;

(iv)  
Work that has been previously presented and for which credits were received, which could either be his or her own effort or that of another individual;

(v)  
The whole or part of a portfolio that is not his or her own, but that of another learner from the same school/learning institution or another school/learning institution; and

(vi)  
A candidate who resorts to any dishonest act to mislead the educator in terms of the authenticity/originality of the portfolio presented.

(c) A candidate who, in respect of a component of a mark for Internal assessment that is completed under controlled conditions does the following:

(i)  
Creates a disturbance or intimidates others, or behaves in an improper or unseemly manner despite a warning;

(ii)  
Is drunk or behaves in a disorderly manner;

(iii)  
Disregards the arrangements or reasonable instructions of the educator despite a warning; or

(iv)  
Continues to disregard assessment regulations despite a warning.

(2) Irregularities involving teachers/educators and other assessment officials during Internal assessment (CASS/SBA) may occur during the following stages at the school or learning institution:

(a) The compilation of the mark for Internal assessment;

(b) The monitoring or moderation of the mark achieved in respect of Internal assessment;

(c) The capturing and processing of data; and

(d) Investigations in respect of suspected Internal assessment irregularities.

(3) The assessment irregularities may include the following:

(a) The teacher wilfully and intentionally, without a valid reason, fails to satisfy the requirements or excludes one or more assessment tasks from the compilation of the final assessment marks;

(b) The teacher alters, in other words, either decreases or increases the marks of candidates without the approval of the Internal Moderator or head of the institution;

(c) The teacher wilfully provides assistance to a learner that advantages a learner unfairly in comparison to other learners; and

(d) The teacher collaborates with a candidate who presents the whole or part of the portfolio that is not his or her own work.

**51. Irregularities that may occur during the Planning and Preparatory Phase of the External Examination.**—(1) If there is evidence that there is non-compliance with the national and provincial regulations on the part of the examination officials involved in the following processes, the act must be declared an irregularity:

- (a) Registration of candidates;
- (b) Appointment of Examiners and Internal Moderators;
- (c) Setting, internal and external moderation of the examination question papers;
- (d) Editing, proofreading, translation and final approval of question papers; and
- (e) Printing, packaging, storage and distribution of question papers to examination centres.

**52. Irregularities that may occur during the Conduct of the Examination.**—(1) Assessment irregularities identified during the writing of the examination may be classified as—

- (a) learners misbehaving or wilfully disobeying regulations or instructions issued during an examination;
- (b) learners engaged in dishonest acts during the examination process; and
- (c) department officials, teachers/educators contravening the legislation on the conduct of the Senior Certificate examinations, so as to grant candidates an unfair advantage/disadvantage in the examination.

(2) This category of examination irregularity includes—

- (a) creating a disturbance or intimidating others or behaving in an improper or unseemly manner;
- (b) disorderly conduct;
- (c) disregard for the arrangements or reasonable instructions of the invigilator despite a warning; and
- (d) disregard for examination regulations.

(3) Learners engaged in dishonest acts during the examination process include those that are identified before the commencement of the examination and those that are identified while the question paper is being written.

(4) Acts that are identified before the commencement of the examination include the following:

- (a) Presentation of fraudulent identification documents;
- (b) Failure to present identification documents;
- (c) Bribery or attempted bribery;
- (d) Access to leaked question paper/s; and
- (e) Possession of unauthorised examination material.

(5) Acts that are identified while the question paper is being written include the following:

- (a) Possession of notes or any other unauthorised material, which could in any way assist in the answering of questions;
- (b) Copying from notes or textbooks or any other unauthorised material;
- (c) Copying from fellow candidates;
- (d) Attempting to obtain assistance from, or being assisted by, another candidate or any other individual;
- (e) Assisting, or attempting to assist, another candidate;
- (f) Receiving assistance from any other source;
- (g) Question paper written by another or substitute candidate;
- (h) The use of another candidate's examination number;
- (i) Any other type of conduct or possession, which could render improper assistance or unfair advantage to a candidate and thereby prejudice other candidates;
- (j) Use of a cell phone, programmable calculators or any other electronic device that may be of assistance to the candidates whilst writing the examination, except where the examination instructions specify otherwise; and
- (k) Any other action, which is in contravention of the relevant legislation.

(6) In any of the stages relating to the writing of the examination, if there is evidence that there is a contravention of the relevant legislation on the part of examination officials involved in these processes, which could result in the granting of an unfair advantage to the candidates writing the examination, this must be declared an irregularity.

**53. Irregularities that may occur during the Marking Process.**—Irregularities in the marking process relate to irregularities identified by Markers of scripts and any other actions committed by examination officials and Markers which are in contravention of the national and provincial regulations.

**54. Irregularities committed by Examination Officials or Markers.**—(1) Any evidence that indicates that an examination official or Marker engaged in the following actions constitutes an irregularity:

- (a) Failure to adhere to the criteria and the prescribed process for the appointment of Markers, Senior Markers, Chief Markers, examination assistants and other persons involved in examination-related work as prescribed in the *National Education Policy Act (No. 27 of 1996)*.
- (b) Marker appointed and found to have made a false statement in the application.
- (c) Marker not adhering to prescribed policy and requirements for marking.
- (d) Misbehaviour by Marker at marking venue or marking accommodation.
- (e) Any action that indicates a wilful intent to misplace or destroy the scripts of a candidate or candidates.
- (f) Intentional awarding of marks to candidates that is not justified by the evidence on the script or the marking guideline.
- (g) Manipulation of the marks so as to unfairly advantage or disadvantage a candidate or candidates.
- (h) Any other action that is in contravention of these regulations.

**55. Irregularities identified by Markers.**—(1) Irregularities identified by markers at the marking centres include the following:

- (a) The answer script handed in is different from that issued by the Invigilator;
- (b) Different handwriting on an answer script;
- (c) Two examination answer scripts, written by two different candidates submitted with the same examination number;
- (d) Crib notes discovered in the answer script;
- (e) No crib notes, but clear evidence of copying;
- (f) Evidence of possible assistance by an Invigilator;
- (g) Indications that the candidate has been allowed to be examined in terms of an "open book" examination; and
- (h) Answers identical to the marking guideline.

**56. Irregularities that may occur during the Capturing Process, Standardisation, Release of Results, Issuing of Statements and the Certification Process.**—(1) A contravention of these regulations in any of the stages relating to the capturing, processing, standardisation, release of results and certification, on the part of examination officials involved in these processes, which could undermine the credibility of the examination results, must be declared an irregularity.

(2) Some of the actions deemed to be irregular during the processes listed in 55 (1), include the following:

- (a) Negligence;
- (b) Indolence;
- (c) Failure to abide by relevant legislation or policies or regulations;
- (d) Unauthorised release of sensitive/confidential information;
- (e) Misuse of authority for private gain or reward;
- (f) Unauthorised access to examination data or subject credits; and
- (g) Failure to accurately verify information on certificates and qualifications.

(3) It is the duty of the examination official or systems administrator or service provider responsible for these functions, to ensure the accuracy of the examination data provided. Any data presented that is inaccurate must be regarded as an irregularity.

(4) Provision of examination data to any institution or individual, without the approval of the Director-General or Head of Department, or his or her nominee constitutes an irregularity.

## CHAPTER 12 PROCEDURES FOR DEALING WITH ALLEGED IRREGULARITIES

### **57. Procedures for dealing with Alleged Irregularities in respect of Internal Assessment**

#### *Procedures in respect of Candidates*

(1) Internal assessment irregularities involving learners must be dealt with at the level of the school or learning institution by the School Assessment Irregularities Committee (SAIC) in accordance with the policy provided by the assessment body.

(2) Where the candidate does not comply with the minimum requirements of any component of the Internal assessment mark, the following applies:

- (a) In the event of a valid reason for failure to comply, the candidate must be allowed the opportunity to redo the task. "Valid reason", in this context, constitutes the following:

(i)

Medical reasons as supported by a valid medical certificate issued by a registered medical practitioner;

(ii)

Humanitarian reasons, eg. the death of an immediate family member, supported by valid written evidence;

(iii)

The learner appearing in a court hearing, supported by written evidence; or

(iv)

Any other reasons that may be considered valid by the Head of Department or his or her nominee.

(b)

Candidates must be reminded that the fabrication of evidence in general and especially in respect of the stipulations of [regulation 56 \(2\) \(a\)](#) above constitutes fraud.

(c)

Where a candidate does not comply with the minimum requirements for Internal assessment in a subject but submits a valid reason, evidence of such valid reasons must be included with the learner portfolio for that subject.

#### *Procedures in respect of Examination Officials*

(3) All alleged irregularities in respect of Internal assessment involving examination officials must be reported to the provincial Head of Department or his or her nominee by the Head of the Institution. Recurring cases must be reported to the National Examinations Irregularities Committee (NEIC).

(4) Internal assessment irregularities involving educators constitute an act of misconduct and must be dealt with in accordance with the *Employment of Educators Act*.

(5) Internal assessment irregularities involving officials employed in terms of the *Public Service Act* also constitute an act of misconduct and must be dealt with in accordance with the relevant Public Service Regulations.

(6) In the case of independent schools or learning institutions registered as examination centres with the relevant provincial department of education, the relevant clauses of the Service Contract entered into with the particular examination centre must be applied.

**58. Procedures in respect of Irregularities identified during the Planning and Preparatory Phase of the External Examination.**—(1) The Head of Department or his or her nominee may immediately suspend an examination official who contravenes any of these regulations, and the matter must be dealt with in accordance with the *Employment of Educators Act* or in terms of the *Public Service Act*, or any other relevant legislation.

(2) Examination irregularities identified as having occurred before the question paper is written may include the leakage of the question papers set at provincial or national level.

(a)

The first step in such a case is to determine the extent of the leakage, which must be determined by the Provincial Examinations Irregularities Committee (PEIC) or by a team delegated by the PEIC.

(b)

In the case of a provincial question paper, if the leakage is widespread, the relevant provincial department of education must arrange for the question paper to be rewritten on an appropriate date that is suitable for all affected candidates. If the irregularity is confined to a single or a few assessment centres, then it may be recommended to the Head of Department that the action taken be limited to those affected examination centres. The decision in this regard must be made by the Head of Department and the MEC.

(c)

In the event of the leakage of a national question paper, the Director-General of the Department of Education and the Minister of Education should decide on the most appropriate course of action.

- (d) The Provincial Examinations Irregularities Committee (PEIC) must institute a full investigation to ascertain the source of the leakage. The South African Police Services (SAPS) and other investigation experts may be included in the investigation process. All evidence collected must be clearly documented for presentation to the Provincial Examinations Irregularities Committee (PEIC).
- (e) Any other assessment irregularity identified prior to the writing of the question paper, which may impact on the integrity of the examination must be dealt with prior to the question paper being written.

**59. Procedures in respect of Examination Irregularities identified during the Conduct of Examinations.**—(1) The Head of Department or his or her nominee may immediately suspend an examination official, who contravenes any of these regulations, and the matter must be dealt with in accordance with the *Employment of Educators Act* or in terms of the *Public Service Act*, or any other relevant legislation.

(2) Examination irregularities stemming from misconduct or wilful disobedience regarding regulations or instructions issued during an examination must be dealt with as follows:

- (a) In all cases the Invigilator must immediately bring the specific examination irregularity to the attention of the Chief Invigilator;
- (b) The Chief Invigilator must then offer the candidate suspected of an irregularity the opportunity to make a representation, either in writing or verbally, in the presence of the Invigilator;
- (c) If the Chief Invigilator, after considering the facts, finds that such an irregularity has indeed occurred, he or she must submit the matter to the Provincial Examinations Irregularities Committee (PEIC) for further investigation and a decision;
- (d) In the event of a candidate persistently refusing to co-operate, the Chief Invigilator must request the candidate suspected of an irregularity to leave the examination room;
- (e) The answer script must be removed from the candidate's possession and a note made of the date and exact time of its confiscation. Should the candidate refuse to leave, the Chief Invigilator may call upon the South African Police Services to assist;
- (f) If the candidate agrees to co-operate, the Chief Invigilator must allow him or her to continue with the written examination, in which case a new answer book with the date and exact time of issue noted thereon, must be provided; and
- (g) The Chief Invigilator must forward his or her report, together with a report from the Invigilator on duty at the time of the alleged irregularity, the candidate's representation and a written account of events or any statement or exhibit, to the Provincial Examinations Irregularities Committee (PEIC).

(3) In the case of assessment irregularities identified while the question paper is being written, the following procedure should be applied:

- (a)

The Invigilator must remove the candidate's answer script and write the word "IRREGULARITY" on the front outside cover page and the type of irregularity, date, time and place of the irregularity;

- (b) The words "Answer script confiscated on...at...hours" must be written on the outside cover page in bold print;
- (c) The Invigilator must take possession of any unauthorised or incriminating material such as notes or any other object used directly or indirectly or in the possession of the candidate that may have been used to commit the irregularity;
- (d) Such material must be attached to the confiscated answer script, which then becomes the property of the relevant assessment body and neither the candidate nor his or her parent(s) or guardians have the right to demand its return;
- (e) The Invigilator must then give the candidate a new answer script. This answer script must also be endorsed with the words "NEW ANSWER SCRIPT" together with the date and time of issue;
- (f) The candidate must be informed that the fact that he or she is allowed to continue with the examination does not serve as a condonation of his or her contravention of examination regulations and that a written report will be submitted to the Chief Invigilator at the conclusion of the examination and that the incident will be reported to the Provincial Examinations Irregularities Committee (PEIC) of the relevant assessment body;
- (g) The Invigilator must not allow any additional time to compensate for time lost in the course of detecting and processing the examination irregularity;
- (h) The Invigilator, following the completion of the examination, must immediately submit a full written report to the Chief Invigilator concerning the irregularity;
- (i) The candidate, following the completion of the examination, must be confronted about the irregularity and given the opportunity to provide a written declaration or response to the alleged offence;
- (j) Where the candidate refuses to submit the required written declaration or provide a response, this refusal must be confirmed in writing by the invigilator. The candidate must sign the statement made by the invigilator;
- (k) Where the candidate refuses to comply with subregulation 58 (3) (j), another Invigilator attached to the examination centre must provide a written statement confirming the refusal of the candidate to provide a written declaration; and
- (l) The answer script, any incriminating material and all applicable statements must then be sent for marking in the normal way and subsequently forwarded to the Provincial Examinations Irregularities Committee.

**60. Procedures in respect of Examination Irregularities identified during the Marking Process.**—(1) In the case of examination irregularities relating to the process of marking as contemplated in [regulation 52](#), [53](#) and [54](#), that are committed by examination officials, the Head of Department or his or her nominee may immediately suspend an examination official,

who contravenes any of these regulations, and the matter must be dealt with in accordance with the *Employment of Educators Act* or in terms of *the Public Service Act*, or any other relevant legislation.

(2) Examination irregularities identified by Markers during the marking process must be dealt with as follows:

- (a) All examination irregularities suspected by Markers must immediately be reported to the Senior Marker or Deputy Chief Marker or Chief Marker who then refers it to the Centre Manager. These are then referred to the Head of Examinations and the Provincial Examinations Irregularities Committee (PEIC);
- (b) Answer scripts in which alleged examination irregularities are identified must be marked as usual. The word "IRREGULARITY" must be written in red ink on the front cover, along the margin.
- (c) These scripts must then be handed in together with the other answer scripts and completed mark sheets to the Senior Marker or Deputy Chief Marker or Chief Marker for attention. The marks of the suspected candidate must be entered on the mark sheet, with an indicator stating "irregular";
- (d) If the Senior Marker agrees with the finding of the Marker, he or she must clearly indicate on each answer script the location of the examination irregularity and hand the whole batch of answer scripts over to the relevant Deputy Chief Marker or Chief Marker;
- (e) Where the Senior Marker disagrees with the findings of the Marker, the script should be handed to the Deputy Chief Marker or Chief Marker for a second opinion. If the Deputy Chief Marker or the Chief Marker concurs with the Senior Marker, the answer script must be returned to the Marker for normal processing; and
- (f) If the suspected examination irregularity is confirmed by the Deputy Chief Marker or Chief Marker, the prescribed irregularity report must be completed and forwarded together with the evidence to the Head of Examinations and the Provincial Examinations Irregularities Committee (PEIC).

**61. Procedures in respect of Irregularities that occur during the Capturing, Processing, Standardisation, Release of Results and Certification Processes.**—(1) The Head of Department or his or her nominee may immediately suspend an examination official who contravenes any of these regulations, and the matter must be dealt with in accordance with the *Employment of Educators Act* or in terms of *the Public Service Act*, or any other relevant legislation.

(2) All irregularities relating to the above processes must be reported immediately to the PEIC and the Head of Examinations.

(3) Confidentiality and security of information must be enforced. Any breach of these must be considered an examination irregularity.

**62. Procedures in respect of Investigations.**—(1) The investigations must be lawful, reasonable, timely and procedurally fair and the rights of the individuals should not be infringed. The principles of openness and transparency of an administrative action must be adhered to.

(2) The following procedure must be followed in respect of an investigation:

- (a)

A minimum of two members of the PEIC or two departmental officials delegated by the PEIC must be involved in all investigations;

- (b) The PEIC may call upon any official in the service of the relevant provincial department of education or any candidate or learner to appear before the Committee or the two-person team delegated to carry out the function, and it may also question any candidate accused of an alleged irregularity;
- (c) The PEIC or the delegated officials may also call upon any person not in the immediate employ of the relevant provincial department of education but under its jurisdiction as assessment body, to appear before the Committee or the two-person team delegated to carry out this function, and it may also question any such person in the normal course of an investigation;
- (d) The PEIC or the delegated officials has access to any room or place at any school or learning institution registered as an examination centre with the relevant provincial department of education and may scrutinise or take possession of any document, article or any other evidence which, in the opinion of the committee, may assist in the investigation;
- (e) In cases of serious misconduct, the relevant provincial department of education should reserve the right to report such cases to the relevant State Security Agents for criminal investigation;
- (f) All investigations undertaken by the PEIC or the delegated officials, at whatever level, must be clearly documented or minuted if it takes the form of a meeting;
- (g) Findings of an investigation must be submitted to a full sitting of the PEIC that must make a decision as to whether a hearing must take place or not; and
- (h) No member of the PEIC may be involved in, or allowed access to any examination irregularity investigation or hearing or documentation involving a relative or any other person in respect of whom the investigator cannot be impartial.

**63. Procedures in respect of Hearings.**—If the committee decides that a hearing should be held, such a hearing must be held under the following procedures:

(1) The hearings must be lawful, reasonable, timely and procedurally fair and no rights of the individual should be infringed. The principle of openness and transparency of administrative action must be adhered to.

(2) The following procedure must be followed in respect of hearings:

- (a) Procedures for hearings vary according to circumstances and persons involved;
- (b) A written notification must be submitted to the candidate concerned in the alleged examination irregularity, or the parent or guardian of candidates under 21 years of age and the principal or centre manager of the institution:

(i)

The written notification must be forwarded either by registered mail or delivered to a particular individual who acknowledges receipt of the notification;

(ii)

The written notification must state clearly that the absence of a reply will not delay the hearing in respect of the suspected examination irregularity;

(iii)

Where a candidate who is alleged to have committed an examination irregularity or his or her parent or guardian or representative cannot be contacted, the principal or centre manager of the institution will be required to assist in contacting the candidate. If the principal or centre manager of the institution is unable to contact the candidate, he or she must inform the Secretary of the PEIC thereof in writing. The inability to make contact with the candidate concerned or his or her parent or guardian or representative should not delay the processing of the irregularity unnecessarily;

(iv)

All candidates suspected of an examination irregularity must be allowed the opportunity to respond to the invitation to attend a hearing regarding the alleged irregularity within ten working days of being notified of an irregularity investigation;

(v)

Candidates who do not wish to attend a hearing have the option of making an admission of guilt in the form of an affidavit which must be forwarded to the Secretary of the PEIC within ten working days of being notified of an irregularity investigation;

(vi)

Where a candidate is under 21 years of age, the candidate may be accompanied by his or her parent or guardian, the school principal and any other representative; and

(vii)

Where the candidate or his or her parent or guardian chooses to make use of legal representation during the hearing, this will be allowed and the Chairperson of the PEIC must be informed at least three working days before the scheduled hearing.

(c)

Evidence presented at an investigation or hearing may take the form of material evidence, written evidence, oral or other evidence;

(d)

All hearings must be recorded and the recording kept until the matter is finalised;

(e)

If the candidate or his or her parent or guardian is unhappy about the way the hearing was conducted, an appeal may be lodged through the channels provided by the provincial education department, to the Head of Department. If the candidate is unsuccessful with the appeal, he or she or his or her parent or guardian may institute judicial proceedings in a court of law;

(f)

The findings of a hearing must be submitted to a full sitting of the PEIC by the persons involved in the hearing process; and

(g)

Decisions and consequent recommendations by the PEIC, as approved by the Head of Department or his or her designee, must be communicated in writing to the person, school or learning institution under investigation, within 30 working days of the completion of the hearing.

**64. Sanctions.**—(1) The Committee may impose the sanctions contemplated in these regulations.

(2) Mandatory minimum periods of sanction may be imposed by the PEIC or NEIC upon finding the offender guilty of an irregularity. The reason for the creation of mandatory minimum periods of sanction is primarily to ensure that irregularities are handled in a uniform manner across all provincial education departments (no free discretion), and secondly to combat and reduce the frequency of irregularities.

(3) There may be cases where the PEIC or the NEIC is of the opinion that the imposition of one of the minimum periods of sanction would, considering the specific circumstances of the case, be very harsh and unjust. The committee may, however, be freed from the obligation of imposing the minimum period of sanction if there are "substantial and compelling circumstances" which justify the imposition of a lesser punishment than the prescribed one.

(4) The list of the irregularities, the actions that may be taken and the sanctions to be imposed by the Head of the department of education are listed in [Annexure A](#).

**65. Appeals.**—(1) A candidate may appeal to the MEC against the decision of the Head of Department within 14 working days of the receipt of the written pronouncement of the judgment or sanction, if the candidate was present at the hearing.

(2) A candidate may appeal to the MEC against the decision of the Head of Department within 21 working days of the date of the written judgment or sanction, if the candidate was not present at the hearing.

(3) All appeals must be in writing and must include reasons in support of the appeal.

**66. Reporting of Irregularities.**—Reporting of assessment irregularities is categorised into two components. The first component relates to reporting of the irregularity from the site of identification to the relevant officials within the provincial education department (Internal reporting) and the second component relates to reporting of the irregularity by the Head of Department or Head of Examinations to the external role players (external reporting).

**67. Internal Reporting.**—All alleged irregularities must be reported immediately to the next level of responsibility in the assessment process, which then must report it to the Chairperson of the PEIC and the Head of Examinations. This reporting can be done verbally but must be followed with a written report within 12 hours.

**68. External Reporting.**—(1) All assessment bodies must report all assessment irregularities to Umalusi and the Director-General within 48 hours of its identification. This can be done telephonically but must be followed with a written report within a 48-hour period.

(2) The Director-General and Umalusi will provide the format of the report. Reporting the irregularity can differ depending on the nature of the irregularity.

## CHAPTER 13 STRUCTURES FOR THE HANDLING OF IRREGULARITIES

**69. The National Examinations Irregularities Committee (NEIC).**—The National Examinations Irregularities Committee (NEIC) is a committee established by the Minister to support the provincial education departments in ensuring that the credibility of the examinations is maintained. This committee will co-ordinate the handling of irregularities on a national level and will ensure that a consistent approach is implemented in the handling of irregularities across all nine provincial education departments.

**70. Composition of the NEIC.**—(1) The National Examinations Irregularities Committee will comprise the following persons:

(a)

Two representatives from the Department of Education appointed by the Director-General. The representative from the Chief Directorate: Educational Measurement,

Assessment and Public Examinations will serve as chairperson and the second representative will be nominated from the Legal Section of the Department of Education.

(b) One official from each of the provincial education departments, nominated by the Head of Department.

(c) One representative from each of the private assessment bodies.

(2) In addition the following persons will be nominated as observers:

(a) One representative from Higher Education South Africa;

(b) One representative from the South African Qualifications Authority;

(c) One representative from Umalusi; and

(d) One representative from each of the recognised teacher unions.

(3) All members of the committee, together with the chairperson, will be appointed by the Director-General. The Minister will appoint the additional members with observer status.

**71. Jurisdiction of the NEIC.**—(1) The National Examinations Irregularities Committee will have jurisdiction in any alleged assessment irregularity relating to or occurring during the various stages of the assessment process, which includes:

(a) Registration of learners;

(b) Compilation of Internal assessment marks;

(c) Monitoring and moderation of Internal assessment;

(d) Setting and moderation of examination question papers;

(e) Writing of the examinations;

(f) Marking of examination scripts;

(g) Capturing of marks;

(h) Standardisation of results;

(i) Release of examination results; and

(j) Certification process.

(2) All decisions taken by the Provincial Examinations Irregularities Committee relating to irregularities in the above stages of the assessment process will be subject to final ratification by the National Examinations Irregularities Committee.

**72. Functions of the NEIC.**—(1) The NEIC must be responsible for co-ordinating and supporting the Provincial Examinations Irregularities Committees in the handling of assessment irregularities in their respective provinces.

(2) The NEIC must co-ordinate and support the Examinations Irregularities Committee of the private assessment bodies.

(3) The NEIC will also ensure that assessment irregularities are handled in a consistent manner across the country. This will be accomplished by taking responsibility for the following:

- (a) Supporting the assessment bodies in the development of capacity relating to the identification, investigation and reporting of assessment irregularities;
- (b) Supporting the assessment bodies in the establishment of appropriate systems and structures for the handling of irregularities;
- (c) Provision of timeframes for the finalisation of assessment irregularities that occur during the different stages of the assessment process so as to ensure that a reasonable number of the assessment irregularities are finalised prior to the release of the results;
- (d) Ensure that all requirements relating to the provision of irregularity reports to Umalusi are appropriately complied with;
- (e) Evaluate the reports on irregularities received from the PEICs and from the Examinations Irregularities Committee of the private assessment bodies, so as to ensure that the irregularities are dealt with appropriately;
- (f) Review the recommendations of the PEICs and the Examinations Irregularities Committee of the private assessment bodies, relating to the sanctions to be imposed so that there is consistency in the severity of sanctions;
- (g) Support the provincial education departments in the handling of appeals submitted to the Department;
- (h) Assist the provincial education departments in identifying institutions that have recurring irregularities and establish whether those institutions are credible enough to be regarded as examination centres and make recommendations on action to be taken; and
- (i) Investigate examination irregularities as requested by the Director-General.

**73. The Provincial Examinations Irregularities Committee.**—(1) Each provincial education department must establish a Provincial Examinations Irregularities Committee.

(2) The Provincial Examinations Irregularities Committee must take responsibility for the handling of assessment irregularities at a provincial level.

(3) The Head of Department must appoint the members of the Provincial Examinations Irregularities Committee.

**74. Private Examinations Irregularities Committee.**—(1) The private assessment bodies must establish an Examinations Irregularities Committee.

(2) The composition and function of the Examinations Irregularities Committee established by the private assessment bodies may be similar to that of the PEIC.

(3) The Examinations Irregularities Committee contemplated in subregulation (4) and (5), must report all irregularities to the NEIC.

**75. Composition of the PEIC.**—(1) The composition of the PEIC will be as follows:

- (a) Five officials in the employ of the relevant provincial department of education recommended to the Head of Department for appointment by the provincial Examinations Board;
- (b) The provincial education department must include competencies and expertise in the following areas:
  - (i) The education system as a whole;
  - (ii) The examination system;
  - (iii) Professional legal practitioner;
  - (iv) Subject area specialisation, co-opted on a need basis; and
  - (v) Labour relations.

(2) In addition, the following persons will be nominated as observers:

- (a) One representative from Higher Education South Africa;
- (b) One representative from the South African Qualifications Authority;
- (c) One representative from Umalusi; and
- (d) One representative from each of the recognised teacher unions.

(3) All members of the committee together with the chairperson will be appointed by the Head of Department. The additional members with observer status will be appointed by the MEC.

**76. Jurisdiction of the PEIC.**—(1) The Provincial Examinations Irregularities Committee has jurisdiction in any alleged assessment irregularity relating to or occurring during the following:

- (a) Compilation, monitoring and moderation of Internal assessment;
- (b) Writing of the final Senior Certificate examination;
- (c) Marking of examination answer scripts;
- (d) Processing of external question papers;
- (e) Processing and release of examination results;
- (f)

Conditions under which candidates are examined;

- (g) Conditions under which educators examine; and
- (h) Any other irregularities related to examinations.

**77. Functions of the PEIC.**—(1) The PEIC must investigate and make recommendations on appropriate action to the Head of Department or his or her nominee in respect of the following:

- (a) Misconduct by educators in the compilation, monitoring or moderation of Internal assessment;
- (b) Misconduct by any person involved in any or all processes of assessment;
- (c) Misconduct by the Chief Invigilators or examination monitors or officials involved in the administration or running or management or monitoring of examinations;
- (d) Misconduct by Invigilators or any other person involved in the administration or management or monitoring of examinations at public or independent schools or learning institutions registered as examination centres with the relevant provincial department of education;
- (e) Examination irregularities involving candidates at public or independent schools or learning institutions registered as examination centres with the relevant provincial department of education;
- (f) Irregularities in the appointment of Chief Invigilators or Invigilators or Internal Moderators or Chief Examiners or Chief Markers or Deputy Chief Examiners or Deputy Chief Markers or Senior Markers or Markers or Monitors or Assessment or Administration Assistants;
- (g) Any action by an outside body or person that may impact adversely in any way on the successful administration, management or monitoring of assessment or examination, or compromise the integrity and legitimacy of such assessment or examination;
- (h) Examination irregularities based on reports or complaints received from any quarter; and
- (i) Any other irregularities related to examinations.

