

DEPARTMENT OF EDUCATION

CALL FOR COMMENT ON THE DRAFT REGULATIONS CONCERNING CONTROL OF ACCESS TO PUBLIC SCHOOLS

I, Kader Asmal, as Minister of Education, hereby publish the Draft Regulations Concerning Control Of Access To Public Schools for comment in terms of section 61 of the South African Schools Act, 1996 (Act No. 84 of 1996) and in compliance with section 4(3) of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), as set out in the Schedule.

Comments from interested parties are invited, and should reach the Department not later than 19 February 2001.

Comments should be directed to the Director-General, Private Bag X895, Pretoria, 0001, for attention: Ms M Locke. Comments may also be faxed to (012) 326-9128 or sent by E-mail to Locke.M@educ.pwv.gov.za.

The name, address, telephone number and fax number of the person, governing body or organisation responsible for submitting comments must also be provided.

PROFESSOR KADER ASMAL, MP
MINISTER OF EDUCATION
JANUARY 2001

SCHEDULE

CHAPTER 1

1. Introduction

Section 29(1)(a) and (b) of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), provides that everyone has the right to a basic education, including adult basic education, and to further education, which the State, through reasonable measures, must make progressively available and accessible. The Constitution therefore places an obligation on the State to devise measures which would make education accessible to everyone. Education may not take place in a hostile, unsafe environment where learners, educators, parents and departmental officials are not safe. It is therefore, incumbent on the Minister of Education to devise measures which will ensure the safety of everyone at school. In terms of section 2(a) of the Control of Access to Public Premises and Vehicles Act, 1985 (Act No. 53 of 1985), the owner of any public premises or any public vehicle may take such steps as he may consider necessary for the safeguarding of those premises or that vehicle and the contents thereof, as well as for the protection of the people therein or thereon.

2. Definitions

In these regulations any word or expression to which a meaning has been assigned by the Act, shall have the same meaning assigned to in the Act, and unless the context indicates otherwise-

- (i) "dangerous object" means any explosive or incendiary material, any explosive or incendiary device, any firearm, and any gas, material, weapon or other article, object or instrument which may be employed to cause bodily harm to a person, or to render a person temporarily paralysed or unconscious, or to cause damage to property, as well as anything which the Minister may by notice in the Gazette declare to be a dangerous object for the purposes of these regulations;
- (ii) "illegal drug" means any intoxicating or stupefying illegal substance;
- (iii) "Minister" means the Minister of Education;
- (iv) "Head of Department" means the head of a provincial department of education;
- (v) "public school" means a school contemplated in chapter 3 of the South Africa Schools Act, 1996 (Act No. 84 of 1996) including a building, structure, hall, room, office, convenience, land, enclosure or water surface which is the property of, or is occupied or used by, or is under the control of a public school, to which a member of the public has a right of access, or is usually admitted, or to which he may be admitted;
- (vi) "the Act" means the South African Schools Act, 1996 (Act No. 84 of 1996) and/or regulations promulgated in terms of the Act.

3. Scope of applicability

These regulations apply to all public schools.

CHAPTER 2

4. Violence and drug free public schools

(1) In terms of these regulations, all public schools are hereby declared dangerous object and drug free zones.

(2) No person may -

- (a) allow any dangerous object in the public school; (b) carry any dangerous object in the public school; (c) store any dangerous object in the public school except in officially designated places identified by the principal; (d) carry illegal drugs on public schools;
- (e) enter public schools while under the influence of an illegal drug or alcohol; and
- (f) cause any form of violence which can negatively impact on any public school activities.

(3) A police official may, without warrant-

- (a) search any public building or premises if he or she has a reasonable suspicion that a dangerous object or illegal drugs may be present in the public building or premises in contravention of the regulations;
- (b) search any person present in the public premises; and (c) seize any dangerous object or illegal drugs present on public premises or on the person in contravention of these regulations.

5. Access to public schools

(1) Subject to the Constitution, laws, and national and provincial policies, the HOD or principal of any public school may and for such time-frames as it may be necessary-

- (a) take such steps as he or she may consider necessary for the safeguarding of the public school, as well as for the protection of the people therein; and
- (b) direct that the school may only be entered in accordance with the provision of subregulation (2).

