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Government Notices

MINISTRY OF EDUCATION, ARTS AND CULTURE

No. 329

2023

COMMENCEMENT OF BASIC EDUCATION ACT: BASIC EDUCATION ACT, 2020

In terms of section 128 of the Basic Education Act, 2020 (Act No. 3 of 2020), I determine that the Act, except for section 14, comes into operation on the date of publication of this notice in the *Gazette*.

E. A. NGHIPONDOKA
MINISTER OF EDUCATION, ARTS AND CULTURE

Windhoek, 30 September 2023

MINISTRY OF EDUCATION, ARTS AND CULTURE

No. 330

2023

**GENERAL RULES OF CONDUCT FOR LEARNERS:
BASIC EDUCATION ACT, 2020**

In terms of section 22(1) of the Basic Education Act, 2020 (Act No. 3 of 2020), I have

–

- (a) prescribed the general rules of conduct for learners set out in the Schedule which must be incorporated into the code of conduct for learners at all State schools; and
- (b) repealed Government Notice No.189 of 28 October 2002.

E. A. NGHIPONDOKA**MINISTER OF EDUCATION, ARTS AND CULTURE**

Windhoek, 30 September 2023

SCHEDULE**ARRANGEMENT OF RULES**

1. Definitions
2. Display of code of conduct for learners
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ANNEXURE: Acts of Misconduct

Definitions

1. In these rules a word or an expression to which a meaning has been assigned in the Act or the Regulations has that meaning, and unless the context otherwise indicates –

“bullying” means the use of force, threat or coercion to abuse, intimidate or aggressively dominate others by way of a perceived or real power imbalance, and includes cyber-bullying as defined in paragraph 2 of Annexure 1;

“dangerous object” means any –

- (a) explosive material or device;
- (b) firearm or gas weapon; or
- (c) 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;

“gangsterism” means the culture of belonging to any on-going organisation, association, or group of persons whose members or associates individually or collectively engage in or have engaged in a pattern of misconduct or criminal activities often involving violence or disturbance;

“illegal drug” means any unlawful intoxicating or stupefying substance;

“incident” means an event which is not part of the standard operation of a school or hostel and which causes or may cause an interruption to, or a reduction in, the quality of teaching or learning, or in the smooth operation of the school or hostel, and includes act of misconduct committed by a learner;

“initiation or initiation practice” means any act which in the process of initiation, admission into, or affiliation with a school, a group, intramural or extramural school activities, inter-schools’ sports team, or organisation –

- (a) endangers the mental or physical health or safety of a learner;
- (b) undermines the intrinsic worth of human beings by treating some as inferior to others;
- (c) subjects an individual learner or a group of learners to humiliating or violent acts which undermine the human dignity guaranteed in the Namibian Constitution;
- (d) undermines the fundamental rights and values that underpin the Namibian Constitution;
- (e) impedes the development of a democratic culture that entitles an individual to be treated as worthy of respect and concern; or
- (f) destroys public or private property;

“misconduct” means any act of misconduct contemplated in rule 7 or referred to in Annexure 1, committed by a learner –

- (a) on the premises of a school or hostel, whether during or outside of school hours;
- (b) during any school or hostel activity, irrespective of whether it is committed within or outside the school or hostel premises, or during or outside of school hours; or
- (c) in or out of school uniform and within or outside the school or hostel premises;

“pro forma complainant” means a person appointed by a school board to lead evidence in a disciplinary hearing in support of the charge of misconduct;

“the Act” means the Basic Education Act, 2020 (Act No. 3 of 2020); and

“the Regulations” means the Basic Education Regulations published under Government Notice No. 331 of October 2023.

Display of code of conduct for learners

2. The principal of a State school must ensure that the code of conduct for learners is –

- (a) prominently displayed on the school and hostel premises; and

- (b) effectively communicated and distributed to all learners and parents.

