

PROVINCIAL NOTICE

[No. 156 of 2001]

REGULATIONS REGARDING THE DISCIPLINE OF LEARNERS AT PUBLIC SCHOOLS

Under sections 34 and 72 of the Free State School Education Act, 2000 (Act No. 2 of 2000), I, DA Kganare, hereby make the regulations contained in the Schedule.

SCHEDULE

Definitions

1. In these Regulations any word or expression to which a meaning has been assigned in the Act, shall have the meaning as assigned to it, unless the context indicates otherwise, and –

“the Act” means the Free State School Education Act, 2000 (Act No. 2 of 2000).

Discipline

2. (1) If a learner at a school contravenes these regulations or the code of conduct for learners of that school, disciplinary measures may be instituted against such a learner, which may include –
 - (a) the measures listed in paragraph 10 of the Guidelines for Consideration of Governing Bodies adopting a Code of Conduct for Learners, General Notice 776 of 1998 (Government Gazette No. 18900);
 - (b) in more serious cases, suspension or expulsion from school in terms of section 34(1) and (2) of the Act.
- (2) Disciplinary measures must –
 - (a) be administered in a fair, reasonable, consistent and progressive manner;
 - (b) be constituted expeditiously; and
 - (c) serve mainly as a corrective measure in the interest of the learner, the maintenance of discipline and the good name of the school.

- (3) A disciplinary measure, which was imposed, must be recorded by the Principal or a person designated by him or her in the personal file of the learner and in a discipline register.
- (4) The discipline register must contain the following information:
 - (a) the name of the learner and the date of the offence;
 - (b) the nature of the offence;
 - (c) the disciplinary measure imposed;
 - (d) the date on which the disciplinary measure was imposed;
 - (e) the name of the person who imposed such disciplinary measure;
and
 - (f) the effect of the disciplinary measure imposed.

Suspension and expulsion

3. (1) Subject to the provisions of the Act, a learner may be liable for disciplinary action, which may lead to suspension or expulsion from the school if he or she commits one or more of the following acts:
 - (a) conduct which endangers the safety and violates the rights of others;
 - (b) possession, threat or use of a dangerous weapon;
 - (c) possession, use, transmission or visible evidence of narcotic or unauthorised drugs, alcohol or intoxicants of any kind;
 - (d) fighting, assault or battery;
 - (e) immoral behaviour or profanity;
 - (f) falsely identifying oneself;
 - (g) harmful graffiti, hate speech, sexism, racism;
 - (h) theft or possession of stolen property, including test or examination papers prior to the writing of tests or examinations;
 - (i) unlawful action, vandalism, or destroying or defacing school property;
 - (j) disrespect, objectionable behaviour and verbal abuse directed at educators or other school employees or learners;

- (k) repeated violations of school rules or the Code of Conduct;
 - (l) criminal and oppressive behaviour such as rape and gender based harassment;
 - (m) victimisation, bullying and intimidation of other learners;
 - (n) infringement of examination rules;
 - (o) knowingly and wilfully supplying false information or falsifying documentation to gain an unfair advantage at school; and
 - (p) repeated failure to have his or her books or other equipment that is necessary for his or her tuition with him or her when it is required for the purposes of such tuition.
- (2) A learner is liable for disciplinary action which could lead to expulsion from the school if the learner has been convicted in a court of law of an offence which has seriously prejudiced or could so prejudice the maintenance, order, discipline or the effective provision of education at the school.

Procedure at hearing

4. The following procedures must be adhered to in relation to a hearing contemplated in section 34(1) and (2) of the Act:
- (a) The learner must be given written notice at least five school days before the date of the hearing.
 - (b) The written notice referred to in paragraph (a) must contain –
 - (i) a description of the charges of misconduct and the main evidence the school will rely on;
 - (ii) details of the time, place and venue of the hearing; and
 - (iii) information on the rights of the learner to representation by his or her parent, educator, member of the representative council of learners or in serious or complex cases, by a legal representative.
 - (c) If the learner fails to attend the hearing and the governing body concludes that the learner did not have a valid reason, the hearing may continue in the absence of the learner.
 - (d) The chairperson at the hearing must keep a record of the hearing.

