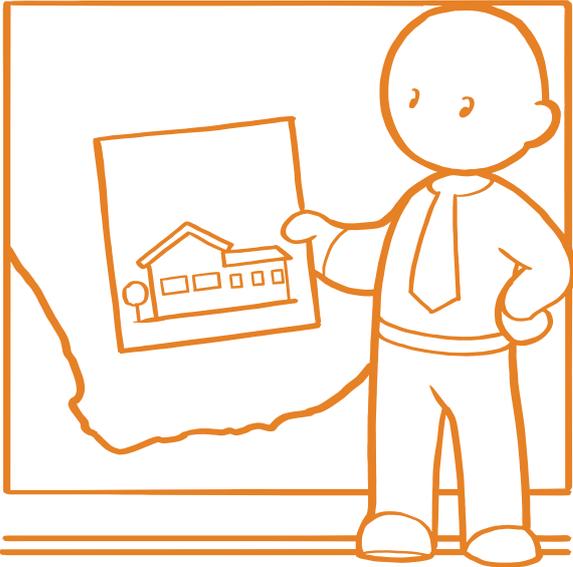


Governance & Community Leadership

Guidelines for School Governing Bodies



South African Schools Act, 84 of 1996 (An Abridged Version)

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Introduction

The definition of abridged: to shorten - a book, film or speech, for example - without losing the sense.

Over the years, we have encouraged parent members of School Governing Bodies (SGBs) to study the South African Schools Act, 84 of 1996 (SASA) because it will help them understand their governance functions. One issue that has become clear is the fact that parents find SASA a difficult document to read. They have asked for clear outlines of each section or subsection, without the “legislative” language used in the Act.

It is for this reason that we have produced this abridged version of SASA. It is hoped that this version will enhance parents' understanding of the Act and so empower them in terms of the law that governs SGBs.

There are a few matters that need to be highlighted before you begin reading this abridged version of SASA:

- This version is abridged only to help SGB members understand the Act better
- Any time a matter arises that needs an interpretation of SASA, the Act itself must be referred to. (This document is not an interpretation of the contents of SASA)
- In terms of the actual law, this version is incomplete because it leaves out many of the legal points covered in SASA
- Any reference to SASA should be made directly as contained in the actual Act
- To remain accurate, the exact sections and wording, as they appear in SASA, have been maintained
- Only chapters 1 to 4 of the Act are covered here

We hope that SGB members, particularly the parents, will benefit from using this abridged version of SASA as they undertake their governance duties.

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Chapter 1 - Definitions and Application of Act

1. Definitions

(1) In this Act, 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 purpose of this Act;

“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;

“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;

“parent” means:

- (a) the biological or adoptive parent or legal 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;

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.

Chapter 2 - Learners

3. Compulsory attendance

- (1) Every parent must cause every learner for whom he or she is responsible to attend a school from the age of seven years until the year in which such learner reaches the age of fifteen years or the ninth grade, whichever occurs first.
- (2) (a) any parent who, without just cause and after a written notice from the Head of Department, fails to comply 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.

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;
 - (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;
 - grade 1 is age five turning six by 30 June in the year of admission.
- (5) The admission policy of a public school is determined by the governing body of such school.

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

- (1) The Minister may 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) (a) In respect of **school infrastructure**, the availability of:
 - classrooms; electricity; water; sanitation; a library; laboratories for science, technology, mathematics and life sciences; sport and recreational facilities; electronic connectivity at a school; and perimeter security;
- (b) in respect of the **capacity of a school**:
 - the number of teachers and the class size; quality of performance of a school; curriculum and extra-curricular choices; classroom size; and utilisation of available classrooms of a school;
- (c) in respect of provision of **learning and teaching support material**, the availability of:
 - stationery and supplies; learning material; teaching material and equipment;
 - science, technology, mathematics and life sciences apparatus; electronic equipment; and school furniture and other school equipment.

6. Language policy of public schools

- (1) The Minister may 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.
- (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 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.

6B. Non-discrimination in respect of official languages

The governing body of a public school must ensure that—

- (a) there is no unfair discrimination in respect of any official languages that are offered as subject options; and
- (b) the first additional language and any other official language offered, as provided for in the curriculum, are offered on the same level.

7. Freedom of conscience and religion at public schools

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) 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 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 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.

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) 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.
- (4) Where a search entails a body search of the learners in question, such search may only:
 - (a) be conducted by:
 - the principal, if he or she is of the same gender as the learner; or
 - 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.
- (12) A learner may be subjected to disciplinary proceedings if:
 - a dangerous object or illegal drug is found in his or her possession; or
 - his or her sample tested positive for an illegal drug.

