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PROVINSIE WES-KAAP

IPHONDO LENTSHONA KOLONI

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ADV. B. GERBER,  
DIRECTOR-GENERAL

Provincial Building,  
Wale Street,  
Cape Town.

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**PROVINSIALE KENNISGEWINGS**

Die volgende Provinsiale Kennisgewings word vir algemene inligting gepubliseer.

ADV. B. GERBER,  
DIREKTEUR-GENERAAL

Provinsiale-gebou,  
Waalstraat,  
Kaapstad.

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**ISIBHENGEZO**

Ezi zaziso zilandelayo zipapashelwe ukunika ulwazi ngokubanzi.

ADV. B. GERBER,  
UMLA WULI-JIKELELE

iSakhiwo sePhondo,  
Wale Street,  
eKapa.

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**PROVINCIAL NOTICE**

GENERAL NOTICE IN TERMS OF THE SOUTH AFRICAN SCHOOLS ACT, 1996 (ACT 84 OF 1996)

P.N. 101/2012

13 April 2012

**CODE OF CONDUCT FOR MEMBERS OF SCHOOL GOVERNING BODIES OF PUBLIC SCHOOLS IN THE WESTERN CAPE IN TERMS OF THE SOUTH AFRICAN SCHOOLS ACT (ACT 84 OF 1996)**

Under the powers vested in me in terms of section 18A of the South African Schools Act, 1996 (Act 84 of 1996), as amended, I, DONALD ARTHUR CARDROSS GRANT, Provincial Minister for Education in the Western Cape hereby promulgate the Code of Conduct for Members of School Governing Bodies set out in the Schedule.

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This Code of Conduct comes into effect on the date of publication.

Dated at CAPE TOWN this 10th day of APRIL 2012.

DONALD ARTHUR CARDROSS GRANT, MPP  
PROVINCIAL MINISTER FOR EDUCATION: WESTERN CAPE

## **CODE OF CONDUCT FOR MEMBERS OF SCHOOL GOVERNING BODIES OF PUBLIC SCHOOLS**

### **PREAMBLE**

The Provincial Minister of Education in the Western Cape recognises that the education of the young people of this province is a shared responsibility involving schools, learners and their families, and members of the community.

School governing bodies provide governance to their schools to ensure opportunity, excellence, inclusivity and accountability in the school.

### **1. SCOPE AND APPLICATION OF THE CODE OF CONDUCT**

- (1) This is a code of conduct for members of a school governing body of a public school ["the Code"] determined by the Provincial Minister of Education in the Western Cape, in terms of section 18A of the South African Schools Act, 1996 (Act 84 of 1996) ("the Act"), (as amended).
- (2) The Code applies to all members of school governing bodies of public schools in the Western Cape. All members are expected to abide by and to respect the provisions of this Code.
- (3) The Code excludes non-governing body members appointed to serve on committees in terms of section 30(1)(b) of the Act. It is, therefore, recommended that each governing body determines internal disciplinary measures that would be applicable to these committee members. (An example of such a process is provided as an addendum to this code for consideration.)
- (4) Members must be made aware of the contents of this Code and copies of the Code must be made available to each and every member.
- (5) The Provincial Minister may, from time to time, and in consultation with the associations of governing bodies in the Western Cape, where applicable, amend this Code.

### **2. PURPOSE**

- (1) The purpose of this Code is to establish a disciplined and purposeful school environment dedicated to the improvement and maintenance of a quality governance structure at a public school.
- (2) This Code sets out minimum standards of conduct and behaviour required, and expected from members of school governing bodies in the performance of their duties and obligations set out in the South African Schools Act, 1996 (Act 84 of 1996).
- (3) In the light of 2(2) above, the SGB must develop internal measures to deal with minor disciplinary matters that would not require suspension or termination of membership by the Head of Department (HoD).

### **3. LEGAL FRAMEWORK**

- (1) The following legal framework applies:
  - (a) The Constitution of the Republic of South Africa, 1996 as amended

- (b) The South African Schools Act, 1996 (Act 84 of 1996)
- (c) The Promotion of Administrative Justice Act, 2000 (Act 3 of 2000)
- (d) The Promotion of Access to Information Act, 2000, (Act 2 of 2000)
- (e) The Western Cape Provincial School Education Act, 1997 (Act 12 of 1997)
- (f) Measures relating to Governing Bodies and Representative Council of Learners for Public Schools, Western Cape Provincial Gazette Extraordinary 6519, 20 May 2008
- (g) Measures relating to Governing Bodies and Representative Council of Learners of Public Schools for Learners with Special Education Needs, Western Cape Provincial Gazette 6554, 12 September 2008
- (h) Minimum Requirements with which the Constitution of the Governing Body of a public school must comply, Western Cape Provincial Gazette 5164, 22 August 1997

#### 4. DEFINITIONS AND ABBREVIATIONS

- (1) In this Code any word or expression to which a meaning has been assigned in the Act bears the meaning assigned to it and, unless the context indicates otherwise, –
  - (a) “**Code**” means the code of conduct of a governing body of a public school as contemplated in section 26A of the Act;
  - (b) “**committee**” means any committee established by a governing body as contemplated in section 23 of the Act;
  - (c) “**constitution**” means the constitution of a governing body of a public school as contemplated in section 26A(1)(b) of the Act;
  - (d) “**days**” means business days and exclude Saturdays, Sundays and any public holiday;
  - (e) “**Department**” means the Department of Education in the Western Cape;
  - (f) “**HoD**” means the head of the Western Cape Education Department;
  - (g) “**member**” means the member of the governing body as contemplated in section 23 of the Act;
  - (h) “**Provincial Minister**” means the Provincial Minister of Education in the Western Cape Province;
  - (i) “**SGB**” means the school governing body of a public school;
  - (j) “**the Act**” means the South African Schools Act, 1996 (Act 84 of 1996); and
  - (k) “**WCED**” means the Western Cape Education Department.

#### CODE OF CONDUCT

##### 5. In general, a member of a school governing body—

- (1) accepts that the legal authority of the SGB is derived from the Act, which determines the degree of discretionary power provided to the SGB for the exercise of governance authority;
- (2) acknowledges that the duties assigned to the SGB are of a fiduciary [trust] nature and as such should be discharged with in the utmost good faith and in the best interests of the school at all times;
- (3) has a responsibility, where appropriate and applicable, for determining, monitoring and keeping under review the school’s policies, budget, plans and procedures within which the school operates;

- (4) recognises that the principal serves on the SGB in his or her official capacity as the representative of the HoD, and is responsible for, but not limited to:
  - (a) the implementation of applicable policy and legislation;
  - (b) professional management of all educators and support staff;
  - (c) the implementation of all the educational programmes and curriculum activities;
  - (d) the safekeeping of all school records and reporting on school matters to the SGB and the WCED;
  - (e) the performance of functions delegated to him or her by the HoD in terms of the Act; and
  - (f) assists the SGB with the management of the school funds;
- (5) accepts that all elected members have equal status on the SGB and although elected by different groups (i.e. parents, staff, learners) his or her overriding concern will be the welfare of the school and the best interest of the learners;
- (6) has no legal authority to act individually, except when the SGB has given him or her delegated authority, in writing, to do so;
- (7) has a duty to act fairly and without prejudice in all instances and to treat others with the necessary respect;
- (8) encourages open and transparent governance;
- (9) will be mindful of his or her responsibility always to serve the school's best interests when discharging his or her duties;
- (10) considers carefully, how the SGB's decisions may impact on or contribute to the greater good for the community; and
- (11) undertakes the responsibility for the administration and control of the school property, buildings, grounds, and school hostels (where applicable), with diligence, care and honest stewardship in the best interest of the school; and
- (12) accepts the responsibility to contribute to the development and maintenance of the ethos and character of the school.

**6. A member of a school governing body must make a commitment to the SGB and—**

- (1) acknowledge that accepting office as a member involves the commitment of a significant amount of voluntary time and energy;
- (2) involve himself or herself actively in the work of the SGB, regularly attend all meetings and accept his or her responsibilities;
- (3) endeavour to fully understand the functioning of the SGB and respond positively to opportunities to involve him- or herself in SGB activities; and
- (4) pursue any opportunity available to SGB members for individual and collective training and development.

**7. In building relationships, a member of a school governing body —**

- (1) recognises that the SGB has a responsibility to attend to governance matters as prescribed in the Act, and that the principal attends to the professional management of the school, staff and curriculum;
- (2) strives to work as part of a team;
- (3) develops effective working relationships with the learners, parents, the local community, relevant agencies, other schools, the principal, staff and the WCED;

- (4) agrees to follow the protocol determined in the SGB constitution when reporting to teachers, parents and learners on issues or decisions reached in the SGB meetings; and
  - (5) shall not undermine decisions taken by the SGB, in public or private, outside the SGB meeting.
- 8. With regard to financial management, a member of a school governing body—**
- (1) acts with fidelity, care, honesty, integrity, accountability and in the best interest of the school when administering, controlling and managing the finances, equipment, movable and immovable property of the school;
  - (2) pursues the development of sound governance and financial practices, which ensure that every rand spent produces maximum benefits, and insists that all school transactions are performed within an ethical and legal framework; and
  - (3) may not derive personal gain and profit while managing and controlling the finances, property, buildings, grounds and other movable and immovable assets of the school.
- 9. To ensure confidentiality, a member of a school governing body—**
- (1) observes confidentiality at all times;
  - (2) will exercise the greatest circumspection and wisdom if approached individually outside the SGB with any potentially contentious issue affecting the school, and will not respond as an individual SGB member, but will encourage the issue to be brought to the attention of the SGB; and
  - (3) may not use his or her membership of the SGB or confidential information obtained as a member for personal gain or improperly obtain a benefit from another source.
- 10. With regard to potential conflict of interest, a member of a school governing body —**
- (1) who may have any vested interest, direct or indirect, personal or financial, in a matter in connection with the SGB's business must declare such interest to the governing body and it must be recorded;
  - (2) who has declared a vested interest in a matter must withdraw from the SGB meeting, or committee meeting, while the relevant matter is under discussion and/or a decision regarding it is taken; and
  - (3) may not solicit, request or accept a reward or gift in return for favours in a particular manner on any matter before the governing body or before a committee of the SGB.
- 11. In promoting good communication, a member of a school governing body—**
- (1) encourages and respects open expression of views at meetings and accepts collective responsibility for all decisions taken by the governing body or its delegated agents. This means he or she will not undermine decisions, in public or private, outside the governing body meeting;
  - (2) may speak or act on behalf of the governing body only when specifically authorised to do so, and only in terms of the written mandate given;
  - (3) responds to criticism or complaints about the school, staff or learners, by following the complaints procedures established by the governing body according to the SGB Constitution; and
  - (4) undertakes to visit the school within the protocol established by the governing body.

## **FAILURE TO COMPLY WITH THE CODE**

### **12. Inappropriate Conduct**

Each member of the SGB has a responsibility to maintain an environment where conflict and difference can be addressed in a manner characterised by respect and civility. No member of the SGB will accept, condone or ignore inappropriate conduct by any member of the school governing body.

### **13. Due Process**

- (1) Due process must be followed in all cases of corrective measures and/or disciplinary proceedings. All procedures should be fair and unbiased and must include –
  - a) the right to be informed and receive particulars of the complaint;
  - b) the opportunity to be heard;
  - c) the right to representation;
  - d) the right to be heard by impartial persons;
  - e) the right to be treated with dignity and respect;
  - f) the right to be informed in writing of the decision and sanction; and
  - g) the right to appeal.

### **14. Breach of the Code (Inappropriate or unacceptable behaviour)**

- (1) Conduct and/or behaviour by a member who, while acting and fulfilling the duties of a SGB member, violates this Code or goes beyond the accepted standards of behaviour described in this Code will constitute a breach of this code and may lead to disciplinary action against such a member.
- (2) A member who
  - a) continually transgresses any stipulation or obligation of this Code,
  - b) transgresses any law, which has a direct link with his or her membership or duties of the SGB, or which in any way disadvantages the school or SGB, or brings them into disrepute, or
  - c) consistently acts in a way that has a detrimental effect on the functioning and effectiveness of the SGB,will be guilty of a breach of this Code and will have his or her membership suspended or terminated.

### **15. Breaches of a Criminal Nature**

- (1) The SGB may request the South African Police Services (SAPS) to investigate and, if necessary, prosecute any alleged criminal offences committed by a member that is directly related to the performance of his or her SGB duties.
- (2) The handing over of a matter or case to the SAPS does not exonerate the SGB from also instituting disciplinary measures in terms of its constitution against the member, especially in serious cases where suspension and/or termination of membership will be recommended or is required.

### **16. Financial Mismanagement**

All complaints regarding maladministration or mismanagement of financial matters must be reported to the SGB and to the HoD for investigation.



**17. Representation at a Disciplinary Meeting**

Each member has the right to be represented by a representative of his or her choice. The SGB must assist a member to present witnesses and evidence at a disciplinary hearing.

