

**SECTION 5:  
SOUTH AFRICAN COUNCIL FOR  
EDUCATORS ACT  
31 OF 2000**

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# SOUTH AFRICAN COUNCIL FOR EDUCATORS ACT 31 of 2000

[ASSENTED TO 26 JULY, 2000]

[ENGLISH TEXT SIGNED BY THE PRESIDENT]

[DATE OF COMMENCEMENT: 2 AUGUST, 2000]

## ACT

**To provide for the continued existence of the South African Council for Educators; to provide anew for the functions of the said council; and to provide anew for the composition of the said council; and to provide for matters incidental thereto.**

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:–

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## Chapter 1 INTERPRETATION AND OBJECTS OF ACT

### Definitions

1. In this Act, unless the context indicates otherwise –

“**adult learning centre**” means a public or private centre which provides basic education to adults and of which the educators are employed in terms of the Employment of Educators Act, 1998 (Act No. 76 of 1998);

“**council**” means the South African Council for Educators referred to in section 4;

“**educator**” means any person referred to in section 3 and who teaches, educates or trains other persons or who provides professional educational services, including professional therapy and educational psychological services, at an institution;

“**further education and training institution**” means a public or private further education and training institution defined in section 1 of the Further Education and Training Act, 1998 (Act No. 98 of 1998), or any technical college, youth college, community college, state college or other college which is wholly or partly funded by the state;

“**institution**” means any school, further education and training institution or adult learning centre;

“**member**” means a member of the council appointed in terms of section 6;

“**Minister**” means the Minister of Education;

“**organised profession**” means all trade unions or federations of trade unions which are members of the Education Labour Relations Council;

“**school**” means a public or independent school defined in section 1 of the South African Schools Act, 1996 (Act No. 84 of 1996).

### Objects of Act

2. The objects of this Act are –

- (a) to provide for the registration of educators;
- (b) to promote the professional development of educators; and
- (c) to set, maintain and protect ethical and professional standards for educators, by means of the functioning of the council.

### Application of Act

3. This Act applies to all educators appointed –

- (a) in terms of the Employment of Educators Act, 1998 (Act No. 76 of 1998);
- (b) in terms of the South African Schools Act, 1996 (Act No. 84 of 1996);
- (c) at an independent school;
- (d) in terms of the Further Education and Training Act, 1998 (Act No. 98 of 1998);
- (e) at a further education and training institution;
- (f) at an adult learning centre.

## Chapter 2 CONTINUATION, POWERS AND DUTIES, COMPOSITION AND GOVERNANCE OF COUNCIL

### Continuation of council

4. The South African Council for Educators referred to in section 27 of the Employment of Educators Act, 1998 (Act No. 76 of 1998), continues to exist as a juristic person despite the repeal of that section by section 28 of this Act.

### Powers and duties of council

5. Subject to this Act and the National Education Policy Act, 1996 (Act No. 27 of 1996), the council –

- (a) with regard to the registration of educators –
  - (i) must determine minimum criteria and procedures for registration or provisional registration;
  - (ii) must consider and decide on any application for registration or provisional registration;
  - (iii) must keep a register of the names of all persons who are registered or provisionally registered;
  - (iv) must determine the form and contents of the registers and certificates to be kept, maintained or issued in terms of this Act, the periods within which they must be reviewed and the manner in which alterations thereto may be effected; and
  - (v) may prescribe the period of validity of the registration or provisional registration;

- (b) with regard to the promotion and development of the education and training profession –
  - (i) must promote, develop and maintain a professional image;
  - (ii) must advise the Minister on matters relating to the education and training of educators, including but not limited to –
    - (aa) the minimum requirements for entry to all the levels of the profession;
    - (bb) the standards of programmes of pre-service and in-service educator education;
    - (cc) the requirements for promotion within the education system;
    - (dd) educator professionalism;
  - (iii) must research and develop a professional development policy;
  - (iv) must promote in-service training of all educators;
  - (v) may develop resource materials to initiate and run, in consultation with an employer, training programmes, workshops, seminars and short courses that are designed to enhance the profession;
  - (vi) may compile, print and distribute a professional journal and other publications;
  - (vii) may establish a professional assistance facility for educators;
- (c) with regard to professional ethics –
  - (i) must compile, maintain and from time to time review a code of professional ethics for educators who are registered or provisionally registered with the council;
  - (ii) must determine a fair hearing procedure;
  - (iii) subject to subparagraph (ii), may –
    - (aa) caution or reprimand;
    - (bb) impose a fine not exceeding one month's salary on; or
    - (cc) remove from the register for a specified period or indefinitely, or subject to specific conditions, the name of,  
an educator found guilty of a breach of the code of professional ethics; and
  - (iv) may suspend a sanction imposed under subparagraph (iii) (bb) or (cc) for a period and on conditions determined by the council;
- (d) with regard to fees –
  - (i) must, in consultation with the Minister, determine fees payable to the council by registered educators and educators applying for registration;
  - (ii) may require from the relevant employers to deduct fees from the salaries of educators and to pay it over to the council;
  - (iii) may, after a fair hearing –
    - (aa) caution or reprimand; or
    - (bb) remove from the register for a specified period or indefinitely, or subject to specific conditions, the name of,  
an educator found guilty of failing to pay the fees determined by the council; and
  - (iv) may suspend a sanction imposed under subparagraph (iii) (bb) for a period and on conditions determined by the council; and
- (e) in general –
  - (i) must advise the Minister on any educational aspect which the Minister may request it to advise on;
  - (ii) may appoint staff and determine their conditions of service;
  - (iii) may establish committees and assign duties to them;
  - (iv) must perform any duty which is necessary for the proper functioning of the council; and
  - (v) may advise the Minister on any relevant educational aspect.