(2) The PEIC may utilise the services of other officials from the provincial education department to conduct investigations and hearings. These officials will operate under the jurisdiction of the PEIC and will report to the PEIC.

**78. School Assessment Irregularities Committee.**—Each school must establish a School Assessment Irregularities Committee whose composition and functions will be determined by the provisions of the policy of the assessment body.

**79. Release of Results under Investigation.**—(1) The assessment body must ensure that irregularities are finalised before the release of the results, thus ensuring that results that are withheld are based on firm evidence of an irregularity having occurred.

(2) However, in cases where the nature of the irregularity is of such a nature that it cannot be finalised before the release of the results, the results of these candidates must be withheld pending further investigation.

(3) If a candidate is found to be irregular in one subject, only the results of that subject must be withheld.

(4) Candidates that were found guilty of an irregularity must be recorded on the system and such information must be made available to all assessment bodies.

**80. Short Title and Commencement.**—These regulations are called the *Regulations for the Conduct, Administration and Management of Assessment for the Senior Certificate, 2005* and come into effect on the date of publication.

**Annexure A**  
IRREGULARITIES INVOLVING LEARNERS

**Administrative Errors, Omissions**

No.	IRREGULARITY	ACTION TO BE TAKEN OR SANCTION
(a)	Failure to produce identification documents	<ul style="list-style-type: none"> <li>• Candidate must be allowed to write the examination, but must produce the identification document within 24 hours or provide an affidavit.</li> <li>• If the candidate fails to produce the identification document or the affidavit within 24 hours, an irregularity must be registered.</li> <li>• The candidate may be barred from a minimum of one and a maximum of three subsequent examinations.</li> </ul>

[No. (a) substituted by GN 830 of 2007.]

(b)	Incorrect examination number or no examination number	<ul style="list-style-type: none"> <li>• The assessment body must use all available means to establish the correct examination number and this must be verified with the school or the candidate concerned.</li> </ul>
(c)	Writing on incorrect grade	<ul style="list-style-type: none"> <li>• If the action was unintentional or the result of misinterpretation, the candidate's mark must be converted as indicated in the Umalusi guidelines</li> <li>• If the action was intentional or deliberate, the results of the candidate must be declared null and void.</li> <li>• The candidate retains the marks awarded for the other components in the subject and the results are released as such.</li> </ul>
(d)	Late arrival at the examination centre	<ul style="list-style-type: none"> <li>• A candidate must not be admitted to the examination room, if he or she arrives after the first hour of the commencement of the examination.</li> <li>• A candidate that arrives within the first hour of the commencement of the examination, must be</li> </ul>

		allowed in the examination room, but will not be allowed any additional writing time.
(e)	Examination script lost or missing by the assessment body	The assessment body must determine a calculated mark in accordance with Umalusi guidelines, and submit this to Umalusi for approval.

#### Acts of Dishonesty

No.	<i>IRREGULARITY</i>	<i>SANCTIONS</i>
(a)	Candidate found in possession of unauthorised material during the examination session.	<ul style="list-style-type: none"> <li>• If the unauthorised material is related to the subject being written, the questions in the paper that are relevant to the unauthorised material must be excluded from the answer script and the candidate's answer script must be marked out of the original total.</li> <li>• If the extent of assistance obtained from the unauthorised material is substantial, the candidate's results in that paper may be declared null and void.</li> <li>• The candidate may be barred from a minimum of one and a maximum of three subsequent examinations, excluding the supplementary examinations.</li> <li>• If the unauthorised material is not related to the subject being written, the candidate is issued with a written warning, which will be taken into consideration should he or she be guilty of a future offence.</li> </ul>
(b)	Candidate found in possession of unauthorised electronic device during the examination session.	<ul style="list-style-type: none"> <li>• If the unauthorised device was not used during the examination session, the candidate is issued with a written warning, which will be taken into consideration should he or she be guilty of a future offence.</li> <li>• If the unauthorised device was used during the examination session and the assistance obtained is substantial, the candidate's results in that paper may be declared null and void.</li> </ul>
		<ul style="list-style-type: none"> <li>• The candidate may be barred from a minimum of one and a maximum of three subsequent examinations.</li> </ul>

[No. (b) substituted by GN 830 of 2007.]

(c)	Candidate caught copying or obtaining help from a fellow candidate	<ul style="list-style-type: none"> <li>• The results of the candidate caught copying may be declared null and void, in that paper.</li> <li>• The candidate may be barred from a minimum of one and a maximum of three subsequent examinations.</li> </ul>
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[No. (c) substituted by GN 830 of 2007.]

		<ul style="list-style-type: none"> <li>• If there is evidence of collusion, the candidate offering the assistance must also be sanctioned as indicated above.</li> </ul>
(d)	Candidate assisting another	<ul style="list-style-type: none"> <li>•</li> </ul>

	candidate during the examination session.	As in (c).
(e)	Presentation of fraudulent identification or impersonation	<ul style="list-style-type: none"> <li>The candidate's results in that paper must be declared null and void.</li> </ul>
		<ul style="list-style-type: none"> <li>The candidate may be barred from a minimum of one and a maximum of three subsequent examinations.</li> </ul>

[No. (e) substituted by GN 830 of 2007.]

		<ul style="list-style-type: none"> <li>In addition, this matter must be reported to the SAPS.</li> </ul>
(f)	Assistance provided by invigilator, teacher or principal to candidate	<ul style="list-style-type: none"> <li>In the case where the candidate is found guilty, the results for that paper may be declared null and void.</li> </ul>
		<ul style="list-style-type: none"> <li>The candidate may be barred from a minimum of one and a maximum of three subsequent examinations.</li> </ul>

[No. (f) substituted by GN 830 of 2007.]

		<ul style="list-style-type: none"> <li>In the case of the invigilator, teacher or principal, this must be regarded as an act of misconduct, the official must be immediately suspended from all examination related work, and be dealt with in terms of the relevant legislation.</li> <li>This must also be reported to SAPS.</li> </ul>
(g)	Handwriting of a different person on script	<ul style="list-style-type: none"> <li>As in (c).</li> </ul>
(h)	Two examination scripts with the same examination number	<ul style="list-style-type: none"> <li>If the action was unintentional the examination numbers must be corrected and the results of the candidates concerned must be released.</li> <li>If the action was intentional or deliberate, the results of the guilty candidate for that paper must be declared null and void.</li> <li>The candidate may be barred from a minimum of one and a maximum of three subsequent examinations.</li> </ul>

[No. (h) substituted by GN 830 of 2007.]

(i)	Crib notes discovered in scripts at marking centre	<ul style="list-style-type: none"> <li>As in (a).</li> </ul>
(j)	Script removed from examination room and submitted later	<ul style="list-style-type: none"> <li>The script must be marked as normal, pending the outcome of the investigation.</li> <li>In the case where the candidate is found guilty, the results for that paper must be declared null and void.</li> <li>The candidate may be barred from a minimum of one and a maximum of three subsequent</li> </ul>

| | examinations. | |  
 [No. (j) substituted by GN 830 of 2007.]

(k)	Submission of work that is not candidate's own work.	<ul style="list-style-type: none"> <li>• The candidate who submits work that is not his or her own, may have his or her results in that paper declared null and void.</li> </ul>
		<ul style="list-style-type: none"> <li>• The candidate may be barred from a minimum of one and a maximum of three subsequent examinations.</li> </ul>

[No. (k) substituted by GN 830 of 2007.]

		<ul style="list-style-type: none"> <li>• If there is evidence of collusion, the candidate offering the assistance must also be sanctioned as indicated above.</li> </ul>
(l)	Leaked/Stolen question paper	<ul style="list-style-type: none"> <li>• This must be regarded as a criminal case and must be referred to the SAPS.</li> <li>• Candidates who are proved to have stolen a question paper prior to it being written must be barred from writing the examination for 3 – 5 years, from the date of the offence.</li> </ul>
(m)	Bribery or attempted bribery	<ul style="list-style-type: none"> <li>• This must be regarded as a criminal case and must be referred to the SAPS.</li> <li>• In the case where the candidate is found guilty, the candidate must be barred from writing the examination for 3 – 5 years, from the date of the offence.</li> <li>• In the case where an educator or departmental official is involved, this must be regarded as an act of misconduct and must be dealt with in terms of the relevant legislation.</li> </ul>

**Behavioural Offences**

No.	IRREGULARITY	ACTION TO BE TAKEN
(a)	Creating a disturbance, intimidation and drunkenness, disregarding the arrangements and/or the reasonable instructions of the invigilator.	<ul style="list-style-type: none"> <li>• Candidate must be warned and if the behaviour or action persists the candidate must be removed from the examination centre.</li> <li>• Candidate forfeits the opportunity to write or to continue writing that specific examination paper.</li> <li>• Where the candidate has commenced with the examination, the marks attained will be declared null and void.</li> <li>• The candidate retains the marks awarded for the other components in the subject and the results are released as such.</li> <li>• Criminal charges may be instituted.</li> </ul>

**GN 1052 of 18 October 2006: Regulations relating to the exemption of parents from payment of school fees in public schools**

DEPARTMENT OF EDUCATION

I, Grace Naledi Mandisa Pandor, Minister of Education, after consultation with the Council of Education Ministers and the Minister of Finance, and in terms of [sections 39 \(4\)](#) and [61](#) of the South African Schools Act, 1996 (Act [No. 84 of 1996](#)), hereby publish the regulations in the Schedule for general information.

(Signed)  
GRACE NALEDI MANDISA PANDOR, MP  
MINISTER OF EDUCATION  
DATE: **8-10-2006**

**SCHEDULE**

**ARRANGEMENT OF REGULATIONS**

- [1.](#) Definitions
- [2.](#) Scope and application
- [3.](#) Obligations of governing bodies and principals when learner is admitted to public school
- [4.](#) Obligations of parents
- [5.](#) Categories for purposes of exemption
- [6.](#) Procedure according to which governing body must consider application
- [7.](#) Alteration of decision
- [8.](#) Procedure for appeal
- [9.](#) Assistance to parents
- [10.](#) Assistance to schools
- [11.](#) Voluntary contributions
- [12.](#) Revocation of Regulations
- [13.](#) Short title and commencement
- [Annexure A](#) Checklist form \*
- [Annexure B](#) Application for exemption
- [Annexure C](#) Total exemption

**1. Definitions.**—In these regulations, any word or expression to which a meaning has been assigned in the Act shall have the meaning so assigned to it and, unless the context indicates otherwise—

“**application**” means an application by a parent for total, partial or conditional exemption from paying school fees;

“**automatic exemption**” means the total exemption available to—

- (a) a person who has the responsibility of a parent in respect of a child placed in—
- (i) a foster home;
  - (ii) a youth care centre;
  - (iii) a place of safety; or
  - (iv) an orphanage;
- (b) a person who is a kinship caregiver of an orphan or of a child who—

- (i)
- has been abandoned by his or her parents; and
- (ii)
- is without any visible means of support;
- (c) a person who receives a social grant on behalf of a child; or
- (d) a child who heads a household;

**“combined annual gross income of parents”** means the annual gross income of the parents, calculated together, or, if a learner has only one parent, the total annual gross income of such parent;

**“competent authority”** includes a chief, minister of religion or headman, or a councillor of a local authority;

**“conditional exemption”** means the exemption granted to a parent who—

- (a) qualifies for partial exemption but, owing to personal circumstances beyond his or her control, cannot pay even the reduced amount; or
- (b) does not qualify for exemption but supplies information indicating his or her inability to pay school fees owing to personal circumstances beyond his or her control,

which exemption the school governing body grants with the proviso that the parent agrees to certain conditions for the payment of the school fees;

**“exemption”** means the total, partial or conditional exemption of parents who are unable to pay school fees from the payment of such fees;

**“income”** means—

- (a) gross salary or wages;
- (b) money received from investments; and
- (c) profit gained from any form of business undertaking;

**“parent”** means a parent as defined in the Act;

**“partial exemption”** means the financial concession granted to a parent in terms of which he or she is liable for the payment of only a portion of the school fees;

**“the Act”** means the South African Schools Act, 1996 (Act [No. 84 of 1996](#)); and

**“total exemption”** means the financial concession—

- (a) granted to a parent in accordance with the calculation result contemplated in [regulation 6 \(3\)](#); or
- (b) available to a parent as a result of his or her qualifying for the automatic exemption contemplated in [regulation 4 \(3\)](#).

**2. Scope and application.**—(1) These regulations must be interpreted within the framework of the Act and of the National Norms and Standards for School Funding.

(2) These regulations apply to all public schools except public schools that are declared no fee schools.

**3. Obligations of governing bodies and principals when learner is admitted to public school.**—(1) The principal must notify a parent of the following:

- (a) the amount of the annual school fees to be paid and procedures for applying for exemption;
- (b) the fact that the parent is liable for the payment of school fees unless he or she has been exempted from the payment thereof;
- (c) a form ([Annexure A](#)), contemplated in section 41 (4) (c) of the Act, must be completed by the parent and signed by the principal of the school and by the parent, indicating that the parent has been informed about the provisions of [paragraphs \(a\)](#) and [\(b\)](#);
- (d) one copy of the signed form contemplated in [paragraph \(c\)](#) will be handed over to the parent when the learner is admitted to the public school, another will be submitted to the Head of Department or his or her delegate as soon as possible, and the original will be filed at the school; and
- (e) if a parent is in arrears by one month or more, the governing body will investigate whether the parent qualifies for exemption before acting in terms of section 41 (1) of the Act.

(2) The governing body must cause a copy of these regulations to be displayed at the school in a conspicuous place.

(3) The governing body must, on request, provide the parent with a copy of these regulations.

(4) The governing body must treat as confidential all information that a parent provides in support of his or her application, and may not divulge such information to a third party without the consent of the parent, except to the Head of Department or his or her delegate.

**4. Obligations of parents.**—(1) A parent who wishes to be exempted from the payment of school fees for a child at a particular school must apply annually to the chairperson of the governing body in writing, by completing the form contained in [Annexure B](#) of these regulations, supplied by the principal.

(2) An applicant must furnish such relevant further particulars as the governing body may request.

(3) A parent qualifies for automatic exemption if he or she submits to the governing body sufficient proof of eligibility for such exemption by providing documentary evidence in the form of—

- (a) an affidavit;
- (b) a confirmation affidavit from a social worker or from any other competent authority; or

- (c) a court order.

**5. Categories for purposes of exemption.**—The following categories apply for purposes of exempting a parent from the payment of school fees:

- (1) Total exemption;
- (2) partial exemption;
- (3) conditional exemption, and
- (4) no exemption.

**6. Procedure according to which governing body must consider application.**—

(1) The governing body must consider the application subject to these Regulations and must make a decision within 30 days after receipt of the application.

(2) (a) The governing body must apply the following formula when considering the application for exemption:

$$E = 100 \left( \frac{F + A}{C} \right)$$

where—

E = school fees as a proportion of the income of a parent.

F = annual school fees, for one child, that a school charges in terms of section 39 of the Act.

A = additional monetary contributions paid by a parent in relation to a learner's attendance of, or participation in any programme of, a public school.

C = combined annual gross income of parents.

100 = the number by which the answer arrived at in the brackets is multiplied so as to convert it into a percentage.

(b) The annual school fees of only one learner must be used in the formula.

(c) If a parent has more than one child at the same school and the school fees are not the same for all of them, the highest school fees must be used in the formula.

(3) If E is equal to or greater than 10%, the parent qualifies for total exemption.

(4) (a) If E is equal to 3,5%, the parent qualifies for partial exemption.

(b) If E is equal to 2,5%, the parent does not qualify for any exemption, unless he or she has three or more other children at the same public school or at another public school that has not been declared a no fee school.

(c) If E is equal to 3,0%, the parent does not qualify for any exemption, unless he or she has one or more children at the same public school or at another public school that has not been declared a no fee school.

(5) (a) If E is less than 2,0%, the parent does not qualify for any exemption.

(b) If E is equal to 2,0%, the parent does not qualify for any exemption, unless he or she has five or more other children at the same public school or at another public school that has not been declared a no fee school.

(6) (a) The table below determines the level of exemption.

(b) The table applies only to a parent who qualifies for partial exemption.

(c) Column one of the table applies to a parent who has only one child at a public school.

(d) Columns two to 10 apply to a parent who has more than one child at the same public school or at more than one public school that have not been declared no fee schools.

(e) The governing body must take into account all the learners contemplated in [paragraph \(d\)](#) when applying the table.

NUMBER OF LEARNERS										
E =	1 10	2	3		4	5	6	7	8	9
2.0%	0%	0%	0%	0%	0%	11%	20%	27%	33%	38%
2.5%	0%	0%	0%	14%	25%	33%	40%	45%	50%	54%
3.0%	0%	7%	22%	33%	42%	48%	53%	58%	61%	64%
3.5%	7%	26%	38%	47%	54%	59%	63%	66%	69%	71%
4.0%	25%	40%	50%	57%	63%	67%	70%	73%	75%	77%
4.5%	39%	51%	59%	65%	69%	73%	76%	78%	80%	81%
5.0%	50%	60%	67%	71%	75%	78%	80%	82%	83%	85%
5.5%	59%	67%	73%	77%	80%	82%	84%	85%	86%	87%
6.0%	67%	73%	78%	81%	83%	85%	87%	88%	89%	90%
6.5%	73%	78%	82%	85%	87%	88%	89%	90%	91%	92%
7.0%	79%	83%	86%	88%	89%	90%	91%	92%	93%	93%
7.5%	83%	87%	89%	90%	92%	93%	93%	94%	94%	95%
8.0%	88%	90%	92%	93%	94%	94%	95%	95%	96%	96%
8.5%	91%	93%	94%	95%	96%	96%	96%	97%	97%	97%
9.0%	94%	96%	96%	97%	97%	98%	98%	98%	98%	98%
9.5%	97%	98%	98%	98%	99%	99%	99%	99%	99%	99%
10.0%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%

(7) In the case of conditional exemption, the governing body may attach to an exemption granted to an applicant such conditions as it may deem reasonable.

(8) An applicant must, if he or she so requests, be afforded an opportunity to present his or her application in person or through a representative designated by him or her.

(9) The governing body must, in writing and within seven days after its decision is taken, notify each applicant of the decision and the reason therefor.

(10) The governing body must, in writing and within seven days after considering the documentary evidence contemplated in [regulation 4 \(3\)](#), notify a parent whether or not he or she qualifies for automatic exemption.

(11) A governing body must, at or before the end of the first school term each year, submit to the Head of Department or his or her delegate a provisional table indicating—

- (a) the number of applications for exemption of parents from the payment of school fees considered;
- (b) the number of total exemptions granted;
- (c) the number of partial exemptions granted; and
- (d) the number of applications not granted.

(12) A final table must be submitted on or before 30 November of each year.

(13) If an application contemplated in [regulation 4 \(1\)](#) is declined or a parent does not qualify for automatic exemption, the notices contemplated in [subregulations \(9\)](#) and [\(10\)](#) must include the right of appeal in terms of section 40 (2) of the Act.

(14) If a parent does not qualify for exemption, the governing body may take steps in terms of section 41 of the Act against him or her only after—

- (a) notifying the parent in terms of [subregulation \(9\)](#) or [\(10\)](#), as the case may be; and
- (b) considering reasonable forms of payment other than cash.

(15) Illustrations with regard to the application of the formula are reflected in [Annexure C](#).

**7. Alteration of decision.**—(1) If a governing body has granted a parent exemption and later obtains information that the financial position of the parent has since changed substantially, the governing body may—

- (a) reconsider the decision to grant exemption; and
- (b) amend the amount that the parent must pay from the date on which the change took place.

(2) The amended amount that the parent must pay is the amount for the full year less the amount of exemption that had been granted to him or her.

(3) Before taking action in terms of [subregulation \(1\)](#), the governing body must—

- (a) notify the parent concerned of the intended action and of the information on which it will be based; and
- (b) afford the parent the opportunity to rebut, if need be, the information and to show cause why the exemption should not be reconsidered.

(4) Despite [subregulation \(1\)](#), the amount that the parent must pay must be calculated from the date on which his or her financial position changed.

**8. Procedure for appeal.**—(1) A parent who is dissatisfied with the decision referred to in [regulation 6 \(1\)](#) may, in writing and within 30 days after receipt of the notification of that decision, appeal to the Head of Department against the decision.

(2) The appellant contemplated in [subregulation \(1\)](#) must furnish the Head of Department with—

- (a) the reasons for the appeal; and
- (b) all relevant information pertaining to the appeal.

(3) The Head of Department must, within 14 days after receipt of the documentation referred to in [subregulation \(2\)](#)

- (a) notify the chairperson of the governing body concerned that—
  - (i) the appeal has been lodged; and
  - (ii) the governing body must take no action in terms of section 41 of the Act against the parent until the appeal has been finalised;
- (b) furnish the chairperson with a copy of the appellant's reasons for the appeal; and
- (c) request the chairperson to forward to him or her, within 14 days after receipt of the request—
  - (i) a copy of the minutes of the meeting of the governing body at which the application was discussed and decided upon;
  - (ii) any comments the governing body wishes to make with regard to the appellant's reason for the appeal; and
  - (iii) any other information relevant to the appeal.

(4) After consideration of all information referred to in [subregulations \(2\)](#) and [\(3\) \(c\)](#), the Head of Department must, within 14 days of receipt of the documentation—

- (a) uphold the appeal; or
- (b) dismiss the appeal.

(5) Within seven days of deciding the appeal, the Head of Department must, in writing, notify the appellant and the chairperson of the governing body concerned of his or her decision and the reasons therefor.

(6) A parent has the right to appeal to the Head of Department if he or she is not satisfied about the notice contemplated in [regulation 6 \(10\)](#).

**9. Assistance to parents.**—(1) A parent who, for whatever reason, needs assistance in applying for exemption or lodging an appeal may request an educator or any other person to assist him or her in making the application or lodging the appeal.

(2) If no assistance is given to the parent after he or she has requested it as contemplated in [subregulation \(1\)](#), the principal of the school concerned must assist the parent with such application or appeal, if so requested by the parent.

(3) No applicant may be disqualified on the ground that his or her application form is either incomplete or incorrectly completed.



School stamp:

### **Footnotes**

One copy of the signed form will be handed over to the parent, another will be submitted to the Head of Department or his or her delegate, and the original will be filed at the school. \*

Footnote	✕
One copy of the signed form will be handed over to the parent, another will be submitted to the Head of Department or his or her delegate, and the original will be filed at the school. *	*

**Annexure B**  
REGULATIONS FOR THE EXEMPTION OF PARENTS FROM PAYMENT OF SCHOOL FEES  
**APPLICATION FOR EXEMPTION**

1. PARTICULARS OF SCHOOL

Name:

Postal address:

Residential address:

Tel.:

Fax:

2.

PERSONAL PARTICULARS OF PARENT

Name of parent<sup>1</sup>:

Residential address:

Tel.:

Fax:

Name of learner for whom application is made:

Name(s) of learner(s) at the same public school or at another public school that has not been declared a no fee school.

<i>Name</i>	<i>ID no.</i>	<i>Grade</i>	<i>Amount of school fees</i>	<i>Additional monetary contribution</i>	<i>Name of school</i>	<i>Tel. no. of school</i>
-------------	---------------	--------------	------------------------------	---	-----------------------	---------------------------

(1)						
(2)						
(3)						
(4)						
(5)						
(6)						
(7)						
(8)						
(9)						
(10)						

3.

**FINANCIAL PARTICULARS OF PARENT**

Parent must, where applicable, supply the following:

3.1

Combined annual gross income:

R

(Attach salary advice, if applicable.)

3.2.

Money received from investment:

R

(Please provide documentary proof.)

3.3

Profit gained from any form of business:

R

(Please provide documentary proof.)

3.4

School fees for the applicant's child at the school:

R

3.5

Additional monetary contributions paid by a parent in relation to a learner's attendance of, or participation in any programme of, a public school:

R

4.

**ADDITIONAL INFORMATION**

Any other relevant information supplied by the applicant, indicating the inability to pay school fees owing to personal circumstances, that may lead to conditional exemption:

5.

**MANNER OF DELIVERY OF THE APPLICATION FORM**

The application form and accompanying documents must be sealed in an envelope addressed to the chairperson of the governing body and must be delivered to the school concerned by hand or by registered post.

..... Name of Principal	..... Name of Parent
..... Signature of Principal	..... Signature of Parent
..... Date:	..... Date:

School stamp:

**Footnotes**

**“Parent”** means—

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

1

Footnote	
<b>“Parent”</b> means— (a) a natural parent or guardian of a learner; (b) a person legally entitled to custody of a learner; or (c) a person who undertakes to fulfil the obligations of a person referred to in paragraphs (a) and (b) towards a learner’s education at school.	1

**Annexure C**

**REGULATIONS FOR THE EXEMPTION OF PARENTS FROM PAYMENT OF SCHOOL FEE**

**1.**

**Total exemption**

**1.1**

**Illustration**

A parent has one child in the school in question. Annual school fees are R2 500, annual additional monetary contributions amount to R20, and the parent’s annual gross income is R25 200.

To determine whether the parent qualifies for exemption, the following formula must be applied:

$$E = 100 \left( \frac{F + A}{C} \right)$$

$$\therefore E = 100 \left( \frac{2\,500 + 20}{C} \right)$$

$$\therefore E = 100 \left( \frac{2\,520}{25\,200} \right)$$

$$\therefore E = 100 \times 0,1$$

$$\therefore E = 10\%$$

Since E is equal to 10%, in terms of [regulation 6 \(3\)](#) the parent qualifies for total exemption.

## 1.2

### Illustration

A parent whose annual gross income is R20 000 applies for exemption from the annual school fees of R2 500 per learner at a school where the annual additional monetary contributions amount to R20.

To determine whether the parent qualifies for exemption, the following formula must be applied:

$$E = 100 \left( \frac{F + A}{C} \right)$$

$$\therefore E = 100 \left( \frac{2\,500 + 20}{20\,000} \right)$$

$$\therefore E = 100 \left( \frac{2\,520}{25\,200} \right)$$

$$\therefore E = 100 \times 0,126$$

$$\therefore E = 12,6\%$$

Since E is greater than 10%, in terms of [regulation 6 \(3\)](#) the parent qualifies for total exemption.

## 1.3

### Illustration

A couple has one child in the school in question and the annual school fees are R5 000. The annual additional monetary contributions amount to R500. The parents' annual gross income is R20 000.

To determine whether the parents qualify for exemption, the following formula must be applied:

$$E = 100 \left( \frac{F + A}{C} \right)$$

$$\therefore E = 100 \left( \frac{5\,000 + 500}{12\,000 + 8\,000} \right)$$

$$\therefore E = 100 \left( \frac{5\,500}{20\,000} \right)$$

$$\therefore E = 100 \times 0,275$$

$$\therefore E = 27,5\%$$

Since E is greater than 10%, in terms of [regulation 6 \(3\)](#) the parents qualify for total exemption.

**2.**

### **Partial exemption**

#### **2.1**

##### **Illustration**

A parent has one child in the school in question. The annual school fees are R2 500, annual additional monetary contributions amount to R20 and the parent's annual gross income is R30 000.

To determine whether the parent qualifies for exemption, the following formula must be applied:

$$E = 100 \left( \frac{F + A}{C} \right)$$

$$\therefore E = 100 \left( \frac{2\,500 + 20}{30\,000} \right)$$

$$\therefore E = 100 \left( \frac{2\,520}{30\,000} \right)$$

$$\therefore E = 100 \times 0,84$$

$$\therefore E = 8,4\% \text{ (rounded up to } 8,5\%)$$

$$\therefore E = < 10\%$$

Since E is less than 10%, in terms of [regulation 6 \(4\)](#) the parent qualifies for partial exemption.

To determine the level of the exemption, the table in [regulation 6 \(6\)](#) must be used.

Therefore, because the parent has one child in the school in question and the percentage of his or her expenditure over income is 8,5%, the parent qualifies for a 91% fee exemption.

Annual school fees = R2 500

Level of exemption	=	91%
91% of R2 500	=	R2 275

The annual school fees at the school in question minus the amount of exemption calculated above is the amount that the parent must pay, calculated as follows:

$$\begin{array}{r} 2\ 500 \\ - \underline{2\ 275} \\ = R225 \end{array}$$

The parent must therefore pay school fees of R225.

## 2.2

### Illustration

A parent's annual gross income is R28 000. Annual school fees for one learner are R2 500 and the annual additional monetary expenses amount to R20. The parent also has one other child in the same school and two other children in another public school that has not been declared a no fee school.