**DISCIPLINARY ACTION****18. *Suspension of Membership by the HoD***

- (1) Suspension of membership of an SGB member may be requested
  - a) prior to a disciplinary investigation or hearing, if –
    - i) a member's continued presence as an SGB member would jeopardize or influence an investigation or disciplinary hearing;
    - ii) a member intimidates and/or coerces others; and
  - b) after a disciplinary hearing where it has been recommended as a sanction, if a member has breached the Code as stipulated in par. 14, 15 and 16.
- (2) If the sanction recommended by the SGB disciplinary hearing is for suspension of membership a full report must be forwarded to the HoD, containing
  - a) certified copies of the complaint, investigation, finding and recommended sanction; and
  - b) the conditions of the suspension clearly indicated as part of the recommendation, with regard to
    - i) the recommended time of suspension;
    - ii) the specific functions or events suspended from, if the suspension is to be partial; and
    - iii) the relief sought, e.g. requirement to undergo training or counselling, not visiting the school or contacting any person at the school or relating to the case, etc.
- (3) Suspension may not be recommended during a member's term of office for more than 3 consecutive months at a time, or for more than once for the same offence.
- (4) If a member was suspended on a previous occasion for a serious transgression in breach of the Code and is once again suspended for a serious transgression in breach of the Code, termination of membership should be recommended.
- (5) The HoD may, after requesting clarity from the affected parties, if this is required, change the recommended conditions of suspension.

**19. *Termination of Membership by the HoD***

- (1) Where an SGB recommends or requests the termination of membership of a member, the HoD must be provided with a full report, containing
  - a) certified copies of the written complaint, the report on the investigation, and the report on the hearing, with finding and recommended sanction;
  - b) evidence of the sequence of transgressions or neglect of duties committed by the member; and

- c) proof that the relationship between the member and the SGB and the school has been permanently damaged and that the continuance of the membership would have a detrimental effect on the culture of the SGB and the school and/or the effective functioning of the SGB, the school, and/or the ability of the SGB to carry out functions allocated to it in terms of the Act.
- (2) The HoD may refer the recommended termination of membership back to the SGB for an alternative sanction.

## **20. Decision of the HoD**

- (1) When receiving a request for suspension or termination of the membership of an SGB member, the HoD must, within 21 days –
- a) consider the documents referred to him/her;
  - b) satisfy him- or herself that the procedures as stated in paragraphs 13, 20 and 21 were applied and followed correctly;
  - c) consider the merits of the matter;
  - d) take a decision to confirm or reject the recommendation of the SGB; and
  - e) inform the SGB and the accused of his/her decision in writing.

## **21. Right of Appeal**

- (1) A member whose membership has been suspended or terminated by the HoD has the right to appeal against the sanction to the Provincial Minister.
- (2) The accused member may, within 10 working days after receiving the decision of the HoD, appeal to the Provincial Minister against the decision by the HoD.
- (3) The appeal must be in writing and must contain the reasons why he or she believes the decision to be wrong.
- (4) A copy of the appeal must be served on the HoD.
- (5) The sanction must be suspended while the matter is under appeal. It is recommended that the accused member does not participate in any function of the SGB.
- (6) The Provincial Minister, within 30 days of receipt of the appeal, must –
- a) consider the appeal;
  - b) confirm or set aside the sanction, or change the sanction; and
  - c) inform the HoD, the SGB and the appellant of his/her decision in writing.
- (7) The SGB chairperson may inform the complainant in writing of the appeal decision within 5 days of receiving the decision from the Provincial Minister.
- (8) Confidentiality and details should be protected at all times.

## **22. Failure of the SGB to Take Action Against its Members**

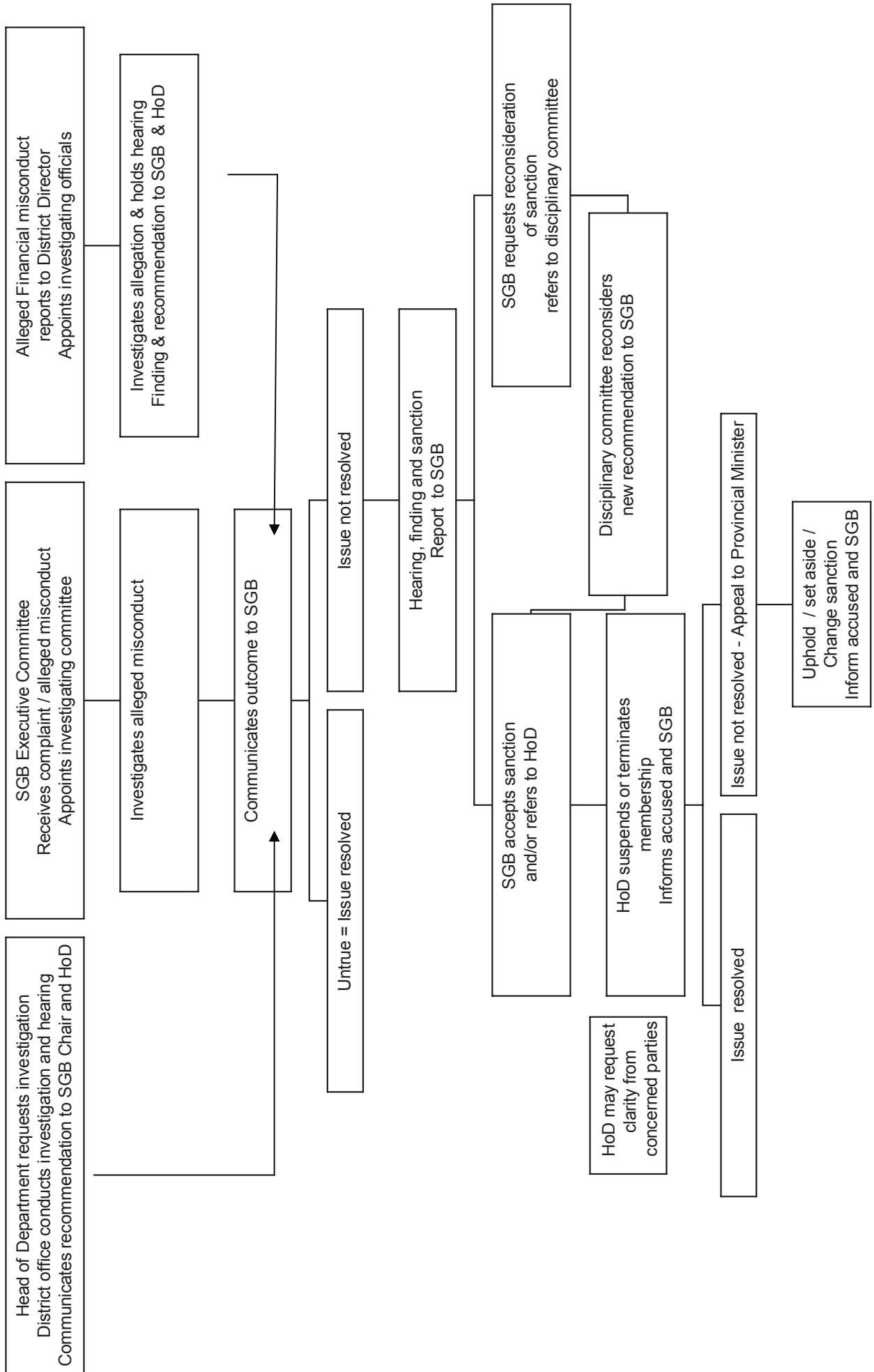
- (1) The HoD may direct the SGB to take action against a member within 14 days after an allegation of a breach of this Code or of any legal transgression has been received by any official of the Western Cape Education Department.
- (2) If the SGB is unable or unwilling to take action against a member, the HoD must direct the district director to investigate the allegation and to manage the disciplinary process.
- (3) The same procedures prescribed in paragraph 13, 17, 20 and 21 should be followed by the delegated district officials.

- (4) At least two members of the SGB who have no conflict of interest with regard to the investigation, and who are elected by the SGB, must serve on the district's investigating committee, and a member of the SGB must attend the disciplinary hearing as an observer.
- (5) The district director or his or her delegate be the chairperson of the disciplinary hearing.
- (6) The chairperson of the disciplinary hearing must –
  - a) inform the accused of the allegation, providing full details, the date and time of the hearing and that he/she may be represented and present evidence in his/her defence;
  - b) inform the chairperson of the investigating committee about the date and time for the hearing;
  - c) keep accurate notes on the proceedings during the hearing;
  - d) consider all evidence presented and recommend a sanction;
  - e) inform, in writing, the accused and the SGB of the finding and recommended sanction; and
  - f) if necessary, send a written statement of the hearing finding and recommended sanction to the HoD for a decision.

#### ADDENDUM

Schematic representation of the disciplinary procedures for suspension or termination of membership by the HoD

**B: Disciplinary procedures for suspension and termination of membership by the HoD**



## **Proposed disciplinary measures that SGBs may incorporate into their SGB Constitution.**

### **1. SGB internal disciplinary measures for minor transgressions**

- (1) Although an SGB does not legally have the authority to suspend or terminate a member's membership, nothing in this Code precludes the chairperson of the SGB, after a vote on the matter by the SGB members attending, or by a vote on the matter by the executive committee of the SGB, from temporarily removing a member from a specific SGB meeting or school activity or venue immediately for behaviour or conduct in a meeting that is unacceptable.
- (2) This temporary removal is not subject to appeal, but the disciplined member must be afforded the opportunity to explain his/her behaviour to an SGB committee [audi alteram partem rule] of 2 - 3 members appointed by the SGB executive committee.
- (3) A member may be temporarily removed for any behaviour or acts, but not limited to, of -
  - a) disruptive and/or unacceptable behaviour;
  - b) persistent opposition to authority;
  - c) conduct injurious to the moral tone of the SGB or school; and
  - d) conduct injurious to the physical or mental well-being of others in the SGB or the school.

### **2. Reporting an alleged breach of the Code**

- (1) Whenever a member believes that another has violated this Code, it is incumbent on him/her to bring the matter to the attention of the chairperson of the SGB.
- (2) Where the chairperson of the SGB is accused of an alleged violation of the Code, the matter must be reported to the deputy chairperson or the district director.

### **3. Disciplinary procedures**

- (1) All complaints received against a member of the SGB must be acted on within 5 working days.
- (2) The chairperson or deputy chairperson, has to –
  - a) inform the accused of the allegation and that it will be discussed at an SGB executive meeting which he/she may not attend;
  - b) call an extraordinary meeting of the SGB executive committee, to discuss the matter; and
  - c) authorize an investigation of the facts and circumstances of the alleged breach in order to accumulate sufficient information to determine whether or not the matter needs to be pursued formally, i.e. whether or not there is a disciplinary case to answer.
- (3) All investigations must be conducted objectively and may not be based on deductions and/or assumptions. Only substantiated facts may serve as evidence.
- (4) **The investigating committee must -**
  - a) provide the member concerned, in writing, with adequate notice of the nature and purpose of the investigation;
  - b) investigate the allegation to determine if any evidence supports the allegation;
  - c) give the relevant member and or representative, during the investigation stage, an opportunity to state his/her views on the matter;
  - d) determine beyond doubt that the allegation is valid or not; and

- e) 3 days after concluding the investigation, provide a written report to the SGB executive committee and include the evidence found;

OR

- f) report that there are not sufficient facts to support the continuation of the disciplinary hearing or that the explanation received from the member concerned was sufficient; and
- g) conclude the matter by informing the member of the decision and the reasons for the decision.

#### **4. Disciplinary Hearing**

- (1) If a disciplinary hearing is required, the SGB executive committee must –
  - a) appoint an SGB member, who was not part of the investigating committee, to chair the disciplinary hearing; and
  - b) have a disciplinary hearing within 5 working days after the investigation report is received.
- (2) The executive committee may appoint a person who is not an SGB member as a chairperson or a committee member, provided that the person appointed has the required knowledge, experience and objectivity that is required.
- (3) The chairperson of the disciplinary hearing must –
  - a) inform the accused of
    - (i) the allegation, giving full details;
    - (ii) the date and time of the hearing;
    - (iii) his/her right to be represented and present evidence in his/her defence; and
    - (iv) who will conduct the hearing;
  - b) provide the member with a copy of the investigating committee's report, this Code and the SGB's constitution;
  - c) inform the chairperson of the investigating committee about the date and time for the hearing;
  - d) keep notes on the proceedings during the hearing;
  - e) objectively consider all evidence presented and recommend a sanction; and
  - f) inform, in writing, the accused and the SGB executive committee of the finding and recommended sanction.
- (4) The concerned member will, within three (3) working days prior to the hearing, provide the hearing chairperson with –
  - a) the name and status of his/her representative;
  - b) names of witnesses he/she intends call and an outline of the evidence they will give; and
  - c) submit a written statement or other supporting written evidence, if he/she wishes.
- (5) At the hearing, the concerned member or his/her representative may -
  - a) address the presiding officer, be questioned by the other party on the statements made by them and on any other evidence submitted;
  - b) question witnesses called by either party, and
  - c) use the opportunity given at the end of the hearing for both parties to make a summary of their case.

- (6) Where the chairperson of the hearing (presiding officer) concludes that there is sufficient evidence to support the allegation(s), the chairperson shall find the member guilty of the breach and recommend to the SGB, in writing with reasons, a recommended sanction for the concerned member.
- (7) However, where the chairperson finds that there is insufficient evidence to support the allegation, the hearing will end and the chairperson of the hearing will advise the SGB, in writing, of the decision with supporting reasons, and the matter concludes.

#### **5. Decision of the SGB**

- (1) The SGB executive committee must call an extraordinary full SGB meeting, excluding the accused member, within 3 working days to discuss the recommended sanction and take a resolution to –
  - a) change the sanction or accept the sanction; or
  - b) impose the sanction recommended by the disciplinary hearing's chairperson with immediate effect, if it is an internal matter dealt with under the SGB's disciplinary measures;OR
  - c) if the sanction is for suspension or termination of membership, immediately refer the matter, including all documents pertaining to the matter, to the HoD for a decision.
- (2) The SGB has to exercise discretion about the information that is divulged to the school community, always keeping trust and confidentiality about personal matters in mind.
- (3) All documents and records relating to the case must be carefully filed and locked away in a safe place to ensure confidentiality.