#### **Composition of council**

6. (1) The council consists of the following members, appointed by the Minister with due consideration to representation in respect of race, gender, disability and geographic distribution:
- (a) The chairperson, subject to section 7;
  - (b) 18 educators collectively nominated by the organised profession;
  - (c) five persons nominated by the Department of Education;
  - (d) two persons nominated by the national associations representing school governing bodies contemplated in section 20 (3) of the South African Schools Act, 1996 (Act No. 84 of 1996);
  - (e) one person nominated by the Council on Higher Education established by section 4 of the Higher Education Act, 1997 (Act No. 101 of 1997);

- (f) one person nominated by the councils of further education and training institutions contemplated in section 8 of the Further Education and Training Act, 1998 (Act No. 98 of 1998);
  - (g) one person nominated by national bodies representing independent or private institutions recognised by the Minister; and
  - (h) the chief executive officer of the council, subject to section 17.
- (2) The members referred to in subsection (1) (b) must consist of educators, including principals, employed at or in each of the following institutions or sectors:
- (a) A public ordinary school;
  - (b) an independent school;
  - (c) a public further education and training institution;
  - (d) a private further education and training institution;
  - (e) early childhood development sector;
  - (f) an adult learning centre;
  - (g) learners with special education needs sector.
- (3) If the organised profession is unable to reach agreement collectively with regard to the 18 nominations referred to in subsection (1) (b), the Minister must appoint 18 members from the nominations by individual organisations from the organised profession.
- (4) When any nomination becomes necessary in terms of subsection (1), the council must invite the relevant bodies or authorities in writing to nominate persons who qualify for nomination within a specified period of at least 30 days.
- (5) No person may be nominated or appointed as a member of the council if that person –
- (a) is removed from an office of trust by a court of law; or
  - (b) is convicted of an offence involving dishonesty or an offence for which the sentence imposed is imprisonment without the option of a fine.
- (6) If the council receives any nomination it must, within 30 days after the expiry date specified in the invitation, submit the nomination to the Minister.
- (7) If the council receives no nominations or receives insufficient nominations within the period specified in the invitation, the Minister may, after consultation with the council, appoint persons who meet the requirements up to the number required, as members.
- (8) The Minister must by notice in the *Gazette*, as soon as practicable after the appointment of the members, publish the name of every person appointed as a member, together with the date from which the appointment takes effect and the period for which the appointment is made.

#### **Chairperson and deputy chairperson of council**

7. (1) (a) At the first meeting in a new term of office of members, the members must nominate five persons, of whom one must be appointed by the Minister as chairperson.
- (b) A person who is not a member may be nominated by the council for appointment as chairperson.
- (2) The chief executive officer must act as chairperson until such time as a chairperson is appointed.
- (3) After the appointment of the chairperson by the Minister, the members must elect one of their number as deputy chairperson of the council to act as chairperson when the chairperson is not available.
- (4) The chairperson and deputy chairperson hold office during the term of office of the members.
- (5) In the event of the chairperson being appointed from the members of the council, the vacancy that arises must be filled in accordance with section 10.
- (6) Whenever both the chairperson and the deputy chairperson are not available, the members must, from among themselves, elect a member to act as chairperson.

#### **Term of office of members**

8. Subject to section 10 (2), all members, excluding the chief executive officer, hold office for a period of four years.

#### **Termination of office of chairperson, deputy chairperson or member**

9. The term of office of the chairperson, deputy chairperson or any other member is terminated if the member –
- (a) resigns by giving notice in writing to the Minister and the council;
  - (b) is absent from three consecutive meetings of the council or from a committee of which the member is a member without leave of the relevant chairperson, or in the case of the chairperson, the leave of the executive committee of the council;
  - (c) brings the council or the profession into disrepute;
  - (d) no longer meets the requirements referred to in section 6 (1) and (2);
  - (e) (i) is declared insolvent;

- (ii) is removed from an office of trust by a court of law;
- (iii) is convicted of an offence involving dishonesty or an offence for which the sentence imposed is imprisonment without the option of a fine; or
- (iv) is declared by a competent court to be of an unsound mind or under a legal disability.

#### **Filling of vacancies**

10. (1) If the term of office of a member is terminated in terms of section 9, the vacancy must be filled, with the necessary changes, in accordance with section 6.
- (2) The term of office of a member appointed in terms of subsection (1), is the remainder of the term of office of the relevant predecessor.
- (3) (a) If the office of chairperson becomes vacant in terms of section 9, the remaining members and the Minister must act in accordance with section 7 (1).
- (b) The person so appointed as chairperson holds office for the remainder of the term of office of the relevant predecessor.

#### **Executive committee**

11. (1) The executive committee of the council consists of –
- (a) the chairperson of the council, who is the chairperson of the committee;
  - (b) six other members appointed by the council of whom at least one is a member referred to in section 6 (1) (c); and
  - (c) the chief executive officer.
- (2) The council must, subject to this Act, determine the functions of the executive committee.
- (3) A decision of the executive committee is regarded as a decision of the council, unless the decision is revoked by the council at its ensuing meeting.
- (4) Anything done in implementing the decision of the executive committee before it is revoked by the council, is not invalid by reason only of the fact that the decision is subsequently revoked by the council.

#### **Registration committee**

12. (1) The registration committee of the council consists of –
- (a) the chairperson, who is a member of, and appointed by, the council;
  - (b) four other members appointed by the council; and
  - (c) the chief executive officer.
- (2) Subject to Chapter 3, the registration committee must –
- (a) consider and make recommendations to the council on minimum criteria and procedures for the registration or provisional registration of educators;
  - (b) consider and make recommendations to the council on any application for registration or provisional registration;
  - (c) recommend the period of validity of the registration of an educator to the council; and
  - (d) exercise or perform any other power or duty delegated or assigned to it by the council.
- (3) The registration committee must keep a record of its proceedings.