To determine whether the parent qualifies for exemption, the formula must be applied in respect of one child, as follows:

$$E = 100 \left( \frac{F + A}{C} \right)$$

$$\therefore E = 100 \left( \frac{2\ 500 + 20}{28\ 000} \right)$$

$$\therefore E = 100 \left( \frac{2\ 520}{28\ 000} \right)$$

$$\therefore E = 100 \times 0,9$$

$$\therefore E = 9\%$$

$$\therefore E = < 10\%$$

Since E is less than 10%, the parent qualifies for partial exemption. To determine the level of the exemption, the table in [regulation 6 \(6\)](#) must be used, but this time, all four children must be taken into account (that is, the parent must look in the fourth column under "Number of learners" in the table).

Annual school fees	=	R2 500
Level of exemption	=	97%
97% of R2 500	=	R2 425

The annual school fees at the school in question minus the level of exemption is the amount that the parent must pay, calculated as follows:

$$\begin{array}{r} 2\ 500 \\ - \underline{2\ 425} \\ = R75 \end{array}$$

The parent must therefore pay school fees of R75.

### No exemption

### 3.1

#### Illustration

A parent has one child in the school in question. The annual school fees are R2 500, annual additional monetary contributions amount to R20, and the parent's annual gross income is R126 000.

To determine whether the parent qualifies for exemption, the following formula must be applied:

$$E = 100 \left( \frac{F + A}{C} \right)$$

$$\therefore E = 100 \left( \frac{2\,500 + 20}{126\,000} \right)$$

$$\therefore E = 100 \left( \frac{2\,520}{126\,000} \right)$$

$$\therefore E = 100 \times 0,02$$

$$\therefore E = 2\%$$

$$\therefore E = < 10\%$$

Since E is equal to 2%, in terms of [regulation 6 \(5\)](#) the parent does not qualify for any exemption and must pay the full school fees. However, if the parent had six or more children at school, he or she would qualify for partial exemption.

### 3.2

#### Illustration

A parent has one child in the school in question. The annual school fees are R2 500, annual additional monetary contributions amount to R20, and the parent's annual gross income is R150 000.

To determine whether the parent qualifies for exemption, the following formula must be applied:

$$E = 100 \left( \frac{F + A}{C} \right)$$

$$\therefore E = 100 \left( \frac{2\,500 + 20}{150\,000} \right)$$

$$\therefore E = 100 \left( \frac{2\,520}{150\,000} \right)$$

$$\therefore E = 100 \times 0,168$$

$$\therefore E = 1,68$$

$\therefore E = < 2\%$

Therefore, since E is less than 2%, in terms of [regulation 6 \(5\)](#) the parent does not qualify for any exemption and must pay the full school fees.

**GNR.872 of 29 August 2008: Approval of the Regulations pertaining to the conducting, administration and management of assessment for the National Senior Certificate (Government Gazette No. 31337)**

**as amended by**

<b>Notice</b>	<b>Government Gazette</b>	<b>Date</b>
1328	31680	12 December 2008
1042	32678	3 November 2009

DEPARTMENT OF EDUCATION

I, Grace Naledi Mandisa Pandor, Minister of Education, after consultation with the Council of Education Ministers, hereby make the Regulations in terms of [sections 6A](#) and [61 \(c\)](#) and [\(d\)](#) of the *South African Schools Act, 1996 (Act No. 84 of 1996)*, read with [section 27](#) of the *General and Further Education and Training Quality Assurance Act, 2001 (Act No. 58 of 2001)*, as set out in [the Schedule](#).

**(Signed)**  
**Grace Naledi Mandisa Pandor, MP**  
**Minister of Education**  
Date: 5 August 2008

**SCHEDULE**

**REGULATIONS PERTAINING TO THE CONDUCT, ADMINISTRATION AND MANAGEMENT OF ASSESSMENT FOR THE NATIONAL SENIOR CERTIFICATE**

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## CHAPTER 1

### DEFINITIONS, OBJECTIVES, SCOPE AND APPLICATION

#### 1. Definitions

In these Regulations, any word or expression to which meaning has been assigned in the Act, shall have the meaning so assigned to it, unless the content indicates otherwise.

- "act of misconduct"** means misbehaving, creating a disturbance or wilfully disobeying legitimate instructions, which may have an adverse effect on the examination process or the outcome of the examination;
- "administrative errors or omissions"** means irregularities that are of a technical nature, where the candidate or an examination official unintentionally fails to follow the prescribed administrative procedure, and the candidate may be disadvantaged by this error or omission;
- "assessment body"** means the body accredited by Umalusi, the Council for Quality Assurance in General and Further Education and Training, in accordance with the criteria determined by the South African Qualifications Authority and approved by the Minister in terms of *section 16 (6) of the General and Further Education and Training Quality Assurance Act, 2001 (Act No. 58 of 2001)*. The assessment bodies are the nine provincial departments of education and independent assessment bodies approved by Umalusi;
- "assessment"** means any event, act or omission, or any alleged event, act or omission,

<b>irregularity"</b>	which may undermine or threaten to undermine the integrity, credibility, security or the fairness of the examination and assessment process;
<b>"candidate"</b>	means a learner who has registered for the National Senior Certificate final examinations;
<b>"chief examiner"</b>	means a person who manages the process of setting the examination question paper and takes responsibility for the quality and standard of the examination question paper;
<b>"Chief Executive Officer"</b>	means the Chief Executive Officer, contemplated in <a href="#">section 11</a> of the <i>General and Further Education and Training Quality Assurance Act, 2001 (Act No. 58 of 2001)</i> ;
<b>"chief invigilator"</b>	means a principal of a registered examination centre, or another person specifically appointed in that capacity, who is accountable and responsible for the administration of the National Senior Certificate examination, and other related assessment matters at the examination centre;
<b>"chief marker"</b>	means a person responsible for the marking of an external examination question paper, written under the auspices of an assessment body accredited by Umalusi;
<b>"Department of Education"</b>	means the national department responsible for education;
<b>"deputy chief marker"</b>	means a person who assists the chief marker with the final marking of an external examination question paper;
<b>"District Assessment Irregularities Committee (DAIC)"</b>	means the District Assessment Irregularities Committee, established by the provincial Head of Department, to coordinate the handling of examination and internal assessment irregularities at a district level.
<b>"evidence of learner performance"</b>	means the collection of the learner's work that is used to compile his or her internal assessment mark;
<b>"examination"</b>	means the National Senior Certificate examination conducted at the end of the year;
<b>"examination centre"</b>	means a centre contemplated in <a href="#">Chapter 5</a> of these Regulations;
<b>"examination irregularity"</b>	means any event, act or omission, or any alleged event, act or omission, which may undermine or threaten to undermine the integrity, credibility, security or the fairness of the examination process;
<b>"examination process"</b>	means, but is not limited to, the complete process relating to the examination cycle that includes, amongst others, the registration of candidates, the setting of the examination question papers, moderation, the security, the marking and processing of results, and the certification thereof, to ensure integrity of such examination;
<b>"examination sitting"</b>	means a main examination sitting, excluding a supplementary examination sitting;
<b>"grade"</b>	means that part of an educational programme that a learner may complete in one year, or any other education programme that the Member of the Executive Council (MEC) may deem to be equivalent thereto;

<b>“Head of an assessment body”</b>	means the Head of a Provincial Education Department or the Head of an independent assessment body;
<b>“immediate family”</b>	means father, mother, brother, sister, grandparents, husband, wife, legal partner and children;
<b>“imposter”</b>	means any person who sits and writes the examination illegally on behalf of a candidate;
<b>“internal assessment”</b>	means an assessment, defined in <a href="#">section 1</a> of the <i>General and Further Education and Training Quality Assurance Act, 2001</i> (Act <a href="#">No. 58 of 2001</a> );
<b>“investigation”</b>	means the investigation contemplated in <a href="#">Regulation 45</a> ;
<b>“invigilator”</b>	means any person appointed to assist the chief invigilator with the conducting of an examination-related activity at the examination centre;
<b>“marker”</b>	means a person who is appointed to mark an examination answer script;
<b>“marking centre manager”</b>	means an official appointed to be responsible for the management and administration of a marking centre;
<b>“moderation”</b>	means the moderation defined in <a href="#">section 1</a> of the <i>General and Further Education and Training Quality Assurance Act, 2001</i> (Act <a href="#">No. 58 of 2001</a> );
<b>“moderator”</b>	means a person, defined in <a href="#">section 1</a> of the <i>General and Further Education and Training Quality Assurance Act, 2001</i> (Act <a href="#">No. 58 of 2001</a> );
<b>“National Examination Board”</b>	means the advisory body, established by the Minister of Education, to advise the Minister on all matters relating to examinations and assessment;
<b>“National Examinations Irregularities Committee”</b>	means the body established by the Minister of Education, to coordinate the handling of irregularities identified during internal assessments and examinations;
<b>“Provincial Examinations Board”</b>	means the advisory body, established by the MEC in the province, to advise the MEC on all matters relating to examinations and assessment;
<b>“Provincial Examinations Irregularities Committee”</b>	means the body contemplated in <a href="#">Regulation 45</a> ;
<b>“Personnel Administration Measures (PAM)”</b>	means measures that govern the remuneration and other service conditions of teachers employed in terms of the <i>Employment of Educators Act, 1998</i> (Act <a href="#">No. 76 of 1998</a> );
<b>“preparatory examination”</b>	means an examination, conducted by an assessment body, prior to the final examination, in order to allow candidates an opportunity to write a full-scale examination in preparation for the final examination;
<b>“School Assessment Irregularities Committee”</b>	means the body established by the school to deal with all irregularities identified during examinations and assessment;

<b>"senior marker"</b>	means a person who assists the chief marker in the marking process and who takes responsibility for a group of markers at the marking centre;
<b>"service contract"</b>	means an agreement between a provincial education department and an independent institution/examination centre that desires to write examinations administered by a provincial assessment body;
<b>"subject assessment guidelines"</b>	means guideline documents developed by the Department of Education and independent assessment bodies to specify the internal and external assessment requirements for each of the listed subjects in the <i>National Curriculum Statement (NCS), Grades 10-12</i> ;
<b>"supplementary examination"</b>	means an examination contemplated in <a href="#">Regulation 18</a> ;
<b>"teacher portfolio"</b>	means the full and final record of all the assessment tasks completed by the learners and kept by the teacher as evidence of an internal assessment mark for a particular subject for assessment with regard to the National Senior Certificate. The teacher portfolio will also include marking guidelines and assessment rubrics;
<b>"Umalusi"</b>	means the Council, contemplated in <a href="#">section 1</a> of the <i>General and Further Education and Training Quality Assurance Act, 2001 (Act No. 58 of 2001)</i> .

## **2. Objectives, scope and application**

- (1) To regulate and control the administration, management and conduct of the National Senior Certificate examination and assessment process.
- (2) These Regulations apply to both public and private assessment bodies.

## **CHAPTER 2**

### **CONDUCT OF INTERNAL ASSESSMENT**

## **3. General requirements**

- (1) An internal assessment mark is a compulsory component of the final promotion mark for all candidates registered for the National Senior Certificate ([Annexure A](#)).
- (2) The internal assessment mark must count 25% of the final promotion mark in Grade 12.
- (3) In the case of Life Orientation, the final promotion mark will be based on internal assessment, which must be externally moderated. Monitoring and moderation mechanisms will be determined by the Department of Education, the assessment body and Umalusi.
- (4) The composition of the internal assessment of all subjects is outlined in the Subject Assessment Guidelines.
- (5) In Grade 12, internal assessment must be moderated by the Department of Education, the assessment body and Umalusi.

#### 4. Compilation of the internal assessment mark

- (1) Evidence of learners' performance must—
  - (a) comprise assessment tasks that constitute the learners' internal assessment mark;
  - (b) include a mark awarded for each assessment task and a consolidated mark;
  - (c) be guided by assessment components as specified for each subject in the relevant Subject Assessment Guidelines;
  - (d) be available for monitoring and moderation; and
  - (e) be evaluated, checked and authenticated by the teacher before being presented as the learner's evidence of performance.
- (2) The teacher portfolio of assessment tasks must—
  - (a) be a complete record of assessment in that particular subject;
  - (b) be maintained by the teacher for every subject taught in respect of the National Senior Certificate; and
  - (c) be available for monitoring and moderation purposes at every level.
- (3) Failure by the teacher to maintain a portfolio of assessment tasks constitutes an act of misconduct and will be dealt with in terms of the *Employment of Educators' Act, 1998* (Act [No. 76 of 1998](#)), or other appropriate measures.
- (4) The absence of an internal assessment mark in any subject, without a valid reason, may result in the candidate, registered for that particular subject, receiving an incomplete result.
- (5) In the event of a learner not complying with the requirements of internal assessment, but where a valid reason is provided:
  - (a) He or she may be granted another opportunity to be assessed in the assigned tasks, based on a decision by the Head of the assessment body.
  - (b) The learner must, within three calendar months from the date on which the opportunity is granted, submit outstanding work or present himself or herself for internal assessment.
- (6) "Valid reason" in this context includes the following:
  - (a) illness, supported by a valid medical certificate, issued by a registered medical practitioner;
  - (b)

humanitarian reasons, which includes the death of an immediate family member, supported by a death certificate;

(c) the learner appearing in a court hearing, which must be supported by written evidence; or

(d) any other reason as may be accepted as valid by the Head of the assessment body or his or her representative.

(7) In the event of a learner failing to comply with the internal assessment requirements of a particular subject, and where valid reasons are provided, the evidence of such valid reasons must be included with the evidence of learner performance.

(8) Where the subject teacher fails to give learners the minimum tasks for internal assessment in the subject for which he or she is responsible, marks will be adjusted accordingly as stipulated in the guidelines of the Department of Education. The matter must be resolved by the Department of Education and the assessment body in consultation with Umalusi.

(9) Umalusi must issue directives for internal assessment in order to ensure the reliability of assessment outcomes. These directives must include measures for the verification of assessment.

(10) The Head of the assessment body must monitor the implementation of internal assessment and must report, in writing and without delay, any irregularity that is identified, as well as the steps taken to deal with such irregularity, to Umalusi and to the Director-General of the Department of Education.

## **5. Monitoring and moderation of internal assessment**

(1) All internal assessment must be subject to monitoring and moderation by the Department of Education, the assessment body and Umalusi.

(2) Monitoring should determine whether the minimum requirements for internal assessment in a particular subject have been met in terms of the frequency and components.

(3) Moderation should ensure that the quality and standard of the internal assessment, as contemplated in the Subject Assessment Guidelines, have been met.

## **CHAPTER 3**

### **CANDIDATES TO BE ASSESSED**

## **6. Admission: General**

(1) Public and independent schools and assessment bodies must ensure that candidates have complied with the internal assessment requirements as stipulated in the Subject Assessment Guidelines.

(2) All learners attending public schools must write the National Senior Certificate examination of the Department of Education, except in cases where the subject

offered by the candidate is not examined by the Department of Education but by another assessment body.

## **7. Admission of a candidate**

(1)

A candidate in Grade 12, who registers for the National Senior Certificate examination, must comply with the following requirements:

(a)

He or she must register for tuition at a public or a independent school offering a National Senior Certificate course of study.

(b)

He or she must register for the minimum required number of subjects listed in the *National Curriculum Statement Grades 10 – 12*.

(c)

He or she must comply with all internal assessment, oral and Practical Assessment Task requirements where applicable.

(d)

He or she must have complied with the promotion requirements for Grades 10 and 11 as contemplated in the policy document, *National Senior Certificate: A qualification at Level 4 on the National Qualifications Framework (NQF)*.

(2)

Learners in Grade 12 may register for an additional subject or subjects for the National Senior Certificate, subject to the following conditions:

(a)

The candidate has obtained written permission from the Head of the assessment body or his or her representative.

(b)

The candidate has offered and passed the additional subject in Grades 10 and 11.

(c)

The candidate has satisfied the requirements for internal assessment with regard to the specific subject.

(d)

If the additional subject that the candidate wishes to offer is not presented at the school of registration, the candidate must obtain approval from the Principal of the school of registration, as well as permission from the Principal of the school where the additional subject is offered, to register for that subject at such school.

(e)

The school offering the additional subject must forward the internal assessment mark to the school of registration, prior to commencement of the final written examination.

(f)

The school where the learner is registered must capture all internal assessment marks of the learner, and the relevant forms on which these marks are captured must be signed by the principal to confirm the correctness thereof.

(g)

The candidate must sit for the final examination at the centre of registration or, where this is not possible, obtain special permission from the Head of the assessment body to sit for the examination at another centre.

- (3) A repeat candidate is a candidate who has failed the National Senior Certificate examination and/or the supplementary examination and who wants to satisfy the outstanding requirements for the National Senior Certificate. Such candidate will be allowed to meet the requirements within a maximum period of three (3) years, following the date of the first National Senior Certificate examinations written by the candidate.
- (4) A repeat candidate need not receive full-time tuition at a public or independent school.
- (5) The School-Based Assessment, Practical Assessment Task (PAT), Practical Assessment and Oral marks obtained by a candidate in his or her last National Senior Certificate examinations will be valid for a period of two (2) years after the completion of the first National Senior Certificate examinations written by the candidate.  
[Sub-r. (5) substituted by r. 1 of GN 1042 of 3 November 2009.]

## **8. Changing of subjects in Grades 10, 11 and 12**

- (1) A learner may change a maximum of **two** subjects in Grade 10, subject to the approval of the Principal of the school where the learner is registered.
- (2) A learner may change two subjects in Grade 11, subject to the approval of the Principal of the school where the learner is registered.  
[Sub-r. (2) substituted by r. 2 (a) of GN 1042 of 3 November 2009.]
- (3) In exceptional cases a learner may change **one** subject in Grade 12, provided it is done before 31 January 2008 of the Grade 12-year.
- (4) Approval for changing a subject in Grade 12 must be obtained from the Head of the assessment body, provided the following are furnished:
- (a) a letter of motivation from the learner's parent or guardian;
  - (b) a letter from the Principal, either supporting or providing reasons for not supporting the change; and
  - (c) a letter from the subject teacher, outlining the programme to be followed to assist the learner in covering those aspects of the curriculum statements for the previous grade that were not covered.
- (5) The closing date for changing a subject or subjects in Grade 10 and 11 must be determined by the Head of the assessment body, based on the impact of the change on the internal assessment programme.
- (6) National Senior Certificate candidates who sat for the National Senior Certificate examination and who wish to repeat the whole National Senior Certificate qualification obtained, may do so provided that the candidate:
- (a) provides documentary evidence that he or she has offered the National Senior Certificate; and
  - (b)

registers with an accredited assessment body with the aim of ensuring that all the School-Based Assessment, Practical Assessment Task (PAT), Practical Assessment and Oral requirements for all subjects that will be offered for the improved qualification are met.

[Sub-r. (6) inserted by r. 2 (b) of GN 1042 of 3 November 2009.]

(7)

National Senior Certificate candidates who sat for the National Senior Certificate examination and who wish to register for a subject not offered in the said National Senior Certificate examination with the aim of meeting faculty requirements at a higher education institution, may do so, provided that the candidate:

(a)

sat for the National Senior Certificate examination in the previous year;

(b)

does not change more than two subjects sat for in the National Senior Certificate examination;

(c)

provides documentary evidence that he or she has met the School-Based Assessment, Practical Assessment Task (PAT), Practical Assessment and Oral requirements in the subject to be offered;

(d)

has met all the outstanding School-Based Assessment and Practical Assessment requirements for the subject offered; and

(e)

completes the new subject within a two-year period.

[Sub-r. (7) inserted by r. 2 (b) of GN 1042 of 3 November 2009.]

## **9. Requirements for the offering of additional subjects**

(1)

An assessment body that wishes to offer an additional subject as part of the National Senior Certificate, must comply with the requirements set out in [Annexure B](#).

(2)

The Minister of Education may approve an additional subject to be offered by a learner as part of the 7-subject package, subject to specific conditions, as contemplated in [Annexures B and C](#).

## **10. An endorsed National Senior Certificate for learners with special education needs**

A learner with special education needs, who has met the minimum requirements as stipulated in the policy document, *An addendum to the policy document, the National Senior Certificate: A qualification at Level 4 on the National Qualifications Framework (NQF), regarding learners with special needs*, may obtain a National Senior Certificate with an endorsement for learners with special education needs.

## **11. Registration of candidates**

(1)

The deadline for the registration of candidates for the National Senior Certificate examination is 15 March of the year in which the examination will be written.

(2)

No registrations should be accepted after this date, unless the Head of the assessment body, or his or her representative, approves such late registration, based on exceptional circumstances.

(3)

Candidates who write a supplementary examination and who are unsuccessful, will be given 15 working days, following the release of the supplementary examination results, to register for the end-of-year examination.

- (4) For the purpose of registration, registration forms, designed by the Department of Education, in consultation with the provincial assessment body, must be used.
- (5) An independent assessment body may decide on the format of its registration form.
- (6) The information furnished on the entry forms must be processed by the relevant assessment body and submitted to the examination centre for checking and final verification, prior to the commencement of the National Senior Certificate examination. At this stage of the process only corrections shall be allowed.
- (7) The transfer of a candidate from one province to another must be mutually agreed by the assessment bodies concerned. If no mutual agreement can be reached, the matter must be referred to the Director-General of the Department of Education for a final decision.

## **12. Entries**

- (1) The Principal of a school may recommend the cancellation of the registration of a candidate in Grade 12 to the Head of the assessment body, if the candidate is irregular in attendance or has committed a serious misdemeanour.
- (2) Such a candidate must be given an opportunity to appeal before a final decision is taken.

## **13. Fees**

- (1) The Director-General of the Department Education, following consultation with the Heads of Education Departments' Committee (HEDCOM), may determine fees for:
  - (a) writing the examinations;
  - (b) viewing of examination answer scripts;
  - (c) the re-checking of examination answer scripts;
  - (d) the re-marking of examination answer scripts. The fees must be refunded to the candidate if the re-marking results in an improvement of the rating scale; and
  - (e) the re-issuing of a statement of results.
- (2) Candidates may be exempted by the Head of Department from paying the above-mentioned fees, if the candidate can prove that he or she has been exempt from the payment of school fees or attended a no-fee-school.
- (3) A candidate may appeal to the Member of the Executive Council against a decision by the Head of Department regarding non-exemption from payment of such fees.
- (4)

An independent assessment body may determine its own fees.

#### **14. Assessment policies and guidelines**

Assessment bodies must comply with:

- (1) the policy document, *An addendum to the policy document, the National Senior Certificate: A qualification at Level 4 on the National Qualifications Framework (NQF), regarding the National Protocol for Assessment (Grades R – 12)*; and
- (2) Subject Assessment Guidelines of the Department of Education or independent assessment bodies for the National Senior Certificate.

#### **15. Language related to the examination question paper**

- (1) Examination question papers must be set in the language of learning and teaching.
- (2) Unless otherwise directed in the examination question paper, a candidate must answer all questions according to the instructions in the examination question paper.
- (3) If the examination question paper is set in two languages, the candidate must answer the examination question paper in one language only, unless otherwise instructed.

#### **16. Concessions for candidates classified as deaf, aphasic, dyslectic or suffering from a mathematical disorder**

- (1) The following concessions in respect of languages may be applied to candidates who experience barriers related to deafness, aphasia and dyslexia:
  - (a) Deaf, aphasic or dyslectic candidates may offer only one official language at First Additional Level, if—
    - (i) another subject from Group B, as listed in the *National Senior Certificate: A qualification at Level 4 on the National Qualifications Framework (NQF)*, is offered in the place of the official language that is not being offered; and
    - (ii) such deaf candidate complies with the promotion requirements as contemplated in *paragraph 11 (1)* of the policy document, *National Senior Certificate: A qualification at Level 4 on the National Qualifications Framework (NQF)*.
  - (b) Candidates suffering from a mathematical disorder, such as dyscalculia, may be exempt from offering Mathematical Literacy or Mathematics as a subject, if—
    - (i) another subject from Group B, listed in the policy document, *National Senior Certificate: A qualification at Level 4 on the National Qualifications Framework (NQF)*, is offered in place of Mathematical Literacy or Mathematics; and

- (ii)
- such candidate complies with the promotion requirements as contemplated in *paragraph 11 (1)* of the policy document, *National Senior Certificate: A qualification at Level 4 on the NQF*.
- (2) All applications for concessions must be directed to the Head of the assessment body when the learner enters Grade 10, or immediately after the learner has been diagnosed with the learning disorder, as contemplated in *Regulation 16 (1) (a) and (b)*.
- (3) All applications referred to in *subregulation (2)* must be accompanied by an evaluation conducted by structures responsible for learners with special education needs, as well as by external, professionally registered experts in the relevant fields.

### **17. Absentees**

- (1) In the case of illness or any other circumstances beyond the candidate's control, medical certificates or affidavits must be provided by the candidate and countersigned by the Principal of the school concerned, before being submitted to the relevant assessment body.
- (2) Candidates who absent themselves from the end-of-year external examination will not be permitted to register for the supplementary examination.
- (3) If a candidate is unable to write or complete one or more of the National Senior Certificate examination question papers for reasons other than illness or injury the principal of the school must submit a written report in which the circumstances are explained to the Head of the assessment body, who will then decide whether or not the candidate will be allowed to sit for the supplementary examination.

### **18. Supplementary examination**

A supplementary examination will be granted under the following conditions to a full-time, repeat and part-time candidate:

- (1) If a candidate has not met the minimum promotion and certification requirements, but requires a maximum of two subjects to obtain the National Senior Certificate, he or she may:
- (a) Register for a maximum of two subjects for the supplementary examination in the following year. These subjects, subject to *subparagraph (c)*, must be subjects that he or she sat for in the previous end-of-year examination. This option may only be exercised once by a part-time candidate, namely after completion of the National Senior Certificate, that is his or her final end-of-year examination.
- (b) Register for Life Orientation, which is internally assessed, as one of the two subjects to be registered for the supplementary examination in *subregulation (a)*. The re-assessment of Life Orientation must be completed within the period in which the supplementary examination is conducted.  
[Sub-r. (1) substituted by r. 3 (b) of GN 1042 of 3 November 2009.]
- (2)

Candidates that repeat one or more subjects must be allowed to combine their subjects based on the current National Senior Certificate requirements to obtain a National Senior Certificate.

[Sub-r. (2) substituted by r. 3 (b) of GN 1042 of 3 November 2009.]

(3)

In combining these subjects contemplated in subparagraph (2), the performance in the seven (7) subjects will be taken into consideration, provided that it meets the programme requirements of the National Senior Certificate as contemplated in paragraphs 9 and 10 of the policy document. *National Senior Certificate: A Qualification at Level 4 on the National Qualifications Framework (NQF)*, promulgated in *Government Gazette No. 27819 as Government Notice, No. 744* of 20 July 2005.

[Sub-r. (3) substituted by GN 1328 of 12 December 2008 and by r. 3 (b) of GN1042 of 3 November 2009.]

(4)

If there is a death in the immediate family of a candidate, or other special reasons for the candidate's absence, he or she may register for the supplementary examination.

(5)

In cases contemplated in *subregulations (1) to (4)* above, the internal assessment of the Grade 12-year will be used, including practical or oral assessment marks where applicable, in order to meet the internal assessment and external examination requirements.

(6)

In a case where an irregularity is being investigated, provisional enrolment for the supplementary examination may be granted to the candidate concerned, pending the outcome of the investigation.

(7)

A candidate who did not write or complete the end-of year examination with a valid reason has the opportunity to write the supplementary examination for the specific examination question paper that he or she did not write in the end-of-year-examination. However, should the candidate select to write the entire subject, even though he or she has been absent for one or more examination question papers, the candidate should be allowed to exercise this option.

[Sub-r. (7) substituted by r. 3 (c) of GN 1042 of 3 November 2009.]

[[R. 18](#) amended by GN 1328 of 12 December 2008 and by GN 1042 of 3 November 2009.]

## **19. Conduct of the National Senior Certificate examination beyond the borders of the Republic of South Africa**

(1)

The following candidates will be considered for the National Senior Certificate examination conducted outside the borders of South Africa:

(a)

candidates abroad who are citizens of the Republic of South Africa and registered for the National Senior Certificate examination and who have fully complied with the internal assessment requirements, as well as the Practical Assessment Tasks, for the applicable subjects;

(b)

children of diplomats or staff members of an embassy or consulate; and

(c)

candidates who represent the country or province in a recognised and registered form of sport or a cultural event.

(2)

Assessment bodies will only consider applications if—

(a)

a candidate has registered for the National Senior Certificate examination; and

- (b) a motivation, in writing, requesting permission to be examined at an approved venue outside South Africa, is provided.
- (3) Examination centres outside the borders of the Republic of South Africa will be established at South African diplomatic missions, or at alternative centres approved by the relevant assessment body.
- (4) Candidates will be responsible for all expenses, including:
  - (a) packaging and postage;
  - (b) the fee of the invigilator;
  - (c) renting of the venue if applicable; and
  - (d) any other incidental costs.
- (5) Adherence to the South African Standard Time requirements:

Examinations must be conducted in terms of the South African Standard Time requirements for the particular examination question paper.

## **CHAPTER 4**

### **PREPARATION FOR THE NATIONAL SENIOR CERTIFICATE EXAMINATION**

#### **20. Management plan relating to the examination**

- (1) Assessment bodies must have a clear and detailed management plan that covers the entire examination cycle, which must include the following:
  - (a) objectives or targets to be achieved pertaining to the examination process;
  - (b) steps and processes that will result in the achievement of the said targets;
  - (c) persons who are responsible and accountable;
  - (d) a time frame;
  - (e) a monitoring process;
  - (f) a process for moderation and verification of internal assessment; and
  - (g) a process for identification of, reporting of and dealing with irregularities.
- (2) A management plan must be developed in conjunction with key persons involved in the examination process.

