

CONSTITUTION

CONSTITUTION OF PINEHURST PRIMARY SCHOOL

1. DEFINITIONS

In this Constitution the words and phrases set out below shall bear the following meanings ascribed to them.

- | | |
|---|--|
| 1.1. “The Act” | <i>shall mean</i> the South African Schools Act No 84 of 1996 as amended; |
| 1.2. “The Regulation” | <i>shall mean</i> the regulations promulgated by the Minister of Education in accordance with Section 61 of the Act; |
| 1.3. “The Governing Body” | <i>shall be</i> as defined in Section 16 (1) of Act No 84 of 1996 is a Governing Body in whom the governance of the School is vested, and in whom the management, control and executive authority of a School rests; |
| 1.4. “The School” | <i>shall mean</i> the Pinehurst Primary School; |
| 1.5. “The Head of Department” | <i>shall mean</i> the Head: Education Western Cape Education Department; |
| 1.6. “A Member of the Executive Council” | <i>shall mean</i> the member of the Executive Council of the Western Cape Education Department; |
| 1.7 “Learner” | <i>shall mean</i> any person receiving education or obliged to receive education in terms of the South African Schools Act No 84 of 1996 and the Regulations as amended; |
| 1.8. “An Educator” | <i>shall mean</i> any person, excluding a person who is appointed to exclusively perform extra-curricular duties, who teaches, |

educates or trains other persons or who provides professional services, including professional therapy, education and psychological services at a School;

1.9 “A School”

shall mean a Public School or an independent School which enrolls learners in one or more grades from Grade R (reception) to Grade 12;

1.10. “A parent”

shall mean:

1.10.1. The parent or guardian of a learner;

1.10.2. The person legally entitled to custody of a learner; or

1.10.3. The person who undertakes to fulfill the obligations of a person referred to in paragraphs 1.10.1 and 1.10.2 above, towards the learners education at School.

1.11. “Grade”

shall mean that part of an educational program which a learner may complete in one year or any other educational program which the member of the Executive Council may be equivalent thereto.

2. THE OBJECTIVE OF THE SCHOOL

- 2.1. To provide learners with the highest standard of education, training and teaching in accordance with the Act and the Regulations.
- 2.2. To provide learners with sporting and other extra-curricular and recreational facilities.
- 2.3. To provide outdoor education by means of camps, tours and other means.
- 2.4. To provide learners with an education based on spiritual principles which recognize as equal, all religious beliefs.
- 2.5. To prepare the learner to assume a responsible roll in the community and, to provide a service to their country.
- 2.6. To instill in learners, the highest ideals of fellowship, goodwill, loyalty and human dignity.

- 2.7. To preserve the character, ideals and traditions of the School.
- 2.8. To utilize all School property for the benefit of the learners.
- 2.9. To utilize all capital and income for the direct or indirect benefit, welfare, maintenance, improvement and development of all the buildings, grounds, activities, amenities and facilities of or appertaining to the School.

3. **GEOGRAPHICAL FEEDER AREA**

The School shall use its best endeavours to serve the area of Pinelands and, preference will be given to the children of Pinelands residents in the admission of learners to the School.

4. **ACTIVITIES OF THE GOVERNING BODY**

The Governing Body of the Pinehurst Primary School shall have the following duties:

- 4.1. To perform all such activities which fall within the powers of the Governing Body in pursuing the interests and the welfare of the School and its learners.
- 4.2. To appoint and administer personnel in accordance with the Act and the Regulations, and the policy of the Governing Body.
- 4.3. To make and withdraw investments in the name of the School.
- 4.4. To utilize funds in accordance with the provisions of the Act and the Regulations for the purpose of realizing the objectives of the School.
- 4.5. To provide services and facilities in the interests of the learners and of education, in accordance with the Act, the Regulations and the Constitution of the Governing Body.
- 4.6. To acquire and alienate movable and immovable property in accordance with the Act, the Regulations, and the prescriptions of the Western Cape Education Department.
- 4.7. To appoint external auditors in accordance with the Act.
- 4.8. To admit, expel and suspend learners in accordance with the provisions of the Act, the Regulations, the circulars and prescriptions of the Western Cape Education Department, and the School rules.

- 4.9. To do all such other reasonable and lawful things as are incidental or conducive to the proper functioning of the School and the Governing Body, in the attainment of the objectives of the School.