#### **Professional development committee**

13. (1) The professional development committee of the council consists of –
- (a) the chairperson, who is a member of, and appointed by, the council;
  - (b) four other members appointed by the council, of whom at least one must be a member referred to in section 6 (1) (c); and
  - (c) the chief executive officer.
- (2) The professional development committee must, subject to this Act –
- (a) consider and make recommendations to the council in relation to powers and duties contemplated in section 5 (b); and
  - (b) exercise or perform any other power or duty delegated or assigned to it by the council.
- (3) The professional development committee must keep a record of its proceedings.

#### **Disciplinary committee**

14. (1) The disciplinary committee of the council consists of –
- (a) the deputy chairperson of the council, who is the chairperson of the committee;

- (b) four other members appointed by the council, of whom at least one must be a member referred to in section 6 (1) (c); and
- (c) the chief executive officer.
- (2) The disciplinary committee must –
  - (a) compose, maintain and from time to time review a code of professional ethics;
  - (b) ensure that an alleged breach of the code of professional ethics is investigated;
  - (c) establish panels to investigate and hear complaints against educators;
  - (d) ensure that a fair hearing, in accordance with the procedure determined by the council in terms of section 5 (c) (ii), is conducted;
  - (e) on the basis of a recommendation of the relevant panel, recommend a finding and appropriate action, if any, to the council; and
  - (f) exercise or perform any other power or duty delegated or assigned to it by the council.
- (3) A relevant panel must make a recommendation to the disciplinary committee in regard to a finding, and, if any, disciplinary action concerning a complaint referred to it.
- (4) For the purposes of the investigation and hearing, a panel may summon any person who –
  - (a) may be able to give information of material importance concerning the subject of the investigation or hearing; or
  - (b) has possession, custody or control of or over any book, document or object which may have a bearing on the matter,to appear before the panel and to produce the book, document or object, if any.
- (5) The summons must be in a form prescribed by the council and be signed by the chairperson of the disciplinary committee or the chief executive officer and be served on a person by way of –
  - (a) delivery by hand;
  - (b) telefax; or
  - (c) registered post.
- (6) The date on which the summons is served is regarded as, in a case of –
  - (a) service by hand, the date of delivery;
  - (b) service by telefax, the dispatching date reflected on the telefax; and
  - (c) service by registered post, the date on which the letter was signed for, in the absence of proof to the contrary.
- (7) The disciplinary committee and a panel must keep a record of the proceedings of every investigation and disciplinary hearing.

#### **Committees of council**

- 15.** (1) The council may establish other committees to assist in the performance of its functions and may co-opt other persons to attend committee meetings on the basis of their expertise.
- (2) Any committee, other than the executive committee, may include persons who are not members of the council.
  - (3) Subject to sections 11 and 14 the chairperson of a committee must be appointed by the council from among its members.
  - (4) Members of committees referred to in subsection (1) may be appointed for such period as the council may determine.
  - (5) Members of a panel referred to in section 14 (2) (c) need not be members of the council.

#### **Meetings, and procedure at meetings of council and committees**

- 16.** (1) The council must hold at least two meetings during each calendar year at its head office, and may in addition hold such other meetings as the chairperson of the council may determine.
- (2) The council may make rules relating to the procedure at meetings of the council and its committees, and on any other matter necessary for the performance of its functions.
  - (3) A majority of the members of the council or a committee constitutes a quorum at any meeting of the council or committee.
  - (4) (a) A decision of the majority of the members of the council or of a committee present at any meeting constitutes a decision of the council or committee.  
(b) In the event of an equality of votes, the presiding member has a casting vote in addition to a deliberative vote.
  - (5) A decision taken by the council or a committee is not invalid by reason only of a vacancy on the council or a committee, as the case may be, at the time when the decision was taken.

### **Appointment and functions of chief executive officer and staff**

17. (1) The council must appoint a chief executive officer and may appoint other employees as it may deem necessary to assist it in the performance of its functions.
- (2) The chief executive officer is the accounting officer of the council.
- (3) The chief executive officer is, subject to the directions and in accordance with the policy of the council, responsible for the –
- (a) formation and development of an efficient administration;
  - (b) organisation, control, management and discipline of the staff; and
  - (c) implementation of the decisions of the council.
- (4) As accounting officer the chief executive officer is responsible for –
- (a) all income and expenditure of the council;
  - (b) all assets and the discharging of all liabilities of the council; and
  - (c) the proper and diligent implementation of the operational plans of the council.
- (5) The council is the employer and must determine the conditions of service of its employees.

### **Remuneration and allowances of members of council and committees**

18. The chairperson of the council, the deputy chairperson, every member and any person appointed as a member of a committee or panel who is not in the service of the State may, in respect of services rendered by them in connection with the affairs of the council, a committee or panel, be paid by the council –
- (a) such travelling, subsistence and other allowances; and
  - (b) in the case of the chairperson of the council, such additional remuneration,
- as the council may determine.

### **Funds of council**

19. (1) The funds of the council consist of –
- (a) compulsory fees;
  - (b) money received from donations, contributions, interest or fines; and
  - (c) other money received by the council from any other source.
- (2) The council –
- (a) must during each financial year, at such time and in such manner as the Minister may determine, submit to the Minister for approval a detailed statement of its estimated income and expenditure for the ensuing financial year;
  - (b) may during any financial year submit to the Minister for approval adjusted statements of its estimated income and expenditure; and
  - (c) may not incur any expenditure which exceeds the total amount approved in terms of paragraphs (a) and (b).
- (3) If the Minister does not approve the statement of estimated income and expenditure of the council, the Minister must request the council to submit a revised statement of its estimated income and expenditure within a specified period.
- (4) (a) The funds contemplated in subsection (1) must be used by the council in accordance with the approved statement referred to in subsection (2).
- (b) Any unexpended balance must be carried forward as a credit to the following financial year.
- (5) Subject to subsection (4), the council may invest any portion of its funds in such manner as the council may approve.
- (6) The books of account and financial statements of the council must be audited at the end of each financial year by a chartered accountant registered in terms of the Public Accountants' and Auditors' Act, 1991 (Act No. 80 of 1991), appointed by the council.
- (7) A copy of the audited financial statements must be submitted to the Minister within three months after the end of the council's financial year.