## **21. The examination cycle**

- (1) The examination cycle commences with the appointment of examiners and internal moderators to set and moderate the examination question papers for the scheduled examination, and concludes with certification.
- (2) All relevant processes related to the preparation of the external examination must be concluded at least six months prior to the commencement of the external examination.
- (3) The Department of Education, the assessment body and Umalusi will monitor the entire examination cycle in order to ensure delivery of a credible examination.

## **22. Examination timetable**

The Department of Education, or where applicable, the independent assessment body must develop an examination timetable for the National Senior Certificate examination to be conducted in Grade 12 in the subjects listed in the *National Curriculum Statement Grades 10-12*.

## **23. Appointment of examiners and internal moderators**

- (1) The appointment of teachers as examiners must be done in terms of [Annexure D](#).
- (2) An examiner or internal moderator must be appointed by an assessment body for a maximum period of four years ([Annexure E](#)).
- (3) Remuneration for the performance of examination-related duties and compensation for travel and subsistence must be made in terms of the Personnel Administration Measures (PAM).
- (4) [Regulation 23](#) is not applicable to an independent assessment body.
- (5) A person who is appointed as an examiner or internal moderator must declare whether his or her son, daughter, brother or sister is sitting for the National Senior Certificate examination during the period of appointment, and such examiner or moderator must be relieved from the responsibility of setting or moderating examination question papers for that particular year.
- (6) The Director-General of Education and the Head of the independent assessment body must ensure that examiners or moderators do not participate in any activity that may compromise the confidentiality of the examination.

## **24. Responsibilities of chief examiners, examiners and internal moderators**

- (1) The Department of Education and the assessment body must ensure that:
  - (a) chief examiners and examiners set the examination question papers and prepare the memoranda for the examination question papers required, both for the final and the supplementary examination, as well as an additional examination question paper that will serve as a backup examination question paper;
  - (b)

the examination question paper, its back-up examination question paper and the supplementary examination question paper are set at the same time, in order to ensure comparability of standards across all three examination question papers;

- (c) examination question papers conform to the requirements of the *National Curriculum Statement Grades 10-12*;
  - (d) the internal moderator ensures that the examination question papers conform to the requirements of the Subject Statements and the Subject Assessment Guidelines for a specific subject as listed in the *National Curriculum Statement Grades 10-12*; and
  - (e) an examiner or internal moderator complies with all instructions and deadlines issued by the Department of Education, the assessment body and Umalusi.
- (2) If the examination question paper is rejected twice by Umalusi, then the services of the internal moderator and/or the examiner may be terminated.
- (3) An internal moderator or examiner, appointed to a national panel, may not serve on the examination panel of any assessment body.
- (4) The Department of Education and the independent assessment bodies must ensure that all examination question papers are approved by the internal and external moderators.
- (5) In the event of a disagreement between the examiner and the moderator, the following procedure must be followed:
- (a) If the disagreement is between the internal moderator and the examiner, the Department of Education or independent assessment body must—
    - (i) attempt to mediate between the examiner and the internal moderator; and
    - (ii) if consensus cannot be reached, the Department of Education or independent assessment bodies must make the final determination.
  - (b) If the disagreement is between the internal moderator and the external moderator, the Chief Executive Officer of Umalusi must—
    - (i) mediate between them; and
    - (ii) if consensus cannot be reached, the Chief Executive Officer of Umalusi must make the final determination.
- (6) The Department of Education and the independent assessment body must comply with the requirements of Umalusi with regard to the external moderation of examination question papers.
- (7) The Department of Education and the independent assessment body must provide examiners and internal moderators with guidelines for the setting of examination question papers, which must include the following:

- (a) duration of the examination question paper;
  - (b) maximum marks;
  - (c) number of examination question papers; and
  - (d) format of the examination question paper.
- (8) Internal moderators must perform the following functions:
- (a) ensure that the examination question paper is of an appropriate standard and quality, and that correct and accessible language has been used;
  - (b) ascertain that an examination question paper—
    - (i) conforms to the Subject Statement and Subject Assessment Guidelines for the various subjects as listed in the *National Curriculum Statement Grades 10-12*;
    - (ii) provides adequately for differentiation; and
    - (iii) includes questions addressing different cognitive levels;
  - (c) recommend the necessary changes to the examination question papers;
  - (d) approve and sign off the examination question papers prior to printing;
  - (e) attend the memorandum discussions;
  - (f) approve and sign off the finally agreed-upon memorandum, following the memorandum discussion;
  - (g) moderate the marked examination answer scripts;
  - (h) liaise with external moderators;
  - (i) provide examiners with advice, support and guidance; and
  - (j) submit a report to the external moderator.
- (9) An internal moderator may be appointed by the assessment body specifically to perform the function of the moderation of examination answer scripts during the marking process. In such an event, the functions of the internal moderator may include the following:
- (a) moderation of marked examination answer scripts to ensure compliance with the marking memorandum;

- (b) an analysis of candidates' responses to identify areas of weakness and areas of good performance; and
- (c) the compilation of a composite report on the marking of examination answer scripts.

## **25. Processing of examination question papers**

- (1) The Department of Education and the independent assessment body must ensure that clear structures and procedures are in place, regarding the typing, editing, translation and printing of examination question papers.
- (2) Examination question papers must be submitted to the external moderator timeously, so as to allow for:
  - (a) thorough moderation;
  - (b) changes;
  - (c) adaptations; and
  - (d) the final duplication of the examination question papers.
- (3) Examination question papers must be ready for external moderation at least six months prior to the commencement of the external examination.
- (4) The processing of examination question papers must be done in terms of [Annexure E](#).

## **26. Storage and distribution of examination question papers**

- (1) The assessment body must ensure strict security with regard to the examination question papers at all times.
- (2) Each assessment body must select the distribution mechanism best suited to the schools under its jurisdiction.
- (3) Irrespective of the mechanism adopted, the following principles must be adhered to at all times:
  - (a) The distribution chain should be as short as possible.
  - (b) The number of persons involved in the distribution process should be restricted to a minimum.
  - (c) The transfer of the examination question papers from one responsible officer to another should be carefully checked and signed upon receipt.
  - (d)

Any discrepancies that are detected during the transfer process should be reported immediately to the Head of the assessment body.

- (e) All persons involved in the distribution process should sign a Contract of Confidentiality.

## **CHAPTER 5**

### **CONDUCTING THE EXAMINATION**

#### **27. Establishment and registration of examination centres**

- (1) Examination centres must be registered by the assessment body in accordance with the following criteria:
  - (a) a suitable venue to accommodate candidates, i.e. sufficient space and appropriate furniture to be used by candidates;
  - (b) security of the venue. See [Annexure G](#);
  - (c) clearance in terms of the local health and fire services bylaws;
  - (d) provision of proper lighting;
  - (e) availability of water and toilet facilities;
  - (f) suitably qualified teaching staff or members of the community who can be trained as invigilators;
  - (g) availability of a strong room or safe for the safekeeping of assessment material;
  - (h) capacity to complete Practical Assessment Tasks; and
  - (i) report on previous irregularities at the centre with specific reference to the nature and outcome of the irregularities.
- (2) All examination centres must be evaluated by an official from the assessment body, to verify that all the necessary facilities required for conducting the examination are available at the centre.
- (3) The following institutions must apply to the relevant assessment body for registration as examination centres under their own names:
  - (a) independent schools; and
  - (b) independent learning institutions;
- (4)

The institutions contemplated in *subregulation (3)* must comply with these Regulations and must be subjected to the monitoring and moderation procedures of the assessment body.

- (5) If the centre, institution or venue is approved as an examination centre, a centre number should be issued to that effect.
- (6) Centres must apply and register as examination centres on an annual basis in October of the year prior to the examination.
- (7) The total number of candidates at an examination centre may not exceed 500 for any one session, unless prior approval has been obtained from the Head of the assessment body.

**28. An agreement between a provincial assessment body and an independent school**

- (1) All institutions listed in *Regulation 27 (3)* must enter into a contractual agreement with the provincial assessment body concerned.
- (2) A *pro forma* contract between a provincial education department and an independent school is attached hereto as [Annexure H](#).

**29. Deregistration of an examination centre**

- (1) In the event of the physical relocation of the examination centre from the premises approved by the assessment body to other premises, the centre will be deregistered.
- (2) The following procedure should be followed when a centre relocates to new premises:
  - (a) The onus is on the owner or management to inform the Head of the assessment body timeously of the intention to relocate.
  - (b) The Head of the assessment body or his or her representative shall inform the owner or management, in writing, of the course to be followed.
  - (c) If the application for the registration of the centre at the new premises is unsuccessful, the Head of the assessment body or his or her representative shall give notice to the owner or management of his or her intention to deregister the centre.
  - (d) The owner or management must respond to the notice within 14 days from the date of issue, and furnish reasons as to why the centre should not be deregistered.
  - (e) The Head of Department must consider such representation and make a final decision as to whether or not to close the centre down.
  - (f) This decision must be conveyed, in writing, to the owner or management.
- (3)

An examination centre may also be deregistered if there is evidence that the integrity of the examination is being undermined at the centre.

(a)

Examination centres will be deregistered if:

- (i) examination question papers in the care of the centre are given to candidates before the examination;
- (ii) examination question papers are repeatedly opened prior to the examination time or date;
- (iii) there is fabrication of internal assessment marks;
- (iv) the centre allows examination imposters; or
- (v) if there is any other serious irregularity that warrants deregistration.

(b)

The following procedure should be followed when it is found that irregular practices have occurred at an examination centre:

- (i) Officials of the provincial education department should investigate the reported irregularities.
- (ii) If clear evidence of an irregularity emerges from such investigation, disciplinary action should be instituted and steps taken to deregister the centre.
- (iii) The owner or management must be informed, in writing, of the intention of the Head of the assessment body to close down the centre due to the irregularities.
- (iv) The owner or management must respond to the notice within 14 days from the date of issue, and furnish reasons as to why the centre should not be closed down.
- (v) The Head of the assessment body must consider such representation before making a final decision as to whether or not to close the centre down.
- (vi) This decision must be communicated, in writing, to the owner or management.

(4)

Maladministration

(a)

Examination centres may be deregistered if maladministration results in any advantage or disadvantage to candidates, or affects the integrity of the examination, or impacts negatively on the ability of the centre to render an examination service.

(b)

The following procedure should be followed when maladministration occurs at an examination centre:

(i)  
The owner or management of such examination centre must be informed within a specified period of three (3) months in writing, of the situation and given an opportunity to rectify the matter.

(ii)  
If maladministration at the centre continues, the centre may be placed on probation for a period not exceeding one academic year.

(iii)  
If the owner or management again demonstrates an inability to administer the examination process adequately during the probation period, the centre may be deregistered at the end of the academic year.

(iv)  
If maladministration takes place during the conducting of an examination, the centre may be placed under the administration of the assessment body, until further notice.

### **30. Appointment and duties of chief invigilators and invigilators**

- (1) Assessment bodies must ensure that all chief invigilators and invigilators receive the appropriate training ([Annexure I](#)).
- (2) Invigilators must ensure that every candidate produces his or her letter of admission, as well as proof of his or her identity upon admission to the examination room.
- (3) A candidate who fails to produce the required documentation will:
  - (a) be allowed to sit for the examination, but will be required to present such documentation to the invigilator after the examination.
  - (b) failing this, the normal procedure pertaining to irregularities must be followed.

### **31. Information to candidates**

- (1) General examination instructions must be provided to candidates, in writing, at the commencement of the examination, and each candidate must sign to confirm receipt and acceptance of these instructions.
- (2) Candidates must also be provided with clear written instructions regarding the specific examination question paper that is being written.
- (3) All examination question papers that are not in English must have an instruction page in English, as well as in the language of the examination question paper.
- (4) A period of ten minutes before the official commencement of the examination must be allowed for reading of the examination question paper, in addition to the time allocated for the reading of any instructions that may be necessary.
- (5) No writing may take place during reading time.

- (6) In the event that a candidate is required to answer only a selected number of questions from those appearing in an examination question paper, and the said candidate answers more than the required number of questions, only the questions fulfilling the requirements will be marked. This condition will apply provided that the instructions are clear.
- (7) The return of examination answer scripts to the assessment body or any other collection point must be handled with the same care and security as the examination question papers ([Annexure J](#)).

### **32. Monitoring of the National Senior Certificate examination**

The Department of Education, the assessment body and Umalusi must have a clear programme relating to the monitoring of the National Senior Certificate examinations. This programme must cover all stages of the examination, commencing with the preparatory phase and concluding with the release of the results.

### **33. Visits to the centres by monitoring teams**

- (1) The Department of Education and the assessment bodies must visit examination centres while the examination is in progress, and report on at least the following:
- (a) general management of the examination;
  - (b) invigilation;
  - (c) the condition of examination rooms;
  - (d) the seating of candidates;
  - (e) the handing out of examination question papers;
  - (f) the ten minutes reading time;
  - (g) the collection of examination question papers;
  - (h) the return of examination answer scripts; and
  - (i) security.
- (2) The monitoring teams of the Department of Education and the assessment bodies should visit the marking centres to observe the marking process.

## **CHAPTER 6**

### **RECORDING AND REPORTING OF ASSESSMENT FOR THE NATIONAL SENIOR CERTIFICATE**

### 34. Scale of achievement

- (1) Seven levels of competence are described for each subject in the National Senior Certificate.
- (2) These descriptions are intended to assist teachers to assess learners and grade them at the correct level.
- (3) Teachers or examiners must record learners' results in marks and report them as percentages.
- (4) The percentage obtained will determine which rating code on the scale of achievement will be allocated to a learner.
- (5) The various achievement levels and their corresponding percentage bands are indicated in Table 1 below.
- (6) Final promotion schedules for Grades 10 and 11 must be approved and signed by the relevant assessment body.

**TABLE 1: SCALE OF ACHIEVEMENT FOR THE NATIONAL CURRICULUM STATEMENT GRADES 10-12 (GENERAL)**

<b>RATING CODE</b>	<b>RATING</b>	<b>MARKS %</b>
7	Outstanding achievement	80-100
6	Meritorious achievement	70-79
5	Substantial achievement	60-69
4	Adequate achievement	50-59
3	Moderate achievement	40-49
2	Elementary achievement	30-39
1	Not achieved	0-29

## CHAPTER 7

### THE MARKING PROCESS

#### 35. Appointment of markers

- (1) The Head of the assessment body is responsible for the appointment of markers.
- (2) Markers at provincial assessment bodies are appointed in terms of the PAM ([Annexure K](#)), and any other additional criteria as determined and approved by HEDCOM.
- (3) The process of appointing markers must commence at least six months prior to the commencement of the specific marking session. This will allow for the verification of the markers' credentials, as well as for training, should this be necessary.

- (4) The information provided by the applicant for the position of marker must be verified, in writing, by his or her employer and the relevant assessment body. In the case of provincial assessment bodies, the verification must be done by the school principal and the district manager.
- (5) Any person appointed as a marker must declare whether he or she has an immediate relative sitting for a National Senior Certificate examination in the year of appointment. After having made such declaration, the marker may be allowed to mark, but he or she may not mark the examination answer script of an immediate relative.
- (6) An assessment body must select an additional marker in the event that an appointed marker fails to report for duty.
- (7) Markers, senior markers and chief markers must be appointed annually.
- (8) All selection panels for markers must be chaired by the relevant Head of the assessment body or his or her representative.

### **36. Establishment of marking centres**

Each assessment body must have criteria pertaining to the establishment and management of marking centres.

### **37. Marking centres**

- (1) The following aspects need to be considered before a marking venue is selected:
  - (a) marking space;
  - (b) catering facilities;
  - (c) overnight accommodation (if required);
  - (d) security;
  - (e) a suitable control centre;
  - (f) ICT facilities; and
  - (g) the availability of water, electricity and other basic facilities.
- (2) If the number of markers exceeds six hundred (600), a decentralised approach to marking may be adopted.
- (3) Marking may be decentralised in terms of geographic regions or in terms of groups of subjects.
- (4) If a subject is marked at more than one venue, special measures must be taken to ensure a common standard of marking.

(5)

The control centre forms the heart of operations at the marking centre. The control of mark sheets and examination answer scripts at the control centre may be divided into three phases, namely:

(a)

Phase one:

(i)  
This phase entails an audit of all mark sheets and their respective examination answer scripts at the marking centre.

(b)

Phase two:

(i)  
Chief markers sign a control list when examination answer scripts are issued to them and again when the examination answer scripts are returned.

(c)

Phase three:

(i)  
Mark sheets should be kept in a safe place and sent to the chief marker.

(ii)  
During this phase, copies should be made of the completed mark sheets, which have been returned by the chief markers.

(iii)  
The original mark sheet should be sent for data capturing. At this stage, control lists are checked to establish whether the chief markers have returned all the examination answer scripts.

(iv)  
Mark sheets could be scanned for security purposes.

### **38. Marking procedures**

(1)

Marking procedures should be clearly formulated by the provincial assessment body, as contemplated in [Annexure L](#).

(2)

The assessment body may release the marking memoranda and examination question papers of an examination to interested parties at the end of April in the year following the writing of the examination.

## **CHAPTER 8**

### **PROCESSING OF MARKS**

### **39. Processing of marks**

The Department of Education and the assessment bodies must establish, or must have access to a fully-fledged and compatible Information Technology component.

#### **40. Capturing of marks by trained staff**

- (1) The marks obtained by candidates, as reflected on the mark sheets, should be captured by specially trained staff.
- (2) Verification of all data using the double capture method, is recommended.

#### **41. Standardisation**

- (1) Mark adjustments are done by Umalusi, in conjunction with the Department of Education and assessment bodies.
- (2) The data and evidence required for the standardisation of results are determined by Umalusi.
- (3) Recommendations regarding the standardisation of marks, together with clear motivations, will be presented by the Department of Education and assessment bodies to Umalusi for consideration.
- (4) The standardisation of marks is the responsibility of Umalusi and its decision is final in all cases.

#### **42. Release of the results**

- (1) The release date of the results must be decided upon by the Council of Education Ministers (CEM) on the recommendation of HEDCOM, and this must be done on an annual basis.
- (2) The date contemplated in *subregulation (1)* is subject to approval of the National Senior Certificate results by Umalusi.

### **CHAPTER 9**

#### **RE-MARKING, RE-CHECKING AND VIEWING OF EXAMINATION ANSWER SCRIPTS**

#### **43. Re-marking and re-checking of examination answer scripts**

- (1) The following are applicable to the re-marking and re-checking of examination answer scripts:
  - (a) A candidate may apply for the re-marking or re-checking of his or her examination answer scripts, within twenty-one (21) calendar days of the official release of the results.
  - (b) This applies to both the end-of-year and supplementary examinations.
  - (c)

A candidate may obtain an application for re-marking, re-checking or viewing of an examination answer script from any examination centre.

- (2) Following consultation with the Heads of Departments, the Director-General may, by way of a notice in the *Government Gazette*, determine the following fees for provincial assessment bodies:
- (a) the re-marking of examination answer scripts;
  - (b) supplementary examinations;
  - (c) the re-checking of examination answer scripts;
  - (d) viewing of examination answer scripts; and
  - (e) a statement of results.
- (3) The fees contemplated in *subregulation (2)* must be refunded to the candidate if the re-marking results in an improvement of the rating code.
- (4) The prescribed fee must be communicated to the candidate with the statement of results.

#### **44. Viewing of examination answer scripts**

- (1) Subject to the provisions of the *Promotion of Access to Information Act, 2000 (Act No. 2 of 2000)*, the candidate, the candidate's parent, guardian or their representative, will be allowed to view the examination answer script of such candidate.
- (2) Viewing of an examination answer script will only be allowed subject to the following conditions:
- (a) The candidate or his or her parents may apply to view an examination answer script if, after the re-checking and re-marking process, the candidate is still not satisfied with the result.
  - (b) An application to view the examination answer script must be made within seven (7) days of the release of the re-marked results and must provide clear reasons for the request.
  - (c) The examination answer script will be viewed in the presence of an examination official and may not be removed from the viewing room.
  - (d) No other document, except the examination answer script of the candidate, will be allowed into the room where the viewing takes place.
  - (e) No writing on the examination answer script during the viewing process will be allowed.
  - (f)

After the re-marking or viewing of an examination answer script, a candidate may apply to the Head of Department for a final re-mark. If the candidate is not satisfied with the outcome, he or she may appeal to the MEC, or to Umalusi in the case of an independent assessment body. The decision of the MEC or Umalusi is final.

## **CHAPTER 10**

### **DEALING WITH IRREGULARITIES**

#### **45. Dealing with irregularities**

- (1) The Minister of Education must establish the National Examination Irregularities Committee to support the provincial assessment bodies in ensuring that the credibility of the examination is maintained.
- (2) The Head of the provincial assessment body must establish a Provincial Examination Irregularities Committee to investigate irregularities and make recommendations to the MEC and the Head of Department.
- (3) Provincial education departments may establish District Assessment Irregularities Committees. The function of these committees will be to support and co-ordinate the handling of irregularities at a district level.
- (4) Independent assessment bodies must establish appropriate structures to handle irregularities.
- (5) The following steps must be followed regarding the issuing of a National Senior Certificate to a candidate suspected of committing an irregularity:
  - (a) It should be established whether the irregularity was caused by the conduct of the candidate or that of another person.
  - (b) If the irregularity pertains to one of the examination question papers of a subject, the results of the subject as a whole will not be released, but this will not affect the release of the results of other subjects.
  - (c) If the irregularity was not caused by the candidate's actions and the candidate did not gain any advantage, the examination answer script must be marked and marks must be allocated as set out in the marking memorandum and the results must be released.
- (6) A candidate who attends an irregularity hearing may have legal representation.
- (7) Should a candidate decide to have legal representation, the provincial education department must be informed of this intention three (3) working days before the hearing, in order to allow the Department of Education to ensure appropriate departmental representation at the hearing.

#### **46. Release of results under investigation**

- (1)

Assessment bodies must ensure that irregularities are finalised before the results are released.

- (2) In cases where the nature of the irregularity is such that it cannot be finalised before the results are released, the results of the relevant candidates must be withheld, pending further investigation.
- (3) If a candidate is found guilty of an irregularity in one subject, only the results of that subject must be withheld.
- (4) Candidates that are found guilty of an irregularity will have the irregularity recorded on the computer system and such information must be made available to all assessment bodies.

#### **47. Details of dealing with irregularities**

- (1) [Annexure M](#) provides details on how to deal with irregularities.

### **CHAPTER 11**

#### **SECURITY AND CONFIDENTIALITY**

#### **48. Security and confidentiality**

- (1) The assessment body must take every reasonable step to ensure the security and confidentiality of:
  - (a) the examination question papers;
  - (b) examination answer books;
  - (c) examination answer scripts;
  - (d) mark sheets; and
  - (e) other assessment documents.
- (2) Effective security and confidentiality measures should be in place in the following areas of the examination process:
  - (a) the setting and moderation of the examination question papers;
  - (b) the printing of the examination question papers;
  - (c) the storage of the final printed examination question papers, as well as the printed back-up examination question papers;
  - (d)

persons entering or exiting restricted examination administrative areas;

- (e) examination question papers leaving the Department of Education and assessment bodies;
  - (f) the distribution of examination question papers and the transfer of examination answer scripts to and from examination centres;
  - (g) examination answer scripts of candidates under investigation; and
  - (h) the maintenance of the IT system.
- (3) The national security and confidentiality agreement relating to examination matters must be signed by all officials involved in managing and administering the examination.
- (4) Employees who are involved in the National Senior Certificate examination, and who have immediate relatives in Grade 12, must disclose such information to the relevant assessment body.
- (5) The Head of the assessment body will make a decision with regard to the involvement of the official referred to in *subregulation (4)* in the National Senior Certificate examination for that year.

#### **49. The use of outside agents**

The use of an outside agent or institution in the examination process is the responsibility of the assessment body. Issues relating to security, cost-effectiveness and capacity-building must be taken into consideration before an outside agency or institution is engaged.

## **CHAPTER 12**

### **ACCESS TO EXAMINATION AND CERTIFICATION INFORMATION**

#### **50. Access to examination information**

- (1) The Minister of Education is the custodian of examination data. The Director-General approves access to examination data by members of the public.
- (2) Assessment bodies must ensure that all examination material is properly archived to allow for easy retrieval for at least six (6) months.
- (3) Assessment bodies must keep all examination answer scripts and other examination-related documentation for at least six (6) months from the date of the release of the examination results.
- (4) Provincial assessment bodies may shred the examination answer scripts after six (6) months, unless litigation is still pending, or an investigation into irregularities has not been finalised.
- (5)

Certified examination data must be transferred to the National Learner Records Database (NLRD) at the South African Qualifications Authority (SAQA).

#### **51. Access to certification information**

- (1) The assessment body must submit approved candidate records for certification to Umalusi, subject to the directives issued by Umalusi.
- (2) The assessment body must transfer the certified certification records to the historical certification records of the Department of Education.
- (3) The Department of Education must ensure that there are back-up copies of the historical certification records of provincial assessment bodies.
- (4) The Department of Education and the assessment body must ensure stringent security measures during the following processes:
  - (a) queries;
  - (b) combination of results; and
  - (c) verification of results.
- (5) The Department of Education and the assessment body must have secure methods, measures and procedures in place, in-order to ensure safekeeping of examination records.

#### **52. Accessibility of examination and certification information**

Assessment bodies must ensure that examination answer scripts are filed per subject, per examination question paper, and in centre order, for the purposes of re-checking, re-marking, viewing or resolving of queries.

### **CHAPTER 13**

#### **HISTORICAL RECORDS (ARCHIVING) AND DATA RETENTION**

#### **53. Copies of historical certification records and data retention**

- (1) Copies of historical certification records are a national asset and are the responsibility of the Department of Education.
- (2) Subject to the *National Archives of South Africa Act, 1996 (Act No. 43 of 1996)*, the original documents of the assessment and certification process will form part of the provincial filing system.

#### **54. Access to historical records**

- (1) Access to historical records is an integral part of the functioning of any examination section.
- (2)

The provincial assessment bodies should have a computer infrastructure that can access the centralised historical database.

- (3) These records should be used for queries, the combination of results, and for the verification of certification data.

## **CHAPTER 14**

### **MINIMUM REQUIREMENTS FOR AN EXAMINATION COMPUTER SYSTEM, AND DOCUMENTS AND DOCUMENT CONTROL PERTAINING TO THE EXAMINATION SYSTEM**

#### **55. Minimum requirements for an examination computer system**

- (1) The Department of Education and the assessment body must establish the minimum requirements for a computer programme to be used in the examination process.
- (2) A guideline to establish such minimum requirements is contained in [Annexure N](#).
- (3) The Department of Education or the independent assessment body must develop user requirement specifications.

#### **56. Documents and document control pertaining to the examination system**

- (1) Documents printed by the computer system, relating to the examination, are the responsibility of the assessment bodies.
- (2) The Head of the assessment body or his or her representatives must check the signatures and the descriptions on these documents.
- (3) Documentation on the resulting process of the computer system is essential for use by the assessment bodies and should be available to them.
- (4) This information is used for reference purposes in order to maintain and further develop the system.

## **CHAPTER 15**

### **EXAMINATION BOARDS**

#### **57. The establishment of examination boards**

- (1) The following examination boards are established:
- (a) a National Examination Board to advise the Minister on all matters relating to national examination and assessment; and
- (b)

a Provincial Examination Board to advise the Member of the Executive Council (MEC) on all matters relating to provincial examinations and assessment ([Annexure O](#)).

## CHAPTER 16

### REPEAL OF THE POLICY DOCUMENT, *RSUM OF INSTRUCTIONAL PROGRAMMES IN SCHOOLS, REPORT 550 (2001/08)* AND TRANSITIONAL ARRANGEMENTS

#### 58. Repeal of Report 550 (2001/08)

- (1) The policy document, *Résumé of instructional programmes in schools, Report 550 (2001/08)*, containing the programme and promotion requirements for the Senior Certificate, is repealed, subject to [Regulation 59](#).
- (2) Learners entering Grade 12 in 2008 must write the National Senior Certificate examination.