**PROVINSIALE KENNISGEWING**

ALGEMENE KENNISGEWING INGEVOLGE DIE SUID-AFRIKAANSE SKOLEWET, 1996 (WET 84 VAN 1996)

P.K. 101/2012

13 April 2012

**GEDRAGSKODE VIR LEDE VAN SKOOLBEHEERLIGGAME VAN OPENBARE SKOLE IN DIE WES-KAAP INGEVOLGE DIE SUID-AFRIKAANSE SKOLEWET, 1996 (WET 84 VAN 1996)**

Kragtens die bevoegdheid aan my verleen ingevolge artikel 18A van die Suid-Afrikaanse Skolewet 1996, (Wet 84 van 1996), vaardig ek, DONALD ARTHUR CARDROSS GRANT, Provinsiale Minister verantwoordelik vir onderwys in die Wes-Kaap, hiermee die Gedragskode vir lede van skoolbeheerliggame in die Bylae, uit.

**BYLAE**

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17. Verteenwoordiging

## DISIPLINERE AKSIE

18. Opskorting van lidmaatskap deur die DH
19. Beëindiging van lidmaatskap deur die DH
20. Besluit van die DH
21. Reg tot Appel



22. Nalating deur die SBB om teen 'n lid op te tree

ADDENDUM

Skematiese voorstelling van die dissiplinêre prosedures vir opskorting of beëindiging van lidmaatskap deur die DH.

Hierdie Gedragskode vir lede van skoolbeheerliggame is van krag op die datum van publikasie.

Geteken te KAAPSTAD op hierdie 10de dag van APRIL 2012.

DONALD ARTHUR CARDROSS GRANT, LPP  
PROVINSIALE MINISTER VAN ONDERWYS: WES-KAAP

**BYLAE**  
**GEDRAGSKODE**  
**VIR LEDE VAN SKOOLBEHEERLIGGAME VAN OPENBARE SKOLE**

**VOORREDE**

Die Provinsiale Minister van Onderwys in die Wes-Kaap reken dat die onderwys van die jongmense van hierdie provinsie 'n gedeelde verantwoordelikheid is van skole, leerders en hulle families, en lede van die gemeenskap

Skoolbeheerliggame verskaf beheer aan hulle skole om geleentheid, uitnemendheid, inklusiwiteit en verantwoordbaarheid in die skool te verseker.

**1. OMVANG EN TOEPASSING VAN DIE GEDRAGSKODE**

- (1) Dit is 'n gedragskode vir lede van 'n skoolbeheerliggaam van 'n openbare skool ["die Kode"] bepaal deur die Provinsiale Minister van Onderwys in die Wes-Kaap, ingevolge artikel 18 A van die Suid-Afrikaanse Skolewet, 1996 (Wet 84 van 1996) ("die Wet") (soos gewysig).
- (2) Die Kode is van toepassing op alle lede van skoolbeheerliggame van openbare skole in die Wes-Kaap. Alle lede moet hou by die bepalings van hierdie Kode en dit respekteer.
- (3) Die Kode sluit niebeheerliggaamlede uit wat aangestel is om op komitees te dien ingevolge artikel 30(1)(b) van die Wet. Dit word dus aanbeveel dat elke beheerliggaam interne dissiplinêre maatreëls bepaal wat van toepassing op hierdie komiteelede sal wees. ('n Voorbeeld van sodanige proses word voorsien as 'n bylae toit hierdie kode vir oorweging.)
- (4) Lede moet bewus gemaak word van die inhoud van hierdie Kode en kopieë van die Kode moet aan elke lid beskikbaar gestel word.
- (5) Die Provinsiale Minister mag, van tyd tot tyd, en in konsultasie met die verenigings van beheerliggame in die Wes-Kaap van tyd tot tyd hierdie Kode wysig.

**2. DOEL**

- (1) Die doel van hierdie Kode is om 'n gedissiplineerde en doelmatige skoolomgewing te vestig wat toegewy is aan die verbetering en instandhouding van 'n regeringstruktuur van gehalte by 'n openbare skool.
- (2) Hierdie Kode gee 'n uiteensetting van minimum gedragstandaarde wat vereis word en verwag word van lede van skoolbeheerliggame in die uitvoering van hulle pligte en verantwoordelikhede soos uiteengesit in die Suid-Afrikaanse Skolewet, 1996 (Wet 84 van 1996).
- (3) In die lig van 2(2) hierbo, moet die SBL interne maatreëls opstel om mindere dissiplinêre kwessies wat nie uitsetting of beëindiging van lidmaatskap deur die Departementshoof (DH) regverdig nie, te hanteer.

**3. WETLIKE RAAMWERK**

- (1) Die volgende wetlike raamwerk is van toepassing:
  - (a) Die Grondwet van die Republiek van Suid-Afrika, 1996, soos gewysig

- (b) Die Suid-Afrikaanse Skolewet, 1996 (Wet 84 van 1996)
- (c) Die Wet op die Bevordering van Administratiewe Geregtheid, 2000 (Wet 3 van 2000)
- (d) Die Wet op die Bevordering van Toegang tot Inligting, 2000 (Wet 2 van 2000)
- (e) Wes-Kaapse Provinsiale Wet op Skoolonderwys (Wet 12 van 1997)
- (f) Maatreëls betreffende Beheerliggame en Verteenwoordigende Leerderraad vir Openbare Skole, Wes-Kaap Buitengewone Provinsiale Koerant 6519, 20 Mei 2008
- (g) Maatreëls betreffende Beheerliggame en Verteenwoordigende Leerderraad vir Openbare Skole vir Leerders met Spesiale Onderwysbehoefes, Wes-Kaap Provinsiale Koerant 6554, 12 September 2008, Wes-Kaap Buitengewone Provinsiale Koerant 6554, 12 Mei 2008
- (h) Minimum vereistes waaraan die Grondwet van die Beheerliggaam van 'n openbare skool moet voldoen, Wes-Kaap Provinsiale Koerant 5164, 22 Augustus 1997

#### 4. DEFINISIES EN AFKORTINGS

- (1) In hierdie maatreëls het enige woord of uitdrukking waaraan 'n betekenis in die Wet geheg is die betekenis aldus daaraan geheg en, tensy uit die samehang anders blyk, beteken –
  - (a) “**dae**” is besigheidsdae en sluit Saterdag, sondae en enige openbare vakansiedag uit;
  - (b) “**Departement**” is die Wes-Kaap Onderwysdepartement; in artikel 26A (1)(b) van die Wet;
  - (c) “**DH**” is die hoof van die Wes-Kaap Onderwysdepartement;
  - (d) “**die Wet**” is die Suid-Afrikaanse Skolewet, 1996 (Wet 84 van 1996);
  - (e) “**grondwet**” is die grondwet van 'n beheerliggaam van 'n openbare skool soos bedoel in artikel 26A(1)(b) van die Wet;
  - (f) “**Kode**” is die gedragskode van 'n beheerliggaam van 'n openbare skool, soos bedoel in artikel 26A van die Wet;
  - (g) “**komitee**” is enige komitee deur 'n beheerliggaam gestig soos bedoel in artikel 23 van die Wet;
  - (h) “**lid**” is die lid van die beheerliggaam soos bedoel in artikel 23 van die Wet; beheerliggaam” 'n beheerliggaam soos gedefinieer in artikel 16(1) van die Wet;
  - (i) “**Provinsiale Minister**” is die provinsiale Minister van Onderwys in die Wes-Kaap Provinsie;
  - (j) “**SBL**” is die skoolbeheerliggaam van 'n openbare skool;
  - (k) “**WKOD**” is die Wes-Kaap Onderwysdepartement.

#### GEDRAGSKODE

##### 5. In die algemeen, is die volgende waar van 'n lid van 'n skoolbeheerliggaam – hy/sy

- (1) aanvaar dat die wetlike gesag van die SBL afgelei word van die Wet, wat die graad van diskresionêre mag wat voorsien is aan die SBL vir die beoefening van beheersag;
- (2) erken dat die pligte wat opgedra word aan die SBL van 'n fidusiêre [vertrouens-] aard is en moet as sulks uitgevoer word met die uiterste goeder trou en in die beste belang van die skool te alle tye;

- (3) het 'n verantwoordelikheid, waar gepas en van toepassing, om die skool se beleide, begroting en prosedures waarbinne die skool opereer te bepaal, te moniteer en te hersien.
- (4) erken dat die prinsipaal op die SBL dien in sy amptelike hoedanigheid as die verteenwoordiger van die DH, en verantwoordelik is vir, maar nie beperk is tot::
  - (a) die implementering van toepaslike beleid en wetgewing;
  - (b) professionele bestuur van alle opvoeders en ondersteuningspersoneel;
  - (c) die implementering van al die opvoedkundige programme en kurrikulêre aktiwiteite
  - (d) die veilige bewaring van alle skoolrekords en verslagdoening oor skoolaangeleenthede aan die SBL en die WKOD
  - (e) die uitvoering van funksies wat aan hom of haar gedelegeer is deur die DH ingevolge die Wet; en
  - (f) die ondersteuning van die SBL met die bestuur van die skoolfondse;
- (5) aanvaar dat alle lede gelyke status op die SBL het, en alhoewel hulle deur verskillende groepe verkies is (d.w.s. ouers, personeel, leerders) sy of haar grootste ywer sal wees vir die welsyn van die skool en die beste belange van die leerders;
- (6) het geen wetlike gesag om individualisties op te tree nie, behalwe wanneer die SBL skriftelik gesag aan hom of haar gedelegeer het om dit te doen; hom of haar
- (7) het 'n plig om billik en sonder vooroordeel op te tree in alle gevalle en om ander met die nodige respek te hanteer;
- (8) moedig oop en deursigtige beheer aan;
- (9) sal bewus wees van sy of haar verantwoordelikheid om altyd die skool se beste belange op die hart te dra in die uitvoering van sy of haar pligte.
- (10) dink versigtig na oor hoe die SBL se besluite 'n uitwerking kan hê op of kan bydra tot die beste voordeel van die gemeenskap; en
- (11) neem verantwoordelikheid vir die administrasie en beheer van die skoleiendom, geboue, gronde, en skoolkoshuise (waar van toepassing), met ywer, sorgsaamheid en eerlike rentmeesterskap in die beste belang van die skool; en
- (12) aanvaar die verantwoordelikheid om by te dra tot die ontwikkeling en handhawing van die etos en karakter van die skool.

#### **6. 'n Lid van 'n skoolbeheerliggaam moet hom/haar tot die SBL verbind en –**

- (1) erken dat om die amp te aanvaar as 'n lid beteken dat 'n aansienlike hoeveelheid vrywillige tyd en energie daaraan gewy moet word;
- (2) aktief betrokke wees by die werk van die SBL, gereeld alle vergaderings bywoon en sy/haar verantwoordelikhede aanvaar;
- (3) daarna strewende om ten volle te verstaan hoe die SBL funksioneer en positief reageer op geleenthede om betrokke te wees by SBL-aktiwiteite; en
- (4) enige beskikbare geleentheid vir SBL-lede vir individuele en kollektiewe opleiding en ontwikkeling benut.

#### **7. Met die bou van verhoudings moet 'n SBL-lid die volgende doen –**

- (1) erken dat die SBL 'n verantwoordelikheid het om sake t.o.v. beheer soos in die Wet voorgeskryf te erken, en dat die prinsipaal aandag gee aan die professionele bestuur van die skool, personeel en kurrikulum;
- (2) strewende om as deel van die span te werk;

- (3) doeltreffende werkverhoudings te ontwikkel met die leerders, ouers, die plaaslike gemeenskap, betrokke agentskappe, ander skole, die prinsipaal, personeel en die WKOD;
- (4) bereid wees om die protokol te volg soos bepaal deur die SBL-grondwet wanneer verslag gedoen word aan onderwysers, ouers en leerders oor kwessies of besluite geneem op SBL-vergaderings; en
- (5) hom/haar daarvan weerhou om besluite wat deur die SBL geneem is in die openbaar of privaat buite die SBL-vergadering te ondermyn.

#### **8. Ten opsigte van finansiële bestuur moet 'n lid van 'n SBL –**

- (1) in goeder trou, met sorg, eerlikheid, integriteit, verantwoordbaarheid en in die beste belang van die skool optree wat betref die administrasie, beheer en bestuur van die finansies, toerusting, roerende en onroerende eiendom van die skool
- (2) die ontwikkeling van gesonde beheer- en finansiële praktyke najaag, wat sal verseker dat elke rand wat gespandeer word, maksimum voordele produseer, en daarop aandring dat alle skooltransaksies uitgevoer word binne 'n etiese en regsraamwerk; en
- (3) besef dat hy/sy nie persoonlike voordeel mag trek en wins mag maak uit die bestuur en beheer van finansies, eiendom, geboue, gronde en ander roerende en onroerende bates van die skool nie.

#### **9. Om vertroulikheid te verseker**

- (1) sal 'n SBL-lid te alle tye vertroulikheid handhaaf;
- (2) sal 'n SBL-lid met die grootste omsigtigheid optree indien hy/sy individueel genader word buite die SBL oor enige potensieel kontensieuse kwessie wat die skool raak, en sal nie as 'n individuele SBL-lid optree nie, maar hom/haar daarvoor beywer om die kwessie onder die aandag van die SBL te bring. en
- (3) mag 'n SBL-lid nie sy of haar lidmaatskap van die SBL, of vertroulike inligting as 'n lid verkry, gebruik vir persoonlike voordeel nie of 'n voordeel van 'n ander bron onbehoorlik verkry nie.