General rules

- 3.** (1) A learner at a State school must –
- (a) punctually attend school, class sessions on the school time–table, study sessions and other compulsory activities as determined by the school;
 - (b) carry out and obey all lawful and reasonable instructions of the principal, teachers and other staff members of the school, prefects or learners who are members of the learners’ representative council;
 - (c) dedicate himself or herself to his or her studies and complete all curriculum tasks and assignments;
 - (d) respect the dignity, person and property of teachers, learners, other staff members and members of the public;
 - (e) accept and respect the multi–cultural diversity of learners, teachers and other staff members of the school;
 - (f) abide by and comply with the rules of the school or hostel as approved by the school board and the regional director; and
 - (g) maintain a high standard of personal hygiene which ensures a clean, decent and neat appearance.
- (2) A learner at a State school may not –
- (a) conduct himself or herself in a disgraceful, improper or indecent manner which has the potential to bring the name of the school in disrepute;
 - (b) leave the school or hostel premises without the permission of the school principal or a person so designated by the school principal;
 - (c) bring into the school, hostel premises or any school or hostel event, or have in his or her possession any firearm, bow and arrow, panga, knife or any other dangerous object;
 - (d) bring into the school, hostel premises or any school or hostel event any illegal drug, alcohol, hookah or shisha pipe paraphernalia or any other stupefying substance to distribute or sell to another person on the school or hostel premises;
 - (e) use or have in his or her possession any illegal drug, alcohol, hookah or shisha pipe paraphernalia or any other stupefying substance on the school or hostel premises or when out on school activities;
 - (f) have access to or enter the sleeping quarters or hostel dormitories for learners of the opposite sex without the permission of the hostel superintendent;
 - (g) have access to or enter the sleeping quarters, hostels or houses for teachers or other staff members without the permission of the hostel superintendent, supervisory teacher, supervisory person or the principal;

- (h) willingly or negligently damage, destroy or vandalise the property of the State, the school or another person;
- (i) act in such a manner that is disruptive to normal school programmes or detrimental to the good discipline and learning progress of other learners;
- (j) practice or participate in any form of initiation of learners that may cause physical harm or emotional distress to such learners or endanger the life of other learners; or
- (k) by his or her actions or behaviour encourage or influence other learners to disobey the rules of the school or hostel.

Appearance of learners

- 4. (1) A learner must ensure that –
 - (a) he or she wears a school uniform during school hours as well as at other school activities as determined by the school board;
 - (b) his or her school uniform is clean and neat at all times; and
 - (c) during events that allow the wearing of casual wear, he or she wears clean, neat and presentable clothes.
- (2) A learner must ensure that –
 - (a) his or her hair colour appears natural at all times, unnatural highlights, lowlights or colour coded braids are not allowed;
 - (b) his or her hair that extends over the collar and properly tied up;
 - (c) she does not wear a wig, except for medical reasons; and
 - (d) he or she does not wear a cap, except during appropriate school activities or for medical reasons.
- (3) A boy must ensure that he regularly clean shaves his beard.
- (4) With regard to jewellery –
 - (a) a learner is not allowed to wear any ring, bracelet or chain, except a medical alert bracelet;
 - (b) a learner is not allowed to wear a body jewellery such as a nose, tongue and eyebrow jewellery;
 - (c) a learner is allowed to wear a wristwatch; and
 - (d) a girl is allowed to wear one stud or ring per ear in the bottom piercing of the ears if the ears are pierced more than once.
- (5) A learner must ensure that –
 - (a) his or her nails are kept clean and do not extend beyond the fingertips;

- (b) he or she does not use nail polish on his or her nails; and
- (c) he or she does not use makeup.

Disciplinary committee

5. (1) The school board of a State school may establish a disciplinary committee under section 62 of the Act to advise on cases of misconduct of learners or any contravention of the rules, codes of conduct or the Act.

(2) A disciplinary committee must consider cases of misconduct and advise the principal or the school board on appropriate disciplinary action or measures to be taken.

Misconduct by learners, suspension and disciplinary hearing

6. (1) A learner commits an act of misconduct if the learner contravenes, fails or refuses to comply with –

- (a) the code of conduct for learners adopted in terms of section 22(2) of the Act; or
- (b) the Act or these general rules.

(2) Subject to subrule (1), the acts set out in Annexure 1 constitute acts of misconduct.

(3) If a school principal is of the opinion that a learner has committed an act of misconduct as contemplated in section 23(3) of the Act, the principal may –

- (a) in writing charge the learner with misconduct; or
- (b) suspend the learner from the school or hostel, or both school and hostel in terms of section 23(4) of the Act by denying the learner further access to the school or hostel.

(4) The principal may only suspend a learner from a school or hostel in accordance with section 23(6) of the Act.