#### 59. Transitional arrangements

- (1) The following candidates will be given an opportunity to complete outstanding requirements for the Senior Certificate until May/June 2011:
  - (a) unsuccessful candidates in the Senior Certificate examination of 2007;
  - (b) part-time candidates who are already enrolled for the Senior Certificate,
  - (c) candidates who have passed Grade 11 in previous years; and
  - (d) other special cases where the Heads of provincial and independent assessment bodies may use their discretionary powers to allow such candidates admission to the May/June Senior Certificate examination.
- (2) All Senior Certificate subjects, successfully completed prior to 2007 and provided they are in compliance with the policy document, *Résumé of instructional programmes in schools, Report 550 (2001/08)*, will be recognised for the issuing of the Senior Certificate until May /June 2011.
- (3) No new enrolments of learners will be accepted in Grades 10 for any subjects listed in the policy document, a *Résumé of instructional programmes in schools, Report 550 (2001/08)* from 1 January 2006.
- (4) National education policy pertaining to part-time candidates as stipulated in the policy document, *National policy on the conduct, administration and management of the National Senior Certificate: A qualification at Level 4 on the National Qualifications Framework (NQF)*, will continue to exist until such a date as determined by the Minister of Education.
- (5) The Minister may also determine the date, contemplated in *subregulation 4* after:
  - (a) an alternative qualification for part-time candidates has been developed and implemented; and

- (b) public and independent distance/correspondence education institutions have been identified and have become operational to assist part-time candidates to obtain the qualification presented by the Minister in the *Government Gazette*.
- (6) The policy pertaining to part-time candidates contemplated in *subregulation 5* will continue for a further period of three (3) years after the date referred to in *subregulation 4* in order to accommodate the candidates already enrolled as part-time candidates on the date determined by the Minister.
- (7) Part-time candidates must comply with the National Senior Certificate requirements as stipulated in the policy document, *National Senior Certificate: A qualification at Level 4 on the National Qualifications Framework (NQF)*.
- (8) Candidates who have registered as part-time candidates for the National Senior Certificate during the period 2006-2008 must show proof that they have complied with the National Senior Certificate requirements as stipulated in the policy document, *National Senior Certificate: A qualification at Level 4 on the National Qualifications Framework (NQF)* before they will be allowed by an assessment body to register and sit for the final National Senior Certificate examination.
- (9) Learners who register as part-time candidates for the first time in Grade 10 in 2009, must register with an accredited assessment body to ensure that such learners comply with the National Senior Certificate requirements as stipulated in the policy document, *National Senior Certificate: A qualification at Level 4 on the National Qualifications Framework (NQF)*.
- (10) Once a learner as contemplated in *subregulation 9* has registered with an assessment body, such assessment body must provide guidelines regarding the National Senior Certificate with respect to the three year duration of the qualification and the compliance with the internal assessment and external examination requirements.
- (11) The Minister may, if deemed necessary, amend the transitional arrangements as contemplated in [Regulation 59](#).

#### **60. Short title and commencement**

These Regulations may be cited as the *Regulations pertaining to the Conduct, Administration and Management of the National Senior Certificate* and will come into effect on the date of publication in the *Government Gazette*.

### **Annexure A**

## **ADMINISTRATIVE ISSUES RELATING TO SCHOOL-BASED ASSESSMENT (SBA) MARKS**

### **1.**

#### **PRESENTATION OF SCHOOL-BASED ASSESSMENT MARKS**

- (1) All learners must have a School-Based Assessment (SBA) mark for each subject presented for the National Senior Certificate.
- (2) Learners who have not submitted a learner portfolio of evidence, based on valid reasons, must be given three months from publication of the results to submit SBA tasks for evaluation.
- (3)

If a learner fails to present a component or components of the SBA during the course of the year, and **valid reasons** are provided, the learner should be allowed the opportunity to redo the task or, where this is not possible, the mark for that component of the internal assessment should not be taken into consideration and the maximum mark, in this particular case, must be recalculated, based on the remaining number of tasks (refer to Table 1).

**Table 1**

**SBA components of subject with learner's marks:**

	Component 1	Component 2	Component 3	Component 4	Component 5	Component 6	Component 7
<b>Max marks</b>	<b>5</b>	<b>5</b>	<b>30</b>	<b>20</b>	<b>40</b>	<b>40</b>	<b>40</b>
<b>Learner</b>	4	Did not offer (valid reason given)	16	Did not offer (valid reason given)	20	15	12

$$\begin{aligned}
 \text{SBA mark} &= \\
 &= (4+16+20+15+12) / (5+30+40+40+40+40) \\
 &= \\
 &= 67/155 \\
 &= \\
 &= 43\%
 \end{aligned}$$

If a learner fails to present a component or components of the SBA, **without a valid reason**, the learner must be awarded a zero mark ("0") for such component or components (refer to Table 2).

**Table: 2**

**SBA components of subject with learner's marks:**

	Component 1	Component 2	Component 3	Component 4	Component 5	Component 6	Component 7
<b>Max marks</b>	<b>5</b>	<b>5</b>	<b>30</b>	<b>20</b>	<b>40</b>	<b>40</b>	<b>40</b>
<b>Learner</b>	4	Did not offer (no valid reason given)	16	Did not offer (No valid reason given)	20	15	12

$$\begin{aligned}
 \text{SBA mark} &= \\
 &= (4+0+16+0+20+15+12)/(5+5+30+20+40+40) \\
 &= \\
 &= 67/180 \\
 &= \\
 &= 37\%
 \end{aligned}$$

**2.**

**INCOMPLETE RESULTS**

A learner's results are regarded as incomplete if he or she did not offer any component of the School-Based Assessment and/or a Practical Assessment Task (PAT), a Practical Assessment or an Oral mark and no valid reason was provided. This implies that the learner did not submit all assessment tasks specified for School-Based Assessment, Practical Assessment Task (PAT), Practical Assessment or Oral requirements in the policy document, *An addendum*

to the policy document, the National Senior Certificate: A qualification at Level 4 on the National Qualifications Framework (NQF), regarding the National Protocol for Assessment (Grades R – 12) and Subject Assessment Guidelines. In such an event, the code "444" is indicated on the mark sheet. Therefore the candidate cannot receive a result in the subject, since he or she has not satisfied the requirements of the National Senior Certificate and will not qualify for a National Senior Certificate. In such an event, the code "444" is indicated on the mark sheet. Such a candidate must repeat the subject in the subsequent examination, but not the supplementary examination. If a candidate fails to do this, he or she will not qualify for a National Senior Certificate.

[R. 2 substituted by r. 5 (a) of GN 1042 of 3 November 2009.]

### 3.

#### **OUTSTANDING MARKS**

A mark is regarded as outstanding if, during the capturing process, the reason for the outstanding mark is not established.

The code, "777", is used to indicate an outstanding mark. An outstanding mark must be finalised as soon as possible and the "777" code replaced with either a mark or a "444" code (absent) or a "999" code.

In the event that the candidate was absent, based on valid reasons, code "999" will be captured. The outstanding School-Based Assessment, and/or Practical Assessment Tasks (PAT), Practical Assessment or Oral mark must be submitted within the stipulated three-month period. The result in the subject will be regarded as incomplete. In such an event the candidate cannot receive a result, since he or she has not satisfied the requirements of the National Senior Certificate. Should the candidate not submit the School-Based Assessment tasks and/or Practical Assessment Tasks in the stipulated period, the code "777" will be changed to "444".

Candidates who have not met the School-Based Assessment and Practical Assessment Task component requirements, may be allowed to improve their marks obtained in the School-Based Assessment and Practical Assessment Task components, subject to satisfactory arrangements being made with the relevant accredited assessment body.

[R. 3 substituted by r. 5 (b) of GN 1042 of 3 November 2009.]

### 4.

#### **STATISTICAL MODERATION OF SBA MARKS**

All SBA marks are statistically moderated, based on the norm determined by Umalusi. The norm, which is articulated as a formula for the statistical moderation process, will be provided by Umalusi. The Department of Education will ensure that the computer system is programmed to process the marks in accordance with the formula. However, the final responsibility rests with Umalusi to verify the accuracy of the statistical moderation process on the IT system.

Learners whose SBA marks are outstanding, absent or have not been finalised at the time of the statistical moderation, are removed from the moderation process. The examination results for these learners are initially left out of the moderation process, and the moderated marks are calculated at a later stage, using information from the rest of the group.

## **Annexure B**

### **THE APPROVAL PROCESS FOR SUBJECTS OFFERED BY OTHER ASSESSMENT BODIES**

#### 1.

##### **THE STATUS OF SUBJECTS OFFERED BY OTHER ASSESSMENT BODIES**

(1)

Candidates may offer a maximum of one subject developed by an assessment body other than the Department of Education and approved by the Minister of Education, in addition to the required seven compulsory subjects for the National Senior Certificate.

(2)

All requests regarding the offering of additional subjects to be listed in the National Senior Certificate must be directed to the Department of Education, in order to determine whether the Department of Education will consider the inclusion of the subject in the *National Curriculum Statement Grades 10-12*.

(3)

Additional subjects to be considered by the Department of Education for inclusion in the *National Curriculum Statement Grades 10-12* must be supported by the following documents:

(a)

a Subject Statement that includes the learning outcomes, assessment standards and content;

(b)

a Learning Programme Guideline;

(c)

a Subject Assessment Guideline; and

(d)

in the case of additional languages, the appropriate English Language level documents, i.e. Home, First Additional and Second Additional Language level should be used as a template.

(4)

An assessment body should undertake the development of the additional subject requested, as well as conduct the examination thereof.

(5)

However, no guarantee can be given to institutions that the Minister of Education will approve the developed documents submitted to the Department of Education. All development is done at own risk and any costs incurred must be borne by the applicant.

(6)

All relevant documents referred to in *subregulation (3)* above, must be submitted not later than April of the year prior to the planned implementation.

(7)

Once satisfied that all the above requirements have been met, the Department of Education will evaluate the subject in question and make a recommendation to the Minister of Education.

(8)

Subjects that have been approved by the Minister of Education for offering as part of the National Senior Certificate will be implemented for the first time in Grade 10 in the month of January, following the year of approval.

(9)

Assessment bodies and schools that wish to enrol learners for additional subjects to the National Senior Certificate, developed and assessed by an assessment body, should contact the Head of the relevant assessment body for details about the enrolment and assessment procedure for the additional subject.

(10)

The Department of Education could request assessment bodies, accredited by Umalusi and approved by the Minister of Education, to assist with the examination of the approved additional subject, offered by a learner as part of his or her 7-subject package.

### Annexure C

## **REQUIREMENTS FOR THE OFFERING OF MUSIC PROGRAMMES OF ACCREDITED ASSESSMENT BODIES**

A learner who requests to offer one of the approved music programmes offered by the assessment bodies, listed in *subregulation 8*, as one of the seven (7) compulsory subjects for the National Senior Certificate, or as an additional subject, i.e. as an eighth or ninth subject, may do so under the following conditions:

- (1) The learner enrolls for the music programme in the year that he or she registers for Grade 10 for the first time.
- (2) The selected music programme is registered as one of the Group B subjects of the National Senior Certificate, as contemplated in *paragraph C2* of Annexure C of the document, *National Senior Certificate: A qualification at Level 4 on the National Qualifications Framework (NQF)*, in January of the year of the first registration for Grade 10.
- (3) A learner completes the theory component of the selected music programme prior to his or her registration, in Grade 10, for the National Senior Certificate.
- (4) A learner registers for a music programme, offered by an assessment body listed in *subregulation 8*, at a minimum level of Grade 4, for the selected practical music examination in Grade 10, provided that such learner progresses to at least Grade 6 of that practical examination in his or her Grade 12-year, and that Grade 6 of the practical music examination and its theory component, offered by an assessment body, are regarded as the minimum acceptance level for the National Senior Certificate (Table 1).
- (5) Learners who register for the first time in Grade 10 for a music programme, offered by an assessment body, at a Grade 5 or Grade 6 level of the selected music programme, must progress to Grade 6 and 7 respectively in Grade 12, in order to fulfil the National Senior Certificate programme requirements, as contemplated in *paragraph 9* of the document, *National Senior Certificate: A qualification at Level 4 on the National Qualifications Framework (NQF)*.
- (6) Learners who register for the first time in Grade 10 for a music programme, offered by an assessment body at Grade 7 level of the selected music programme, must offer these programmes for the three-year period of Grades 10-12, in order to fulfil the National Senior Certificate programme requirements, as contemplated in *paragraph 9* of the document, *National Senior Certificate: A qualification at Level 4 on the National Qualifications Framework (NQF)*.
- (7) Assessment bodies, which have been approved by the Minister to offer music as a subject, must submit the theory and practical marks of their candidates separately. However, the final result obtained by a learner in the music programme offered by such assessment body, must be calculated as a combination of both the practical music examination and its theory component.

**TABLE 1 (A): ASSOCIATED BOARD OF THE ROYAL SCHOOLS OF MUSIC (ABRSM)**

<b>NSC Grade 10</b>	<b>NSC Grade 11</b>	<b>NSC Grade 12</b>
Grade 4 practical and Grade 4 theory	Grade 5 practical and Grade 5 theory	Grade 6 practical and Grade 6 theory
Grade 5 practical and Grade 5 theory	Grade 6 practical and Grade 6 theory	Grade 7 practical and Grade 6 theory

**TABLE 1 (B): TRINITY COLLEGE OF LONDON (TCL)**

<b>NSC Grade 10</b>	<b>NSC Grade 11</b>	<b>NSC Grade 12</b>

Grade 4 practical and Grade 4 theory	Grade 5 practical and Grade 5 theory	Grade 6 practical and Grade 6 theory
Grade 5 practical and Grade 5 theory	Grade 6 practical and Grade 6 theory	Grade 7 practical and Grade 6 theory

**TABLE 1 (C): UNISA**

<b>NSC Grade 10</b>	<b>NSC Grade 11</b>	<b>NSC Grade 12</b>
Grade 4 practical and Grade 3 theory	Grade 5 practical and Grade 4 theory	Grade 6 practical and Grade 5 theory
Grade 5 practical and Grade 4 theory	Grade 6 practical and Grade 5 theory	Grade 7 practical and Grade 5 theory

(8)

The theory components of the music programmes of the approved assessment body are as follows:

**TABLE 2**

<b>Practical music examination</b>	<b>Prerequisite</b>
Associated Board of the Royal Schools of Music (ABRSM) Practical music examination Grade 4	ABRSM music theory Grade 4
Associated Board of the Royal Schools of Music (ABRSM) Practical music examination Grade 5	ABRSM music theory Grade 5
Associated Board of the Royal Schools of Music (ABRSM) Practical music examination Grade 6	ABRSM music theory Grade 6
Associated Board of the Royal Schools of Music (ABRSM) Practical music examination Grade 7	ABRSM music theory Grade 6
Trinity College of London (TCL) Practical music examination Grade 4	TCL music theory Grade 4
Trinity College of London (TCL) Practical music examination Grade 5	TCL music theory Grade 5
Trinity College of London (TCL) Practical music examination Grade 6	TCL music theory Grade 6
Trinity College of London (TCL) Practical music examination Grade 7	TCL music theory Grade 6
Unisa Practical music examination Grade 4	UNISA theory Grade 3
Unisa Practical music examination Grade 5	UNISA theory Grade 4
Unisa Practical music examination Grade 6	UNISA theory Grade 5
Unisa Practical music examination Grade 7	UNISA theory Grade 5

(9)

A maximum of one of the Associated Board of Royal Schools of Music, or Trinity College of London, or the UNISA practical music examination, Grades 6 or 7, may be offered in combination with a National Senior Certificate subject, which may include Music.

(10)

Learners who offer one of the Associated Board of Royal Schools of music, or Trinity College of London, or the UNISA practical music examination, Grades 6 or 7, in combination with the subject Music, as listed in the *National Curriculum Statement Grades 10-12*, may not offer the same main instrument as a first and second instrument.

(11)

Learners may not offer a music programme, comprising a combination of components of the subject Music, as listed in the *National Curriculum Statement Grades 10-12*, for

the Associated Board of Royal Schools of Music's practical music examination, Trinity College of London's practical music examination, or UNISA's practical music examination.

(12)

Learners, who register for a music programme offered by an assessment body, must offer the required level or levels of the music programme entered for, for all three years of the National Senior Certificate programme, namely Grades 10 to 12. A learner must fulfil all the requirements in respect of School-Based Assessment for each level of the music programme that he or she enrolled for.

(13)

Learners will not be allowed to change from one assessment body to another, once they have enrolled at a specific assessment body in their Grade 10-year.

#### **Annexure D**

### **APPOINTMENT OF EXAMINERS AND INTERNAL MODERATORS: AN EXCERPT FROM THE PERSONNEL ADMINISTRATION MEASURES**

In addition to the general criteria referred to in [Regulation 23](#), the following minimum criteria should apply with regard to the selection and appointment of examiners (for the setting and moderation of examination question papers and accompanying memoranda) and internal moderators:

(1)

Advertisements for the posts of examiners and internal moderators should be included in a departmental circular, as well as published in the national or local press.

(2)

For the examination, set by the Department of Education, a selection panel shall be appointed by the Department of Education. Teacher unions that are members of the Education Labour Relations Council shall be allowed observer status on such a panel.

(3)

The following minimum criteria will apply in respect of the selection and appointment of candidates:

The appointee must:

(a)

have at least a recognised three-year post matric qualification, which must include the subject concerned at second or third-year level;

(b)

have extensive experience as a teacher in the particular subject or in a related area, and at least two (2) years teaching experience during the last five (5) years, at the appropriate level; and

(c)

he or she must have experience as a marker.

#### **Annexure E**

### **EXAMINATION PANELS**

1.

It is advantageous to appoint two to four examiners to set an examination question paper, in order to maintain the appropriate standard for a subject. This allows for the perspectives of two to four experts in the particular subject to be utilised in the setting of the examination question paper.

2. Advantages of the panel system:
  - (a) it allows for capacity-building, by including one or two persons who lack prior experience in the setting of examination question papers.
  - (b) If a panel of examiners is used, it is important that a chief examiner be appointed.
  - (c) The chief examiner takes final responsibility for the quality and standard of the examination question paper.
3. Duly binding contracts must be signed between the examiner and the Department of Education or the assessment body.

## **Annexure F**

### **PROCESSING OF EXAMINATION QUESTION PAPERS**

1. **TYPING OF EXAMINATION QUESTION PAPERS**
  - (1) A team of selected staff members, not exceeding four to five typists, supervised by a chief typist, may carry out the typing of examination question papers.
  - (2) They may do their work on personal computers, not linked to an external network, and all the work should be done in a restricted area.
  - (3) This task should be supervised by a senior staff member. The hard disks should be cleared and transferred to other relevant media, such as compact discs (CDs), which must then be locked away daily.
  - (4) All typists must complete a Contract of Confidentiality.
2. **EDITING OF EXAMINATION QUESTION PAPERS**
  - (1) Language editing may be carried out by specially appointed language editors.
  - (2) Alternatively, this function may be carried out by a select group of subject specialists, who must complete the Contract of Confidentiality document.
  - (3) The final editing should be the task of the chief examiner, and he or she, together with the internal moderator, should sign it off, certifying that he or she has checked the examination question paper in every respect and that the examination question paper is ready for printing.
  - (4) All members of the editing team must complete a Contract of Confidentiality.
3. **PRINTING OF EXAMINATION QUESTION PAPERS**
  - (1) The Department of Education and the assessment body must ensure the following:

- (a) A building with proper security, which could be used for typing, printing, packaging and storage.
  - (b) All examination activities may then be carried out in this safe building, allowing access only to specific persons.
  - (c) In terms of printing, the assessment bodies must move to establish in-house printing facilities.
  - (d) Where in-house printing is done, the person involved in the printing may also be involved in the packaging.
  - (e) The printing process must be carried out under the close supervision of a senior official.
  - (f) This official must be entrusted with the task of approving the quality and standard of the first batch of printed examination question papers.
  - (g) All members of the printing team must complete a Contract of Confidentiality.
- (2) Where assessment bodies choose to use external agencies for the purpose of printing, the agency concerned should be fully investigated to ensure that, *inter alia*, strict security measures are in place, and that the quality of the printing is of an acceptable standard. A detailed contract, a service level agreement and a Contract of Confidentiality must be signed between the assessment body and the external provider of printing services.

### **Annexure G**

## **PRACTICAL EXAMINATION IN COMPUTER APPLICATIONS TECHNOLOGY AND INFORMATION TECHNOLOGY**

1. Computer laboratories should be visited by the assessment bodies to ensure that the infrastructure is compliant. This must be done six (6) months prior to the commencement of the final National Senior Certificate examination.
2. The security measures to be taken in the subjects Computer Applications Technology (CAT) and Information Technology (IT), comprise two phases, namely the computer laboratory certification, and the invigilation during the examination sitting.
3. Local authorities should be informed about the examination timetable to ensure that load shedding is not applicable.
4. The following measures must be taken during the computer laboratory certification process:
  - (1) All schools offering Computer Applications Technology and Information Technology must complete a specified checklist that should be certified by the Principal of the school and submitted to the assessment body two (2) days prior to the commencement of the examination.
  - (2)

Two days prior to the examination in Computer Applications Technology and in Information Technology, the specific centre to be used for these examinations should be off limits to all candidates.

- (3) All electronic equipment at the school should be inspected prior to the examinations to ensure that it is in good condition and that the electricity cables and wall connections are in good working order. This will prevent a power failure caused by defective electrical apparatus.
- (4) The hardware and software must be checked to ensure that they are in working condition.
- (5) Only approved hardware configurations and versions of software may be used and certified.
- (6) The Computer Applications Technology and/or Information Technology teacher must ensure that all computers are "clean". No programmes or documents, hidden files and/or examples of any kind may be stored on the hard disks or the network. This should not be accessible to candidates during the examination.
- (7) E-mails, internet messaging systems must be de-activated during the examination.
- (8) Security should be in place to prevent candidates from accessing other computers, folders and/or documents.
- (9) Passwords, which are familiar only to the invigilators, should be used as a security measure during the examination session.
- (10) If an examination is conducted in two sessions, invigilators must ensure that all computers are clean when the second session starts. Candidates from two sessions should not make contact. This includes emptying the recycle bin.
- (11) Printing is optional
  - (a) Printers must print clearly.
  - (b) Use new cartridges, if possible.
  - (c) The assessment body is responsible for supplying sufficient suitable paper for printers.
- (12) Ensure that the following settings for each computer are correct:
  - (a) date and time; and
  - (b) regional settings (South Africa).
- (13) Disks or related storage media:
  - (a) The assessment body must supply each candidate with two clean formatted disks or related storage media (one for backup) to save his or her work on.
  - (b)

The responsible teacher must format these disks or storage media beforehand (even if new disks are being used).

- (c) The disks must be clearly marked. Alternatively, schools that do not work with disks, can submit all candidates' files on CDs. One backup CD must be submitted and one kept at the centre.

- (14) Peer-to-peer networks do not provide the same level of security as server-based networks. Therefore, the use of peer-to-peer networks is discouraged and schools should disconnect them for the duration of the examination and use the computers as stand-alone machines.

- (15) If schools use network facilities to conduct practical examinations, the following steps must be taken to prevent possible copying of files by candidates:

- (a) Separate folders must be created for each candidate on the appropriate network drive. The folder should be labelled with the candidate's examination number.

- (b) The data files required by each candidate must be copied into each folder or onto a suitable saving device.

- (c) It must not be possible for the candidate to access any other data folders on the network.

- (d) A separate user ID and password must be created for each candidate and these must be linked to a specific folder.

- (e) The user ID and password must differ from those used by the candidates during the normal course of their practical work.

- (f) Access codes should preferably be randomly generated, e.g. user ID: AxCyfDT, Password: ShwOfT.

- (g) E-mail and messaging systems between work stations must be deactivated during the examination, so that candidates are not able to send messages or files from one work station to another.

- (16) On some networks, it is possible to keep a log of access to folders. If the network makes use of this facility, it should be activated during the examination and retained after the completion of the examination, should any queries concerning irregularities arise.

- (17) Only legal copies of software may be used.

- (18) There should be at least two additional computers and printers available as backup.

- (19) An experienced Computer Applications Technology or Information Technology teacher must be present during all practical sessions, so that he or she can provide the necessary assistance if computers are faulty.

- (20) Invigilation

- (a)

A minimum of two teachers must be present as invigilators at each centre during the examinations in Computer Application Technology and Information Technology.

(b)

Additional invigilators should be present in accordance with Table 1:

**Table 1**

<b>Number of candidates</b>	<b>Computer Applications Technology/Information Technology teacher</b>	<b>Invigilators</b>	<b>End-of-session assistance</b>	<b>Total number of invigilators during the end of the session</b>
<b>Less than 10</b>	1	1	1	3
<b>10 – 25</b>	1	2	2	5
<b>26 – 40</b>	1	3	3	7
<b>More than 40</b>	2	4	4	10

(21)

Document retrieval

(a)

One week before the examinations commence, schools will receive a disk or related storage media with the documents for retrieval.

(b)

The responsible teacher must make a backup copy of this storage media immediately and determine if he or she can access the files.

(c)

It is the task of the responsible teacher to save this information on the network or on the hard drives of individual computers, or to prepare an individual disk for each candidate, one day prior to the commencement of the examination. Examination centres must then be off limits.

(d)

It is essential that each candidate's disk is carefully prepared a day before the examination session commences.

(e)

The teacher must ensure that each disk or storage medium is clearly marked with the candidate's examination number and the centre number.

(f)

Candidates may, under no circumstances, have access to these files prior to the examination.

(22)

The security process must be carried out under the supervision of the chief invigilator.

(23)

Schools will be permitted to run a maximum of two consecutive sessions of computer practical examinations per day. The necessary precautions must be taken in order to prevent communication between candidates in the two groups.

(24)

No cellphones, manuals and/or electronic documents are allowed inside the examination centre, unless otherwise specified by the Department of Education and the assessment body.

- (25) Candidates may use the help functions on the computer.

5. Procedure during the examination session

- (1) Invigilators play a vital role in ensuring that no copying of any kind takes place. Therefore, it is crucial that the minimum supervisory requirements are strictly adhered to.
- (2) The additional assistant(s) used at the end of the session (last 30 minutes of the session) must assist with printing and verifying that candidates' files are written to CDs and that the CDs can open. Invigilators must ensure that no editing or keying in takes place after the examination time has elapsed.
- (3) Candidates should save their work at regular intervals, e.g. every 10 minutes.
- (4) If candidates wish to do the **speed endorsement**, they will do so at the beginning of the examination session.
- (a) A Computer Applications Technology and/or Information Technology teacher will be present to manage the time of the session in accordance with to keyboarding rules.
- (b) The principals or centre managers and chief invigilators should be informed of the fact that a timed accuracy test will be conducted.
- (c) Although the instructions to invigilators state that no candidates may be admitted to the examination room earlier than ten minutes before the examination is due to start, candidates for the timed accuracy test must be allowed into the examination room earlier in order to practice on their computers and to get the computers ready for the examination.
- (d) Candidates must, however, terminate these activities fifteen minutes before the examination commences.
- (e) Candidates must be allowed fifteen minutes to read the instructions on the examination question paper and to prepare themselves for the timed accuracy test.
- (f) Immediately after the timed accuracy test has been completed, the answers must be printed and the invigilator must sign after the last printed word on each page.
- (g) **Only one printout per candidate is allowed** for the timed accuracy test. The candidates may leave the room only after the invigilator has ensured that all candidates have printed the timed accuracy test.
- (h) Candidates may use the spell-checker during the course of the timed accuracy test.

6. If a power failure occurs during the examination, the following procedure should be followed:

- (1)

Candidates are to remain in the computer room until the power supply has been restored.

- (2) Candidates may not communicate with each other while waiting for the power supply to be restored.
- (3) The time lost during the power failure should be allowed as additional examination time.
- (4) If, after two hours, the power supply has not been restored yet, the examination should be rescheduled.
- (5) The Department of Education and the assessment body should be informed of the power failure immediately.
- (6) When a power failure occurs, the centre manager should inform the local authorities immediately. He or she should also ascertain, if possible, how long the power failure is likely to last.
- (7) The disks with the work completed by the candidates are to be handed in and submitted to the assessment body.
- (8) In the case of an examination being cancelled due to a power failure, the candidates should write the backup examination question paper on another date.
- (9) In the event where two examination sessions are scheduled during an examination, namely in the morning and afternoon, the above procedure applies to both sessions.

7.

In the event of a computer breakdown during the examination, the following procedure should be followed:

- (1) Candidates must be moved to backup equipment immediately, and appropriate additional time must be provided to the candidates concerned. A period of 10 minutes must be provided in cases where the work has not been saved by the candidate.
- (2) No additional time will be allowed for work lost that was not correctly saved.
- (3) Candidates must complete the examination question paper within the set time.
- (4) Only the printing of results will be allowed after the set time has elapsed.
- (5) Printouts
  - (a) The printing of questions is optional, but invigilators must take all precautionary measures to ensure that the candidates' files are written to CD/storage media and are opening correctly.
  - (b) All other printouts must be handed in to the invigilator.
  - (c) These printouts must be destroyed after the conclusion of the examination.
  - (d) No printouts are allowed to leave the examination room.

8. In the event where two sittings per day take place, the following procedure must be followed:
- (1) The responsible teacher will divide the candidates into two groups.
  - (2) Group 1 will complete the examination during the first sitting and Group 2 will complete it during the second sitting.
  - (3) Candidates in Group 2 must meet at least one hour before the end of the first sitting. They will be invigilated and escorted to the computer room before the start of the second sitting and after all the candidates from the first sitting have left the computer room.
  - (4) No candidate may leave the examination room before the end of the examination session.
  - (5) No contact between the two groups is permitted during either of the two sessions.
9. Responsibilities of candidates
- (1) Each candidate must complete the information sheet and folder accompanying the examination question paper, including his or her examination number, the examination centre number and the workstation number.
  - (2) Candidates must further indicate what software packages they have used in completing the examination question paper.
  - (3) Each candidate must save his or her work on the disk/storage media/folder provided to him or her.
  - (4) These disks or storage media must be submitted, together with the printouts, to the examination section of the assessment body.
  - (5) After completion of the examination, the candidates must make sure that each file is stored on disk/folder and that each file opens from the storage media.
  - (6) Candidates must only submit the relevant files for marking.
  - (7) Where different groups of candidates are sharing the same computer and printer, it is essential that all candidates close all their files on the computer and remove all printouts before the computer and printer may be used by the next group of candidates.
  - (8) The second disk or other storage media should be used as backup for each candidate.
10. After the practical examination session, the following procedure must be followed:
- (1) The responsible teacher must make backup or duplicate copies of candidates' work on relevant storage media. One backup disk must be sent to the marking centre and one disk must be kept at the school.
  - (2) Printouts (optional) and disks must be handled in the following way:
    - (a)

Check that the printouts of a candidate are in the correct order. Only one printout per question must be submitted.