#### **10. Ten opsigte van potensiële konflik van belange, moet 'n lid van 'n skoolbeheerliggaam –**

- (1) wat 'n gevestigde belang het, direk of indirek, persoonlike of finansiële, in 'n saak wat verband hou met die SGB se werksaamhede, sodanige belang verklaar aan die beheerliggaam en dit moet aangeteken word.
- (2) wat 'n gevestigde belang in 'n saak verklaar het, hom/haar onttrek van die SBL-vergadering, of komiteevergadering, terwyl die betrokke saak onder bespreking is en/of 'n besluit daaromtrent geneem word; en
- (3) besef dat hy/sy nie 'n beloning of geskenk mag uitlok, versoek of aanvaar in ruil vir gunste op 'n spesifieke manier of vir enige saak wat voor die beheerliggaam of 'n komitee van die SBL dien nie.

#### **11. Om goeie kommunikasie te bevorder, sal 'n SBL-lid –namens die SBL**

- (1) die vrye uitdrukking van opinies by vergaderinge aanmoedig en respekteer en kollektiewe verantwoordelikheid aanvaar vir alle besluite geneem deur die beheerliggaam of sy gedelegeerde agente. dit beteken dat hy of sy nie besluite sal ondermyn, privaat, in die openbaar of buite die SBL-vergadering nie.

- (2) 'n uitspraak maak of optree slegs indien spesifiek gemagtig om so te doen, en alleenlik ingevolge die geskrewe mandaat wat gegee is;
- (3) op kritiek of klagtes oor die skool, personeel of leerders reageer deur die klagte-prosedure te volg wat deur die beheerliggaam ingestel is ooreenkomstig die SBL se grondwet; en
- (4) onderneem om die skool te besoek binne die protokol soos deur die beheerliggaam vasgestel.

## **VERSUIM OM AAN DIE KODE TE VOLDOEN**

### **12. Onbehoorlike gedrag**

Elke lid van die SBL het 'n verantwoordelikheid om 'n milieu te skep waar konflik en verskille bespreek kan word op 'n wyse wat deur respek en hofli'heid gekenmerk word. Geen lid van die SBL sal onbehoorlike gedrag van enige lid van die SBL aanvaar, goedpraat of ignoreer nie.

### **13. Voorgeskrewe proses:**

- (1) Die voorgeskrewe proses moet gevolg word in alle gevalle van korrektiewe maatreëls en/of dissiplinêre prosedures. Alle prosedures moet billik en onbevooroordeel wees en moet insluit
  - a) die reg om ingelig te wees en besonderhede van die klagte te ontvang.
  - b) die geleentheid om gehoor te word;
  - c) die reg op verteenwoordiging;
  - d) die reg om verhoor te word deur onpartydige persone;
  - e) die reg om met waardigheid en respek behandel te word;
  - f) die reg om skriftelik ingelig te word van die besluit en sanksie; en
  - g) die reg op appèl.

### **14. Verbreking van die Kode (onbehoorlike of onaanvaarbare gedrag)**

- (1) Optrede en/of gedrag deur 'n lid wat, terwyl hy/sy optree en die pligte van 'n SBL-lid vervul, die Kode verbreek of die aanvaarbare grense van gedrag wat in hierdie Kode beskryf word oorskry, maak 'n verbreking van hierdie kode uit en kan lei tot dissiplinêre optrede teen sodanige lid.
- (2) 'n Lid wat
  - a) herhaaldelik enige bepaling of verpligting van hierdie Kode veronagsaam,
  - b) enige wet oortree wat direk skakel met sy of haar lidmaatskap of verpligtinge van die SBL, of wat op enige manier die skool of SGB te na kom of hulle in diskrediet bring; of
  - c) gedurig optree op 'n wyse wat 'n slegte uitwerking het op die funksionering en doeltreffendheid van die SBL,
 sal skuldig wees aan 'n verbreking van hierdie Kode en sy/haar lidmaatskap sal opgeskort of beëindig word.

### **15. Verbrekings van 'n kriminele aard**

- (1) Die SBL kan die Suid-Afrikaanse Polisiediens (SAPD) versoek om 'n ondersoek te doen, en indien nodig, enige beweerde kriminele oortreding vervolg van 'n lid wat direk verband hou met die uitvoering van sy of haar SBL pligte.

- (2) Die oorhandiging van 'n saak of geval aan die SAPD onthef nie die SBL daarvan om ook dissiplinêre maatreëls in te stel, ingevolge sy grondwet teen die lid, veral in ernstige gevalle waar die skorsing en/of opheffing van lidmaatskap aanb evel word of vereis word nie.

#### **16. Finansiële Wanbestuur**

Alle klagtes oor wanadministrasie of wanbestuur van finansiële kwessies moet gerapporteer word aan die SBL en aan die DH vir ondersoek.

#### **17. Verteenwoordiging by 'n dissiplinêre vergadering**

Elke lid het die reg om verteenwoordig te word deur 'n verteenwoordiger van sy of haar keuse. Die SBL moet 'n lid bystaan met die aanbieding van getuies en bewyse tydens 'n dissiplinêre verhoor.

### **DISSIPLINÊRE AKTIWITEIT**

#### **18. Skorsing van lidmaatskap deur die DH**

- (1) Skorsing van lidmaatskap van 'n SBL-lid kan versoek word
- a) voor 'n dissiplinêre ondersoek of verhoor, indien –
    - i) 'n lid se voortgesette teenwoordigheid as SBL-lid 'n ondersoek of dissiplinêre verhoor in gevaar kon stel of beïnvloed.
    - ii) 'n lid ander intimideer en/of dwang op ander uitoeven; en
  - b) na 'n dissiplinêre verhoor waar dit aanbeveel is as 'n sanksie, indien 'n lid die Kode soos in par. 14, 15 en 16 verbreek het.
- (2) Indien die sanksie wat deur die SBL se dissiplinêre verhoor aanbeveel is die skorsing van lidmaatskap is, moet 'n volledige verslag aangestuur word na die DH, met inbegrip van
- a) gesertifiseerde kopieë van die klagte, ondersoek, bevinding en aanbevole sanksie; en
  - b) die voorwaardes van die skorsing duidelik aangedui as deel van die aanbeveling ten opsigte van
    - i) die aanbevole tyd vir die skorsing;
    - ii) die spesifieke funksies of gebeurtenisse waarvan die persoon geskors is; of die skorsing gedeeltelik gaan wees; en
    - iii) die bystand verlang, bv. die vereiste om opleiding of berading te ondergaan; nie die skool mag besoek of enigiemand by die skool of met betrekking tot die geval kontak nie, ens.
- (3) Skorsing mag nie aanbeveel word tydens 'n lid se ampstermyn vir meer as 3 maande op 'n keer, of vir meer as een keer vir dieselfde oortreding nie.
- (4) Indien 'n lid by 'n vorige keer geskors is vir ernstige verbreking van die Kode en weer geskors word vir 'n ernstige oortreding t.o.v. die verbreking van die Kode, behoort beëindiging van lidmaatskap aanbeveel te word.
- (5) Die DH mag, na duidelikheid van die geaffekteerde partye aangevra is, indien dit nodig mag wees, die aanbevole voorwaardes van die skorsing verander.



**19. Beëindiging van lidmaatskap deur die DH**

- (1) Waar 'n SBL beëindiging van lidmaatskap van 'n lid aanbeveel, moet die DH voorsien word van 'n volledige verslag, wat die volgende bevat:
  - a) gesertifiseerde kopieë van die geskrewe beswaar, die verslag van die ondersoek, en die verslag van die verhoor, met die bevinding en die aanbevole sanksie.
  - b) getuienis van die volgorde van oortredings of nalating van pligte wat deur die lid begaan is, en
  - c) bewys dat die verhouding tussen die lid en die SBL en die skool permanent geskaad is en dat die voortsetting van die lidmaatskap 'n skadelike uitwerking sal hê op die kultuur van die SBL en die skool en/of die doeltreffende funksionering van die SBL, die skool, en/of die vermoë van die SBL om funksies te verrig wat daaraan toegewys is ingevolge die Wet.
- (2) Die DH mag die aanbevole beëindiging van lidmaatskap terugverwys na die SBL vir 'n alternatiewe sanksie.

**20. Besluit van die DH**

- (1) By ontvangs van 'n versoek om skorsing of beëindiging van lidmaatskap van 'n SBL-lid, mot die DH binne 21 dae –
  - a) die dokumente na hom/haar verwys, in oorweging neem;
  - b) homself/haarself vergewis dat die prosedures soos genoem in par. 13, 20 en 21 toegepas en korrek nagevolg is;
  - c) die verdienste van die saak in oënskou neem;
  - d) 'n besluit neem om die aanbeveling van die SBL te bevestig of te verwerp; en
  - e) die SBL en die beskuldigde skriftelik in kennis stel van sy/haar besluit.

**21. Reg tot appèl**

- (1) 'n Lid wie se lidmaatskap geskors of beëindig is deur die DH het die reg om appèl aan te teken teen die sanksie by die Provinsiale Minister.
- (2) die aangeklaagde lid mag, binne 10 dae van ontvangs van die besluit van die DH, appèl aanteken by die Provinsiale Minister teen die DH se besluit.
- (3) Die appèl moet skriftelik gedoen word en die redes bevat waarom hy of sy glo dat die besluit verkeerd is.
- (4) 'n Kopie van die appèl moet aan die DH verskaf word.
- (5) Die sanksie moet gesuspendeer word terwyl die saak onder appèl is. Dit word aanbeveel dat die aangeklaagde lid nie deelneem aan enige van die funksies van die SBL nie.
- (6) Die Provinsiale Minister moet, binne 30 dae van ontvangs van die appèl, –
  - a) die appèl oorweeg;
  - b) die sanksie bevestig of ter syde stel, of wysig; en
  - c) die DH, die SBL en die appèlleerder skriftelik in kennis stel van sy/haar besluit.
- (7) Die SBL se voorsitter kan die klaer skriftelik in kennis stel van die appèlbeslissing binne 5 dae na ontvangs daarvan vanaf die Provinsiale Minister.
- (8) Vertroulikheid en besonderhede moet te alle tye beskerm word.