(5) In addition the conditions referred to in section 23(6) of the Act, a suspension referred to in subrule (3)(b) may not exceed –

- (a) 10 days in respect of –
 - (i) an offence where investigations are pending;
 - (ii) a threat of interference or tampering with witnesses or evidence; or
 - (iii) an offence where there is a threat to the safety of property of the school or hostel; or
- (b) 15 days in respect of –
 - (i) an offence or misconduct putting the lives of learners, teachers and other staff members at risk; or
 - (ii) an offence misconduct that is detrimental or possibly detrimental to the

good order and discipline of the school or hostel and the progress of other learners.

(6) If a principal charges a learner with misconduct as contemplated in subrule (3), the principal must –

- (a) immediately, by notice in writing, inform the parent that –
 - (i) the learner is charged with misconduct and that the learner is suspended from school or hostel, or both school and hostel, if the learner is so suspended;
 - (ii) a disciplinary hearing in terms of section 23(9) of the Act is to be held within 20 days from the date the learner was charged; and
 - (iii) the school board will advise the parent as to the date, time and place of the hearing;
- (b) attach a copy of the charge to the notice referred to in paragraph (a), and must make sure that the notice reaches the parent not later than three days from the date the learner is charged;
- (c) advise the chairperson of the school board to convene a meeting of the school board to meet within seven days after the learner was charged; and
- (d) in writing, provide the school board at the meeting convened under paragraph (c) with –
 - (i) the name, age and grade of the learner;
 - (ii) the nature of the misconduct;
 - (iii) the circumstances under which the misconduct took place;
 - (iv) the previous disciplinary record of the learner and any steps taken to correct the previous conduct of the learner, if any; and
 - (v) any additional information and particulars that the school board may require in connection with the hearing of the misconduct.
- (7) At the meeting referred to in subrule (6)(c), the school board must –
 - (a) decide on the date, time and place of the hearing;
 - (b) appoint a pro forma complainant who may either be a member of school board or committee of school board or staff member of the Ministry to lead evidence in support of the charge; and
 - (c) notify, in writing, the parent and the learner of the date, time and place of the hearing.
- (8) At a hearing –
 - (a) a pro forma complainant appointed in terms of subrule (7)(b) may lead evidence and call witnesses to testify in support of the charge, re-examine witnesses, and also

cross-examine the witnesses which a learner charged may call in support of his or her defence;

- (b) a learner, parent or representative contemplated in section 23(2) of the Act may cross-examine any witness who gave evidence in support of the charge;
- (c) a school board –
 - (i) may ask for clarity of evidence, further information, cross examine any witness called by the complainant or the learner charged, re-examine any witness called to testify, summon any person to come and testify, produce document or material; and
 - (ii) must conduct the hearing as simple and informal as possible;
- (d) after the pro forma complainant has closed his or her case, a school board must grant the learner charged an opportunity –
 - (i) to state his or her case and to call witnesses in support of his or her defence; and
 - (ii) to make a written or verbal submission to the school board;
- (e) after the learner charged having closes his or her case, the school board must then consider, in private, all the evidence presented and any argument and submission made for and against the charge, and deliberate on the merit of the charge; and
- (f) after deliberation, the school board –
 - (i) may find the learner guilty or not guilty of misconduct; and
 - (ii) must inform, in writing, the learner and the parent of the finding.

(9) If a school board finds a learner guilty of misconduct, the school board may make a recommendation to the Executive Director to expel the learner from school or hostel if the learner was found guilty of a serious misconduct, or the school board –

- (a) may impose any of the following disciplinary measures –
 - (i) a final written warning;
 - (ii) a deprivation of a privilege to the learner for a specified period; or
 - (iii) suspension from school or hostel for a specified period not exceeding five days in respect of school or not exceeding 30 days in respect of hostel; and
- (b) must inform the parent of the appeal procedure referred to in section 23(11), (12) and (13) of the Act.

(10) The school board must appoint a life skills teacher or a social worker to offer counselling to the learner charged with misconduct, irrespective of whether the learner has been found guilty of misconduct or not.

Alternative disciplinary measures

7. For the purposes of section 8(3) of the Act, depending on the record of previous contravention of a learner, a disciplinary action and measure in respect of a minor case that does not

warrant a disciplinary action and measure by a school board, may take the form of –

- (a) a reprimand of the learner by a teacher;
- (b) withdrawal of school related privileges;
- (c) giving a learner specific additional tasks related to the contravention;
- (d) referring the learner to the head of department or principal;
- (e) consultation of the principal with the learner and the parent regarding the conduct of the learner;
- (f) counselling by the school counsellor or life skills teacher; or
- (g) first, second and third written warning to the learner, a copy of which must be given to the parent.