- (b) Place the candidate's information sheet, printouts and disk in a specially designed examination folder (standardised format). Not applicable if all the candidates' folders are written to one CD/DVD.
- (c) The examination number and the centre number must be clearly indicated.
- (d) Organise all folders numerically and place them in a marked box.
- (e) Answers to questions will be marked from the disks or storage media, therefore it is essential that disks or storage media reach the marking centre intact.

#### **Annexure H**

**PRO FORMA SERVICE CONTRACT ENTERED INTO BY,  
AND BETWEEN, THE  
PROVINCIAL ASSESSMENT BODY  
AND AN  
INDEPENDENT SCHOOL IN RESPECT OF  
REGISTRATION AS AN EXAMINATION CENTRE  
FOR THE NATIONAL SENIOR CERTIFICATE  
EXAMINATION  
FOR  
YEAR**

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This is only valid for the year of examination (inclusive of the supplementary examination)

**(NAME OF SCHOOL)**

1. The conclusion of this contract confirms that the independent centre has met the following minimum preliminary requirements for registration as an examination centre:
  - 1.1 sufficient space and appropriate furniture for the seating of candidates;
  - 1.2 adequate general security;
  - 1.3 a lock-up facility for the storage of examination material;

- 1.4 clearance – in terms of the applicable municipal by-laws - from the local fire and health services;
  - 1.5 provision of proper lighting;
  - 1.6 access to sufficient water and acceptable and adequate toilet facilities;
  - 1.7 teaching staff, suitably qualified and in sufficient numbers, to be trained and utilised as invigilators; and
  - 1.8 clear evidence of the ability to meet any and all costs relating to electricity, water, taxes and/or rental for the premises for the duration of the examination.
2. The Head of Department retains the right to re-evaluate the independent centre at any time in respect of any or all of the above-mentioned criteria.
  3. The Department of Education retains the right to monitor the conducting of the National Senior Certificate examination and related assessment processes at the independent centre at any time, without prior warning. This includes the appointment of a monitoring invigilator at the assessment centre for the duration of the National Senior Certificate examination.
  4. The independent centre, in concluding this service contract, commits itself to abide unquestionably by all regulations in respect of the conducting, administration and management of the National Senior Certificate examination and related assessment processes, as well as procedures contained in the applicable national and provincial regulations.
  5. Where, in the opinion of the Head of Department, and as a result of a preliminary investigation, developments at the independent centre may adversely affect the interests of candidates or the integrity of the examination or related assessment processes, the Department of Education reserves and retains the right to take control of the conducting, administration and management of the examination centre with immediate effect.
  6. Failure to abide by any of the regulations or other reasonable requests in respect of the conducting, administration and management of the National Senior Certificate examination and related examination processes, as well as procedures contained in the national or provincial regulations, may result in the deregistration of the independent centre as an examination centre by the Department of Education.
  7. All examination centres are required to operate on premises that were approved for this purpose by the Head of Department. Where relocation does occur, the new premises must again be inspected by the relevant provincial education department for evaluation as an examination centre.
  8. No examination centre may consider relocation within or less than sixty (60) days before the commencement of the final National Senior Certificate examination.
  9. Where relocation of an independent centre is unavoidable, due to external factors (e.g. a natural disaster), the following procedure must be strictly adhered to:
    - 9.1 The Head of Department must immediately be informed in writing, of the enforced relocation.

- 9.2 Learners and their parent(s) or guardian(s) must be informed.
- 9.3 The independent centre is obliged to ensure the presence of proper notices at the old centre, clearly indicating, *inter alia*, the location of the new venue, the name of a contact person and a telephone number for the contact person.
- 9.4 The relevant provincial education department will ensure the publication of such information in the printed/electronic media.

10.

**Procedure to follow when a centre relocates to new premises**

- 10.1 Should any centre relocate to new premises, their registration as an examination centre lapses immediately and they will be forced to seek registration at the new premises from the Department of Education.
- 10.2 In exceptional circumstances, and provided that the centre has an unblemished record as far as irregularities and administration are concerned, the Head of Department may allow the centre to continue to operate for the current final exit examination year only, during which time the centre must apply for, and be granted examination centre status in respect of the new premises. Should such permission be refused, or for any other reason not be granted, the registration of the centre shall lapse forthwith.
- 10.3 Should this process run over the year-end, no new candidates may be registered until a decision has been taken on the registration of the centre.
- 10.4 The onus is on the head of the institution (centre manager/principal) to inform the Head of Department timeously of the intention to relocate.
- 10.5 The Head of Department shall inform the chief invigilator, in writing, of the course to be followed.
- 10.6 If the application for the registration of the centre is unsuccessful, the Head of Department shall inform the head of the institution (centre manager/principal) that the registration of the centre has elapsed.
- 10.7 The Head of the institution shall have the right to respond to the decision and furnish reasons as to why the centre should not be deregistered.
- 10.8 The Head of Department shall consider such representation before making a final decision. This decision must be conveyed, in writing, to the Head of the institution. This decision is final.

**DEPARTMENT OF EDUCATION:**

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INITIALS & SURNAME	CAPACITY	DATE
WITNESS I	_____	
WITNESS II	_____	

**OWNER(S) OF INDEPENDENT SCHOOL:**

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INITIALS & SURNAME	CAPACITY	DATE
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WITNESS I \_\_\_\_\_

WITNESS II \_\_\_\_\_

**MANAGEMENT OF INDEPENDENT SCHOOL (IF DIFFERENT FROM OWNER(S)):**

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INITIALS & SURNAME	CAPACITY	DATE
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WITNESS I \_\_\_\_\_

WITNESS II \_\_\_\_\_

**Annexure I**

**APPOINTMENT AND DUTIES OF CHIEF INVIGILATORS AND INVIGILATORS**

**1.**

**CHIEF INVIGILATORS**

(1)

The Head of the assessment body must appoint the Principal of a school as chief invigilator. However, the Head of the assessment body reserves the right to appoint any competent school or office-based educator as chief invigilator, should the Principal of the school be deemed to be incapable of protecting the integrity of the external examination.

(2)

The chief invigilator may delegate his or her duties, in writing, to his or her representative, should he or she be absent, and must inform the assessment body accordingly.

(3)

The chief invigilator must appoint teachers, in writing, as invigilators before the start of the National Senior Certificate examination and provide the assessment body with a copy of the invigilation timetable.

(4)

The chief invigilator must have a thorough knowledge of the procedures, rules and regulations pertaining to the examination.

(5)

The chief invigilator must train the invigilators before the start of the National Senior Certificate examination.

**2.**

**INVIGILATORS**

(1)

At full-time examination centres, suitably qualified teachers from the teaching staff may be appointed as invigilators by the chief invigilator. At private centres, invigilators are to be appointed in accordance with the instructions of the Head of the assessment body.

(2)

Invigilators must be appointed, in writing, before the commencement of the examination. In the case of provincial assessment bodies, the relevant head office and regional or district office should be informed of all appointments.

(3)

In addition to the chief invigilator, one invigilator must be appointed per 30 candidates or part thereof for every examination session.

Example:

1 – 30 candidates:	1 invigilator
31 – 60 candidates:	2 invigilators
61 – 90 candidates:	3 invigilators

(4)

Under no circumstances should teachers be appointed to invigilate or even to relieve other invigilators when the subject that they teach is being written.

(5)

Relief invigilators may be appointed for sessions with a duration of two hours or longer. However, the relief period may only be for a maximum period of twenty minutes during the session.

### 3.

#### **BRIEFING OF CHIEF INVIGILATORS AND TRAINING OF INVIGILATORS**

(1)

Chief invigilators must attend a meeting where they are thoroughly briefed with regard to the procedures, rules and regulations pertaining to the examination.

(2)

Invigilators must be fully trained in invigilation and examination administration, by the chief invigilator, before they assume duty in the examination room.

### 4.

#### **INVIGILATION**

(1)

Duties of the Principal of the school or chief invigilator:

(a)

The Principal of the school or chief invigilator is fully responsible and therefore accountable for the examination conducted at his or her examination centre. He or she must be present at the examination centre for the entire duration of every examination session.

(b)

His or her specific examination-related duties may include the following:

(i)

The chief invigilator should select and appoint invigilators.

(ii)

The chief invigilator should draw up invigilation and relief invigilation timetables and submit these to the assessment body for approval.

(iii)

The chief invigilator should ensure the preparation and readiness of the examination rooms, which include the following:

(aa)

Candidates may not sit two to a desk or table.

(bb)

Candidates must be seated at least one metre apart.

(cc)

All subject matter, such as drawings, must be removed from the walls.

(dd) Chalk-boards must be cleared of any writing, formulae or drawings.

(ee) Examination rooms must be sufficiently ventilated and illuminated.

(ff) Where the examination venue is sufficiently big enough to accommodate all the candidates, candidates should be allocated permanent seats for the duration of the examination.

(iv) The chief invigilator and the invigilators must ensure that no material and/or equipment that are not required for the writing of the examination are present in the examination room, including cell phones.

(v) The chief invigilator should read the instructions relating to the examination to candidates, and inform them that they could forfeit their results should they contravene any of the instructions.

(vi) The chief invigilator should before the commencement of the examination session, point out that candidate must read all the instructions carefully, so as to ascertain whether they should answer all the questions or only a certain number of questions.

(vii) The chief invigilator should ensure that candidates have ten minutes reading time per examination question paper, during which time which no writing may take place, before the official commencement of the examination. This is over and above the reading of any other instructions that may be necessary.

(viii) Before opening the examination question papers in the examination room, the chief invigilator and an invigilator should ascertain that the examination question paper is the correct examination question paper, in terms of the time and date specified on the examination timetable.

(ix) The chief invigilator should open the examination question paper envelopes in front of the candidates and remain in the examination room until the examination question papers have been issued to candidates.

(x) The chief invigilator should visit the examination room frequently during each session, and ensure that a high standard of invigilation is maintained.

(xi) The chief invigilator should draw up a seating plan, indicating the examination room with the desk arrangements and the examination numbers of candidates. Such seating plan must be submitted for each examination question paper written. If the chief invigilator prefers to combine groups in one hall or room, the arrangement will have to be reflected on the plan.

(xii) The chief invigilator should ensure that there are no unauthorised persons in and around the examination room.

(xiii)

The chief invigilator should ensure that all candidates are advised timeously of requisites such as rulers and drawing instruments to be used in the writing of specific subjects.

(xiv)

The chief invigilator should ensure that the invigilators complete the absent and present columns on the mark sheets correctly.

(xv)

The chief invigilator should assist with relief invigilation in centres.

(xvi)

The chief invigilator should ensure that examination answer scripts are properly batched and packed according to the candidates' examination numbers, once the session has ended. The mark sheet pertaining to a specific batch of examination answer scripts must be included with that batch.

(xvii)

Examination answer scripts should be sealed in a special envelope provided for such purpose, in order to prevent them being tampered with.

(xviii)

The collection of the examination answer scripts and the delivery of the examination answer scripts to the regional, district or circuit office, as arranged by the regional, district or circuit office, is the responsibility of the chief invigilator.

(xix)

Chief invigilators should ensure that all equipment, including computers, printers, typewriters and drawing boards, to be used by candidates, are serviced timeously and are in perfect working condition, and that they are available at the examination venue on the day of the examination.

(xx)

The chief invigilator should collect, check and sign all invigilation claim forms, if applicable.

(xxi)

The chief invigilator should submit written reports on all suspected cases of irregularities to the assessment body without delay.

(2)

Specific duties of invigilators

(a)

Admission of candidates to, and their exit from the examination room.

(i)

Ensuring that every candidate produces his or her admission letter, as well as proof of identity.

(ii)

Ensuring that candidates are seated at least thirty minutes before the commencement of the examination session.

(iii)

The invigilator should ensure that the candidates have ten minutes reading time per examination question paper.

(iv)

Only in exceptional circumstances may a candidate be admitted to the examination room after the commencement of an examination, but not after an hour has passed.

(v)

A candidate may not leave the examination room during the course of the first hour of the examination session.

(vi)

Only candidates who have registered for the examination, the invigilators concerned, and the chief invigilator or an authorised representative of the assessment body, may be present during an examination.

(vii)

In an emergency a candidate may leave the examination room temporarily but only under supervision.

(viii)

The invigilator should move around the examination room constantly, but without disturbing the candidates.

(ix)

Any candidate contravening the rules and regulations of the examination should be referred to the chief invigilator without delay.

(x)

The invigilator must check whether a candidate's examination number, which appears on his or her timetable, is written at the top of each examination answer book, and at the top of each loose sheet of paper used by that candidate during the examination.

(b)

Instructions to candidates

The invigilator must read the instructions to candidates during an information session before the actual start of the examination and, if necessary, again at the start of each examination session.

(c)

The following is a guideline of instructions that may be read to candidates:

(i)

*No explanation of examination questions may be asked for or given. Only questions relating to the number of questions to be answered, and whether some questions are compulsory, would be answered.*

(ii)

*As soon as the candidates have handed in their examination answer scripts, they must leave the examination room. They will not be allowed to leave the examination room within the first hour of the session. In an emergency, a candidate will be allowed to leave the examination room under supervision.*

(iii)

*Candidates must not assist other candidates or try to assist a candidate in getting help or communicating with anybody. Any questions should be directed to the invigilator.*

(iv)

*Candidates may not create a disturbance in the examination room or behave in an improper or unseemly manner.*

(v)

*Candidates may not disregard the instructions of the invigilator.*

(vi)

*Candidates may not have a book, memorandum, notes, maps, photos or other documents or papers (including unused paper), or any other material, which may be of help to them in the examination, other than that which was provided to them by the invigilator, and their letters of*

*admission or permits in their possession, while they are in the examination room.*

(vii)

*Only calculators, as approved and prescribed, may be used by a candidate in the examination, except in subjects where these are indicated on the examination question paper as being prohibited.*

(viii)

*If candidates do not obey these instructions, they render themselves liable to suspension from current and future examinations, and the assessment body may, in such an event, refuse to give them credit for other examination question papers written.*

(ix)

*All aids and answer books, as well as answer sheets issued to candidates, must be handed in before they leave the examination room.*

(x)

*Any errata on a specific examination question paper must be read to the candidates concerned.*

(xi)

*Candidates are allowed ten minutes reading time of the examination question paper before the official commencement of the examination, during which time no writing of any kind may take place.*

(d)

The chief invigilator must also refer candidates to the last two pages of the examination timetable, where the Rules and Regulations for Examinations are printed.

## 5.

### **EXAMINATION ANSWER SCRIPTS**

(1)

All work, including rough work, must be done on the examination answer script, answer book or papers provided. Candidates may not be given additional examination answer books for rough work. All used answer books, including spoiled answer books, are to be collected.

(2)

Strict attention must be paid to the instructions, if any, printed at the top of an examination question paper, on using separate answer sheets for particular sections or parts of an examination question paper.

(3)

Invigilators may not issue a second answer book to a candidate before they have satisfied themselves that the first answer book is full, except where *subregulation 5(2)* is applicable. Invigilators must ensure that candidates do not receive more answer books than they require. Where more than one (1) answer book is used, every answer book is to be numbered to indicate the number of the answer book and the total number of answer books handed in, 1 of 1 (only one answer book was handed in), 2 of 3 (the second answer book of a total of 3).

(4)

Under no circumstances may the names of the candidates or the name of the institutions where they are enrolled, appear anywhere on their answer books.

(5)

Under no circumstances may a candidate be allowed to remove either a used or an unused examination answer script from the examination room.

(6)

Aerial photographs and topographic maps are to be collected on conclusion of the examination and these may become the property of the school concerned for future use in the teaching of Geography.

## 6.

### HANDLING OF EXAMINATION QUESTION PAPERS

- (1) Before the examination commences, the chief invigilator is to draw the attention of all candidates to:
  - (a) the main instructions on the examination timetable and on the answer books;
  - (b) the fact that no recognition will be given to examination answer scripts or any other answer sheets that candidates omit to hand in immediately upon conclusion of the examination session in the examination question paper concerned; and
  - (c) the number of questions to be answered.
- (2) After the examination question papers have been distributed to candidates, the invigilator must ask candidates to go through the examination question paper with him or her, page by page, checking it against the certified copy, in order to ensure that:
  - (a) the number of each page is correct;
  - (b) the name of the examination question paper is the same on each page; and
  - (c) the frame/border around the printed matter is complete.
- (3) Invigilators are to check against a control list (mark sheet) that every candidate has received the correct examination question paper for the subject the candidate entered. An examination question paper is therefore not to be issued simply on a show of hands.
- (4) Invigilators may not, on any account, read aloud any question or part of a question to a candidate, or draw attention to any error which he or she may have observed in any of the examination questions, unless an erratum has been included in the examination question paper. They may not respond to any enquiry from a candidate in a manner that could be regarded as an explanation of the question.

## 7.

### INVIGILATION SESSION

- (1) Invigilators must ensure that candidates write their correct identity numbers/examination numbers on their examination answer scripts.
- (2) Chalk-boards must be cleared of all writing and drawings. All drawings and maps must be removed from the walls.
- (3) Each session must commence and be terminated according to the time specified on the examination timetable.
- (4) An invigilator may not knit, read, mark or do any work that will hamper him or her in the execution of his or her duties as an invigilator. Cellular phones may not be used by invigilators under any circumstances.
- (5)

An invigilator may not sit down, but must move about the examination room without disturbing the candidates.

- (6) An invigilator may not assist a candidate with the answering of any examination question or explain any "unclear" part of the examination question paper to a candidate.
- (7) An invigilator may not invigilate a subject which he or she teaches in any grade, except where the subject demands it, e.g. Information Technology, Computer Application Technology and Engineering Graphics and Design.
- (8) Invigilators may not cause any disturbance.
- (9) Invigilators may not leave the examination room or leave the candidates unattended.
- (10) An invigilator may not invigilate from outside the examination room by looking through a window.
- (11) Invigilators may not allow candidates to copy, or assist them, or allow candidates to be assisted by anyone during the examination.
- (12) Copies of examination question papers may not be given to anybody outside the examination room, nor may they be taken out of the examination room before the session has ended and the candidates have left the room.
- (13) Invigilators must adhere to the special examination requirements of certain subjects.

## **8.**

### **RELIEF INVIGILATION**

- (1) All invigilators invigilating sessions longer than two hours should be relieved for a maximum of 20 minutes.
- (2) The Principal of the school or the chief invigilator acts as relief invigilator for the first six invigilators.
- (3) One (1) relief invigilator may be appointed for each six invigilators or part thereof, for example:  
  
1 - 6 invigilators: Principal of the school head or the chief invigilator;  
7 - 12 invigilators: Principal of the school or the chief invigilator, + 1 relief invigilator.

## **9.**

### **PACKAGING OF THE EXAMINATION ANSWER SCRIPTS BY INVIGILATORS AFTER EACH SESSION**

- (1) Invigilators should:
  - (a) Check that candidates who were present, and who wrote the examination question paper, are marked present, and those who were absent are marked absent.
  - (b) Arrange the examination answer scripts that belong to a specific mark sheet in numerical order, in accordance with the examination numbers appearing on the mark sheet. For example, if there are hundred and fifty (150) candidates, there

should be three (3) mark sheets and three (3) piles of examination answer scripts.

- (c) Place the mark sheet that belongs to a specific pile of examination answer scripts on top of the pile of examination answer scripts.
- (d) Wrap the examination answer scripts and the mark sheets and write the centre number, the subject, for example Home Language or First Additional Language, and the number of examination answer scripts on the wrapper.
- (e) Make sure that all the examination answer scripts are handed in and that each parcel of examination answer scripts is accompanied by the relevant mark sheet.
- (f) Deliver the examination answer scripts to the assessment body or the official responsible for the collection of the examination answer scripts. Examination answer scripts should be returned daily to the assessment body by the chief invigilator, or by a designated official.

## 10.

### DEALING WITH MARK SHEETS

- (1) Mark sheets must be correctly completed by the invigilators on duty in the examination room and checked with the help of the chief invigilator. The following should be noted with regard to mark sheets:
  - (a) There must be at least one mark sheet for each subject written at a centre.
  - (b) Different mark sheets are provided for languages.
  - (c) If there are more candidates entered for the subject that can appear on one mark sheet further mark sheets, each with an own unique number must be created.
  - (d) The examination numbers of candidates should appear on the mark sheets.
  - (e) It is imperative that mark sheets be accompanied by the correct set of examination answer scripts.
  - (f) The only "writing" which invigilators should do on the mark sheet is the completion of the "absent or present" columns.
  - (g) All mark sheets must be returned to the provincial head office via the regional, district or circuit office concerned, even if none of the candidates wrote that particular examination question paper.
  - (h) Under no circumstances should any information be added to the mark sheet.
  - (i) Information appearing on a mark sheet may not be deleted or changed.
  - (j)

If a mark sheet has not been included with the examination question papers, this should be reported by the Principal of the school or by the chief invigilator to the assessment body.

(k)

In instances where mark sheets are not included with the examination question papers, hand-written copies should be completed and submitted.

## **Annexure J**

### **RETURN OF EXAMINATION ANSWER SCRIPTS**

1. Examination answer scripts should either be fetched from the examination centre by an assessment body official, or delivered to the assessment body by the chief invigilator or a representative.
2. A register should be kept at all points where examination answer scripts are being transferred. Officials involved in the transfer of examination answer scripts should sign this register, which should be kept at the regional or district office until the end of the examination and then transferred to the provincial head office.
3. Under no circumstances should examination answer scripts be kept overnight at an examination centre.
4. Examination answer scripts should also be sealed in a special envelope provided for this purpose, in order to prevent them from being tampered with.
5. When examination answer scripts are received at the assessment body where they should be checked against the relevant mark sheet, before being transferred to the marking centre. A record should be kept of all examination answer scripts transferred to the marking centre, and the marking centre manager must sign for the receipt of these examination answer scripts.
6. A bar code tracking system, using hand-held scanners, is recommended.

## **Annexure K**

### **APPOINTMENT OF MARKERS: AN EXCERPT FROM THE PERSONNEL ADMINISTRATION MEASURES**

"4.3

In respect of setting of an examination question paper where no suitable candidate can be recruited with the set minimum qualifications or experience, the Director-General (Education) may approve the appointment of a suitable candidate with other appropriate post school qualifications or with less than the required experience, after consultation in this regard with the relevant teacher unions. The final decision with regard to the appointment of examiners and internal moderators rests with the Director-General." (*Personnel Administration Measures (PAM), pp. 104 & 105*). (Refer to a paragraph)

Markers are appointed in terms of the Personnel Administration Measures (PAM). The criteria for the appointment of markers are as follows:

"4.4

The criteria to qualify for appointment as markers (including senior markers, deputy chief markers and chief markers) should, in addition to those referred to in *paragraph 4.1* of the PAM document, include the following:

- (1) a recognised three-year post school qualification, which must include the subject concerned at second or third year level or other appropriate post matric qualifications;
- (2) appropriate teaching experience, including teaching experience at the appropriate level, in the subject concerned;
- (3) language competency; and
- (4) in addition to the above criteria, preference should be given to serving teachers who are presently teaching the subject concerned.

The provision in *paragraph 4.2* of the PAM document for the relaxation of requirements in respect of qualifications and experience also applies in respect of these appointments.

The selection of markers for a specific examination question paper should be carried out by a panel comprising:

- (1) the chief examiner;
- (2) relevant departmental officials; and
- (3) teacher unions (as observers).” (*Personnel Administration Measures (PAM)*, p. 105).

## **Annexure L**

### **MARKING PROCEDURES**

1. Marking will commence at the termination of the examination.
2. The marking procedure, in terms of the different subjects, should be left to the chief marker, in consultation with the assessment body.
3. Chief examiners must submit detailed plans with regard to the marking procedure and with special emphasis on:
  - (a) the flow of examination answer scripts through the marking teams;
  - (b) the mechanisms for controlling the flow of examination answer scripts;
  - (c) the moderation by senior markers;
  - (d) the checking of totals;
  - (e) the completion of mark sheets; and
  - ( f ) the dispatching of completed examination answer scripts.

## DEALING WITH DISCIPLINE AND MISCONDUCT - EXAMINATION IRREGULARITIES

1.

## STRUCTURES FOR THE HANDLING OF IRREGULARITIES

(1)

## The National Examinations Irregularities Committee (NEIC)

The NEIC is a committee, established by the Minister, to support the provincial departments of education in ensuring that the credibility of the examination is maintained. This committee will coordinate the handling of irregularities on a national level, and will ensure that a consistent approach is implemented in the handling of irregularities across all nine provincial departments of education.

(a)

## Composition of the NEIC

(i)

The NEIC will comprise the following persons:

(aa)

Two representatives from the Department of Education, appointed by the Director-General. The representative from the Chief Directorate: Educational Measurement, Assessment and Public Examinations will serve as chairperson and the second representative will be nominated from the Department of Education's Legal Section.

(bb)

One official from each of the provincial departments of education, nominated by the Head of Department.

(cc)

One representative from each of the independent assessment bodies.

(ii)

Additional members with observer status:

(aa)

one representative from Higher Education South Africa;

(bb)

one representative from the South African Qualifications Authority;

(cc)

one representative from Umalusi; and

(dd)

one representative from each of the teacher unions recognised by the Education Labour Relations Council (ELRC).

(iii)

The members of the Committee, including the chairperson, will be appointed by the Director-General. The Minister will appoint the additional members with observer status, based on nominations from the respective organisations/institutions.

(b)

Responsibilities of the NEIC

(i)

The National Examinations Irregularities Committee will have jurisdiction over any alleged examination irregularity relating to, or occurring during the various stages of the assessment process. These include:

(aa)

registration of candidates;

(bb)

compilation of internal assessment marks;

(cc)

monitoring and moderation of internal assessment;

(dd)

setting and moderation of examination question papers;

(ee)

writing of the examination;

( ff )

marking of examination answer scripts;

(gg)

capturing of marks;

(hh)

standardisation of results;

(ii)

the release of examination results; and

(jj)

the certification process.

(ii)

All decisions taken by the Provincial Examinations Irregularities Committees (PEICs), relating to irregularities in the above stages of the assessment process, will be subject to final ratification by the NEIC.

(c)

Functions of the NEIC

(i)

The NEIC will be responsible for co-ordinating, as well as supporting the PEICs in the handling of examination irregularities in their respective provinces.

(ii)

The NEIC will co-ordinate, as well as support the Examinations Irregularities Committees of independent assessment bodies.

(iii)

The NEIC will also ensure that examination irregularities are handled in a consistent manner across the country. This will be accomplished by taking responsibility for the following:

(aa)

supporting the provincial departments of education in the development of capacity relating to the identification, investigation and reporting of examination irregularities;

(bb)

supporting the provincial departments of education in the establishment of appropriate systems and structures for the handling of irregularities;

(cc)

providing time-frames for the finalisation of examination irregularities that occur during the different stages of the assessment process, so as to ensure that a reasonable number of these examination irregularities are finalised prior to the release of the results;

(dd)

ensuring that all PEICs comply with the requirements relating to the submission of irregularity reports to Umalusi.

(ee)

evaluating the reports on irregularities received from the PEICs and from the Examinations Irregularities Committee of independent assessment bodies, so as to ensure that the irregularities are dealt with appropriately;

( ff )

reviewing the recommendations of the PEICs and the Examinations Irregularities Committee of independent assessment bodies relating to sanctions to be imposed, so that there is consistency in the severity of sanctions;

(gg)

supporting the provincial departments of education in the handling of appeals submitted to the department;

(hh)

assisting the provincial departments of education in identifying institutions that have recurring irregularities and establishing whether those institutions have sufficient credibility to be registered as examination centres, and making recommendations on action to be taken; and

(ii)

investigating examination irregularities as requested by the Director-General.

(2)

The PEIC

(a)

Each provincial education department must establish a PEIC.

(b)

The PEIC must take responsibility for the handling of examination and assessment irregularities at provincial level.

(c)

The Head of Department must appoint the members of the PEIC.

(d)

The composition of the PEIC should be as follows:

(i)

Five officials who are in the employ of the provincial department of education, are recommended to the Head of Department for appointment by the Provincial Examinations Board.

(ii)

The provincial education department must include persons with competencies and expertise in the following areas:

(aa)

the education system as a whole;

(bb)

the examination system;

(cc)

practising as a professional legal practitioner;

(dd)

subject area specialisation, who will be co-opted as the need arises; and

(ee)

labour relations.

(iii)

In addition, the following persons will be appointed as observers:

(aa)

one representative from Higher Education South Africa;

(bb)

one representative from the South African Qualifications Authority;

(cc)

one representative from Umalusi; and (dd) one representative from each of the recognised teacher unions that are active in the province, or recognised by the Education Labour Relations Council.

(iv)

All members of the PEIC, as well as the chairperson, will be appointed by the Head of Department. Additional members with observer status will be appointed by the MEC.