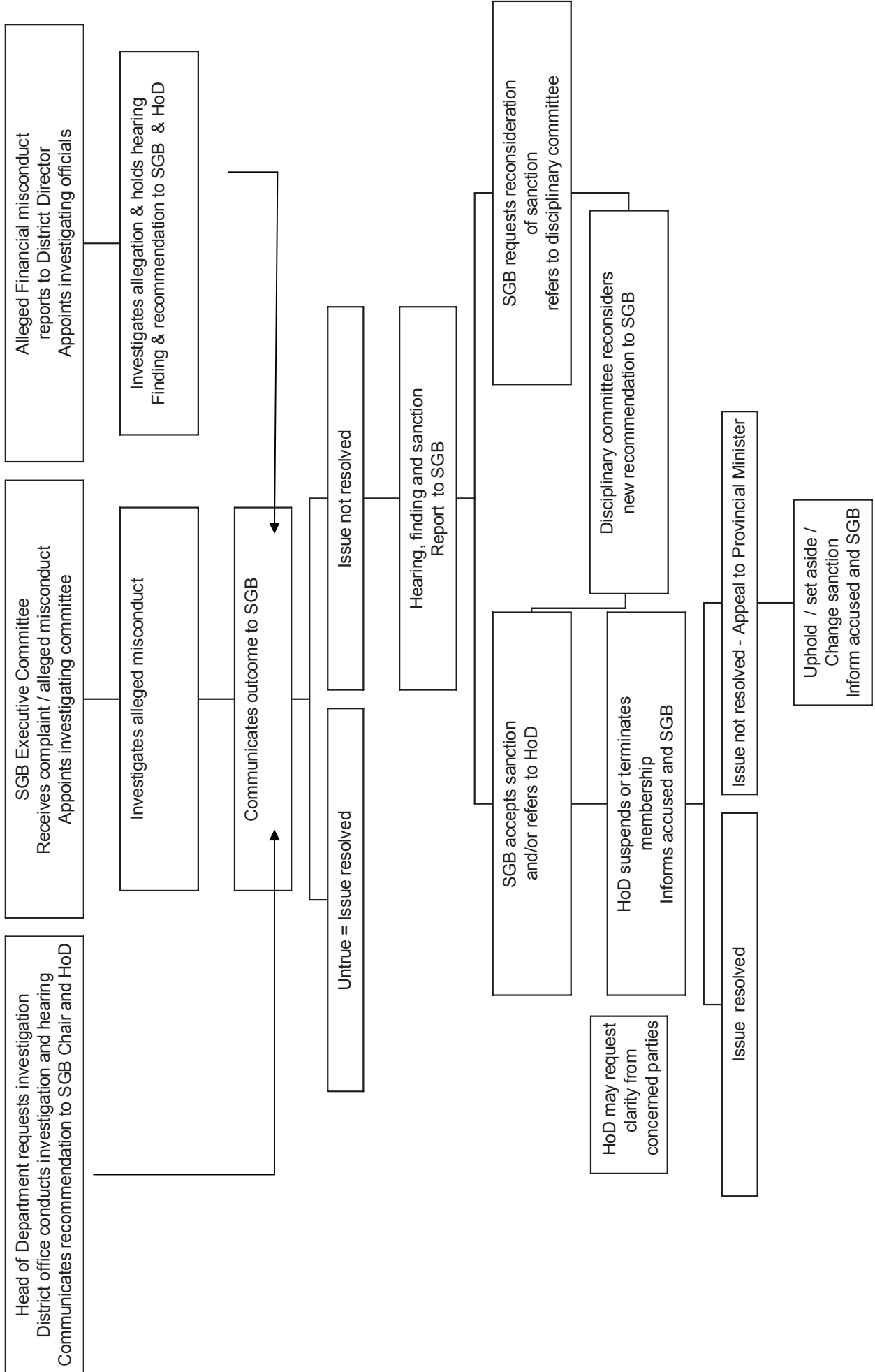


**22. Versuim van die SBL om op te tree teen sy lede**

- (1) Die DH kan die SBL aansê om op te tree teen 'n lid binne 14 dae na 'n bewering van die verbreking van die Kode of enige wetsoortreding ontvang is deur enige beampte van die Wes-Kaap Onderwysdepartement.
- (2) Indien die SBL nie in staat is nie of onwillig is om op te tree teen 'n lid, moet die DH die distriksdirekteur aansê om die bewering te ondersoek en die dissiplinêre proses te bestuur.
- (3) Dieselfde prosedures wat voorgeskryf is in paragraaf 13, 17, 20 en 21 moet gevolg word deur die afgevaardigde distriksbeamptes.
- (4) Ten minste twee lede van die SBL wat geen konflik van belange het ten opsigte van die ondersoek nie, en wat gekies is deur die SBL, moet op die distrik se ondersoekkomitee dien, en 'n lid van die SBL moet as 'n waarnemer die dissiplinêre verhoor bywoon.
- (5) Die distriksdirekteur of sy of haar afgevaardigde moet sit as die voorsitter van die dissiplinêre verhoor.
- (6) Die voorsitter van die dissiplinêre verhoor moet –
  - a) die beskuldigde verwittig van die bewering, met volle besonderhede, die datum en tyd van die verhoor en dat hy/sy verteenwoordig kan wees en getuienis kan verskaf in sy/haar verdediging;
  - b) die voorsitter van die ondersoekkomitee in kennis stel van die datum en tyd van die verhoor;
  - c) noukeurig aantekeninge hou van die verrigtinge tydens die verhoor;
  - d) alle getuienis wat aangebied is, oorweeg en 'n sanksie aanbeveel.
  - e) die aangeklaagde en die SBL skriftelik in kennis stel van die bevinding en aanbevole sanksie; en
  - f) indien nodig, 'n skriftelike verklaring van die verhoor, bevinding en aanbevole sanksie aan die DH stuur vir 'n besluit.

BYLAE

B: Skematiese voorstelling van die dissiplinêre prosedures vir die skorsing of uitdiensstelling van lidmaatskap deur die DH



## **Voorgestelde dissiplinêre maatreëls wat die SBL in hulle SBL Grondwet kan inkorporeer**

### **1. SBL interne dissiplinêre maatreëls vir kleiner oortredings**

- (1) Alhoewel 'n SBL nie regsgeldig oor die gesag beskik om 'n lid se lidmaatskap te skors of te beëindig nie, verhoed niks in hierdie Kode die voorsitter van die SBL daarvan, na stemming oor die saak deur die SBL-lede wat teenwoordig is, of deur 'n stemming daarvoor deur die uitvoerende komitee van die SBL, om 'n lid van 'n spesifieke vergadering of skoolaktiwiteit of lokaal onmiddellik tydelik te verwyder vir gedrag of optrede in 'n vergadering wat onaanvaarbaar is nie.
- (2) Hierdie tydelike verwydering is nie onderhewig aan appèl nie, maar die gedissiplineerde lid moet die geleentheid gegun word om sy/haar gedrag te verduidelik aan 'n SBL-komitee [audi alteram partem-reël] bestaande uit 2 – 3 lede aangestel deur die SBL uitvoerende komitee.
- (3) 'n Lid kan tydelik verwyder word vir enige gedrag of daad, maar nie beperk daartoe nie, van -
  - a) ontwrigtende en/of onaanvaarbare gedrag;
  - b) voortdurende teenstand teen gesag;
  - c) gedrag wat skadelik is vir die morele toon van die SBL of skool; en
  - d) gedrag skadelik vir die fisiese of geestelike welsyn van ander in die SBL of die skool

### **2. Rapportering van beweerde verbreking van die Kode**

- (1) Wanneer 'n lid glo dat 'n ander hierdie Kode verbreek het, is dit sy/haar plig om die saak onder die aandag van die voorsitter van die SBL te bring.
- (2) Indien die voorsitter van die SBL aangekla word van 'n beweerde verbreking van die Kode, moet die saak aan die adjunkvoorsitter of die distriksdirekteur gerapporteer word.

### **3. Dissiplinêre Prosedures**

- (1) Daar moet op alle klagtes wat oor 'n lid van die SBL ontvang is gereageer word binne 5 werksdae'
- (2) Die voorsitter of adjunkvoorsitter moet –
  - a) die aangeklaagde van die bewering in kennis stel, en inlig dat dit by 'n SBL uitvoerende vergadering bespreek sal word wat hy, sy nie mag bywoon nie.
  - b) 'n buitengewone vergadering belê van die SBL se uitvoerende komitee, om die kwessie te bespreek en
  - c) 'n ondersoek magtig van die feite en omstandighede van die beweerde verbreking , om sodoende genoegsame inligting te versamel om te bepaal of die saak formeel voortgesit moet word of nie, d.w.s. of daar 'n dissiplinêre geval is om te beantwoord of nie.
- (3) Alle ondersoeke moet objektief uitgevoer word en mag nie gebaseer wees op afleidings en/of aannames nie. Slegs begronde feite mag as bewys dien.
- (4) **Die ondersoekkomitee moet -**
  - a) die betrokke lid skriftelik voorsien van 'n gepaste kennisgewing van die aard en doel van die ondersoek;i
  - b) die bewering ondersoek om te bepaal of daar enige bewyse vir die bewering bestaan;
  - c) die betrokke lid en verteenwoordiger, tydens die ondersoekstadium, 'n geleentheid bied om sy/haar standpunt oor die saak te stel;
  - d) sonder twyfel bepaal of die aanklag geldig is of nie; en

e) 3 dae na die voltooiing van die ondersoek 'n skriftelike verslag aan die SBL uitvoerende komitee lewer en die bevindings insluit.

OF

f) verslag lewer dat daar nie voldoende feite is om die voortsetting van die dissiplinêre verhoor te ondersteun nie of dat die verduideliking wat van die lid ontvang is voldoende was, en

g) die saak afsluit deur die lid van die besluit en die redes daarvoor inlig.

#### 4. Die Dissiplinêre Verhoor

- (1) Indien 'n dissiplinêre verhoor nodig is, moet die SBL se uitvoerende komitee –
  - a) 'n SBL-lid aanstel wat nie deel van die ondersoekkomitee uitgemaak het nie, om as voorsitter van die dissiplinêre verhoor op te tree; en
  - b) 'n dissiplinêre verhoor hou binne 5 werksdae na die ondersoekverslag ontvang is.
- (2) Die uitvoerende komitee mag 'n persoon aanstel wat nie 'n SBL lid is nie, om as voorsitter of komiteelid te dien, op voorwaarde dat die aangestelde persoon die vereiste kennis, ervaring en objektiwiteit het wat nodig is.
- (3) Die voorsitter van die dissiplinêre verhoor moet –
  - a) die beskuldigde inlig aangaande
    - (i) die bewering, met volle besonderhede;
    - (ii) die datum en tyd van die verhoor;
    - (iii) sy/haar reg om verteenwoordig te wees en getuienis te lewer in sy/haar verdediging, en
    - (iv) wie die verhoor sal waarneem;
  - b) die lid van 'n kopie van die ondersoekkomitee se verslag voorsien; hierdie Kode en die SBL se begripptng;
  - c) die voorsitter van die ondersoekkomitee in kennis stel van die datum en tyd van die verhoor;
  - d) noukeurig aantekeninge hou van die verrigtinge tydens die verhoor;
  - e) alle getuienis wat aangebied is objektief oorweeg en 'n sanksie aanbeveel, en.
  - f) die aangeklaagde en die SBL se uitvoerende komitee skriftelik in kennis stel van die bevinding en aanbevole sanksie.
- (4) Die betrokke lid sal, binne drie (3) werksdae voor die verhoor, aan die voorsitter van die verhoor voorsien –
  - a) die naam en status van sy/haar verteenwoordiger;
  - b) name van getuies wat hy/sy beplan om op te roep en 'n raamwerk van die getuienis wat hulle gaan lewer, en
  - c) 'n geskrewe verklaring of ander ondersteunende getuienis voorlê, indien hy/sy dit wil hê.
- (5) By die verhoor, kan die betrokke lid of sy/haar verteenwoordiger –
  - a) die voorsittende beampte aanspreek, gevra word deur die ander party oor die bewerings wat hulle gemaak het en oor enige ander getuienis wat voorgelê is;
  - b) die getuienisse wat deur enigeen van die partye opgeroep is, ondervra, en
  - c) die geleentheid gebruik wat aan die einde van die verhoor gebied word aan albei partye om hulle saak op te som.

- (6) Waar die voorsitter van die verhoor (voorsittende beampte) besluit dat daar genoegsame getuienis is om die bewering(s) te ondersteun, sal hy/sy die lid wat skuldig is aan die verbreking kry en by die komitee skriftelik met redes, 'n sanksie op die betrokke lid aanbeveel.
- (7) Indien die voorsitter egter vind dat daar onvoldoende getuienis is om die bewering te ondersteun, sal die verhoor eindig en die voorsitter van die verhoor sal die SBL adviseer, skriftelik, van die besluit met ondersteunende redes en die saak afsluit.

## **5. Besluit van die SBL**

- (1) Die SBL se uitvoerende komitee moet 'n buitengewone volle SBL-vergadering belê, waar die aangeklaagde lid uitgesluit is, binne 3 werksdae, om die aanbevole sanksie te bespreek en 'n besluit neem om –
    - a) die sanksie te verander of te aanvaar; of
    - b) die sanksie oplê wat deur die dissiplinêre verhoor se voorsitter aanbeveel is, dadelik ingaande, indien dit 'n interne kwessie is wat hanteer is ingevolge die SBL se dissiplinêre maatreëls;
- OF
- c) indien die sanksie dui op skorsing of beëindiging van lidmaatskap, die saak, met inbegrip van al die dokumente wat op die saak betrekking het, onmiddellik na die DH verwys vir 'n besluit.
- (2) Die SBL moet diskresie gebruik oor die inligting wat aan die skoolgemeenskap verskaf word, terwyl vertroue en vertroulikheid oor persoonlike sake altyd in gedagte gehou word.
  - (3) Alle argumente en rekords wat op die saak betrekking het, moet versigtig op lêer geplaas word en weggesluit word in 'n veilige plek om vertroulikheid te verseker.

## ISAZISO NGOKUBANZI NGOKOMTHETHO WEZIKOLO ZASEMZANTSI AFRIKA, 1996, (UMTHETHO 84 KA-1996)

P.N. 101/2012

13 Apreli 2012

**UMGAQO WOKUZIPHATHA KWAMALUNGU AMABHUNGA OLAWULO EZIKOLO ZIKARHULUMENTE ENTSHONA KOLONI  
NGOKOMTHETHO WEZIKOLO ZASEMZANTSI AFRIKA, 1996 (UMTHETHO 84 KA-1996)**

Ngokwamagunya endiwathweswe siSiqendu 18A soMthetho weZikolo zaseMzantsi Afrika, 1996 (uMthetho 84 ka-1996), njengoko ufakelwe izilungiso, MNA, DONALD ARTHUR CARDROSS GRANT, uMphathiswa wePhondo wezeMfundo eNtshona Koloni, ngokwenjenje ndipapasha uMgaqo wokuZiphatha waMalungu amaBhunga oLawulo eZikolo ocaciswe kule Shedyuli.

**ISHEDYULI**

## ISANDULELA

1. Umhlaba oza kufikelelwa ngulo Mgaqo wokuZiphatha
2. Injongo
3. Imithetho eSetyenzisiweyo
4. Iingcaciso-magama neziShunqulelo

## UMGAQO WOKUZIPHATHA

5. Ngokubanzi
6. Ukuzibophelela (*Commitments*)
7. Ubudlelwane
8. Ulawulo lwezemali
9. Ukuba yimfihlo
10. Ukungqubana kweemfuno
11. Unxibelelwano

## UKUNGAPHUMELELI UKUTHOBELA UMGAQO WOKUZIPHATHA

12. Isimilo esingafanelekanga okanye esingamkelekanga
13. Inkqubo efanele ukwenziwa
14. Ukwaphulwa koMgaqo woKuziphatha
15. Ukwaphula umgaqo okuluhlobo loLwaphulo-mthetho
16. Ulawulo gwenxa lwezemali
17. Ukumelwa kwintlanganiso yoluleko

## INYATHELO LOLULEKO

18. UkuNqunyanyiswa koBulungu yiHoD
19. UkuPheliswa koBulungu yiHoD
20. Isigqibo seHoD
21. Ilungelo lokuFaka iSibheni

22. UkuNgaphumeleli kweSGB ukuThatha aManyathelo ngakuMalungu ayo

ISIHLOMELO

Umzobo weenkqubo zoluleko zokunqunyanyiswa okanye zokupheliswa kobulungu yi*HoD*.

Lo Mgaqo wokuZiphatha uqalisa ukusebenza ngomhla wopapasho.

Sibhalwe umhla eKapa ngolu suku 10 lwenyanga ka-APRELI 2012.