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.
- (1A) A governing body must conduct disciplinary proceedings against a learner within seven school days after the suspension of such learner.
- (1C) A governing body may, if a learner is found guilty of serious misconduct during the disciplinary proceedings:
 - 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
 - make a recommendation to the Head of Department to expel such learner from the public school.
- (2) A learner at a public school may be expelled only:
 - by the Head of Department; and
 - if found guilty of serious misconduct after disciplinary proceedings contemplated in section 8 were conducted.
- (4) A learner or the parent of a learner who has been expelled from a public school may appeal against the decision within 14 days of receiving the notice of expulsion.

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.
- (3) “initiation practices” means any act which:
 - endangers the mental or physical health or safety of a person;
 - undermines the intrinsic worth of human beings by treating some as inferior to others;
 - subjects individuals to humiliating or violent acts which undermine the constitutional guarantee to dignity in the Bill of Rights;
 - undermines the fundamental rights and values that underpin the Constitution;
 - impedes the development of a true democratic culture that entitles an individual to be treated as worthy of respect and concern; or
 - destroys public or private property.

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.

Chapter 3 - Public Schools

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.

12A. Merger of public schools

- (1) The Member of the Executive Council may 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 give written notice to the schools in question of the intention to merge them.

13. Public schools on State property

- (2) 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.

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.

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) 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.
- (2) A governing body stands in a position of trust towards the school.
- (3) The professional management of a public school must be undertaken by the principal under the authority of the Head of Department.

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
- (b) The principal must prepare and submit to the Head of Department an annual report in respect of:
 - 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
 - the effective use of available resources.
- (c) (i) The principal of a public school 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:
- tabled at a governing body meeting.

(2) The principal must:

- (a) in undertaking the professional management of a public school carry out duties which include, but are not limited to:
- the implementation of all the educational programmes and curriculum activities;
 - the management of all educators and support staff;
 - the management of the use of learning support material and other equipment;
 - the performance of functions delegated to him or her by the Head of Department in terms of this Act;
 - the safekeeping of all school records; and
 - 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;
- (g) provide accurate data to the Head of Department when requested to do so; and;
- (h) assist the governing body with the management of the school's funds, which assistance must include:
- (i) the provision of information relating to any conditions imposed or directions issued by the Minister, the Member of the Executive Council or the Head of Department in respect of all financial matters of the school contemplated in Chapter 4; and
- (ii) the giving of advice to the governing body on the financial implications of decisions relating to the financial matters of the school;
- (i) take all reasonable steps to prevent any financial maladministration or mismanagement by any staff member or by the governing body of the school;
- (j) be a member of a finance committee or delegation of the governing body in order to manage any matter that has financial implications for the school; and
- (k) report any maladministration or mismanagement of financial matters to the governing body of the school and to the Head of Department.

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.

18. Constitution of governing body

- (1) 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 meeting of the governing body at least once every school term;
 - meetings of the governing body with parents, learners, educators and other staff at the school, respectively, at least once a year;
 - recording and keeping of minutes of governing body meetings;
 - making available such minutes for inspection by the Head of Department; and
 - 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.
- (3) All members of a governing body must adhere to the code of conduct.
- (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.

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:
 - 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;
 - adopt a constitution;
 - develop the mission statement of the school;
 - adopt a code of conduct for learners at the school;
 - support the principal, educators and other staff of the school in the performance of their professional functions;
 - determine times of the school day consistent with any applicable conditions of employment of staff at the school;
 - administer and control the school's property, and buildings and grounds occupied by the school;
 - encourage parents, learners, educators and other staff at the school to render voluntary services to the school;
 - recommend to the Head of Department the appointment of educators at the school;

- recommend to the Head of Department the appointment of non-educator staff at the school;
 - allow the reasonable use of the facilities of the school for educational programmes not conducted by the school;
 - discharge all other functions imposed upon the governing body by or under this Act; and
 - 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) A public school may establish posts for educators and employ educators additional to the establishment.
- (5) A public school may establish posts for non-educators and employ non-educator staff additional to the establishment.
- (7) A public school may only employ an educator if such educator is registered as an educator with the South African Council of Educators.
- (9) When presenting the annual budget the governing body of a public school must provide sufficient details of any posts envisaged 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.

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:
- To maintain and improve the school's property, and buildings and grounds occupied by the school, including school hostels, if applicable;
 - to determine the extra-mural curriculum of the school and the choice of subject options in terms of provincial curriculum policy;
 - to purchase textbooks, educational materials or equipment for the school;
 - to pay for services to the school;
 - to provide an adult basic education and training class or centre subject to any applicable law; or
 - 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.

22. Withdrawal of functions from governing bodies

- (1) The Head of Department may, on reasonable grounds, withdraw a function of a governing body.

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:
 - elected members;
 - the principal, in his or her official capacity;
 - co-opted members.
- (2) Elected members of the governing body shall comprise a member or members of each of the following categories:
 - Parents of learners at the school;
 - educators at the school;
 - members of staff at the school who are not educators; and
 - 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.
- (4) The representative council of learners must elect the learner or learners referred to.
- (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) Co-opted members do not have voting rights on the governing body.
- (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.
- (11) If a parent is co-opted with voting rights the co- option ceases when the vacancy has been filled through a by-election which must be held within 90 days after the vacancy has occurred.
- (12) If a person elected as a member of a governing body ceases to fall within the category of which he or she was elected as a member, he or she ceases to be a member of the governing body.