### **Annual report**

20. (1) The council must, within three months after the end of each financial year, submit a report to the Minister on the performance of its functions during that financial year.
- (2) The Minister must table the report in Parliament as soon as is reasonably practicable.



### Chapter 3 REGISTRATION OF EDUCATORS

#### Compulsory registration of educators

21. (1) A person who qualifies for registration in terms of this Act must register with the council prior to being appointed as an educator.
- (2) No person may be employed as an educator by any employer unless the person is registered with the council.

#### Application for registration

22. (1) (a) An application for registration must be made to the council in the manner and form determined by the council.
- (b) The applicant must submit the documentation and information required by the council together with the registration fee referred to in section 5 (d) (i).
- (2) The council must consider an application for registration in terms of the requirements for registration determined by the council.
- (3) If an applicant for registration satisfies the requirements referred to in subsection (1), the council must register the applicant and issue a registration certificate to the educator.
- (4) If an applicant does not satisfy all the requirements but the council is of the opinion that the requirements will be satisfied within a reasonable time, the council may register the applicant provisionally on such conditions as the council may determine.
- (5) When an educator who is provisionally registered as contemplated in subsection (4) satisfies all the requirements for registration and the conditions referred to in that subsection, the council must register the educator in accordance with subsection (3).
- (6) If an educator referred to in subsection (4) does not satisfy the requirements for registration within the period specified, the provisional registration lapses and the name of the person is removed from the register.
- (7) The period for which an educator is provisionally registered may be extended by the council, and different conditions in respect of different applicants may be determined if there is a reasonable basis for the differentiation.
- (8) Different categories of registration may be determined by the council –
- (a) to allow for special circumstances of different sectors in education; or
- (b) if there is a reasonable basis for such differentiation.

#### Removal of name from register

23. (1) The council may direct the chief executive officer to remove the name of an educator from the register if –
- (a) after having been registered, the relevant qualification of the educator is withdrawn or cancelled by the higher education institution which issued it;
- (b) the educator was registered by error or by means of fraud;
- (c) the educator was found guilty of a breach of the code of professional ethics;
- (d) the educator requests deregistration, permanently or for a specified period;
- (e) the educator fails to pay the fees prescribed by the council within a specified period; or
- (f) the educator dies.
- (2) Notice of the removal of the name of an educator from the register must be given by the chief executive officer to the educator concerned by way of certified mail addressed to the relevant address appearing in the register.
- (3) The name of an educator contemplated in subsection (1) (a), (b), (c) and (e) may not be removed from the register unless the educator was given a reasonable opportunity to make representations to the council.
- (4) As from the date on which notice contemplated in subsection (2) has been given to the educator any registration certificate issued to the educator concerned is regarded to be cancelled.

#### Registration certificates

24. (1) A registration certificate must be issued and sent to the educator upon registration by the council.
- (2) If the chief executive officer is satisfied, on proof submitted by a registered educator, that a registration certificate has been destroyed or lost, a duplicate registration certificate must be issued to that educator upon payment of the fee prescribed by the council.

## Chapter 4 GENERAL

### Transitional provisions

25. (1) The terms of office of the members of the council in office immediately prior to the commencement of this Act, expire on the day prior to the date on which the appointment of the members takes effect in terms of section 6 (8).
- (2) Any function performed by the council prior to the commencement of this Act, is regarded to have been performed in terms of the corresponding provision of this Act.
- (3) Despite the provisions of subsection (2), any disciplinary proceedings instituted against an educator for an alleged breach of the code of professional ethics prior to the commencement of this Act must be continued and concluded in terms of the procedure determined in terms of Chapter 6 of the Employment of Educators Act, 1998 (Act No. 76 of 1998).
- (4) The constitution, registration procedure, code of professional ethics and other procedures of the council existing immediately prior to the commencement of this Act, remain in force until amended or repealed by the council under this Act, except where they are in conflict with the provisions of this Act.
- (5) The compulsory registration fees and other fees payable to the council immediately prior to the commencement of this Act, remain in force until amended or repealed by the council under this Act.
- (6) The agreements of employment existing immediately prior to the commencement of this Act between the employees of the council, and the council, continue to exist subject to applicable labour law.
- (7) Practising educators to whom the provisions of the Employment of Educators Act, 1998 (Act No. 76 of 1998), do not apply and who are required in terms of this Act to register are, subject to subsection (8), regarded to be provisionally registered with the council, irrespective of their qualifications.
- (8) Provisional registration contemplated in subsection (7) remains valid until a date determined by the Minister, prior to which date the educators concerned must apply for and obtain registration in terms of Chapter 3 in order to remain registered.

### Information to be furnished to council

26. (1) A higher education institution and the employer of an educator must furnish the council, at its request, with such information as is reasonably required by the council for the performance of its functions.
- (2) In each case where disciplinary steps are taken against any educator by the employer resulting in a sanction other than a caution or reprimand, a certified summary of the record of the proceedings at the hearing and of the sanction imposed must be forwarded to the council by such employer.

### Offences and penalties

27. Any person who –
- (a) has been duly summoned under section 14 (5) and who fails without sufficient cause –
- (i) to attend at the time and place specified in the summons; or
- (ii) to remain in attendance until excused by the panel from further attendance;
- (b) refuses to be sworn or to affirm as a witness; or
- (c) fails without sufficient cause –
- (i) to answer fully and satisfactorily any question lawfully put to that person; or
- (ii) to produce any book, document or object in that person's possession or custody or under that person's control which that person was required to produce in terms of the said section 14 (5),
- is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding six months.