- (e) The representative of the school will lead evidence on the conduct giving rise to the hearing and the learner or representative of the learner may question any witness introduced by the representative of the governing body.
- (f) The learner or the representative of the learner will be given an opportunity to lead evidence and the representative of the school may question the witnesses.
- (g) The governing body may ask any witness questions for clarification.
- (h) If the governing body decides that the learner has committed misconduct, the governing body must inform the learner of the finding and the reasons for it.
- (i) Before deciding on a sanction, the governing body must give the learner an opportunity to present evidence in mitigation and the representative of the school may present evidence in aggravation.
- (j) After the governing body has considered the mitigating and aggravating evidence, the governing body may -
 - (i) institute any sanction prescribed in the Code of Conduct;
 - (ii) suspend a learner in terms of section 34(1)(a) of the Act as a correctional measure for a period not longer than five school days;
 - (iii) suspend and recommend expulsion in terms of section 34(1)(b) read with section 34(2) of the Act.
- (k) The governing body must communicate the final outcome of the hearing and the reasons therefore to the learner and his or her representative after the conclusion of the disciplinary enquiry, and the outcome must be recorded on the personal file of the learner and the discipline register.

Conditions of suspension

- 5. A learner that has been suspended as contemplated in subregulation j(ii) and j(iii) must –
 - (a) without delay, leave the premises of the school and any hostel attached to the school; and
 - (b) not, for the full period he or she is suspended, be present on the premises of such school, including any playground or hostel attached to the school.

Procedure after hearing

6. (1) When a learner is suspended pending a decision by the Head of Education in regard to an expulsion, the Principal must, within two days of the decision of the governing body, submit a full report together with the decision of the governing body on the matter to the relevant District Director.
- (2) The District Director must submit the report of the Principal referred to in subregulation (1), together with his or her comments in regard to the case, within 7 days of the receipt thereof to the Head of Education.
- (3) In the instance where the District Director brings information to the attention of the Head of Education which was not part of the disciplinary hearing, the Head of Education must submit such information to the relevant governing body, the learner or his or her representative and his or her parent for comment.
- (4) The governing body, the learner or his or her representative, and the parent must submit their comments, contemplated in subregulation (3) to the Head of Education within one week of receipt of the request for comments.
- (5) The Head of Education must, within 14 days of receipt of all relevant information, and after he or she has considered all relevant facts and representations contemplated in these regulations, take a decision whether or not to expel such a learner.

Procedure after decision of Head of Education

7. (1) The Head of Education must inform the learner or his or her representative, the parent of the learner and the relevant governing body, in writing of his or her decision contemplated in regulation 6(5) and the reasons for his or her decision.
- (2) The Head of Education must inform a learner who is subject to compulsory school attendance and his or her parent, in writing, of the arrangements which were made in regard to the placement of such learner in another school.
- (3) The Head of Education must inform a learner or his or her representative and his or her parent, in writing, that an appeal may be lodged to the responsible Member, within 14 days from receipt of the notification contemplated in this subregulation.

Suspension or expulsion from hostel

8. If a learner residing in a hostel is suspended or expelled from a public school to which such hostel is attached, he or she shall also be suspended or expelled from that hostel.

Procedure for appeal

9. (1) A learner or the parent of the learner who has been expelled may appeal to the responsible Member within 14 days of receipt of the notification of the expulsion.
- (2) Pending the outcome of an appeal, a learner who was suspended pending the outcome of the decision in regard to the expulsion remains suspended until the outcome of the appeal.
- (3) The responsible Member must inform the learner or his or her representative, the parent of the learner, and the governing body, in writing, of his or her decision in regard to the appeal and if the appeal was unsuccessful of the reasons for his or her decision.