DONALD ARTHUR CARDROSS GRANT, MPP  
UMPHATHISWA WEPHONDO OPHATHISWE EZEMFUNDO ENTSHONA KOLONI

## **UMGAQO WOKUZIPHATHA WAMALUNGU AMABHUNGA OLAWULO EZIKOLO ZIKARHULUMENTE**

### **ISANDULELA**

UMphathiswa wezeMfundo wePhondo leNtshona Koloni uyayivuma into yokuba ukufundiswa kolutsha lweli phondo luxanduva ekwabelwana ngalo olubandakanya izikolo, abafundi neentsapho zabo kunye nabo bangabahlali.

Ngamabhunga olawulo ezikolo abonelela ngolawulo kwizikolo zawo ukuqinisekisa amathuba amahle, ukusebenza ngokugqwesileyo, ukwamkelela kwabafundi bonke esikolweni noxanduva lokumelwa kukuphendula ngemisebenzi athweswe yona.

### **1. UMHLABA OZA KUFIKELELWA NOKUSEBENZA KWALO MGAQO WOKUZIPHATHA**

- (1) Lo ngumgaqo wokuziphatha wamalungu ebhunga lolawulo lesikolo sikarhulumente ["uMgaqo"] ["*the Code*"] omiselwe nguMphathiswa wezeMfundo wePhondo leNtshona Koloni, ngokungqinelana nesiqendu 18A soMthetho weZikolo zaseMzantsi Afrika, 1996 (uMthetho 84 ka-1996) ("uMthetho"), (njengoko ufakelwe izilungiso.)
- (2) Lo Mgaqo usebenza kuwo onke amalungu ebhunga lolawulo lesikolo kwizikolo zikarhulumente eNtshona Koloni. Onke amalungu alindeleke ukuba ayithobele yaye ayihloniphe imigaqo yalo Mgaqo.
- (3) Lo Mgaqo awuwabandakanyi amalungu angengawo awebhunga lolawulo atyunjelwe ukusebenza kwiikomiti ngokungqinelana nesiqendu 30(1)(b) salo Mthetho. Ngako oko ke, kucetyiswa ukuba ibhunga lolawulo lesikolo ngasinye limisele imiqathango yokuziphatha yangaphakathi enokusetyenziswa kula malungu ekomiti. (Umzekelo wenkqubo elolo hlobo sisihlomelo esifakwe kulo mgaqo wokuziphatha ngenjongo yokuba sithathelwe ingqalelo.)
- (4) Amalungu makaxelelwe ngokuqulethwe ngulo Mgaqo kwaye makwenziwe iikopi zalo Mgaqo zenziwe zifumaneke kwilungu ngalinye.
- (5) UMphathiswa wePhondo unokuthi, amaxesha ngamaxesha, yaye ngokuthetha-thethana nemibutho yamabhunga olawulo ezikolo eNtshona Koloni, apho kukho imfuneko yoko, afakele izilungiso kulo Mgaqo.

### **2. INJONGO**

- (1) Injongo yalo Mgaqo kukudala imeko engqonge isikolo enocwangco nenjongo yayo ikukusebenza ngokuzinikela ukuphucula nokugcina sisebenza istraksha solawulo olusemgangathweni kwisikolo sikarhulumente.
- (2) Lo Mgaqo umisela eyona migangatho isezantsi (*minimum standards*) yokuziphatha nesimilo esifunekayo, nesilindelekileyo kumalungu ebhunga lolawulo lesikolo xa esenza imisebenzi yawo neemfanelo zawo eziwabophelelayo ezicaciswe kuMthetho weZikolo zaseMzantsi Afrika, 1996 (uMthetho 84 ka-1996).
- (3) Ngenxa yoku kulapha ngentla ku-2(2), iSBG mayiqulunqe imigaqo yokusingatha imiba yesimilo esingekho gwenxa kangako nesingafuni ukuba kude kunqunyanyiswe okanye kupheliswe ubulungu yiNtloko yeSebe (HoD).

### **3. IMITHETHO ESETYENZISIWEYO**

- (1) Kusetyenziswe le mithetho ilandelayo:
  - (a) UMgaqo-siseko weRiphabliki yoMzantsi Afrika, 1996, njengoko ufakelwe izilungiso



- (b) UMthetho weZikolo zaseMzantsi Afrika, 1996 (uMthetho 84 ka-1996).
- (c) *The Promotion of Administrative Justice Act, 2000 (Act 3 of 2000)*
- (d) *The Promotion of Access to Information Act, 2000, (Act 2 of 2000)*
- (e) UMthetho weMfundo weZikolo zePhondo leNtshona Koloni, 1997 (uMthetho 12 ka-1997)
- (f) *Measures relating to Governing Bodies and Representative Council of Learners for Public Schools, Western Cape Provincial Gazette Extraordinary 6519, 20 May 2008*
- (g) *Measures relating to Governing Bodies and Representative Council of Learners of Public Schools for Learners with Special Education Needs, Western Cape Provincial Gazette 6554, 12 September 2008*
- (h) *Minimum Requirements with which the Constitution of the Governing Body of a public school must comply, Western Cape Provincial Gazette 5164, 22 August 1997*

#### 4. IINGCACISO-MAGAMA NEZISHUNQULELO

- (1) Kulo Mgaqo naliphi na igama okanye ibinzana-magama elinikwe intsingiselo kulo Mthetho, lihlala linaloo ntsingiselo liyinikiweyo ngaphandle kokuba umxholo ophethweyo walatha okunye, –
  - (a) “**uMgaqo**” kuthetha umgaqo wokuziphatha webhunga lolawulo lesikolo ochatshazelwe kwisiqendu 26A salo Mthetho;
  - (b) “**ikomiti**” kuthetha nayiphi na ikomiti emiselwe libhunga lolawulo njengoko kuchatshazelwe kwisiqendu 23 salo Mthetho;
  - (c) “**umgaqo-siseko**” kuthetha umgaqo-siseko wokuziphatha webhunga lolawulo lesikolo ochatshazelwe kwisiqendu 26A (1)(b) salo Mthetho;
  - (d) “**iintsuku**” kuthetha iintsuku zokusebenza kungabandakanywanga iMigqibelo, iiCawa kunye nayiphi na iholide kawonke-wonke;
  - (e) “**iSebe**” kuthetha iSebe leMfundo eNtshona Koloni ;
  - (f) “**iNtloko yeSebe**” kuthetha intloko yeSebe leMfundo leNtshona Koloni;
  - (g) “**ilungu**” kuthetha ilungu lebhunga lolawulo elichatshazelwe kwisiqendu 23 salo Mthetho;
  - (h) “**uMphathiswa wePhondo**” kuthetha uMphathiswa wePhondo ophathiswe ezemfundo kwiPhondo leNtshona Koloni;
  - (i) “**iSGB**” kuthetha ibhunga lolawulo lesikolo sikarhulumente;
  - (j) “**uMthetho**” kuthetha uMthetho weZikolo zaseMzantsi Afrika, 1996 (uMthetho 84 ka-1996); yaye
  - (k) “**iWCED**” kuthetha iSebe leMfundo leNtshona Koloni.

#### UMGAQO WOKUZIPHATHA

##### 5. Ngokubanzi, ilungu lebhunga lolawulo lesikolo —

- (1) liyawavuma amagunya omthetho eSGB asuselwe kulo Mthetho, namisela inqanaba lobungakanani bamagunya avumeleke kwiSGB okusebenzisa ingqiqo yayo (*discretionary power*) ukwenzela ukuphumeza amagunya olawulo;
- (2) liyayivuma imisebenzi enikwe iSGB yokusebenza ngentembeko enkulu (*fiduciary [trust]*) nekufuneka yenziwe ngokona kuzinikela nentembeko egqibeleleyo (*utmost good faith*) nelungiselela ngeyona ndlela ibhetele isikolo ngawo onke amaxesha;
- (3) apho kufanelekileyo nalapho kunokwenzeka, linoxanduva lokumisela, lokubeka esweni, nokugcina phantsi koqwalaselo imigaqo-nkqubo yesikolo, ibhajethi yesikolo, izicwangciso neenkqubo isikolo esisebenza phantsi kwazo;

- (4) liyaqonda ukuba inqununu ikwiSGB ngenxa yesikhundla sayo njengommeli weHoD, yaye inoxanduva loku, kodwa ingaphelelanga koku:
  - (a) ukuphunyezwa komgaqo-nkqubo nemithetho echaphazelekayo;
  - (b) ulawulo lomsebenzi wokufundisa wabo bonke ootitshala nabasebenzi abanika inkxaso;
  - (c) ukuphunyezwa kwazo zonke iiprogram zemfundo nemisebenzi yekharithulam;
  - (d) ukugcinwa ngokukhuselekileyo kwazo zonke iirekhodi zesikolo nokunika ingxelo ngemicimbi yesikolo kwiSGB nakwiSebe iWCED;
  - (e) ukwenziwa kwemisebenzi edluliselwe kuyo yiHoD ngokwalo Mthetho; kunye
  - (f) nokuncedisa iSGB kulawulo lwayo lweemali zesikolo;
- (5) liyavuma ukuba onke amalungu anyuliweyo akwisikhundla esilinganayo kwiSGB yaye nangona ekhethwe kumaqela ahlukeneyo (o.k.t. abazali, abasebenzi abafundi) eyona nto ephambili eliyijongileyo kukusebenza kakuhle kwesikolo nezo zinto zilungiselela abafundi ngeyona ndlela ibhetele;
- (6) alinagunya ngokomthetho lokuthatha inyathelo lodwa, ngaphandle kwaxa iSGB idlulisele kulo amagunya, ngencwadi ebhaliweyo ukuba malikwenze oko;
- (7) lithweswe uxanduva lokwenza izinto ngobulungisa ngaphandle kokuthatha icala kuzo zonke iimeko nokuphatha abanye ngentlonipho efanelekileyo;
- (8) likhuthaza ulawulo olungafihlisiyo nolwenzela izinto ekuhlени ;
- (9) liya kusoloko likhumbula ukuba linoxanduva ngalo lonke ixesha lokwenza imisebenzi yalo yaye lisebenzele isikolo ngokusilungiselela ngeyona ndlela ibhetele xa lisenza imisebenzi yalo;
- (10) lithathela ingqalelo ngenyameko, ukuba izigqibo zeSGB ziya kubanafuthe lini na okanye ziya kwenza eliphi igalelo kwizinto ezintle ezilungiselela abahlali ngokubanzi;
- (11) lithathela kulo uxanduva lolawulo lwepathi yesikolo, izakhiwo, amabala, neehostele zesikolo (apho kufanelekileyo), ngenkuthalo, ngenyameko nangokuzinikela ngokunyanisekileyo ngenjongo yokulungiselela isikolo ngeyona ndlela ibhetele; yaye
- (12) lamkela uxanduva lokwenza igalelo ekuvelisweni nasekugcinweni koyena moya olawula intlalo nokusebenza kwesikolo noluphawu esaziwa ngalo isikolo.

#### **6. Ilungu lebhunga lolawulo lesikolo malizibophelele ekusebenzeni kwiSGB yaye—**

- (1) malamkele ukuba xa livuma ukusebenza njengelungu, oko kubandakanya ukuzibophelela ekunikeleni ngexesha elibonakalayo ekwenzeni umsebenzi ngokuzithandela;
- (2) lithathe inxaxheba ngamandla lona ngokwalo kumsebenzi weSGB, libekho qho ezintlanganisweni yaye lamkele imisebenzi eluxanduva lwalo;
- (3) lizimisele ukuqonda ngokupheleleyo indlela esebenza ngayo iSGB lize liphendule ngokuwasebenzisa ngentumekeleo amathuba amahle othatho nxaxheba ngokwalo kwimisebenzi yeSGB; yaye
- (4) lisebenzise ngezondelelo naliphi na ithuba elifumanekayo kumalungu eSGB loqeqesho nophuhliso lomntu ngamnye nolweqela labantu kunye.

#### **7. Xa lisakha ubudlelwane, ilungu lebhunga lolawulo lesikolo —**

- (1) lazi ukuba iSGB ithwele uxanduva lokujongana nemiba yezolawulo njengoko kucacisiwe kulo Mthetho, nokuba inqununu ijongana nolawulo lomsebenzi wokufundisa wesikolo, nolawulo lootitshala nabasebenzi kunye nekharithulam;
- (2) lizimisele ukusebenza njengenxalenye yeqela;

- (3) liseke ubudlelwane obusebenza ngempumelelo nabafundi, nabazali, nabahlali, nee-arhente ezifanelekileyo, nezinye izikolo, nenqununu, nootitshala nabasebenzi kunye neSebe iWCED;
- (4) liyavuma ukulandela iprothokholi emiselwe kumgaqo-siseko weSBG xa linika ingxelo kootitshala, kubazali nakubafundi ngemiba okanye ngezigqibo ekufikelelwe kuzo kwiintlanganiso zeSGB; yaye
- (5) aliyi kudelela izigqibo ezithathwe yi-SGB, kwiintlanganiso zikawonke-wonke okanye kwezabucala, xa lingekho kwiintlanganiso zeSGB.

#### **8. Ngokumalunga nolawulo lwemali, ilungu lebhunga lolawulo lesikolo —**

- (1) lenza imisebenzi ngentembeke, ngenkathalo, ngokunyaniseka, ngemfezeko, lizimisele ukuphendula ngezenzo zalo lilungiselela isikolo ngeyona ndlela ebhetele xa kuphethwe, yaye kulawulwa imiba yemali, izixhobo zomsebenzi, ipropathi yesikolo eshenxisekayo nengashenxisekiyo;
- (2) lizondelela ukuseka ulawulo olusemgangathweni neenkqubo zezemali, ezinqinisekisa ukuba nesenti echithiweyo iza nezibonelelo ezizezona zininzi, lize ligxininise ekubeni yonke imicimbi yesikolo yenziwa ngokulandela imigaqo yokuziphatha eyamkelekileyo nangokwemithetho ebekiweyo; yaye
- (3) alinakufumana nzuzo nengeniso yalo lo gama liphethe yaye lilawula iimali, ipropathi, izakhiwo, amabala nezinye ii-asethi zesikolo ezishenxisekayo nezingashenxisekiyo.