### Repeal of law

28. Chapter 6 of the Employment of Educators Act, 1998 (Act No. 76 of 1998), is hereby repealed.

### Short title

29. This Act is called the South African Council for Educators Act, 2000.
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# THE COMPOSITION, ADMINISTRATION AND FUNCTIONING FOR THE SOUTH AFRICAN COUNCIL FOR EDUCATORS

G.N. R1293 of 1999 published in Government Gazette No. 20581 dated 27 October 1999

## THE COMPOSITION, ADMINISTRATION AND FUNCTIONING OF THE SOUTH AFRICAN COUNCIL FOR EDUCATORS

I, Mohammed Valli Moosa, acting Minister of Education, acting under section 30 read with section 35 of the Employment of Educators Act, 1998 (Act No. 76 of 1998), after consultation with the bodies referred to in section 6 of the National Education Policy Act, 1996 (Act No. 27 of 1996), hereby provide the regulations for the composition, administration and functioning of the South African Council for Educators (SACE), as set out in the Schedule.

**MR MV MOOSA**  
**Acting Minister of Education**  
October 1999

### SCHEDULE

#### THE SOUTH AFRICAN COUNCIL FOR EDUCATORS REGULATIONS

##### Definitions

1. In these regulations, unless the context indicates otherwise, words or expressions as defined in the Employment of Educators Act, 1998 (Act No. 78 of 1998) will have the same meaning.

##### Composition of the South African Council for Educators

2. (1) The South African Council for Educators consists of –
  - (a) two co-chairpersons appointed by the Minister;
  - (b) thirty members appointed by the trade unions which are parties to the Education Labour Relations Council;
  - (c) fifteen members appointed by the Minister, and
  - (d) the chief executive officer appointed by the South African Council for Educators in terms of section 28(1)(i) of the Act.
- (2) The members contemplated in subregulation (1)(c) shall include representatives of employers of educators contemplated in section 3(1) to (3) of the Act.
- (3) The current chairpersons and members of the South African Council for Educators continue to perform the functions which they performed prior to the commencement of these regulations until their current terms of office expire.

##### Term of office of co-chairpersons and members

3. (1) The co-chairpersons, and all members of the South African Council for Educators, excluding the chief executive officer, hold office for a period of two years.
- (2) The Minister may extend the term of office of the co-chairpersons and members of the South African Council for Educators for a period of not more than twelve months.

##### Vacation of office by members

4. A member vacates office if-
  - (a) his or her estate is sequestrated or the member compromises with his or her creditors unless the South African Council for Educators decides otherwise;
  - (b) he or she is absent for more than two consecutive ordinary meetings of the South African Council for Educators without the permission of either one of the co-chairpersons or the South African Council for Educators and such permission shall not be unreasonably withheld,
  - (c) he or she submits his or her resignation in writing to the co-chairpersons;

- (d) he or she is declared unable to attend to his or her personal affairs by a court of law, or
- (e) he or she is deceased.

**Filling of vacancies**

- 5. (1) If a member vacates his or her office, the resultant vacancy must be filled by appointment in accordance with regulation 2.
- (2) A member appointed in accordance with subregulation (1) shall remain in office for the unexpired term of office of his or her predecessor.

**Executive committee of the South African Council for Educators**

- 6. (1) The South African Council for Educators must establish an executive committee and determine its functions.
- (2) The executive committee consists of-
  - (a) the co-chairpersons of the South African Council for Educators;
  - (b) nine other members appointed by the South African Council for Educators; and
  - (c) the chief executive officer.
- (3) A decision of the executive committee must be regarded as a decision of the South African Council for Educators, unless such decision is revoked at the next meeting of the South African Council for Educators.
- (4) Anything done in consequence of a decision of the executive committee before its revocation is not invalid by reason only of the fact that the decision is revoked by the South African Council for Educators under subregulation (3).

**Committees of the South African Council for Education**

- 7. (1) The South African Council for Educators may establish other committees to assist the performance of its functions.
- (2) Any committee other than the executive may include persons who are not members of the South African Council for Educators.
- (3) The chairperson of a committee must be appointed by and be a member of the South African Council for Educators.
- (4) Members of the committees contemplated in subregulation (2) may be appointed for such period or periods as the South African Council for Educators may determine.

**Meetings of the South African Council for Educators and committees**

- 8. (1) Meetings of the South African Council for Educators must be held at such times and places as may be determined by the co-chairpersons concerned, but the co-chairpersons must convene a meeting at least every three months or if requested to do so in writing by at least one third of the members of the South African Council for Educators, as the case may be.
- (2) Whenever the chairperson of a committee is absent from any meeting of such a committee, the members present must elect a person from their ranks to preside at that meeting.
- (3) The South African Council for Educators may make rules relating to the procedure at meetings of the South African Council for Educators and its committees, including the quorum for such meetings, and any other matter necessary or expedient for the performance of its functions.
- (4) The proceedings at a meeting of the South African Council for Educators or of a committee are not invalid by reason only of the fact that a vacancy exists in the South African Council for Educators or a committee, as the case may be, at the time of such meeting.
- (5) Meetings of a committee must be held at such times and places as may be determined by its chairperson, but the chairperson may convene a meeting after a notice of the meeting of not less than seven (7) days has been given to the members of that committee.

**Short title and commencement**

These regulations shall be called The South African Council for Educators Regulations and shall come into operation on publication thereof.