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:
 - Parents of learners at the school, if reasonably practicable;
 - educators at the school;
 - members of staff at the school who are not educators;
 - learners attending the eighth grade or higher, if reasonably practicable;
 - representatives of sponsoring bodies, if applicable;

- representatives of organisations of parents of learners with special education needs, if applicable;
- representatives of organisations of disabled persons, if applicable;
- disabled persons, if applicable; and
- experts in appropriate fields of special needs education.
- the principal in his or her official capacity.

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 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.

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

The Member of the Executive Council must, by notice in the Provincial Gazette, determine:

- the term of office of members and office-bearers of a governing body;
- the designation of an officer to conduct the process for the nomination and election of members of the governing body;
- 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;
- the procedure for the filling of a vacancy on the governing body;
- guidelines for the achievement of the highest practicable level of representativity of members of the governing body;
- 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
- 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.

30. Committees of governing body

- (1) A governing body may:
 - establish committees, including an executive committee; and
 - 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.

33A. Prohibition of political activities during school time

- (1) No party-political activities may be conducted at a school during school time determined by the governing body of the school in terms of section 20 (1) (f).
- (2) The party-political activities contemplated in subsection (1) include, but are not limited to:
 - campaigning;
 - the conducting of rallies;
 - the distribution of pamphlets and fliers; and
 - the hanging or putting up of posters and banners.
- (3) A member of a political party may not, for the purposes of conducting party-political activities, encroach on the school time.
- (4) A school may not allow the display of material of a party-political nature on its premises unless such party-political material is related to the curriculum at 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 enable public schools to prepare their budgets for the next financial year.

35. Norms and standards for school funding

- (1) 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.

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.
- (4) (a) A governing body may, with the approval of the Member of the Executive Council:
 - (i) lease, burden, convert or alter immovable property of the school to provide for school activities or to supplement the school fund of that school; and
 - (ii) allow any person to conduct any business on school property to supplement the school fund.

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) 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.
- 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:

- educational purposes, at or in connection with such school;
- 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;
- the performance of the functions of the governing body; or
- 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.

(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.

38. Annual budget of public school

- (1) A governing body of a public school must prepare a budget each year which shows the estimated income and expenditure of the school for the following financial year.
- (2) Before a budget 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 must also inform the parents that the budget will be available for inspection at the school at least 14 days prior to the meeting.

38A. Prohibition of payment of unauthorised remuneration, or giving of financial benefit or benefit in kind to certain employees.

- (1) A governing body may not pay or give to a state employee any unauthorised:
 - remuneration;
 - other financial benefit; or
 - benefit in kind.
- (2) A governing body may apply to the employer for approval to pay a state employee any payment.
- (5) 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.
- (8) The payment must be reflected in the school's budget, as presented to the general meeting of parents.
- (9) If a governing body pays remuneration or gives any financial benefit or benefit in kind 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.

39. School fees at public schools

- (1) 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.

- (2) A resolution must provide for:
 - the amount of school fees to be charged;
 - equitable criteria and procedures for the total, partial or conditional exemption of parents who are unable to pay school fees; and
 - a school budget that reflects the estimated cumulative effect of:
 - othe established trends of non-payment of school fees; and
 - othe total, partial or conditional exemptions granted to parents in terms of the regulations contemplated in subsection (4).
- (3) The governing body must implement a resolution adopted at the meeting.
- (5) No public school may charge any registration, administration or other fee, except school fees.
- (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.

40. Parent's liability for payment of school fees

- (1) A parent is liable to pay the school fees unless or to the extent that he or she has been exempted from payment.

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.
- (4) A public school may act in terms of subsection (1) only after it has ascertained that:
 - the parent does not qualify for exemption from payment of school fees in terms of this Act;
 - deductions have been made in terms of regulations for a parent who qualifies for partial exemption; and
 - the parent has completed and signed the form prescribed in the regulations.
- (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:
 - Suspension from classes;
 - verbal or non-verbal abuse;
 - denial of access to:
 - ocultural, sporting or social activities of the school; or
 - othe nutrition programme of the school for those learners who qualify in terms of the applicable policy; or
 - denial of a school report or transfer certificate.

42. Financial records and statements of public schools

The governing body of a public school must:

- keep records of funds received and spent by the public school and of its assets, liabilities and financial transactions; and
- 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.
- (2) If the audit 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 who:
 - 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
 - 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.
- (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.

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OUR MISSION

To provide training programmes that:

- are aligned to the needs of the South African education system, and
- help school communities make a valuable contribution to the education of their children.