5. **LIABILITY OF MEMBERS OF THE GOVERNING BODY**

A member of the Governing Body shall not be liable for any debt, damage or loss incurred or suffered by the School, unless he/she actively, willfully and without authorization, with malicious intent, or arising out of his/her negligence, in which event, such member of the Governing Body shall be held responsible for such debt, loss or damage.

6. **LEGAL PERSONALITY**

The School shall be constituted as a Body Corporate which ex officio, is and shall be represented by the Chairperson of the Governing Body, or, when necessary, by a substitute nominated by the Governing Body, at a duly constituted meeting of the Governing Body.

7. **LEGAL PROCEEDINGS**

All legal or other proceedings shall be instituted or conducted in the name of the School.

8. **COMPOSITION OF THE GOVERNING BODY**

The Governing Body of the School is constituted as follows:

- 8.1. The principal of the School.
- 8.2. Five parent members elected by the parents of learners at the School.
- 8.3. Two members of the teaching staff elected by teachers of the School.
- 8.4. One member of the non-teaching staff elected by non-teaching staff of the School.
- 8.5. Up to a maximum of six co-opted members, co-opted from parents of the School.

9. **TERM OF OFFICE**

The members elected by the parents shall hold office for terms as determined by the Minister and the School from time to time.

10. **QUORUM OF MEETINGS OF THE GOVERNING BODY**

The quorum of the meeting of the Board of Governors shall be at least one more than half the number of elected members of the Governing Body, present at a duly constituted meeting of the governing Body, constituted in accordance with paragraph 8, shall form a quorum.

11. **OFFICERS OF THE GOVERNING BODY**

11.1. During the first meeting of the governing Body duly constituted for a new term of office, the meeting shall elect a Chairperson and Vice-Chairperson from among its own members.

11.2. The officers of the Governing Body shall be the following:

11.2.1. The Chairperson;

11.2.2. The Vice-Chairperson;

11.2.3. The Honorary Secretary;

11.2.4. The Financial Manager;

11.2.5. The Heads of portfolios determined by the Governing Body from time to time.

12. **TERM OF OFFICE OF OFFICE BEARERS**

The term of office of office bearers and committees as appointed by the Governing Body, shall extend for a period of one (1) year.

13. **APOLOGIES FOR ABSENCE OF MEMBERS OF THE GOVERNING BODY**

The Governing Body accepts leave of absence of a member or members for a period determined by the Governing Body.

14. **CASUAL VACANCIES**

14.1. A casual vacancy of the governing Body shall occur when an elected member:

14.1.1. Submits a written resignation;

14.1.2. Dies;

14.1.3. Is relieved of his/her office in accordance with the Act and the Regulations;

14.1.4. Is absent for three consecutive meetings without the permission of the governing Body; or

14.1.5. Is found to be incompetent as defined in the Act and Regulations;

14.2. A casual vacancy shall be filled in the same way as the member who previously held the office was nominated, elected or appointed.

15. **POWER AND FUNCTIONS OF THE GOVERNING BODY**

Without limiting the generality of its powers of governance, full management, administration and control of the affairs of the School, but subject to the provisions of the South African Schools Act No 84 of 1996 and the Regulations promulgated thereunder, as well as the circulars directives and prescriptions of the Western Cape Education Department, the Governing Body shall have the power.

15.1. **Management and Administration of the School**

- 15.1.1. To carry out all or any of the objects of the School;
- 15.1.2. To control and manage the property of the School and exercise control over the School and its activities, provided that the Governing Body or a member thereof in his/her capacity as a member, may not interfere with the professional activities of a member of staff in the performance of his/her duties. To fulfill this role the Governing Body, *inter alia*:
 - 15.1.2.1. Acts as the official spokesperson of the parents of the learners;
 - 15.1.2.2. Brings matters which in its opinion, have a bearing on the well-being of the School, to the attention of the Western Cape Education Department;
 - 15.1.2.3. Implements decisions in regard to:
 - 15.1.2.3.1. The maintenance of the School grounds;
 - 15.1.2.3.2. The maintenance of School buildings and physical facilities;
 - 15.1.2.3.3. The construction, alteration and repair of School buildings and School facilities required for the purposes of the School.
 - 15.1.2.3.4. Has, in co-operation with the Principal of the School, as the educator appointed or acting as the Head of the School, policy making powers in the planning formulation of policy and decision making with respect to School policy and regulations, without infringing upon the professional activities of the Principal of the Educators;
 - 15.1.2.5. Has the power to:

- 15.1.2.5.1. levy school fees and to enforce the payment thereof by parents;
 - 15.1.2.5.2. Administer, process and allocate the school fee.
- 15.1.2.6. Appoints educational, administrative and other staff on the approved staff establishments where such appointments are in accordance with the provisions of the Act and the Regulations, and subject to the approval of the Minister and the Western Cape Education Department;
- 15.1.2.7. Appoints staff to promotion posts, after the posts have been advertised in the list of vacancies and, if desired, in the public media, and the Governing Body has received a list of candidates drawn up by the Western Cape Education Department;
- 15.1.2.8. Has the power to:
 - 15.1.2.8.1. appoint and remunerate staff over and above staff on the departmental establishment;
 - 15.1.2.8.2. Implement bursar schemes.
- 15.1.2.9. Determines the School uniform of the learners of the School;
- 15.1.2.10. Determines in conjunction with the Principal:
 - 15.1.2.10.1. The school's daily opening and closing times;
 - 15.1.2.10.2. The type of extra-mural and extra-curricular activities to be offered by the School;
 - 15.1.2.10.3. The code of conduct of the learners of the school;
 - 15.1.2.10.4. The School rules.

- 15.1.2.11. Has the power to make and implement decisions with respect to:
- 15.1.2.11.1. The admissions policy and requirements of learners;
 - 15.1.2.11.2. The parents or parent-teachers association;
 - 15.1.2.11.3 The age-limits for each grade, in accordance with the provisions of the Act and the Regulations, and the prescriptions of the Western Cape Education Department;
 - 15.1.2.11.4. the exercise of a choice, but subject to the approval of the Head: Education Western Cape Education Department, with regard to courses and subject packages within the set curriculum at National level which the School offers to its learners, and to implement and finance additional fields of study with the permission of the Head: Education Western Cape Education Department;
 - 15.1.2.11.5. extra-mural activities and, more specifically, the coaching and transport of learners and the organisation of such activities.
- 15.1.2.12. Reports on its activities at least once a year, at an Annual General Meeting, where a financial report and a budget for the following financial year is presented and, in a news letter to parents of learners at the School;

- 15.1.2.13. Exercise the other powers which the Act confers upon it and performs the other functions which the Act and the Regulations require of it;

15.2 **Committees**

15.2.1. The Governing Body may appoint a committee or committees to advise it and, subject to the instruction of the said Governing Body, to perform such functions as the Governing Body shall from time to time determine.

15.2.2. The Governing Body may appoint to a committee a person or persons who are not members of the Governing Body, provided that the Governing Body shall appoint one of its members as Chairperson of such committee.

15.2.3. The Governing Body may in its sole discretion alter, ratify or invalidate any decision of a committee, as provided in paragraph 15.2.1 above.

15.3. **Legal Capacity**

15.3.1. The Governing Body shall have the power to institute, conduct, defend, compound or abandon any legal proceedings by or against the School or the officers of the Governing Body or other matters concerning the affairs of the School and also to compound and allow time for payment or satisfaction of any debts due and of any claims or demands by or against the School.

15.3.2. The Governing Body shall have the power to enter into contracts and to do such acts and things as it deems expedient and valid for the purposes of the Governance and management of the School. All written contracts shall be signed by persons nominated by the Governing Body.

- 15.3.3. Has the power to accept, retain and administer donations made to the School by the community;
- 15.3.4. Has the power to make physical facilities of the School available to the community, to determine payment therefore, and to retain and administer the funds so obtained, provided that such arrangements do not encroach upon the normal educational program of the School;
- 15.3.5. To purchase, exchange, hire or otherwise acquire any movable or immovable property and any rights and privileges necessary or convenient for carrying out the objects of the School;
- 15.3.6. To manage, sell, mortgage, lease, dispose of and in turn account for or otherwise deal with the whole or any part of the movable property and rights of the School, subject to the provisions of the South African Schools Act No 84 of 1996 and the Regulations;
- 15.3.7. To invest monies of the School upon such terms and in such manner as it deems expedient;
- 15.3.8. To borrow money for the purposes of the School upon security or without security.

16. **MEETINGS**

16.1. **Number of meetings**

The Governing Body shall meet on a monthly basis during the course of the year.