(e)

Jurisdiction of the PEIC

(i)

The PEIC has jurisdiction over any alleged examination irregularities, relating to, or occurring during the following processes:

(aa)

the compilation, monitoring and moderation of internal assessment;

(bb)

the printing and distribution of examination question papers;

(cc)

writing of the final National Senior Certificate examination;

(dd)

the marking of examination answer scripts;

(ee)

the processing and release of examination results; and

( ff )

any other irregularities related to the examination.

( f )

Functions of the PEIC

(i)

The PEIC must investigate and make recommendations regarding appropriate action to the Head of Department, or his or her representative, in respect of the following:

(aa)

misconduct by educators in the compilation, monitoring or moderation of internal assessment;

(bb)

misconduct by any person involved in any one or all processes with regard to assessment;

(cc)

misconduct by chief invigilators, examination monitors or officials involved in the administration, running, management or monitoring of examinations;

(dd)

misconduct by invigilators or any other person involved in the administration, management or monitoring of examinations at public or independent schools, or learning institutions, which are registered as examination centres with the relevant provincial education department;

(ee)

examination irregularities involving candidates in public or independent schools, or learning institutions, which are registered as examination centres with the relevant provincial education department;

( ff )

irregularities in the appointment of chief invigilators, invigilators, internal moderators, chief examiners, chief markers, deputy chief examiners, deputy chief markers, senior markers, markers, monitors or administrative assistants;

(gg)

any action by an outside body or person that may impact adversely in any way on the successful administration, management or monitoring of the assessment or examination, or compromise the integrity and legitimacy of such assessment or examination;

(hh)

examination irregularities, based on reports or complaints received from any quarter; and

(ii)

any other irregularities related to the examination.

(ii)

The PEIC may utilise the services of other officials from provincial education departments to conduct investigations and hearings. These officials will operate under the jurisdiction of the PEIC and will report to the PEIC.

(3)

The Independent Examinations Irregularities Committee

(a)

Such independent assessment body must establish an Examinations Irregularities Committee.

(b)

The composition and functions of the Examinations Irregularities Committee, established by the independent assessment bodies, may be similar to that of the PEIC.

(c)

The Examinations Irregularities Committee, contemplated in subregulations (3) (a) and (3) (b), must handle and report all irregularities to the NEIC.

(4)

School Assessment Irregularities Committee

(a)

Each school must establish a School Assessment Irregularities Committee (SAIC) whose composition and functions will be determined by the provisions of the policy of the assessment body.

(b)

The SAIC must be established by the school principal, subject to the approval of the Head of Department or an official delegated by the Head of Department. This committee will ensure the credibility of internal assessment and examinations conducted at school, by co-ordinating the handling of irregularities and ensuring a consistent approach in the handling of irregularities.

(c)

The SAIC must consist of the following persons:

(i)

The district official serving the school should be the chairperson of the SAIC.

(ii)

The School Principal.

(iii)

One person from the School Management Team (SMT).

(iv)

One person from the teaching staff who is not a member of the SMT.

(v)

One member of the School Governing Body (SGB).

(d)

One District official nominated by the District Manager will serve as the ex-officio member of SAIC.

(e)

In addition, one representative from each of the teacher unions recognised by the ELRC, will be nominated as observers.

( f )

All members of the SAIC will be appointed by the District Manager.

(g)

The duration of the term of office of the SAIC will be three years.

(h)

All vacant posts must be filled and approved by the Head of the District Manager or his or her delegate.

(i)

The jurisdiction of the SAIC:

(i)

The SAIC will have jurisdiction in any alleged internal assessment irregularities.

(ii)

These irregularities may occur during the various stages of the internal assessment process, which includes:

(aa)

Compilation of internal assessment marks.

(bb)

Monitoring and moderation of internal assessment.

(iii)

Conditions under which educators conduct internal assessment.

(iv)

Conditions under which learners are internally assessed.

(v)

Capturing and processing of data in respect of internal assessment.

(vi)

Any other irregularity related to internal assessment.

(vii)

Setting and moderating of internal assessment question papers.

(k)

The functions of the SAIC

(i)

The SAIC must—

(aa)

Work closely with the examination official based at the District offices in respect of all internal assessment irregularities that could occur at all stages.

(bb)

Investigate all irregularities by educators in the internal assessment process.

(cc)

Investigate all internal assessment irregularities by any other person involved in internal assessment processes.

(dd)

Investigate all irregularities committed by learners during the internal assessment process.

(ee)

Investigate any other internal assessment irregularity as and when requested by the district/regional director or his or her nominee.

( ff )

Report all internal assessment irregularities to the PEIC.

(l)

Irregularities relating to internal assessment and Practical Assessment Tasks that may be handled by the SAIC:

(i)

Irregularities involving candidates during internal assessment and the conduct of Practical Assessment Tasks, may include the following:

(aa)

A candidate who refuses to abide by any or all of the minimum requirements in respect of the compilation of a mark for internal assessment in a subject, with no valid reason;

(bb)

A candidate who presents work that is not his or her original work. This may take various forms and may include the following:

(aaa)

Copying verbatim from another source. In this case, if the teacher is suspicious and has evidence of sections or the complete assignment or project being lifted verbatim from another source, this must be declared an irregularity;

(bbb)

An assignment/project that is not his or her own effort. This may have been completed by another learner, his or her parent, or purchased;

(ccc)

Reproduction of an assignment or project from another learner and there is evidence of such copying;

(ddd)

Work that has been previously presented and for which marks were awarded, which could either be his or her own effort or that of another individual;

(eee)

The whole or part of a portfolio that is not his or her own, but that of another learner from the same school/learning institution or another school/learning institution; and

(fff)

A candidate who resorts to any dishonest act to mislead the educator in terms of the authenticity/originality of the portfolio presented.

(cc)

A candidate who, in respect of a component of a mark for internal assessment or Practical Assessment Tasks that is completed under controlled conditions does the following:

(aaa)

Creates a disturbance or intimidates others, or behaves in an improper or unseemly manner despite a warning;

(bbb)

Is drunk or behaves in a disorderly manner;

(ccc)

Disregards the arrangements or reasonable instructions of the educator despite a warning; or

(ddd)

Continues to disregard assessment regulations despite a warning.

(dd)

A candidate making a false statement in respect of the authenticity of a particular component of the mark for internal assessment.

(ii)

Irregularities involving teachers and other assessment officials during internal assessment or Practical Assessment Tasks may occur during the following stages at the school or learning institution:

(aa)

The compilation of the mark for internal assessment and Practical Assessment Tasks;

(bb)

The monitoring or moderation of the mark achieved in respect of internal assessment and Practical Assessment Tasks;

(cc)

The capturing and processing of data; and

(dd)

Investigations in respect of suspected internal assessment or Practical Assessment Tasks irregularities.

(iii)

The assessment irregularities may include the following:

(aa)

The teacher wilfully and intentionally, without a valid reason, fails to satisfy the requirements or excludes one or more assessment tasks from the compilation of the final assessment marks;

(bb)

The teacher alters, in other words, either decreases or increases the marks of candidates without the approval of the internal moderator or head of the institution;

(cc)

The teacher wilfully provides assistance to a learner that advantages a learner unfairly in comparison to other learners; and

(dd)

The teacher who collaborates with a candidate who presents the whole or part of the evidence of learner performance that is not her or his own work.

(m)

Reporting

The SAIC must report all internal assessment irregularities, in writing, to the Provincial Examinations Irregularities Committee (PEIC), within seven days of the alleged irregularity. In cases where an irregularity requires an investigation, the initial reporting must be followed by a detailed report on conclusion of the investigation.

2.

## CATEGORISATION OF EXAMINATION IRREGULARITIES

(1)

Examination irregularities must be categorised as follows:

(a)

Administrative errors or omissions;

(b)

Behavioural Offences; and

(c)

Acts of Dishonesty.

3.

## IDENTIFICATION OF IRREGULARITIES IN RESPECT OF INTERNAL ASSESSMENT AND PRACTICAL ASSESSMENT TASKS

(1)

Candidates

(a)

Irregularities in respect of internal assessment, and involving candidates, may occur via administrative errors or omissions, or they may derive from behavioural offences or acts of dishonesty.

(b)

This category of irregularity includes:

(i)

A candidate not fulfilling the minimum requirements in respect of the compilation of a mark for internal assessment in a subject.

(ii)

A candidate refusing to abide by any or all of the minimum requirements in respect of the compilation of a mark for internal assessment in a subject and Practical Assessment Tasks.

(iii)

A candidate who, in respect of any component of a mark for internal assessment, completed under controlled conditions, is guilty the following:

(aa)

continues to create a disturbance or intimidate others, or behave in an improper or unseemly manner, despite a warning;

(bb)

drunk or disorderly conduct;

(cc)

persists in disregarding the arrangements or reasonable instructions of a teacher, despite a warning;

or

(dd)

continues to disregard assessment regulations, despite a warning.

(iv)

A candidate knowingly making a false statement in respect of the authenticity of a particular component of the mark for any part of the internal assessment in a subject, or the internal assessment mark for the subject as a whole.

(2)

Examination officials

(a)

Irregularities in respect of internal assessment could be committed by:

(i)

Educators, such as teachers or Principals at schools or learning institutions, or staff members from Professional Support Services or related directorates, or circuit managers, whose normal job description automatically incorporates such duties.

(ii)

Teachers in the immediate employ of an independent school or learning institution, registered as an examination centre with the relevant provincial education department who, in the performance of assessment duties, are acting under the jurisdiction of the relevant provincial education department.

(iii)

Administrative staff members whose duties include work being done in respect of examination, certification and accreditation.

(iv)

Administrative staff members in the immediate employ of an independent school or learning institution, registered as an examination centre with the relevant provincial education department who, in the performance of examination duties, are acting under the jurisdiction of the relevant provincial education department.

(v)

Irregularities in respect of internal assessment, involving examination officials, may be identified at any of the following stages:

(aa)

The compilation of the mark for internal assessment at the school or learning institution.

(bb)

The monitoring or moderation of the mark achieved in respect of internal assessment.

(cc)

The capturing and processing of data.

(dd)

An investigation in respect of suspected internal assessment irregularities.

(vi)

The assessment irregularities may include the following:

(aa)

The teacher wilfully and intentionally, without any valid reason, fails to satisfy the requirements, or excludes one or more assessment tasks from the compilation of the final assessment marks.

(bb)

The teacher alters, in other words, either decreases or increases, the marks of candidates without the approval of the internal moderator or head of the institution.

(cc)

The teacher wilfully provides assistance to a learner that gives such learner an unfair advantage compared to other learners.

(dd)

The teacher collaborates with a candidate who presents an entire portfolio or part thereof, which is not his or her own work.

4.

#### IDENTIFICATION OF EXAMINATION IRREGULARITIES IN RESPECT OF THE NATIONAL SENIOR CERTIFICATE EXAMINATION

(1)

Examination irregularities, caused by administrative errors and omissions

(a)

Administrative errors and omissions include:

(i)

Failure of the candidate to produce an identity document (as opposed to a fraudulent identity document).

(ii)

Failure of the invigilator to check identity documents.

(iii)

Late delivery of examination question papers at an examination centre.

(iv)

An incorrect or no examination number.

(v)

The examination number not appearing on the mark sheet.

(vi)

An examination answer script that is damaged.

(vii)

An examination answer script that is found amongst examination answer scripts from another examination centre or a different subject.

(viii)

Examinations conducted at an examination centre other than the examination centre where the candidate is registered.

(ix)

An examination answer script that is lost or missing.

(xi)

Any other technical difficulty or problem with either examination answer scripts, answer sheets or proceedings.

(2)

Examination irregularities involving candidates, arising from behavioural offences or wilful disobedience with regard to regulations or instructions issued during an examination.

(a)

This category of examination irregularity includes:

(i)

Creating a disturbance or intimidating others or behaving in an improper or unseemly manner, despite a warning.

(ii)

Disorderly conduct.

(iii)

Disregard for the arrangements or reasonable instructions of the invigilator, despite a warning.

(iv)

Disregard for examination regulations, despite a warning.

(v)

The non-disclosure of, or refusal to hand over a cellphone or any other material.

(3)

Examination irregularities involving examination officials

(a)

Examination irregularities in respect of the examination could be committed by:

(i)

educators, such as teachers or Principals at schools, or staff members from Professional Support Services or related directorates, or circuit managers, etc., whose normal job descriptions automatically incorporate such duties;

(ii)

teachers in the immediate employ of an independent school, registered as an examination centre with the relevant provincial education department who, in their performance of examination duties, are acting under the jurisdiction of the relevant provincial education department;

(iii)

administrative staff members whose duties include work being done in respect of examinations, certification and accreditation; and

(iv)

administrative staff members in the immediate employ of an independent school or, registered as an examination centre with the relevant provincial education department who, in the performance of examination duties, are acting under the jurisdiction of the relevant provincial education department.

(b)

Examination irregularities may be identified at any of the following stages:

(i)

Registration of candidates.

(ii)

Appointment of examiners and internal moderators.

(iii)

The setting, as well as the internal and external moderation of the examination question papers.

(iv)

Editing, proof-reading, translation and final approval of examination question papers.

(v)

Printing, packaging and storage, as well as the distribution of examination question papers to examination centres.

(vi)

The setting, moderation, translation or editing of external examination question papers.

(vii)

The typing, printing, packaging, distribution, collection or delivery of external examination question papers or examination answer scripts.

(viii)

Checking of examination answer scripts by assessment bodies, and the distribution of examination answer scripts to marking centres.

(ix)

Invigilation and monitoring.

(x)

Marking.

(xi)

Data capturing and processing.

(xii)

The release of examination results.

(4)

Irregularities that may occur during the conducting of the examination

(a)

Examination irregularities, identified during the writing of the examination, may be classified as follows:

(i)

Candidates misbehaving or wilfully disobeying regulations or instructions issued during an examination.

(ii)

Candidates engaging in dishonest acts during the examination process.

(iii)

Department officials/teachers contravening the legislation in terms of the conducting of the National Senior Certificate examination, so as to give candidates an unfair advantage/disadvantage in the examination.

(b)

The above categories of examination irregularities include:

(i)

creating a disturbance, intimidating others or behaving in an improper or unseemly manner;

(ii)

disorderly conduct;

(iii)

disregard for the arrangements or reasonable instructions of the invigilator, despite a warning; and

(iv)

disregard for examination regulations.

(c)

Candidates engaging in dishonest acts during the examination process include acts that are identified before the commencement of the examination, as well as acts that are identified while the examination question paper is being written.

(d)

Acts by candidates or officials that are identified before the commencement of the examination, include the following:

(i)

Presentation of fraudulent identification documents.

(ii)

Failure to present identification documents.

(iii)

Bribery or attempted bribery.

(iv)

Access to leaked examination question paper.

(v)

Possession of unauthorised examination material, such as equipment.

(e)

Acts that are identified while the examination question paper is being written, include the following:

(i)

Possession of notes or any other unauthorised material that could, in any way, assist them in the answering of questions related to the subject matter.

(ii)

Copying from notes or textbooks or any other unauthorised material.

(iii)

Copying from fellow-candidates.

(iv)

Attempting to obtain assistance from, or being assisted by another candidate or any other individual.

(v)

Assisting or attempting to assist another candidate.

(vi)

Receiving assistance from any other source.

(vii)

An examination question paper written by another or a substitute candidate.

(viii)

The use of another candidate's examination number.

(ix)

Any other type of conduct or possession, which could render improper assistance or an unfair advantage to a candidate and thereby prejudicing other candidates.

(x)

The use or possession of a cellphone, programmable calculators or any other electronic device that may be of assistance to the candidates while writing the examination, except where the examination instructions specify otherwise.

(xi)

Any other action that is in contravention of the relevant legislation.

( f )

Acts that are identified while examination answer scripts are handed in or marked, include the following:

(i)

The examination answer script handed in is different to the one issued by the invigilator.

(ii)

Different sets of handwriting are identified in an examination answer script.

(iii)

Two examination answer scripts are submitted for one candidate.

(iv)

Crib notes that are discovered.

(v)

There are no crib notes, but there is clear evidence of copying.

(vi)

Evidence of possible assistance by an invigilator.

(vii)

Indications that the candidate has been allowed to write the examination as an "open book" examination, although this was not included in the instruction to the invigilator.

(viii)

Answers that are identical or too similar to the memorandum.

(ix)

An answer script, or any part thereof, being removed from the examination room and submitted later.

(x)

An examination conducted outside the examination room or examination centre, without prior authorisation.

(g)

If, at any of the stages relating to the writing of the examination, there should be evidence that there has been a contravention of the relevant legislation on the part of examination officials involved in these processes, which could result in an unfair advantage to a candidate writing the examination, this must be declared an irregularity.

(5)

Irregularities that may occur during the marking process

Irregularities during the marking process relate to irregularities identified by markers of examination answer scripts, and any other acts committed by examination officials and markers, which are in contravention of the national and provincial regulations.

(6)

Irregularities committed by examination officials or markers

(a)

Any evidence indicating that an examination official or a marker has engaged in the following acts, constitutes an irregularity:

(i)

Failure to adhere to the criteria and the prescribed process for the appointment of markers, senior markers, chief markers, examination assistants and other persons involved in examination-related work, as prescribed in the National Education Policy Act, 1996 (Act No. 27 of 1996).

(ii)

An appointed marker is found to have made a false statement in his or her application.

(iii)

Markers who are not adhering to prescribed policy and the requirements for marking.

(iv)

Misbehaviour by a marker at a marking venue or at the place of accommodation for markers.

(v)

Any action that indicates wilful intent to misplace or destroy the examination answer scripts of a candidate or candidates.

(vi)

The removal of examination answer scripts from the marking centre.

(vii)

Awarding of marks to candidates that cannot be justified by the evidence on the examination answer script or the memorandum.

(viii)

Manipulation of the marks, so as to unfairly advantage or disadvantage a candidate or candidates.

(ix)

Any other act that is in contravention of these regulations.

(x)

Any attempt of assisting a candidate that may result in an unfair advantage.

(7)

Irregularities identified by markers

(a)

Irregularities identified by markers at marking centres, include the following:

(i)

The examination answer script handed in is different from the one issued by the invigilator.

(ii)

Different sets of handwriting are identified in an examination answer script.

(iii)

Two examination answer scripts, written by two different candidates, are submitted with the same examination number.

(iv)

Crib notes discovered in the examination answer script.

(v)

There are no crib notes, but there is clear evidence of copying.

(vi)

Evidence of possible assistance by an invigilator.

(vii)

Indications that the candidate has been allowed to write the examination in terms of an "open book" examination.

(viii)

Answers that are identical or too similar to the memorandum.

(8)

Irregularities that may occur during the capturing process, during standardisation, the release of results, the issuing of statements and during the certification process

(a)

A contravention of these regulations at any of the stages relating to the capturing, processing, standardisation, release of the results and certification, on the part of examination officials involved in these processes, which could undermine the credibility of the examination results, must be declared an irregularity.

(b)

Some of the actions deemed to be irregular during the processes include are as follows:

(i)

Negligence.

(ii)

Indolence.

(iii)

Failure to abide by relevant legislation or policies or regulations.

(iv)

The unauthorised release of sensitive/confidential information.

(v)

Misuse of authority for private gain or reward.

(vi)

Unauthorised access to examination data or subject credits.

(vii)

Failure to verify information accurately on certificates and qualifications.

(viii)

Any act by a candidates or official, which may give the candidate concerned, an unfair advantage.

(c)

It is the duty of the examination official or the systems administrator or the service provider responsible for these functions, to ensure the accuracy of the examination data that is provided. Any data being presented that is inaccurate, must be regarded as an irregularity.

(d)

The provision of examination data to any institution or individual, without the approval of the Director-General or Head of Department, or his or her representative, constitutes an irregularity.

5.

#### ASSESSMENT IRREGULARITY PROCEDURES

(1)

Procedures in respect of internal assessment candidates

(a)

Internal assessment irregularities involving candidates must be dealt with at school or learning institution level, by the SAIC, in accordance with the policy provided by the provincial departments of education. Serious cases may be referred to the regional or PEIC.

(b)

Where a candidate does not comply with the minimum requirements of any component of the internal assessment mark, the following applies:

(i)

In the event of a valid reason for failure to comply, the candidate must be allowed the opportunity to redo the task; or

(ii)

where impractical, the mark for that particular component of the internal assessment mark should not be taken into consideration.

(c)

Where a candidate does not comply with the minimum requirements for internal assessment for a subject, without a valid reason, a "0" (zero) mark is recorded and used in the compilation of the mark for the particular component, or for internal assessment as a whole (as may be applicable).

(d)

The absence of an internal assessment mark in any subject must result in the candidate, registered for that particular subject, receiving an "incomplete" result.

(2)

Procedures in respect of internal assessment pertaining to assessment officials

(a)

All alleged irregularities in respect of internal assessment, involving examination officials, must be reported by the head of the institution to the provincial Head of Department or his or her representative. Recurring cases must be reported to the NEIC.

(b)

Suspected internal assessment irregularities involving teachers, constitute an act of misconduct and must be dealt with in terms of the, Employment of Educators Act, 1998 (Act No. 76 of 1998).

(c)

Suspected internal assessment irregularities, involving assessment officials employed in terms of the Public Service Act, constitute an act of misconduct and must be dealt with in accordance with the relevant Public Service Regulations.

(d)

Prior to an investigation being conducted in respect of assessment officials suspected of an internal assessment irregularity, the Head of Department or his or her representative, provided that substantial evidence in respect of the alleged irregularity exists, may:

(i)

immediately suspend the services of a suspected defaulting official with regard to marking, monitoring or moderation;

(ii)

immediately suspend the services of a suspected defaulting official in respect of any or all related assessment processes; or

(iii)

in the event of independent schools or learning institutions registered as examination centres with the relevant provincial education department, the Head of Department or his or her representative may insist on the application of the relevant clauses of the Service Contract entered into with the particular examination centre.

(3)

Procedures in respect of irregularities, identified during the Planning and Preparatory Phase of the external examination

(a)

The Head of Department or his or her representative may immediately suspend an examination official from undertaking assessment-related activities, or suspend an examination official who contravenes any of these regulations, and the matter must be dealt with in terms of the Employment of Educators Act, 1998 (Act No. 76 of 1998) or in terms of the Public Service Act, or in terms of any other relevant legislation.

(b)

Examination irregularities, identified as having occurred prior to the examination question paper being written, may include the leakage of the examination question papers.

(i)

The first step in such an event is to determine the extent of the leakage; which must be determined by the PEIC or by a team delegated by the PEIC.

(ii)

In the event of the leakage of a national examination question paper, the Director-General of the Department of Education and the Minister of Education should decide on the most appropriate course of action.

(iii)

The PEIC must institute a full investigation, in order to ascertain the source of the leakage. The South African Police Services (SAPS) and other investigation experts may be included in the investigation process.

(iv)

Any other examination irregularity, identified prior to the writing of the examination question paper, which may impact on the integrity of the examination, must be dealt with prior to the examination question paper being written.

(4)

Procedures in respect of Examination Irregularities identified during the conducting of examinations

(a)

The Head of Department or his or her representative may immediately suspend an examination official from undertaking any examination-related activities, or suspend an official who contravenes any of these regulations, and the matter must be dealt with in terms of the Employment of Educators Act, 1998 (Act No. 76 of 1998) or in terms of the Public Service Act, or in terms of any other relevant legislation.

(b)

Examination irregularities, arising from misconduct or disobedience with regard to regulations or instructions issued during an examination, must be dealt with as follows:

(i)

In all cases the invigilator must immediately bring the specific examination irregularity to the attention of the chief invigilator.

(ii)

The chief invigilator must then offer the candidate suspected of an irregularity the opportunity to make a representation, in writing, in the presence of the invigilator.

(iii)

If the chief invigilator, after considering the facts, finds that such an irregularity has indeed occurred, he or she must submit the matter to the PEIC for further investigation and a decision.

(iv)

In the event of a candidate persistently refusing to co-operate, the chief invigilator must request the candidate suspected of an irregularity to leave the examination room.

(v)

The examination answer script must be removed from the candidate's possession and a note made of the date and exact time of its confiscation. Should the candidate refuse to leave, the chief invigilator may call upon the SAPS for assistance.

(vi)

If the candidate agrees to co-operate, the chief invigilator must allow him or her to continue with the written examination, in which case a new answer book, with the date and exact time of issue noted thereon, must be provided to the candidate.

(vii)

The chief invigilator must forward his or her report, together with a report from the invigilator on duty at the time of the alleged irregularity, as well as the candidate's representation and a written account of events or any statement or exhibit, to the PEIC.

(c)

In the event of examination irregularities being identified while the examination question paper is being written, the following procedure should apply:

(i)

The invigilator must remove the candidate's examination answer script and write the word, "IRREGULARITY", on the front outside cover page, as well as the kind of irregularity, and the date, time and place of the irregularity.

(ii)

The words, "Examination answer script confiscated on  
at  
hours", must be written, in bold print, on the outside front cover page.

(iii)

The invigilator must take possession of any unauthorised or incriminating material, such as notes, or any other object used directly or indirectly, or found in the possession of the candidate, which may have been used to commit the irregularity. By bringing the unauthorised material into the examination room, the candidates should take responsibility for the resulting implications.

(iv)

Such material must be attached to the confiscated examination answer script, which then becomes the property of the relevant provincial education department, and neither the candidate nor his or her parent(s) or guardian(s) has/have the right to demand its return.

(v)

The invigilator must then hand the candidate a new answer script. This answer script must also be endorsed with the words, "NEW ANSWER SCRIPT", together with the date and time of issue.

(vi)

The candidate must be informed that the fact that he or she is being allowed to continue with the examination, does not serve as a condonation of his or her contravention of the examination regulations, and that a written report will be submitted to the chief invigilator at the conclusion of the examination, and that the incident will be reported to the PEIC.

(vii)

The invigilator must not allow any additional time to compensate for time lost in the course of detecting and processing the examination irregularity.

(viii)

The invigilator, following the completion of the examination, must immediately submit a full report, in writing, to the chief invigilator regarding the irregularity.

(ix)

The candidate, following the completion of the examination, must be confronted about the irregularity and requested to provide a written declaration or response to the alleged offence.

(x)

Should the candidate refuse to submit the required written declaration or to provide a response, this refusal must be confirmed in writing by the invigilator. The candidate must then sign the invigilator's written statement.

(xi)

Should the candidate refuse to comply with subregulation (4) (c) (iii), another invigilator, attached to the examination centre, must provide a written statement, confirming the refusal of the candidate to provide a written declaration.

(xii)

The examination answer script, any incriminating material and all applicable statements must then be sent for marking in the normal way, and subsequently forwarded to the Provincial Examinations Irregularities Committee.

(5)

Procedures in respect of examination irregularities identified during the marking process

(a)

In the event of examination irregularities relating to the marking process, as contemplated in subregulation 5 (4), 5 (5) and 5 (6), which are committed by examination officials, the Head of Department or his or her representative may immediately suspend an examination official who

contravenes any of these regulations, and the matter must then be dealt with in terms of the Employment of Educators Act, 1998 (Act No. 76 of 1998) or in terms of the Public Service Act, or in terms of any other relevant legislation.

(b)

Examination irregularities, identified by markers during the marking process, must be dealt with as follows:

(i)

All examination irregularities suspected by markers, must be reported immediately to the senior marker, the deputy chief marker or the chief marker, who then refers it to the centre manager. The matter is then referred to the Head of Examinations and the PEIC.

(ii)

Examination answer scripts in which alleged examination irregularities were identified, must be marked as usual. The word "IRREGULARITY" must be written in red ink on the front cover, along the margin.

(iii)

These examination answer scripts must then be handed in, together with the other examination answer scripts and completed mark sheets, for the attention of the senior marker, the deputy chief marker, or the chief marker. The marks of the suspect candidate must be entered onto the mark sheet, with an indicator stating "Irregular".

(iv)

Where an examination answer script is found amongst those from another examination centre, or where a candidate has been writing the examination at an examination centre other than the examination centre where originally registered, the first examination centre must then contact the examination centre at which the examination should have been conducted, and arrange, via the regional office or area project office, for the transfer of the candidate's examination answer script.

(v)

Where an examination answer script is lost, the matter must be referred to Umalusi to decide upon the most appropriate course of action, as this constitutes an irregularity.

(vi)

If the senior marker agrees with the finding of the marker, he or she must clearly indicate the location of the examination irregularity on each examination answer script and hand the whole batch of examination answer scripts over to the relevant deputy chief marker or to the chief marker.

(vii)

Where the senior marker disagrees with the findings of the marker, the examination answer script should be handed to the deputy chief marker or to the chief marker for a second opinion. If the deputy chief marker or the chief marker concurs with the senior marker, the examination answer script must be returned to the marker for normal processing.

(viii)

If the suspected examination irregularity is confirmed by the deputy chief marker or the chief marker, the prescribed irregularity report must be completed and forwarded, together with the evidence, to the Head of Examinations and the PEIC.

(6)

Procedures in respect of irregularities that occur during the capturing, processing, standardisation, release of the results and certification processes

(a)

The Head of Department or his or her representative may immediately suspend an examination official from examination-related activities, or suspend an examination official who contravenes any of these requirements, and the matter must then be dealt with in terms of the Employment of Educators Act, 1998 (Act No. 76 of 1998) or in terms of the Public Service Act, or in terms of any other relevant legislation.