# DISCIPLINARY PROCEDURES

## 1. Introduction

- 1.1 This document must be read together with the provisions of the South African Council for Educators Act, 2000 (Act 31 of 2000).
- 1.2 The purpose of this document is to provide a fair procedure governing the investigation and hearing of alleged breaches of the code of professional ethics for educators.
- 1.3 The Council commits itself through these procedures to the development of a high standard of ethics governing the teaching profession.
- 1.4 These procedures are intended to be corrective and not punitive, where this is possible and desirable taking into account the interests of the teaching profession as a whole.

## 2. Functions of the disciplinary committee

- 2.1 The disciplinary committee must:
  - 2.1.1 ensure that alleged breaches of the code are investigated;
  - 2.1.2 establish investigating panels to investigate alleged breaches of the code;
  - 2.1.3 establish disciplinary panels to conduct disciplinary hearings into alleged breaches of the code;
  - 2.1.4 ensure that disciplinary hearings are fair and comply with the procedures set out in this document; and
  - 2.1.5 on the basis of recommendations received from disciplinary panels, recommend findings and appropriate sanctions if any, to the Council in respect of breaches of the code.
- 2.2 The members of investigating and disciplinary panels established by the disciplinary committee need not be members of the Council.

## 3. Investigation of alleged breaches of the code

- 3.1 Any person who believes that an educator has breached the code may lodge a complaint with the Council.
- 3.2 The complaint should preferably:
  - 3.2.1 be in writing; and
  - 3.2.2 clearly disclose the alleged breach of the code.
- 3.3 The disciplinary committee may investigate any alleged breach of the code, whether or not a complaint has been lodged.
- 3.4 The chief executive officer must, as soon as practicable after receiving a complaint, refer it to the disciplinary committee for consideration.
- 3.5 The disciplinary committee must refer an alleged breach to an investigating panel for investigation.
- 3.6 An investigating panel may, in investigating any alleged breach of the code:
  - 3.6.1 interview complainants and other possible witnesses;
  - 3.6.2 subject to clause 3.7, interview the educator who is alleged to have breached the code;
  - 3.6.3 notify the educator of the alleged breach and, subject to clause 3.7, give the educator an opportunity to respond within the period specified in that notice;
  - 3.6.4 gather evidence relevant to the alleged breach; and
  - 3.6.5 if necessary, cause summons to be served on any person who may assist the panel in its investigation as contemplated in section 14(4) of the Act.
- 3.7 Before interviewing an educator as contemplated in clause 3.6.2, and in any notice contemplated in clause 3.6.3, the investigating panel must warn the educator:
  - 3.7.1 of the educator's right against self-incrimination; and
  - 3.7.2 that any admission or explanation given by the educator may be used as evidence against the educator at a disciplinary hearing.
- 3.8 The investigating panel must keep a record of the investigation.
- 3.9 If an investigating panel is satisfied that there is sufficient evidence of a breach of the code by an educator, the disciplinary committee may refer the matter to a disciplinary panel for hearing.
- 3.10 A member of a panel that has investigated an alleged breach of the code cannot serve as a member of the disciplinary panel which hears the matter.

#### **4. The disciplinary hearing**

- 4.1 Once a matter has been referred for hearing by a disciplinary panel, the chief executive officer or the chairperson of the disciplinary committee must issue a summons to the educator who has allegedly breached the code.
- 4.2 The summons must disclose:
  - 4.2.1 the nature of the alleged breach;
  - 4.2.2 the date, time and venue of the disciplinary hearing;
  - 4.2.3 the educator's right to be represented at the disciplinary hearing, including the right to legal representation;
  - 4.2.4 the educator's right to call witnesses to give evidence and to produce books, documents and other items in support of the educator's case; and
  - 4.2.5 the educator's right to make written submissions against any recommendation of the disciplinary panel to the disciplinary committee.
- 4.3 The summons must be served by way of:
  - 4.3.1 delivery by hand;
  - 4.3.2 telefax; or
  - 4.3.3 registered post.
- 4.4 The date on which the summons is served is regarded as, in the case of:
  - 4.4.1 service by hand, the date of delivery;
  - 4.4.2 service by telefax, the dispatching date reflected on the telefax; and
  - 4.4.3 service by registered post, the date on which the letter was signed for in the absence of proof to the contrary.
- 4.5 The summons must be served on the accused at least twenty (20) days before the date of the disciplinary hearing.
- 4.6 The chief executive officer or the chairperson of the disciplinary committee may issue a summons to any other person to attend the disciplinary hearing in order to give evidence or to produce any books, documents or other items.
- 4.7 If the educator fails to attend a disciplinary hearing, the disciplinary panel may deal with the matter in the absence of the educator.
- 4.8 A witness who attends a disciplinary hearing is entitled to such allowance as the Council may from time to time determine.
- 4.9 Any person who fails to attend a disciplinary hearing when summoned to do so, or fails to stay in attendance until excused by the disciplinary panel, commits an offence and is liable on conviction to a fine or to imprisonment for a period not exceeding six (6) months.

#### **5. Procedure at the disciplinary hearing**

- 5.1 The disciplinary panel may exclude any person or category of persons from attending a disciplinary hearing:
  - 5.1.1 on reasonable grounds; or
  - 5.1.2 if the orderly conduct of the inquiry so requires.
- 5.2 The disciplinary panel may postpone or adjourn a disciplinary hearing:
  - 5.2.1 at its discretion; or
  - 5.2.2 on the request of any party to the hearing.
- 5.3 The disciplinary committee may appoint one or more suitably qualified assessors to be present at a disciplinary hearing, and to advise the disciplinary panel on matters of law, procedure and evidence, or other matters requiring specific expertise.
- 5.4 An educator charged with an alleged breach of the code is entitled to representation, including legal representation at any disciplinary hearing.
- 5.5 The disciplinary panel must:
  - 5.5.1 record the evidence at a hearing; and
  - 5.5.2 administer an oath or affirmation to any witness at a hearing.
- 5.6 At the commencement of the hearing, the disciplinary panel must:
  - 5.6.1 put the charge to the educator and ask the educator to plead to the charge;
  - 5.6.2 inform the educator of the educator's rights:
    - (a) to representation, including legal representation;
    - (b) against self-incrimination;
    - (c) to an interpreter; and
    - (d) to adduce evidence and challenge evidence at the hearing.