#### **9. Ukuqinisekisa ukuba yimfihlo (kwengcaciso), ilungu lebhunga lolawulo lesikolo —**

- (1) lithathela ingqalelo ukuba yimfihlo (kwengcaciso) ngawo onke amaxesha;
- (2) liya kusebenzisa obona bulumko bugqibeleleyo ukuba kuthethwe nalo kungekho kwintlanganiso yeSBG ngawo nawuphi na umbandela onokuba yibambano ochaphazela isikolo, yaye aliyi kuphendula njengelungu leSGB elilodwa, koko liya kukhuthaza ukuba loo mbandela usiwe kwiSGB ukuze uqwalaselwe; yaye
- (3) alinakusebenzisa ubulungu balo beSGB okanye ingcaciso eyimfihlo eliyifumeneyo njengelungu leSGB ukuzenzela inzuzo yalo okanye inzuzo efunyenwe ngokungafanelekanga komnye umthombo.

#### **10. Ngokumalunga nokungqubana kweemfuno okunokwenzeka, ilungu lebhunga lolawulo lesikolo—**

- (1) elinokuba nako nakuphi na ukuchaphazeleka ngqo okanye ngandlela yimbi, lona buqu okanye ngokwezemali, kumbandela onxulumene nomcimbi weSGB, malixele oko kuchaphazeleka kwalo kwibhunga lolawulo yaye oko makubhalwe phantsi;
- (2) elithe laxela ukuchaphazeleka kwalo kumbandela othile malirhoxiswe kwintlanganiso yeSBG, okanye kwintlanganiso yekomiti, lo gama kusaxoxwa ngaloo mba uchaphazelekayo kunye/okanye ngesigqibo emasithathwe; yaye
- (3) alinako ukufuna, ukucela okanye ukwamkela ibhaso okanye isipho ngenxa yesenzo elisenzileyo ngohlobo oluthile ngawo nawuphi na umbandela ophambi kwebhunga lolawulo okanye ophambi kwekomiti yeSGB.

#### **11. Ukukhuthaza unxibelelwano olululo, ilungu lebhunga lolawulo lesikolo—**

- (1) likhuthaza yaye lihlonipha ukuvakaliswa kwezimvo ngokukhululekileyo kwiintlanganiso yaye lamkela uxanduva lwazo zonke izigqibo ezithathwe libhunga lolawulo lesikolo okanye zii-arhente ezidluliselwe loo magunya. Oku kuthetha ukuba lona aliyi kudelela izigqibo ezithathwe yi-SGB, kwiintlanganiso zikawonke-wonke okanye kwezabucala, xa lingekho kwiintlanganiso zebhunga lolawulo;

- (2) linokuthetha okanye lithathe inyathelo egameni lebhunga lolawulo kuphela xa ligunyaziswe ukuba lenjenjalo kuphela ngokwesigunyaziso esibhaliweyo esikhutshiweyo;
- (3) liphendule kwizigxeko okanye kwizikhalazo malunga nesikolo, abasebenzi okanye abafundi ngokulandela inkqubo yezikhalazo emiselwe libhunga lolawulo ngokoMgaqo-siseko weSGB; yaye
- (4) lizimisele ukuhambela isikolo ngokweprothokholi emiselwe libhunga lolawulo.

## **UKUNGAPHUMELELI UKUTHOBELA UMGAQO WOKUZIPHATHA**

### **12. Isimilo esingafanelekanga okanye esingamkelekanga**

Ngalinye ilungu leSGB linoxanduva lokugcina imeko yendawo apho kunokusingathwa ungquzulwano neyantlukwano kuyo ngendlela ebonisa iimpawu zentlonipho nembeko. Akukho lungu leSGB liya kwamkela, libethe ngoyaba okanye lingayisi so into yesimilo esingafanelekanga salo naliphi na ilungu lebhunga lolawulo lesikolo.

### **13. Inkqubo yokumangala esemthethweni**

- (1) Makulandelwe inkqubo yokumangala esemthethweni kuwo onke amatyala oluleko kunye/okanye kuzo zonke iingxoxo zoluleko. Zonke iinkqubo kufanele zibe nobulungisa yaye zingakhethi cala yaye mazibandakanye –
  - a) ilungelo lokwaziswa kunye nokufumana iinkcukacha zesikhalazo;
  - b) ithuba lokuphulaphulwa;
  - c) ilungelo lokumelwa kuviwe izimvo zakho;
  - d) ilungelo lokuphulaphulwa ngabantu abangathathi cala;
  - e) ilungelo lokuphathwa ngesidima nentlonipho;
  - f) ilungelo lokwaziswa ngencwadi ebhaliwe isigqibo nesohlwayo; kunye
  - g) nelungelo lokufaka isibheni.

### **14. Ukwaphulwa koMgaqo (Isimilo esingafanelekanga okanye esingamkelekanga)**

- (1) Ukuziphatha kunye/okanye isimilo selungu elithi, lo gama lenza yaye liphumeza imisebenzi yalo njengelungu leSGB, laphule lo Mgaqo okanye ligqithele ngaphaya kwaloo migangatho yesimilo ichazwe kulo Mgaqo oko kuya kwenza ukunyashwa komgaqo yaye kungakhokelela kwinyathelo loluleko ngakwelo lungu.
- (2) Ilungu elithi
  - a) liqhubeke nokwaphula nawuphi na umgqaliselo okanye imbopheleleko yalo Mgaqo,
  - b) laphule nawuphi na umthetho, odibene ngqo nobulungu balo okanye nemisebenzi yeSGB, okanye elithi ngayo nayiphi na indlela libeke isikolo okanye iSGB engxakini okanye lenze sihlazeke, okanye
  - c) lithi gqolo lenze ngendlela ebangela umonakalo ekusebenzeni nakwimpumelelo yeSGB,

liya kubanetyala lokwaphula lo Mgaqo yaye buya kurhoxiswa okanye bupheliswe ubulungu balo.

**15. UKwaphulwa koMgaqo okuluhlobo loLwaphulo-mthetho (of a Criminal Nature)**

- (1) I-SGB inokucela iNkonzo yamaPolisa oMzantsi Afrika (*South African Police Services (SAPS)*) ukuba iphande, ukuba oko kuyimfuneko, ize ifake isimangalo ngawo nawaphi na amatyala olwaphulo-mthetho olurhanelwayo olwenziwe lilungu, anxulumene ngqo nokwenza kwalo umsebenzi walo okanye oweSGB.
- (2) Ukugqithiselwa kombandela okanye kwetyala kwi-SAPS akuyikhululi iSGB ekubeni ithathe inyathelo loluleko ngokomgaqo-siseko wayo ngakwilungu elo, ngakumbi kumatyala axhomisa amehlo apho kuya kucetyiswa ukunqunyanyiswa kunye/okanye ukupheliswa kobulungu okanye kufuneka ukuba kwenziwe.

**16. Ulawulo gwenxa lwezemali**

Zonke izikhalazo malunga nolawulo-gwenxa okanye ukungalawulwa ngendlela eyiyo kwemicimbi yezemali makuxelwe kwiSGB nakwi-HoD ukwenzela ukuba kwenziwe uphando ngazo.

**17. Ukumelwa kwiNtlanganiso yoLuleko**

Ilungu ngalinye linelungelo lokumelwa ngummeli elimkhethe ngokwalo. I-SGB mayi-ncedise ilungu ukuba lize namangqina kunye nobungqina kwiingxoxo zoluleko.

**INYATHELO LOLULEKO****18. UkuNqunyanyiswa koBulungu yiHoD**

- (1) Kunokucelwa ukuba bunqunyanyiswe ubulungu belungu leSGB
  - a) ngaphambi kophando olumalunga noluleko okanye kokuxoxwa kwetyala, ukuba –
    - i) ukuqhubeka kobukho belungu njengelungu leSGB kungamosha okanye kubenefuthe kuphando okanye kwiingxoxo zoluleko;
    - ii) ilungu loyikisa yaye/okanye linyanzela abanye ukuba benze into abangafuni kuyenza; yaye
  - b) nasemva kweengxoxo zoluleko apho kucetyiswa isohlwayo, ukuba ilungu laphule uMgaqo ocaciswe kwimihlathi 14, 15 no- 16.
- (2) Ukuba isohlwayo esicetyiswa yiSGB kwiingxoxo zetyala kukunqunyanyiswa kobulungu, makuthunyelwe ingxelo epheleleyo kwiHoD, enezi zinto
  - a) iikopi ezingqiniweyo zesikhalazo, zophando, zesiphumo sophando nesohlwayo ekucetyiswa sona; kunye
  - b) nemiqathango yokunqunyanyiswa ichazwe ngokucacileyo njengenxalenye yeengcebiso ngokumalunga
    - i) nexesha lokunqunyanyiswa okucetyiswayo;
    - ii) imisebenzi ethile okanye izinto ezithile anqunyanyiswe kuzo, ukuba ukunqunyanyiswa kokuyinxenye (*partial*); yaye
    - iii) isigwebo esifunekayo umz. Ukuwiselwa umqathango wokuya kuqeqesho okanye wokufumana ululeko (*counselling*) ukungayi esikolweni okanye ukungabi nanxibelelwano naye nabani na esikolweni okanye lingathethi naye nabani na ngetyala elo, njl. njl.
- (3) Makungacetyiswa ukunqunyanyiswa ngethuba lokuba sesikhundleni kwelungu ithuba elingaphezu kweenyanga ezi-3 ezilandelelanayo, okanye ngaphezu kwetyeli elinye kwityala elikwafanayo.

- (4) Ukuba ilungu lanqunyanyiswa kwithuba elingaphambili ngenxa yolwaphulo-mthetho oluxhomisa amehlo lokophulwa koMgaqo lize kwakhona liphinde linqunyanyiselwe ulwaphulo-mthetho oluxhomisa amehlo lokophulwa koMgaqo, makucetyiswe ukupheliswa kobulungu.
- (5) I-HoD inokuthi emva kokucela ukucaciselwa ngamaqela achaphazelekayo, ukuba oko kuyimfuneko, itshintshe imiqathango yonqunyanyiso olucetyiswayo.

#### **19. UkuPheliswa koBulungu yiHoD**

- (1) Apho iSGB icebisa okanye icela ukupheliswa kobulungu belungu, iHoD mayinikwe ingxelo epheleleyo enezi zinto
  - a) iikopi ezingqiniweyo zesikhalazo esibhaliweyo, ingxelo ngophando, nengxelo ngeengxoxo, nesiphumo nesohlawyo esicetyiswayo;
  - b) ubungqina bokulandelelana kwezenzo zolwaphulo-mthetho okanye ukutyeshela imisebenzi okwenziwe lilungu; kunye
  - c) nobungqina bokuba ubudlelwane phakathi kwelungu neSGB nesikolo bumoshakele ngokupheleleyo yaye ukuqhubeka nobulungu kungaba nefuthe elibi gqitha kwinkqubo yeSGB nasekusebenzeni kwesikolo kunye/okanye ekusebenzeni ngempumelelo kweSGB, kwesikolo kunye/ okanye ekwazini kweSGB ukwenza imisebenzi eyinikiweyo ngokwalo Mthetho.
- (2) I-HoD inokusibuyisela kwakwiSGB isohlwayo sokupheliswa kobulungu ngenjongo yokuba inike esinye isohlwayo.

#### **20. ISigqibo seHoD**

- (1) Xa ifumana isicelo sokunqunyanyiswa okanye sokupheliswa kobulungu belungu leSGB, kufuneka iHoD ithi zingekapheli iintsuku eziyi-21 –
  - a) iqwalasele amaxwebhu athunyelwe kuyo;
  - b) izanelise ukuba iinkqubo njengoko zicacisiwe kwimihlathi 13, 20 no-21 ziye zasetyenziswa yaye zalandelwa ngokuchanekileyo;
  - c) iqwalasele izinto ezinokuthetheleleka nezirongo kumbandela lowo; yaye
  - d) yazise iSGB nalowo utyholwayo ngesigqibo sayo ngencwadi ebhaliweyo.

#### **21. ILungelo lokuFaka iSibheni**

- (1) Ilungu elithe lanqunyanyiswa okanye kwapheliswa ubulungu balo yiHoD linelungelo lokufaka isibheni esichasa isohlwayo kuMphathiswa wePhondo.
- (2) ilungu elityholwayo linokuthi, kwiintsuku eziyi-10 zomsebenzi emva kokufumana isigqibo seHoD, lifake isibheni kuMphathiswa wePhondo esichasa isigqibo seHoD.
- (3) Isibheni masibe esibhaliweyo yaye masiqulathe izizathu zokuba kungani na lona likholelwa ukubai isigqibo sirongo (*to be wrong*).
- (4) Ikopi yesibheni mayithunyelwe kwiHoD.
- (5) Isohlwayo masixhonywe lo gama umbandela usenzelwe isibheni. Kucetyiswa ukuba ilungu elityholwayo lingathathi nxaxheba nakuwuphi na umsebenzi weSGB.
- (6) UMphathiswa wePhondo, zingekapheli iintsuku eziyi-30 zokufumana isibheni,
  - a) makaqwalasele isibheni eso;
  - b) asingqinele okanye asikhabe isohlwayo, okanye asitshintshe isohlwayo; yaye



- c) azise iHoD, iSGB nofake isibheni ngesigqibo sakhe ngencwadi ebhaliweyo.
- (7) Usihlalo weSGB unokwazisa ofake isikhalazo ngencwadi ebhaliweyo ngesigqibo sesibheni kwiintsuku ezintlanu zomsebenzi zokufumana isigqibo esivela kuMphathiswa wePhondo.
- (8) Ukuba yimfihlo kwengcaciso neenkukacha kufanele kukhuselwe ngawo onke amaxesha.

