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To: Deputy Directors-General, Chief Directors, Directors (Head Office and district offices), Circuit Managers, Principals and Chairpersons of governing bodies

Short summary: *Principals and governing bodies of ordinary public schools are required to discontinue unlawful practices associated with school admissions, the payment of school fees and the levying of other fees.*

**Subject: Unlawful practices associated with school admissions, the payment of school fees and the levying of other fees**

1. The Western Cape Education Department (WCED) strives to ensure that all schools under its jurisdiction implement and administer sound policies aimed at bringing about a fair and efficient administration.
2. Complaints and other enquiries received from the public pertaining to admission practices and the payment of school and other fees, suggest that some provisions of the South African Schools Act (SASA), 1996 (Act 84 of 1996), are being disregarded.
3. The following are examples of reported malpractices:
  - 3.1 Parents are being required to pay a non-refundable deposit to secure a place at the school, registration fees, pre-admission, re-admission fees, or other fees at the time of application.
  - 3.2 Schools do not make their admission policies available to parents nor are they available on websites or other public platforms.
  - 3.3 Parents are often not given reasons for a school refusing admission of their child.

4. Schools are reminded of the following:
  - 4.1 When a parent has submitted an application for admission, clearly stated reasons for **non-admission** must be provided.
  - 4.2 Providing clear reasons for an administrative action is a requirement in terms of section 5 of the Promotion of Administrative Justice Act, 2000 (Act 3 of 2000). This act also stipulates that a response for non-admission must be provided within 90 days of receipt of an application.
  - 4.3 The admission policy of the WCED, issued in Circular 26/2010, dated 24 August 2010, clearly states that governing bodies must ensure that their schools' admission policies are fully compliant with all relevant legislation.
5. **Exemption from the payment of school fees**
  - 5.1 Governing bodies are reminded of the prescripts of the *Regulations for the Exemption of Parents from Payment of School fees* (published in *Government Notice R1052* in *Government Gazette No. 2931*, as amended, dated 18 October 2006).
  - 5.2 The following has been reported:
    - 5.2.1 Some schools refuse to provide parents with the application form needed to apply for school fee exemption.
    - 5.2.2 The admission of a learner is dependent on the ability of the parents or guardians to pay school fees.
    - 5.2.3 Parents who receive social grants are forced to pay admission and/or school fees.
    - 5.2.4 Parents who choose not to enrol their child at the nearest no-fee school, are told by fee paying schools that they cannot apply for fee exemption.
  - 5.3 According to the *Regulations for the Exemption of Parents from the Payment of School Fees*, the following persons are totally exempted from paying school fees:
    - 5.3.1 A person who has the responsibility of a parent in respect of a child placed in
      - a) a foster home
      - b) a youth care centre
      - c) a place of safety, or
      - d) an orphanage.
    - 5.3.2 A person who is a kinship caregiver of an orphan or of a child who
      - a) has been abandoned by his or her parents or
      - b) is without any visible means of support.
    - 5.3.3 A person who receives a social grant on behalf of a child.

5.3.4 A child who heads a household.

5.4 The definitions of “learner” and “parent” in the SASA cover all learners and parents, irrespective of their place of origin, as long as they qualify to remain in South Africa.

## 6. **School fees**

6.1 Circular 16/2007, dated 26 March 2007, deals with school fees, as cited in section 39 of the SASA. However, it has been found that some schools are:

6.1.1 Charging administration fees;

6.1.2 Charging non- refundable textbook levies;

6.1.3 Charging a compulsory development fee, which is sometimes refundable when the learner passes Grade 12;

6.1.4 Withholding report cards or transfer certificates because parents are unable to pay school fees;

6.1.5 Barring learners from participating in the school's extra-curricular programme because their parents are unable to pay school fees; or

6.1.6 Enforcing the payment of voluntary fees at no-fee schools.

6.2 The abovementioned actions are deemed to be unlawful; schools and governing bodies are required to refrain from these practices.

6.3 It is incumbent upon the governing body, as chief custodian of the school's finances and policies, always to act in terms of section 16 (2) of the SASA.

6.4 Schools must note that the admission policy of any school must be consistent with the Constitution and any applicable law. Sections 5 and 39 of the SASA, which deal with admissions and school fees respectively, are emphasised for the purposes of this circular.

6.5 The WCED also wishes to draw the attention of principals of public schools to their obligations in terms of sections 16(3) and 16A 1(a), (2) and (3) of the SASA.

## 7. **Schools refusing to process hard copy applications:**

7.1 Although 79% of parents captured the applications of their children on the electronic system in 2021, the online admissions system makes provision for schools to capture applications on behalf of parents who do not have access to the internet.

7.2 Many parents are contacting and visiting our offices and are raising their frustrations that schools are refusing to accept hard copy applications and that they are being turned away without any support.

7.3 Although we are actively encouraging parents to apply online, we must be sensitive to the fact that there are still some parents who may be unable to access the internet and manage the online process.

- 7.4 Schools need to cater for such parents and accept hard copy applications and offer their support to these parents, by either availing their computer centres to guide and assist parents to apply, or, alternatively, accept hard copy applications and process this on the system.
- 7.5 Schools may ONLY use the WCED form in such an instance.
- 8. Schools requesting information from parents, which contravenes the SASA and/or the Protection of Personal Information Act (POPIA), 2013 (Act 4 of 2013)**
- 8.1 Schools are reminded NOT to request personal information about prospective learners and their parents for the purposes of admission which is not in line with Chapter 2, paragraph 5, of the SASA.
- 8.2 This includes information relating to the ability of the parent to pay school fees or personal and behavioural information about the learner or the parent which may contravene the POPIA.
- 8.3 Principals, governing bodies and educators who issue or respond to such requests for confidential information are advised that such practices may expose the school and the WCED to a legal challenge.
- 8.4 The WCED appeals to principals and governing bodies to be sensitive to parents when dealing with admissions and financial matters in these difficult economic times. All families in South Africa have been affected by COVID-19 and its impact on the global economy. Section 41 of the SASA provides a separate procedure for the recovery of unpaid school fees, should it become necessary.
9. Kindly bring the content of this circular to attention of district office officials, members of governing bodies and school management teams.

**SIGNED:** B WALTERS

**HEAD: EDUCATION**

**DATE:** 2021-10-08