Access to school premises

8. (1) A learner may not be denied access to the school premises or class or be sent back home on the grounds of the learner –

- (a) arriving late at school;
- (b) not wearing the correct school uniform or incomplete school uniform;
- (c) wearing a torn or untidy school uniform, different coloured socks or shoes apart from school socks or shoes;
- (d) having left a given task home or homework not being done;
- (e) not having her or his hair neatly kept in accordance with these rules;
- (f) having kept his or her beard;
- (g) being suspected of having contravened any regulation or rules of conduct for learners that does not warrant disciplinary action; or
- (h) not having paid hostel fees or any other contributions that the school requires.

(2) The principal must, if any of the situations under subrule (1) exist, take appropriate steps to address the situation and inform the parents.

Record keeping

9. The school board of a State school must ensure that written record of misconduct, disciplinary action and measures taken regarding each learner of the school are properly kept.

Farewell party at State school

10. When learners are leaving a State school because they have completed the highest grade at the school, they may organise a farewell party under the supervision of designated teachers in consultation with the parents.

ANNEXURE 1**ACTS OF MISCONDUCT
(Rule 7)**

1. A learner commits an act of misconduct, if the learner –
 - (a) threatens, disrupts or frustrates the teaching or learning in a class or any other place where teaching or learning is taking place;
 - (b) engages in a conspiracy to disrupt the proper functioning of the school through collective action;
 - (c) insults the dignity of or defames any learner or any other person, which includes racist remarks;
 - (d) distributes, trades or is in the possession of any stolen test or examination material that relates to a test or examination that is yet to be written;
 - (e) cheats in a test or examination or any other form of assessment such as assignments;
 - (f) willingly engages in any act of nudity, indecent exposure or sexual intercourse on school or hostel premises, or in any act of indecent exposure outside school or hostel premises;
 - (g) sexually harasses another learner, staff member or any other person;
 - (h) is found in possession of or distributes pornographic material;
 - (i) is found in possession of cyber-bullying material, is a source of cyber-bullying material, or is distributing or has distributed cyber-bullying material, or engages in the misuse of an electronic device to the detriment of other learners or staff members;
 - (j) subjects another learner to bullying;
 - (k) is found under the influence or in possession of alcohol or illegal drugs;
 - (l) forges any document or signature to the potential or actual prejudice of the school;
 - (m) attempts to bribe or bribes any person in respect of any test or examination to enable himself or herself or another person to gain an unfair advantage;
 - (n) engages in any fraudulent activity;
 - (o) engages in theft, or otherwise acts dishonestly to the prejudice of another person;
 - (p) is in possession of, consumes or deals in any illegal substance, other harmful substance, or tobacco;
 - (q) is in possession of, uses or transmits narcotics or illegal drugs or on evidence of such possession, use or transmission;

- (r) is in possession of any dangerous weapon;
 - (s) assaults or threatens to assault another person;
 - (t) holds any person hostage;
 - (u) murders any person;
 - (v) rapes any person, or engages in any sexual activity which amounts to a criminal offence;
 - (w) maliciously damages property of the school or hostel;
 - (x) engages in any initiation practice; or
 - (y) uses a cell phone or other prohibited electronic device during school hours, or inappropriately uses it after school hours.
2. For the purposes of this Annexure –

“cyber–bullying” means the use of an internet capable device to harm, harass, threaten, embarrass or target another learner or staff member for humiliation or cruelty;

“indecent exposure” means the deliberate exposure in public or in view of the general public by a learner of a portion or portions of his or her body, in circumstances where the exposure is contrary to local moral or other standards of appropriate behaviour.

MINISTRY OF EDUCATION, ARTS AND CULTURE

No. 330

2023

BASIC EDUCATION REGULATIONS: BASIC EDUCATION ACT, 2020

Under section 125 of the Basic Education Act, 2020 (Act No. 3 of 2020), I have –

- (a) made the regulations set out in the Schedule; and
- (b) repealed Part I to Part VI of Government Notice Nos. 187 of 28 October 2002 and 15 of 6 February 2004.

E. A. NGHIPONDOKA
MINISTER OF EDUCATION, ARTS AND CULTURE

Windhoek, 30 September 2023