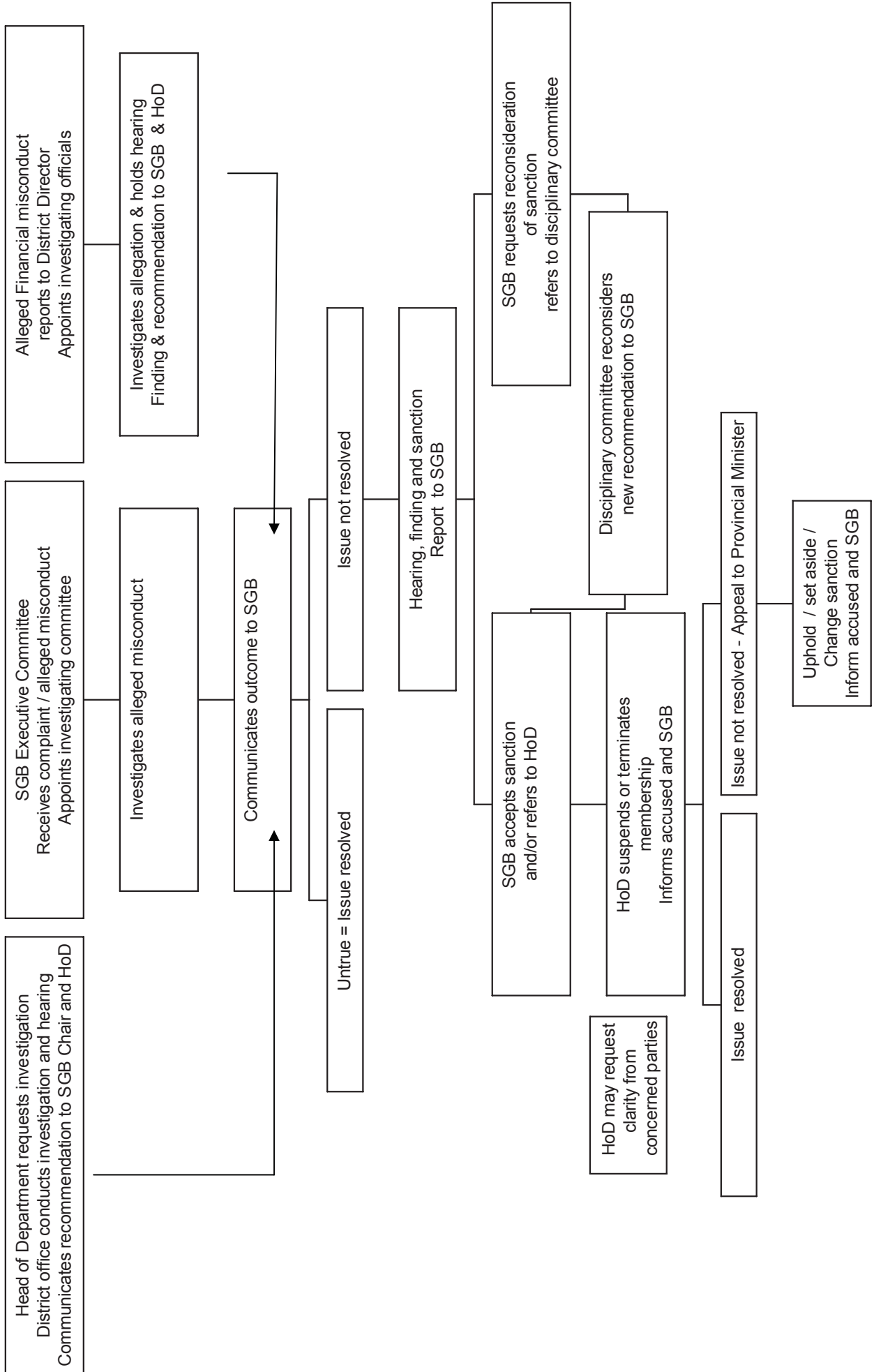
## **22. UkuNgaphumeleli kweSGB ukuThatha amaNyathelo ngakuMalungu ayo**

- (1) I-HoD inokuyalela iSGB ukuba ithathe amanyathelo ngakwilungu kwiintsuku eziyi-14 emva kwesityholo sokwaphulwa kwalo Mgaqo okanye kwako nakuphi na ukwaphulwa komthetho okwaziswe naliphi na igosa leSebe leMfundo eNtshona Koloni.
- (2) Ukuba iSGB ayinako okanye ayizimisele kuthatha manyathelo ngakwilungu, iHoD mayithumele kumlawuli wesithili semfundo ukuba aphande ngesityholo yaye alawule inkqubo yoluleko.
- (3) Kufanele kulandelwe inkqubo efanayo naleyo icaciswe kwimihlathi 13, 17, 20 no- 21 ngamagosa ezithili zemfundo adluliselwe lo msebenzi.
- (4) Ubuncinane ngamalungu amabini eSGB angachaphazelekiyo kukungqubana kweemfundo (*conflict of interest*) ngokumalunga nophando, nanyulwe yiSGB, amakabe kwikomiti yesithili semfundo eqhuba uphando, kwaye makubekho ilungu leSGB kwiingxoxo zoluleko njengomakhi-mkhanyo.
- (5) Umlawuli wesithili semfundo okanye lowo adlulisele kuye lo msebenzi makachophele intlanganiso njengosihlalo weengxoxo zetyala loluleko.
- (6) Usihlalo weengxoxo zetyala loluleko -
  - a) makazise otyholwayo ngesityholo abekwa sona, amnike iinkcakucha ezipheleleyo, umhla nexesha leengxoxo zetyala loluleko nokuba unako ukufuna ummeli wokummela nokuba uya kuba nokunika ubungqina bokuzithethelela;
  - b) makazise usihlalo wekomiti eyenza uphando ngomhla nexesha leengxoxo zetyala loluleko;
  - c) makagcine amanqakwana (*notes*) achanekileyo eengxoxo zetyala;
  - d) makaqwalasele bonke ubungqina obunikiweyo aze acebise ngesohlwayo;
  - e) makazise ngencwadi ebhaliweyo, lowo utyholwayo neSGB ngesiphumo nesohlwayo esicetyiswayo; yaye
  - f) ukuba kuyimfuneko, makathumele inkcazo ebhaliweyo yesiphumo seengxoxo zetyala loluleko nesohlwayo esicetyiswayo kwiHoD ukwenzela ukuba ithathe isigqibo.

## **ISIHLOMELO**

**Umzobo weenkqubo zoluleko zokunqunyanyiswa okanye zokupheliswa kobulungu yiHoD**

**B: Linkqubo zoluleko zokunqunyanyiswa okanye zokupheliswa kobulungu yiHoD**





- b) iphande ngesityholo ukuqinisekisa ukuba nabuphi na ubungqina buyasixhasa isityholo;
- c) inike ilungu elichaphazelekayo kunye/okanye ummeli walo, ngethuba lophando, ithuba lokucacisa iimbono zalo ngalo mbandela;
- d) yenze isigqibo ngaphandle kwamathandabuzo ukuba izityholo zisemthethweni okanye akunjalo; yaye
- e) kwiintsuku ezi-3 emva kokugqiba uphando, inike ingxelo ebhaliweyo ikomiti yesigqeba seSGB yaye ibandakanye ubungqina obufunyenweyo;

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- f) inike ingxelo yokuba akukho zinto nangcaciso yaneleyo yokuxhasa ukuba kuqhutyelwe phambili neengxoxo zetyala loluleko okanye ukuba inkcazo efunyenwe kwilungu elichaphazelekayo ebe yeyanelisayo ; yaye
- g) iwuphethe umbandela ngokwazisa ilungu ngesigqibo nezizathu zesigqibo.

#### 4. IiNgxoxo zeTyala loLuleko

- (1) Ukuba kufuneka ingxoxo zetyala loluleko, ikomiti yesigqeba seSGB–
  - a) mayinyule ilungu leSGB ebelingeyonxalenye yekomiti yophando, ukuba libe ngusihlalo weengxoxo zoluleko; yaye
  - b) makubanjwe iingxoxo zetyala loluleko kwithuba leentsuku ezi-5 zomsebenzi emva kokufunyanwa kwengxelo yophando.
- (2) Ikomiti yesigqeba ingatyumba umntu ongelilo ilungu leSGB njengosihlalo okanye njengelungu lekomiti ukuba loo mntu otyunjiweyo unolwazi namava afunekayo, nengqondo ephangaleleyo (*objectivity*) okuyimfuneko engakhethi cala.
- (3) Usihlalo weengxoxo zetyala loluleko -
  - a) makaxelele otyholwayo
    - (i) ngesityholo, amnike neenkukacha ezipheleleyo;
    - (ii) ngomhla nexesha lengxoxo zetyala;
    - (iii) ngelungelo lakhe lokumelwa nokuza nobungqina bokuzithethelela; kunye
    - (iv) nomntu oya kufaka imibuzo ngexesha leengxoxo zetyala;
  - b) makanike ilungu ikopi yengxelo yekomiti ebisenza uphando, lo Mgaqo nomgaqo-siseko weSGB,
  - c) makazise usihlalo wekomiti ebisenza uphando ngomhla nexesha leengxoxo zetyala loluleko;
  - d) makagcine amanqakwana (*notes*) achanekileyo ngethuba leengxoxo zetyala;
  - e) makathathele ingqalelo ngengqondo ephangaleleyo engakhethi cala bonke ubungqina obunikiweyo aze acebise ngesohlwayo;
  - f) makazise ngencwadi ebhaliweyo, lowo utyholwayo nekomiti yesigqeba seSGB ngesiphumo nesohlwayo esicetyiswayo.
- (4) Ilungu elichaphazelekayo, liya kuthi ngeentsuku ezintathu (3) zomsebenzi phambi kweengxoxo zetyala loluleko linike usihlalo –
  - a) igama nesikhundla sommeli walo
  - b) amagama amangqina anenjongo yokuwabiza nenkcazo emfutshane yobungqina abaya kubunika; yaye

- c) anike inkcazo ebhaliweyo okanye obunye ubungqina obubhaliweyo obuxhasayo, ukuba unqwenela ngolo hlobo.
- (5) Kwingxoxo zetyala loluleko, ilungu elichaphazelekayo okanye ummeli walo -
- a) linokubhekisa kwigosa elichophele iingxoxo, linokubuzwa imibuzo ngamanye amaqela achaphazelekayo ngeenkcazo ezenziwe ngabo nangobungqina obungenisiweyo;
  - b) lifake imibuzo amangqina abizwe naleliphi na iqela; yaye
  - c) lisebenzise ithuba elilinkweyo ekupheleni kweengxoxo kuwo omabini amaqela achaphazelekayo ukwenza isishwankathelo setyala labo.
- (6) Apho usihlalo weengxoxo zoluleko (ochophele intlanganiso) enza isigqibo sokuba kukho ubungqina obanelisayo obuxhasa isi(zi)tyholo, usihlalo uya kulifumana ilungu linetyala lokwaphula umgaqo wokuziphatha aze acebise iSGB isohlwayo emasinikwe elo lungu lichaphazelekayo, ngencwadi ebhaliweyo enika izizathu.
- (7) Kodwa, apho usihlalo afumanise ukuba akukho bungqiba banelisayo bokuxhasa isityholo, iingxoxo zetyala loluleko ziya kupheliswa aze usihlalo weengxoxo acebise iSGB, ngencwadi ebhaliweyo, ngesigqibo nezizathu ezixhasa oko, ube uphethiwe ke lo mbandela.

## 5. ISigqibo seSGB

- (1) Ikomiti yesigqeba seSGB mayibize intlanganiso yesikhawu epheleleyo yeSGB (*an extraordinary full SGB meeting*), kungabandakanywa ilungu elityholwayo, kwiintsuku ezi-3 zomsebenzi ukuza kuxoxa ngesohlwayo esicityiswayo, ize ithathe isigqibo –
- a) sokusitshintsha isohlwayo, okanye sokusamkela isohlwayo okanye
  - b) iwise isohlwayo ekucetyiswa sona ngusihlalo wekomiti yeengxoxo zetyala loluleko ngokukhawuleza, ukuba ngaba ngumbandela wangaphakathi okhoyo nosingethweyo nawo phantsi kwemigaqo yoluleko yeSGB;

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- c) ukuba isohlwayo sesokunqunyanyiswa okanye sesokupheliswa kobulungu, mawugqithiselwe umbandela ngoko nangoko, kwakunye namaxwebhu onke aphaathelele kulo mbandela kwiHoD ukuba ithathe isigqibo.
- (2) I-SGB kufuneka isebenzise ingqiqo yayo malunga nengcaciso edizwe kubahlali besikolo, yaye isoloko ikhumbula maxa onke ukuyigcina ngentembeke nangokuyimfihlo imibandela echaphazela amagama abantu.
- (3) Onke amaxwebhu neerekhodi ezinxulumene netyala makafayilishwe ngenyameko atshixelwe kwindawo ekhuselekileyo ukuqinisekisa ukuba agcinwa eyimfihlo.