- 5.7 If the educator:
  - 5.7.1 pleads guilty to the charge, the disciplinary panel must decide whether or not to hear evidence regarding the charge;
  - 5.7.2 pleads not guilty, the disciplinary panel must hear the evidence regarding the charge;
  - 5.7.3 refuses or fails to plead, the disciplinary panel must enter a plea of not guilty and must hear evidence regarding the charge.
- 5.8 If the educator charged with a breach of the code fails to attend the disciplinary hearing, and the disciplinary panel decides to proceed with the matter in the absence of the educator, it must enter a plea of not guilty and hear evidence regarding the charge.
- 5.9 If the disciplinary panel decides to hear evidence pertaining to the charge, every party to a hearing or the party's representative is entitled to:
  - 5.9.1 lead evidence in support of their case;
  - 5.9.2 cross-examine any witness of an opposing party; and
  - 5.9.3 re-examine any witness led by that party.
- 5.10 Members of the disciplinary panel may question any witness at the hearing.
- 5.11 The record of any evidence of a breach of the code in any criminal proceedings or disciplinary proceedings by an employer, constitutes prima facie evidence of such breach by an educator for purposes of a disciplinary hearing in terms of the Act.

## **6. Recommendation of the disciplinary panel**

- 6.1 The disciplinary panel must make its recommendation on whether or not there has been a breach only after:
  - 6.1.1 evidence has been completed; and
  - 6.1.2 every party to an inquiry has been given a fair opportunity to be heard.
- 6.2 If the disciplinary panel recommends that the educator has breached the code, the panel must request the parties to make representations on an appropriate sanction. This may include the leading of further evidence, including evidence on any previous convictions of the educator for breaches of the code. A certificate issued by the chief executive officer containing details of any previous convictions constitutes prima facie evidence of such previous convictions.
- 6.3 If the disciplinary panel recommends that the educator has breached the code and recommends a sanction it must:
  - 6.3.1 record its recommendations;
  - 6.3.2 inform the educator in writing of its recommendations; and
  - 6.3.3 submit the record of the hearing and its recommendations to the disciplinary committee.
- 6.4 An educator who is dissatisfied with the recommendation of the disciplinary panel may make written submissions to the disciplinary committee within fourteen (14) days of his or her knowledge of the recommendation of the disciplinary panel.
- 6.5 The written submissions must set out the grounds on which the educator believes the recommendation to be wrong.

## **7. Recommendation of the disciplinary committee**

- 7.1 On the basis of the recommendation of the disciplinary panel and the submissions of the educator charged with a breach of the code, if any, the disciplinary committee must recommend a finding and appropriate sanction, if any, to the Council and inform the educator concerned accordingly.
- 7.2 An educator who is dissatisfied with a recommendation of the disciplinary committee, may make written submissions to the Council within fourteen (14) days of his or her knowledge of the recommendation of the disciplinary committee.
- 7.3 The written submissions must set out the grounds on which the educator believes the recommendation to be wrong.

## **8. Decisions of the council**

- 8.1 The Council, after considering the recommendation by the disciplinary committee and submissions by the educator concerned, if any, may:
  - 8.1.1 accept, reject or substitute the recommendation of the disciplinary committee; or
  - 8.1.2 refer the matter back to the disciplinary committee for further deliberation.
- 8.2 The Council may impose the following sanctions on an educator who is found guilty of a breach of the code:
  - 8.2.1 a caution or reprimand;
  - 8.2.2 a fine not exceeding one month's salary; or

- 8.2.3 the removal of the educator's name from the register for a specified period or indefinitely, or subject to specific conditions.
- 8.3 The Council may suspend any sanction contemplated in clause 8.2 for a period and on conditions determined by it.
- 8.4 The Council must inform the educator in writing of its decision.
- 8.5 The Council:
  - 8.5.1 may publish such information relating to the hearing as it deems reasonable; and
  - 8.5.2 must not publish information relating to a hearing which reveals or may reveal the identity of any person affected by the proceedings who is under the age of eighteen (18) years.

## 9. Definitions

In this document, unless the context indicates otherwise, any word or phrase defined in the South African Council for Educators Act, 2000 has that meaning and:

- 9.1 **'Act'** means the South African Council for Educators Act, 2000 (Act 31 of 2000);
- 9.2 **'code'** means the code of professional ethics for educators contemplated in section 5(c)(i) of the Act;
- 9.3 **'Council'** means the South African Council for Educators;
- 9.4 **'disciplinary committee'** means the disciplinary committee of the Council contemplated in section 14 of the Act;
- 9.5 **'educator'** means any person registered or provisionally registered with the Council;
- 9.6 **'chief executive officer'** means the chief executive officer of the Council;
- 9.7 **'register'** means the register contemplated in section 5(a)(iii) of the Act; and
- 9.8 **'registered address'** means the address of an educator as it appears in the register.

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# CODE OF PROFESSIONAL ETHICS

## Definitions

1. In this Code, unless the context indicates otherwise, any word or phrase defined in the South African Council for Educators Act, 2000 has that meaning and:
  - 1.1 'Code' means the Code of Professional Ethics of the South African Council for Educators;
  - 1.2 'Council' means the South African Council for Educators;
  - 1.3 'educator' means any educator registered or provisionally registered with the Council;
  - 1.4 'learner' means a pupil or a student at any school, further education and training institution or adult learning centre;
  - 1.5 'parent' means:
    - (a) any natural parent or guardian of a learner;
    - (b) any person legally entitled to custody of a learner; and
    - (c) any person who undertakes to fulfil the obligations of a person referred to in paragraphs (a) or (b) towards the learner's education at school.