(2) No person shall without the permission of the principal or Head of Department enter into any public school in respect of which a direction has been issued under subregulation (1)(a), and for the purpose of the granting of that permission the principal or Head of Department may require of the person concerned to-

- (a) furnish his or her name, address and any other relevant information required by the principal or Head of Department; (b) produce proof of his or her identity to the satisfaction of the principal or Head of Department if necessary;
- (c) declare whether he or she has any dangerous object or illegal drugs in his or her possession or custody or under his or her control;
- (d) declare what the contents are of any vehicle, suitcase, attaché case, bag, handbag, folder, envelope, parcel or container of any nature which he or she has in his or her possession or custody or under his or her control, and show those contents to him or her;
- (e) subject himself or herself and anything which he or she has in his or her possession or custody or under his or her control to a search by a person of the same gender, an examination by an electronic device, sniffer dogs or other apparatus in order to determine the presence of any dangerous object or illegal drug; and
- (f) hand to the principal or Head of Department anything which he or she has in his or her possession or custody or under his or her control for examination or custody until he or she leaves the premises.

(3) Without prejudice to the provisions of the Trespass Act, 1959 (Act No. 6 of 1959), an authorised officer may at any time remove any person from any public school if-

- (i) that person enters the school concerned without the permission contemplated in subregulation (2);
 - (ii) that person refuses or fails to observe any steps contemplated in subregulation (1)(a); and
 - (iii) the principal or Head of Department considers it necessary for the safeguarding of the public school concerned or for the protection of the people thereon.
- (4) If it is not practicable to examine or keep in custody, on or in the public school concerned, anything which may be examined, or kept in custody under subregulation (2), it may be removed to a suitable place for that purpose.

6. Exemption of certain persons

The provisions of regulation 5 do not apply in respect of any member of a police force established by or under any law, a member of the South African Defence Force or a Departmental official who is required in the performance of his or her functions to enter or enters upon any public premises and who produces proof of his or her identity to the satisfaction of the authorised officer concerned.

CHAPTER 3

7. Visits to public schools by public and political office bearers

(1) Members of the public and political office bearers, public representatives and the media have a right to visit public schools in the interests of public accountability, but this right

must be regulated to ensure that schools are not disrupted by such visits, and to avoid the politicisation of such visits. This right is subjected to reasonable controls to ensure the proper functioning of education.

(2) If such visits are desired, the person intending to visit must request and obtain written permission from the Provincial Head of Department prior to the visit. The request should be made in good time, and clearly indicate the date, time and purpose of the visit, the names of all participants, and the aspects which are intended to be looked at. The principal of the public school shall not refuse reasonable access to a person who has such written permission.

(3) Before granting such permission, the Head of Department should consult the local supervisor (circuit or district level), or the principal of the public school to be visited, to determine whether it is feasible for them to receive such a visit, and whether or not the school programme is likely to be seriously affected thereby. The Head of Department may also consult the MEC for Education, and take into account any other circumstances which may inform his or her decision, and such decision shall be regarded as final.

(4) Wherever possible a Departmental office-based representative should accompany such visitors.

8. Visits to public schools by parents

(1) Parents have the right to visit the public school where their children have been admitted but such visits may not disrupt any of the school activities.

(2) Parents are required to make an appointment with the principal of the school for a personal appointment with him or her prior to the visit and must state the reason for the visit and the persons who may be involved during the visit.

CHAPTER 4

9. General

- (1) All public schools must display clear signs at the entrance that any person who enters the school may be subjected to a search.
- (2) Any person who contravenes these regulations may be removed from the public school premises.
- (3) Public schools must collaborate with police stations to ensure that visible policing is present during all sporting and cultural events at the school.
- (4) Public schools must encourage governing body members and parents to participate in community policing forums.
- (5) Public schools must develop action plans to counter threats of violence which have the potential to have a negative impact on school activities.
- (6) The plans in subregulation (5) must ensure the safety of all learners, staff members and parents during school activities.
- (7) Public schools must engage in advocacy campaigns to communicate to the public the status of the schools concerning the regulations and the right to protection against violence.
- (8) The HOD must provide guidelines to assist the public schools in developing the action plans contemplated in subregulations (5) to (7).
- (9) The HOD must be provided with action plans contemplated in subregulations (5) to (7) within 6 months after the commencement of the Regulations.

10. Short title and commencement

These regulations are called *Regulations Concerning Control Of Access To Public Schools* and will come into operation on the date of publication thereof.