(b)

All irregularities relating to the above processes must be reported immediately to the PEIC and to the Head of Examinations.

(c)

Confidentiality and security of information must be enforced. Any breach in this regard must be considered an examination irregularity.

(7)

Procedures in respect of investigations

The following procedure must be followed in respect of an investigation:

(a)

A minimum of two members of the PEIC or two departmental officials, delegated by the PEIC, must be involved in all investigations.

(b)

The PEIC may call upon any official in the service of the relevant provincial education department, or any candidate or candidates to appear before the Committee or the two-person team delegated to carry out the function, and it may also question any candidate accused of an alleged irregularity.

(c)

The PEIC or the delegated officials may also call upon any person, not in the immediate employ of the relevant provincial education department, but who falls under its jurisdiction, to appear before the PEIC or the two-person team delegated to carry out this function, and it may also question any such person during the normal course of an investigation.

(d)

The PEIC and the delegated officials have access to any room or place at any school registered with the relevant provincial education department as an examination centre, and may scrutinise or take possession of any document, article or any other evidence which, in the opinion of the PEIC, may facilitate the investigation.

(e)

In cases of serious misconduct, the relevant provincial education department should reserve the right to report such cases to the relevant state security agents with a view to a criminal investigation.

(f)

All investigations undertaken by the PEIC or by the delegated officials, regardless at what level, must be clearly documented or minuted, should it take the form of a meeting.

(g)

The findings of an investigation must be submitted to a full sitting of the PEIC, which must then take a decision as to whether a hearing must take place or not.

(h)

No member of the PEIC may be involved in, or allowed access to, any examination irregularity investigation or hearing or documentation involving a relative or any other person in respect of whom the said investigator cannot be impartial.

(8)

Procedures in respect of hearings

Should the relevant irregularity committee decide that a hearing must be held, such hearing must be held in terms of the following procedure:

(a)

The hearings must be lawful, reasonable, timely and procedurally fair, and no rights of the individual should be infringed. The principle of openness and transparency of administrative action must be adhered to.

(b)

The following procedure must be followed in respect of hearings:

(i)

Procedures for hearings vary according to circumstances and persons involved.

(ii)

A written notification must be submitted to the candidate involved in the alleged examination irregularity, or to the parent or guardian in the event of candidates being under the age of 18, as well to the Principal or centre manager of the institution. The following procedure must be followed:

(aa)

The written notification must be forwarded either by registered mail or be delivered to a particular individual who must acknowledge receipt of the notification.

(bb)

The written notification must state clearly that the absence of a reply will not delay the hearing in respect of the suspected examination irregularity.

(cc)

Where a candidate, who is alleged to have committed an examination irregularity, or his or her parent or guardian or representative cannot be contacted, the principal or centre manager of the institution will be required to assist with contacting the candidate. If the Principal or centre manager of the institution is unable to contact the candidate, he or she must accordingly inform the secretary of the PEIC in writing. The inability to make contact with the candidate concerned, or with his or her parent or guardian or representative, should not unnecessarily delay the processing of the irregularity.

(dd)

All candidates suspected of an examination irregularity must be allowed the opportunity to respond to the invitation to attend a hearing regarding the alleged irregularity, within 10 working days of being notified of an irregularity investigation.

(ee)

Candidates who do not wish to attend a hearing, have the option of making an admission of guilt in the form of a declaration, which must be forwarded to the secretary of the PEIC within 10 working days of being notified of an irregularity investigation.

( ff )

In the event where a candidate is under 18 years of age, the candidate may be accompanied by his or her parent or guardian, the school principal, or any other representative.

(gg)

Should the candidate or his or her parent or guardian choose to make use of legal representation during the hearing, this will be allowed and the chairperson of the PEIC must be so informed at least three (3) working days prior to the scheduled hearing.

(iii)

All hearings must be recorded and the recording must be kept until the matter has been finalised.

(iv)

The findings of a hearing must be submitted to a full sitting of the PEIC, by the persons involved in the hearing process.

(v)

Decisions and consequent recommendations by the PEIC, as approved by the Head of Department or his or her representative, must be communicated, in writing, to the person, school or learning institution under investigation, within 30 working days of the completion of the hearing.

(9)

Sanctions

(a)

The relevant Irregularities Committee may impose the sanctions contemplated in these regulations.

(b)

Mandatory minimum periods of sanction may be imposed by the PEIC or the NEIC, upon finding the offender guilty of an irregularity. The reason for the stipulation of mandatory minimum periods of sanction is primarily to ensure that irregularities are handled in a uniform manner across all provincial departments of education. Secondly, it is to combat and reduce the frequency of irregularities.

(c)

There may be cases where the PEIC or the NEIC is of the opinion that, considering the specific circumstances of the case, the imposition of one of the minimum periods of sanction would be very harsh and unjust. The Committee may, however, be freed from the obligation of imposing the minimum period of sanction should there be “substantial and compelling circumstances”, which justify the imposition of a lesser punishment than the prescribed one.

(10)

Irregularities involving candidates:

No.	Irregularity	ACTION TO BE TAKEN OR APPLICABLE SANCTIONS
(a)	Failure to produce identification documents	<ul style="list-style-type: none"><li>• The candidate must be allowed to write the examination, but must produce the identification document within 24 hours or, alternatively, provide an affidavit.</li></ul>

		<ul style="list-style-type: none"> <li>Should the candidate fail to produce the identification document or the affidavit within 24 hours, he or she will not be allowed to continue with the next examination session.</li> </ul>
(b)	Incorrect examination number or no examination number	<ul style="list-style-type: none"> <li>The assessment body must use all available means to establish the correct examination number and this number must then be verified with the school or the candidate concerned.</li> </ul>
(c)	Late arrival at the examination centre	<ul style="list-style-type: none"> <li>A candidate must not be admitted to the examination room should he or she arrive after the first hour of the commencement of the examination.</li> <li>A candidate who arrives within the first hour of the commencement of the examination must be allowed into the examination room, but will not be allowed any additional writing time.</li> </ul>
(d)	Examination answer script missing or lost by the assessment body	<ul style="list-style-type: none"> <li>After all possible steps to locate the examination answer script have been exhausted, a report in this regard must be submitted to Umalusi. Based on the report, Umalusi will officially declare the examination answer scripts missing and request the assessment body to determine a calculated mark in accordance with Umalusi guidelines. The final calculated marks must be submitted to Umalusi for approval</li> </ul>
(e)	Candidate found in possession of unauthorised material during the examination	<ul style="list-style-type: none"> <li>The candidate's results for that examination question paper is declared null and void</li> <li>The candidate may be barred from a minimum of one and a maximum of three subsequent examinations,</li> </ul>

		<p>excluding the supplementary examinations.</p> <ul style="list-style-type: none"> <li>•</li> </ul> <p>If the unauthorised material is not related to the subject being written, the candidate is issued with a written warning, which will be taken into consideration should he or she be found guilty of a future offence.</p>
(f)	<p>Candidates found in possession of an unauthorised electronic device during the examination</p>	<ul style="list-style-type: none"> <li>•</li> </ul> <p>The candidate's result for that examination question paper is declared null and void.</p> <ul style="list-style-type: none"> <li>•</li> </ul> <p>The candidate may be barred from a minimum of one and a maximum of three subsequent examinations, excluding the supplementary examinations.</p>
(g)	<p>Candidate caught copying or obtaining help from a fellow-candidate</p>	<ul style="list-style-type: none"> <li>•</li> </ul> <p>The results of the candidate caught copying may be declared null and void for that examination question paper.</p> <ul style="list-style-type: none"> <li>•</li> </ul> <p>The candidate may be barred from a minimum of one and a maximum of three subsequent examinations, excluding the supplementary examinations.</p> <ul style="list-style-type: none"> <li>•</li> </ul> <p>If there is evidence of collusion, the candidate offering the assistance must also be sanctioned as indicated above.</p>
(h)	<p>Candidate assisting another candidate during the examination session.</p>	<ul style="list-style-type: none"> <li>•</li> </ul> <p>As in (e)</p>
(i)	<p>Presentation of fraudulent identification or an imposter</p>	<ul style="list-style-type: none"> <li>•</li> </ul> <p>The candidate's result for that examination question paper must be declared null and void.</p> <ul style="list-style-type: none"> <li>•</li> </ul> <p>The candidate may be barred from a minimum of one and a maximum of three subsequent examinations,</p>

		<p>excluding the supplementary examinations.</p> <ul style="list-style-type: none"> <li>•</li> </ul> <p>In addition, this matter must be reported to the SAPS.</p>
(j)	<p>Assistance to a candidate, a teacher or principal, or any other official</p>	<ul style="list-style-type: none"> <li>•</li> </ul> <p>In the event of the candidate being found guilty, the results for that examination question paper may be declared null and void.</p> <ul style="list-style-type: none"> <li>•</li> </ul> <p>The candidate may be barred from a minimum of one and a maximum of three subsequent examinations, excluding the supplementary examinations.</p> <ul style="list-style-type: none"> <li>•</li> </ul> <p>In the case of the invigilator, teacher or principal, it must be regarded as an act of misconduct. The official must be suspended immediately from all examination-related work, and be dealt with in terms of the relevant legislation.</p> <ul style="list-style-type: none"> <li>•</li> </ul> <p>This must also be reported to SAPS.</p>
(k)	<p>Handwriting of a different person on the examination answer script</p>	<ul style="list-style-type: none"> <li>•</li> </ul> <p>As in (e)</p>
(l)	<p>Two examination answer scripts with the same examination number</p>	<ul style="list-style-type: none"> <li>•</li> </ul> <p>If the act was unintentional, the examination numbers must be corrected and the results of the candidates concerned must be released.</p> <ul style="list-style-type: none"> <li>•</li> </ul> <p>If the action was intentional or deliberate, the results of the guilty candidates must be declared null and void for that examination question paper.</p> <ul style="list-style-type: none"> <li>•</li> </ul> <p>The candidate may be barred from a minimum of one and a maximum of three subsequent examinations, excluding the supplementary examinations.</p>

(m)	Crib notes discovered in examination answer scripts at the marking centre	<ul style="list-style-type: none"> <li>• As in (e)</li> </ul>
(n)	An examination answer removed from the examination room and submitted at a later stage	<ul style="list-style-type: none"> <li>• The examination answer script must be marked as normal, pending the outcome of the investigation.</li> <li>• In the event where the candidate is found guilty, the results for the examination question paper concerned must be declared null and void.</li> <li>• The candidate may be barred from a minimum of one and a maximum of three subsequent examinations, excluding the supplementary examinations.</li> </ul>
(o)	Submission of work that is not candidate's own work.	<ul style="list-style-type: none"> <li>• The person who submits work that is not his or her own, may have his or her results for that examination question paper declared null and void.</li> <li>• The candidate may be barred from a minimum of one and a maximum of three subsequent examinations, excluding the supplementary examinations.</li> <li>• If there is evidence of collusion, the candidate offering the assistance must also be sanctioned as indicated above.</li> </ul>
(p)	Leaked/stolen examination question paper	<ul style="list-style-type: none"> <li>• This must be regarded as a criminal case and be referred to the SAPS.</li> <li>• In the event where it can be proven that specific candidates have stolen an examination question paper prior to it being written, the guilty candidates must be barred from writing the examination for a period of (3)</li> </ul>

		<p>to five (5) years, from the date of the offence.</p> <ul style="list-style-type: none"> <li>•</li> </ul> <p>The results obtained for the subject should be declared null and void.</p>
(q)	Bribery or attempted bribery	<ul style="list-style-type: none"> <li>•</li> </ul> <p>This must be regarded as a criminal case and be referred to the SAPS.</p> <ul style="list-style-type: none"> <li>•</li> </ul> <p>In the event where the candidate is found guilty, the candidate must be barred from writing the examination for a period of three (3) to five (5) years, from the date of the offence.</p> <ul style="list-style-type: none"> <li>•</li> </ul> <p>In the event where a teacher or a departmental official is involved, this must be regarded as an act of misconduct and must be dealt with in terms of the relevant legislation.</p>
(r)	Creating a disturbance, intimidation and drunkenness, disregarding the arrangements and/or the reasonable instructions of the invigilator	<ul style="list-style-type: none"> <li>•</li> </ul> <p>The candidate must be warned and, if he or she persists with the behaviour or action, the candidate must be removed from the examination centre.</p> <ul style="list-style-type: none"> <li>•</li> </ul> <p>The candidate then forfeits the opportunity to write or to continue writing that specific examination question paper.</p> <ul style="list-style-type: none"> <li>•</li> </ul> <p>Where the candidate has commenced with the examination, the marks attained will be declared null and void.</p> <ul style="list-style-type: none"> <li>•</li> </ul> <p>The candidate retains the marks awarded for the other components in the subject, and the results are released as such.</p> <ul style="list-style-type: none"> <li>•</li> </ul>

		Criminal charges may be instituted.
(s)	Resulting of a candidate who is irregular in an eight and ninth subject	<ul style="list-style-type: none"> <li>• Where a candidate is irregular in any component of the subject, the result for the subject will be declared null and void and the candidate must redo the entire subject. The candidate will receive the subject results for the subjects where there is no irregularity and will not receive the overall result until the period of the sanction has expired and the candidate satisfies the minimum requirements for the National Senior Certificate.</li> <li>• Where a candidate is irregular in the eight or ninth subject, the candidate will receive the subject results in the subject/s where there is no irregularity. The candidate will not receive the overall result relating to the qualification.</li> </ul>

[Sub-r. (10) amended by r. 7 of GN 1042 of 3 November 2009.]

(11)

Appeals

(a)

Should the candidate or his or her parent or guardian be dissatisfied with the way the hearing has been conducted, an appeal may be lodged to the Head of Department via the channels provided by the relevant provincial education department.

(b)

A candidate may appeal to the MEC against the decision of the Head of Department within 14 working days of receipt of the written pronouncement of the judgement or sanction, if the candidate was present at the hearing.

(c)

All appeals must be in writing and must include reasons in support of the appeal.

(12)

Reporting of irregularities

Reporting of examination irregularities is categorised into two components. The first component relates to reporting of the irregularity from the venue of identification, to the relevant officials at the

assessment body, and the second component relates to the reporting of the irregularity to the external role-players, by the Head of the assessment body.

(13)

Internal reporting

All alleged irregularities must be reported immediately to the next level of responsibility in the assessment process, which, in turn, must report it to the Chairperson of the PEIC and the Head of Examinations, or the independent assessment body. This reporting may be done verbally, but must be followed with a written report within 12 hours.

(14)

External reporting

(a)

All assessment bodies must report all examination irregularities to Umalusi, the Director-General and the Head of independent assessment body within 48 hours of the identification of such irregularities. This may be done telephonically, but it must be followed with a written report within 48 hours.

(b)

The Director-General, the Head of independent assessment body and Umalusi will provide the format of the report. Reporting the irregularity can differ, depending on the nature of the irregularity.

## **Annexure N**

### **MINIMUM REQUIREMENTS FOR A COMPUTER SYSTEM**

1. Browse information on files: Must enable the user to browse through information available on all data files, e.g. look through the names of candidates registered at a specific centre, in order to find a candidate's ID number.
2. Entries: Candidates' entries are registered per examination by means of electronic/magnetic media, or directly within the on-line environment. Full candidate validation takes place in accordance with the rules and regulations, as set out by the Department of Education.
3. Mark sheets: The generation of mark sheets, as well as the capturing and controlling of mark sheets. The mark sheets are furthermore printed with bar codes for controlling the flow of mark sheets at strategic points.
4. Examination results: All results are processed by computer programme, in accordance with the rules and regulations, as set out by the Department of Education.
- 5.

Standardisation of marks: A process used to adjust the marks, using qualitative and quantitative data and reports.

6. Subject information: All subject and examination question paper information is carried forward from the previous examination and, where required, changes are made. Subject information has a direct influence on the validation of candidates' entries, candidates' promotion, as well as on conversion, examination packing procedures, timetables, letters of admission, etc.
7. Irregularities: Candidates found guilty of irregularities are suspended individually or per examination centre. This sub-system controls the correspondence with regard to, and investigations into these irregularities.
8. Region, area, circuit or examination centres: All examination centres are registered and allocated to a circuit, area and region, as well as according to their respective provinces.
9. Candidates' documentation history: The names of candidates, who enter on a continuous basis and apply for certification, are processed along with their historical information for possible certification.
10. Document issuing and issues: Control and enquiries with regard to all documents issued by the Department of Education via the computer system.
11. Preliminary number of candidate entries: It is an optional system that can be used by management to gauge the number of candidate entries per school, with a view to planning, budgeting and stationery requirements.
12. Recovery of funds: Control of funds received from examination centres for examination fees paid.
13. Re-marking and checking: When a candidate applies for re-marking or re-checking, his certificate is suspended and re-marking or re-checking takes place.
14. Supplementary examinations: Automatic registration of candidates that qualify for supplementary examinations.
15. Stationery and examination aids: Checking of codes and descriptions used by candidates during examinations.
16. Examination question paper stock maintenance: Used to monitor the reproduction of examination papers and to pinpoint shortages.
17. Packaging of stationery/examination question papers: Reports are generated to assist with the packaging and distribution of examination question papers, as well as with examination stationery supplied by the Department.
18. Statistics: All statistics pertaining to pass and failing rates, entry irregularities, etc., can be extracted per province, per region, or at a national level, and made available for the purpose of media releases, or for use by subject advisors, planners and management.
19. Timetable: Dates, times and the duration of each examination question paper are maintained for candidate admission letters, payment of examiners, etc.

20. System parameter and system index maintenance indexes: Standard names used, etc., are maintained by the systems administrator.
21. Word processor: Editing of letters pertaining to irregularities, examination results, candidate entries, etc.
22. Examination marking claims: Control and payment of examiners for bulk marking sessions by means of a cheque or direct payment.
23. Hand claims: Indirect payment of examiners' claims and expenses incurred by means of a cheque or direct payment.
24. SANMED functions: Updating of sectors and magisterial codes per examination centre for statistical purposes, for use by the Department of Education.
25. Invigilators' claims: Payment of invigilators' claims and expenses incurred by means of a cheque or direct payment.
26. Examination question papers (setting of papers): Checking the setting of examination question papers and the correspondence between the department, examiners and moderators.
27. Examination officials: Appointment and checking of all examination officials' personal information.
28. Job control and general functions: Control of batch processes, bulk printing, task scheduling, etc.

## **Annexure O**

### **EXAMINATION BOARDS**

#### **1. NATIONAL EXAMINATION BOARD**

##### **(1)**

##### **Objective of the National Examination Board (NEB)**

The National Examination Board (NEB) will advise the Minister of Education on all matters relating to public examinations and assessment, based on the consolidated inputs from the nine provincial examination boards. The NEB does not replace the Provincial Examinations Board (PEB) but will work in collaboration with the PEBs.

##### **(2) Functions of the National Examination Board**

In order to ensure the credibility and integrity of the Public examination system, the NEB will perform the following functions:

- (a) Advise the Minister on policy and related matters on national examinations and assessment.
- (b) Address all matters of public concern relating to examinations conducted for schools, FET Colleges and Adult Education.
- (c)

Advise the Minister on mechanisms that need to be adopted to improve public confidence in the examination system.

- (d) Advise the Minister on matters that have international implications on the examination system.
- (e) Deal with all examinations and assessment matters referred to it by the Minister.
- (f) Consolidate the inputs from the Provincial and Independent Examination Boards, so as to regularly brief the Minister on the issues that relate to examinations across the country.

(3)

**Composition of the Committee**

- (a) The Board will comprise the following persons:
  - (i) Chairperson of the National Examination Board appointed by the Minister.
  - (ii) One representative from each of the Provincial Examination Boards (9), which will be the chairperson of the PEB.
  - (iii) One (1) representative from each of the independent assessment bodies.
  - (iv) Two (2) representatives from the Department of Education appointed by the Minister.
  - (v) One (1) representative from the Higher Education South Africa (HESA).
  - (vi) One (1) representative from the South African Qualifications Authority (SAQA).
  - (vii) One (1) representative from Umalusi.
  - (viii) One (1) representative from each of the recognised teacher unions.
  - (ix) One (1) representative from the South African College Principal's Organisation (SACPO).
  - (x) One (1) representative from the ABET Advisory Board.
- (b) The Chief Directorate National Examination, Assessment and Educational Measurement will serve as the secretariat to the NEB.
- (c) The Minister may appoint additional members, as and when the need arises.
- (d) All members of the board together with the chairperson will be appointed by the Minister, based on nominations received from the respective

organisations/institutions. The call for nominations will be published in a Government Gazette.

**(4)**

**Term of office**

The term of office for membership shall be three years or of such a term as shall be determined by the Minister. In the event of a serving member being replaced for whatever reason, the newly appointed member shall serve on the Board for the remaining period that the previous member would have served on the Board. Members of the Examinations Board, will be bound by an obligation of confidentiality and a member may be reappointed when his or her term of office expires.

**(5)**

**Chairperson**

The Minister will appoint the chairperson of the National Examination Board. The chairperson may be appointed from the list of ordinary members appointed to the Board, or may be appointed by the Minister from outside the current list of nominations. If the Minister appoints the chairperson from the list of members, the organisation or institution from which the chairperson has been appointed, will be entitled to nominate another representative, in lieu, of the appointed chairperson.

**(6)**

**Termination of membership**

**(a)**

If members are unable to attend a meeting, a written apology must be sent to the secretary of the meeting prior to the scheduled meeting.

**(b)**

In the event of a member being absent from two consecutive meetings of the NEB without an apology or an acceptable reason, his or her membership must forthwith be terminated and the member must be advised accordingly.

**(c)**

The Minister may terminate the membership of a member of the NEB if he or she acts wilfully in contradiction to the spirit and objectives of the NEB.

**(d)**

All resignations must be submitted in writing to the Minister.

**7.**

**Vacancies on the Board**

If a vacancy arises on the NEB the Minister will fill such a vacancy on the basis of nominations received for the specific category, in which the vacancy exists.

**8.**

**Meetings**

**(a)**

The National Examinations Board must meet as the need arises, but must hold a minimum of two ordinary meetings annually.

**(b)**

There shall be one (1) meeting preceding the end of the year examination to determine the state of readiness to conduct such an examination. There shall also be another meeting after the end of the year examination to discuss the examination results.

**(c)**

The Chairperson of the Board has the power to call meetings of either the full board or selected members of the Board, as he or she deems necessary.

**9.**

**Quorum for a meeting**

**(a)**

A minimum of 51% of the membership constitutes the quorum.

- (b) The quorum is also applicable with respect to ad hoc committees and working groups.
- (c) If a quorum of the NEB is not present, the chairperson may re-convene the meeting within 14 days.

**10.**

**Procedure for a meeting**

- (a) Conventional procedures for a meeting must apply to meetings of the National Examinations Board, its *ad hoc* committees and working groups.
- (b) The Secretary of the NEB must give notice 14 days prior to the meeting and keep a record of the names of members attending the meeting.
- (c) Ordinary meeting agenda items must be requested by the secretary in writing 30 days before a meeting and received within ten days thereafter, except for urgent matters which may be included on the agenda at a meeting, provided that no member registers an objection.
- (d) For special meetings, notice of seven days is required, specifying the agenda for the Examinations Board meeting, which must be the sole agenda item for the meeting.
- (e) No decision of the NEB may be changed or recalled except by a two-thirds majority of members present.
- (f) In instances where members cannot attend a meeting, comments and views on issues to be deliberated must be made known in advance and in writing to the secretary. Written apologies for absence must reach the secretary at least one week before a meeting is scheduled to enable him or her to decide on a possible postponement of the meeting.
- (g) The secretary must circulate copies of minutes and other documentation as may be applicable to each member within one month after every Board meeting.
- (h) The secretary must furnish all minutes, correspondence or other documents relating to the activities or functioning of the NEB to the archives of the Chief Directorate; National Examinations, Assessment and Measurement, for safe record keeping.

**(11)**

**Allowances and remuneration for members of the NEB**

The Department of Education may reimburse NEB members who are not employed by government for legitimate subsistence and travel expenses in accordance with government tariff guidelines.

**2.**

**THE PROVINCIAL EXAMINATION BOARD**

**(1)**

**Composition of the Provincial Examination Board**

- (a)

The PEB will comprise the following persons:

- (i) Chairperson of the Provincial Examination Board appointed by the MEC for Education in the province.
  - (ii) One (1) representative from the association of school principals in the province.
  - (iii) One (1) representative from the FET College Principals.
  - (iv) One (1) representative from the ABET sector in the province.
  - (v) One (1) representative from each of the recognized teacher unions.
  - (vi) One representative from each of the recognised School Governing Body associations in the province.
  - (vii) One (1) representative from each of the higher education institutions in the province.
  - (viii) One (1) representative from Umalusi.
  - (ix) One (1) representative from the independent schools.
  - (x) One (1) representative from the distance education colleges.
  - (xi) Two (2) representatives from the Provincial Education Department.
- (b) The Directorate responsible for examination and assessment in the province will serve as the secretariat to the PEB.
- (c) All members of the PEB, together with the chairperson will be appointed by the MEC, based on nominations received from the respective organisations/institutions. The call for nominations will be published in a Government Gazette.
- (d) The MEC for Education may appoint additional members to the Board as he or she deems fit.

**(2)**

**Functions of the Provincial Examination Board**

In order to ensure that the credibility and integrity of the Public examination system is enhanced within the province, the PEB will perform the following functions:

- (a) Advise the MEC on policy and related matters on examinations and assessment, as it relates to the province.
- (b) Address all matters of public concern relating to examinations conducted for schools, FET Colleges and Adult Education.

- (c) Advise the MEC on mechanisms that need to be adopted to improve public confidence in the provincial examination system.
- (d) Deal with all examinations and assessment matters referred to it by the MEC.
- (e) Report to the NEB on matters that are of provincial concern relating to the integrity and credibility of the public examinations.

**(3)**

**Term of office**

The term of office for membership shall be three years or of such a term as shall be determined by the MEC for Education. In the event of a serving member being replaced for whatever reason, the newly appointed member shall serve on the Board for the remaining period that the previous member would have served on the board. Members of the PEB, will be bound by an obligation of confidentiality and a member may be reappointed when his or her term of office expires.

**(4)**

**Chairperson**

The MEC will appoint the chairperson of the Provincial Examination Board. The chairperson may be appointed from the list of ordinary members appointed to the Board, or may be appointed by the MEC from outside the current list of nominations. If the MEC appoints the chairperson from the list of members, the organisation or institution from which the chairperson is appointed, will be entitled to nominate another representative, in lieu, of the appointed chairperson.

**(5)**

**Termination of membership**

- (a) If members are unable to attend a meeting, a written apology must be sent to the secretary of the meeting prior to the scheduled meeting.
- (b) In the event of a member being absent from two consecutive meetings of the PEB without an apology or an acceptable reason, his or her membership must forthwith be terminated and the member must be advised accordingly.
- (c) The MEC may terminate the membership of a member of the PEB if he or she acts wilfully in contradiction to the spirit and objectives of the PEB.
- (d) All resignations must be submitted in writing to the MEC.

**(6)**

**Vacancies on the Board.**

If a vacancy arises on the PEB the MEC will fill such a vacancy on the basis of nominations received for the specific category, in which the vacancy exists.

**(7)**

**Meetings**

- (a) The PEB Board should meet as the need arises, but must hold a minimum of two ordinary meetings annually.
- (b) There shall be one (1) meeting preceding the end of the year examination to determine the state of readiness to conduct such an examination. There shall also be another meeting after the end of the year examination to discuss the examination results.

- (c) The Chairperson of the Board has the power to call meetings of either the full Board or selected members of the Board, as he or she deems necessary.

**(8)**

**Quorum for a meeting**

- (a) A minimum of 51% of the membership constitutes the quorum.
- (b) The quorum is also applicable with respect to ad hoc committees and working groups.
- (c) If a quorum of the PEB is not present, the chairperson may re-convene the meeting within 14 days.

**(9)**

**Procedure for a meeting**

- (a) Conventional procedures for a meeting must apply to meetings of the PEB, its *ad hoc* committees and working groups.
- (b) The Secretary of the PEB must give notice 14 days prior to the meeting and keep a record of the names of members attending the meeting.
- (c) Ordinary meeting agenda items must be requested by the Secretary in writing 30 days before a meeting and received within ten days thereafter, except for urgent matters which may be included on the agenda at the meeting, provided that no member registers an objection.
- (d) For special meetings, notice of seven days is required, specifying the agenda for the PEB meeting, which must be the sole agenda item for the meeting.
- (e) No decision of the PEB may be changed or recalled except by a two-thirds majority of members present.
- (f) In instances where members cannot attend a meeting, comments and views on issues to be deliberated must be made known in advance and in writing to the secretary. Written apologies for absence must reach the secretary at least one week before a meeting is scheduled to enable him or her to decide on a possible postponement of the meeting.
- (g) The secretary must circulate copies of minutes and other documentation as may be applicable to each member within one month after every Board meeting.
- (h) The secretary must furnish all minutes, correspondence or other documents relating to the activities or functioning of the PEB to the archives of the Directorate responsible for examinations and assessment for record keeping.

**(10)**

**Allowances and remuneration for members and working groups**

The PED may reimburse PEB members who are not employed by government for legitimate subsistence and travel expenses in accordance with government tariff guidelines.



