## General

2. The educators who are registered or provisionally registered with the South African Council for Educators:
  - 2.1 acknowledge the noble calling of their profession to educate and train the learners of our country;
  - 2.2 acknowledge that the attitude, dedication, self-discipline, ideals, training and conduct of the teaching profession determine the quality of education in this country;
  - 2.3 acknowledge, uphold and promote basic human rights, as embodied in the Constitution of South Africa.
  - 2.4 commit themselves therefore to do all within their power, in the exercising of their professional duties, to act in accordance with the ideals of their profession, as expressed in this Code and
  - 2.5 act in a proper and becoming way such that their behaviour does not bring the teaching profession into disrepute.

## CONDUCT: The educator and the learner

3. An educator:
  - 3.1 respects the dignity, beliefs and constitutional rights of learners and in particular children, which includes the right to privacy and confidentiality;
  - 3.2 acknowledges the uniqueness, individuality, and specific needs of each learner, guiding and encouraging each to realise his or her potentialities;
  - 3.3 strives to enable learners to develop a set of values consistent with the fundamental rights contained in the Constitution of South Africa;
  - 3.4 exercises authority with compassion;
  - 3.5 avoids any form of humiliation, and refrains from any form of abuse, physical or psychological;
  - 3.6 refrains from improper physical contact with learners;
  - 3.7 promotes gender equality;
  - 3.8 refrains from any form of sexual harassment (physical or otherwise) of learners;
  - 3.9 refrains from any form of sexual relationship with learners at a school;
  - 3.10 uses appropriate language and behaviour in his or her interaction with learners, and acts in such a way as to elicit respect from the learners;
  - 3.11 takes reasonable steps to ensure the safety of the learner;
  - 3.12 does not abuse the position he or she holds for financial, political or personal gain;
  - 3.13 is not negligent or indolent in the performance of his or her professional duties;
  - 3.14 recognises, where appropriate, learners as partners in education.

## CONDUCT: The educator and the parent

4. An educator, where appropriate:
  - 4.1 recognises the parents as partners in education, and promotes a harmonious relationship with them; and
  - 4.2 does what is practically possible to keep parents adequately and timeously informed about the well-being and progress of the learner.

**CONDUCT: The educator and the community**

5. An educator
  - 5.1 recognises that an educational institution serves the community, and therefore acknowledges that there will be differing customs, codes and beliefs in the community.
  - 5.2 Conducts him/herself in a manner that does not show disrespect to the values, customs and norms of the community.

**CONDUCT: The educator and his or her colleagues**

6. An educator:
  - 6.1 refrains from undermining the status and authority of his or her colleagues;
  - 6.2 respects the various responsibilities assigned to colleagues and the authority that arises therefrom, to ensure the smooth running of the educational institution;
  - 6.3 uses proper procedures to address issues of professional incompetence or misbehaviour;
  - 6.4 promotes gender equality and refrains from sexual harassment (physical or otherwise) of his or her colleagues;
  - 6.5 uses appropriate language and behaviour in his or her interactions with colleagues;
  - 6.6 avoids any form of humiliation, and refrains from any form of abuse (physical or otherwise) towards colleagues.

**CONDUCT: The educator and the profession**

7. An educator:
  - 7.1 acknowledges that the exercising of his or her professional duties occurs within a context requiring co-operation with and support of colleagues;
  - 7.2 behaves in a way that enhances the dignity and status of the teaching profession and that does not bring the profession into disrepute;
  - 7.3 keeps abreast of educational trends and developments;
  - 7.4 promotes the ongoing development of teaching as a profession;
  - 7.5 accepts that he or she has a professional obligation towards the education and induction into the profession of new members of the teaching profession.

**CONDUCT: The educator and his or her employer**

8. An educator:
  - 8.1 recognises the employer as a partner in education;
  - 8.2 acknowledges that certain responsibilities and authorities are vested in the employer through legislation, and serves his or her employer to the best of his or her ability;
  - 8.3 refrains from discussing confidential and official matters with unauthorised persons.

**CONDUCT: The educator and the council**

9. An educator:
  - 9.1 makes every effort to familiarise him/herself and his/her colleagues with the provisions of the Code;
  - 9.2 complies with the provisions of this Code;
  - 9.3 discloses all relevant information to the Council;
  - 9.4 informs the Council and/or relevant authorities of alleged or apparent breaches of the code within his/her knowledge.
  - 9.5 co-operates with the Council to the best of his or her ability; and
  - 9.6 accepts and complies with the procedures and requirements of the Council, including but not limited to the Registration Procedures, the Disciplinary Procedures of the Council and the payment of compulsory fees.

**COMPULSORY MONTHLY FEES PAYABLE BY  
REGISTERED EDUCATORS TO THE SOUTH  
AFRICAN COUNCIL FOR EDUCATORS (SACE)**

G.N. 637 of 2000 published in Government Gazette No. 20841 dated 16 February 2000

**COMPULSORY MONTHLY FEES PAYABLE BY REGISTERED EDUCATOR TO THE SOUTH AFRICAN  
COUNCIL FOR EDUCATORS (SACE)**

The South African Council for Educators (SACE), after obtaining approval from the Minister of Education, hereby gives notice in terms of section 28(1)(g) of the Employment of Educators Act, 1998 of a compulsory monthly fee of R2.00, to be implemented with effect from 01 March 2000.

This compulsory monthly fee will be deducted from the salaries of all educators employed in approved posts on the establishment determined in terms of the Educators Employment Act, 1998 or the South African Schools Act, 1996.

**REJ BRIJRAJ**  
**Chief Executive Officer: South African Council for Educators**