16.2. **Extra-ordinary meetings**

An extra-ordinary meeting may be convened by the Chairperson when he/she deems it reasonable or necessary, or when at least four (4) members submit a written request for such a meeting, together with reasons for this request.

16.3. **Notice of meetings**

Ordinary and extra-ordinary meetings shall take place after written notice of the meeting has been issued at least seven (7) days prior to the meeting. The notice of the meeting shall include a list of the matters to be discussed at the meeting.

16.4. **Agenda**

The Governing Body shall deal with matters of which prior notice has been given, as well as matters which the Chairperson or any other member raises, with the approval of the meeting. Any person can, upon invitation of the Governing Body attend the meeting of the Governing Body, and participate in the discussions, but without the right to vote. The Governing Body may summon any staff member of the School to attend the meeting for the purposes decided upon by the Governing Body.

16.5. **Voting**

Each elected member of the Governing Body shall have one vote. At the conclusion of voting, the Chairperson shall have one casting vote.

16.6. **Minutes**

The secretary of the Governing Body shall minute all decisions taken by the meeting and shall provide each member of the committee with a copy thereof. A member of the Governing Body shall be entitled with or without a concise statement of reasons, to have it noted that he/she voted against a specific decision, or that he/she was not present when the decision was made.

16.7. **Approval of minutes**

The minutes of the meeting shall be approved at the next meeting of the Governing Body and signed by the Chairperson and the Secretary of the Governing Body. The head of Education, Western Cape Education Department, shall, at his/her request be provided with a copy of such minutes.

16.8. **Standing orders and procedures**

The Chairperson shall decide upon a matter of standing order and procedure.

Should a member question such a decision the question shall be submitted to the meeting without further discussion.

17. **FINANCE**

17.1. Financial year

The financial year shall end of 31 December, after which the account books are checked by an external auditor and final financial statements are prepared.

17.2. **Banking**

All bank deposits and other financial transactions shall be executed and other financial transactions shall be executed in the name of the School. The School shall maintain banking accounts with such financial institutions as the Governing Body shall decide upon from time to time, and all cheques, bills and other documents and financial instruments shall be signed by and on behalf of the School by at least two (2) persons authorised by the Governing Body.

17.3. **Financial Statements and Accounts**

The Governing Body shall:

17.3.1 keep records of monies received or spent by the School, and of the assets, liabilities and financial transactions of the School;

17.3.2. as soon as possible, but not later than three months after the end of each financial year, draw up annual financial statements which indicate with suitable particularity, moneys received and expenditure incurred by the School during and its assets and liabilities at the end of the financial year concerned.

17.3.3. Ensure that the records of the annual financial statements referred to in paragraph 17.3.2 above shall be audited by a person registered as an accountant and auditor in terms of the Public Accountants and Auditors Act 1951 (Act No. 51 of 1951);

17.3.4. within six (6) months after the end of each financial year, submit a copy of the annual financial statements, audited in terms of paragraph 17.3.3, to the Head: Education Western Cape Education Department;

17.3.5. authorise all disbursements on account of the School and may delegate such powers as it deem fit.

17.4. **Custody and Inspection of Books**

17.4.1. The books of account shall be kept at the School.

17.4.2. The Governing Body shall from time to time determine at what time and place and under what conditions and regulations the accounts and books of the School or any of them shall be opened for inspection.

17.5. **Auditors**

The Auditors shall be appointed by the Governing Body and their duties shall be regulated as the Governing Body may from time to time decide.

18. **PARENT COMMITTEES**

The Governing Body may establish a parent committee to advise it to perform such functions as the Governing Body may from time to time determine.

19. **AMENDMENT**

19.1. A decision to amend the Constitution of the Pinehurst Primary School shall require a two-thirds majority of the total membership of the Governing Body, after all members have been informed of the proposed amendments at least one (1) month prior to the adoption of the proposed amendment.

19.2 In the event that too few members are present at a meeting of the Board of Governors convened for this purpose, a second meeting shall exclusively for the purpose of deciding upon the amendment of this constitution, which meeting shall be set at least two (2) weeks after the convening of the first meeting. If two-thirds of the members of the Governing Body are not present at the second meeting, the amendment may be effected by a vote of two-thirds of the members present, after which it shall be submitted to the Western Cape Education Department for approval.