



LILYFONTEIN SCHOOL

CONSTITUTION



CONSTITUTION OF LILYFONTEIN SCHOOL

1. DEFINITIONS

- 1.1 The “National Act” is the South African Schools Act (Act No. 84 of 1996) including the Regulations promulgated in accordance with the Act.
- 1.2 The “Governing Body” is the Governing Body of the school, Lilyfontein School (Public School), as defined in Section 16(i); (ii) of the South African Schools Act, 1996.
- 1.3 The “School” is Lilyfontein School, consisting of Pre-Primary, Foundation, Intermediate & Senior Phase (GET band) and an FET band, currently located on the farm no. 564 in the area of Brakfontein.
- 1.4 The “head of department” means the head of an Eastern Cape Education Department (iii).
- 1.5 The “Education Department” means the department established by section 7(2) of the Public Service Act, 1994 (Proclamation No. 103 of 1994) which is responsible for education in a province; (xi).
- 1.6 “Member of the Executive Council” means the Member of the Executive Council of a province who is responsible for education in that province; (viii).
- 1.7 The “Minister” means the Minister of Education; (ix).
- 1.8 The “PTA” is the Lilyfontein School Parent Teachers’ Association.
- 1.9 “Parent” means – (a) The parent or guardian of a learner; and/or
(b) The person legally entitled to custody of a learner; or
(c) The person who undertakes to fulfill the obligations of a person referred to in the aforementioned paragraphs (a) and (b).
- 1.10 “Principal” means an Educator appointed or acting as the Head of the School.

2. NAME OF THE SCHOOL

Lilyfontein School (Lilyfontein Public School)
(hereinafter referred to as the school)

3. STREET ADDRESS OF THE SCHOOL

Farm No. 564
Brakfontein

4. POSTAL ADDRESS OF THE SCHOOL

P.O. Box 2007
BEACON BAY 5205

5. OBJECTIVES OF THE SCHOOL

- 5.1 To provide pupils with quality education, which includes teaching, educating and training, in accordance with the Act.
- 5.2 To provide education incorporating, academic, cultural, pastoral and sporting activities.
- 5.3 To use our natural environment to support learning through Outdoor Adventure in the ecology.
- 5.4 To acquire assets, raise income and to utilize any property or income to the benefit of the School, staff and pupils who attend the school.
- 5.5 To attract and retain staff of the highest possible caliber and to provide opportunities for the members of staff to grow professionally and personally.
- 5.6 The further aims and objectives of the School, (including specific projects and programmes in keeping with the school's stated objectives) are set out in more detail in the Prospectus (as updated from time to time) attached hereto as Annexure A and are in keeping with the public benefit activities as defined in section 30 (1) of the Income Tax Act.
- 5.7 The funds referred to in 5.4 above, will be utilized solely for carrying out the objectives stated above and in Annexure A hereto and will not be distributed (directly or indirectly) to any person or entity unless this occurs in the undertaking of such objectives. The only exception hereto will be funds invested for income and future use.
- 5.8 The School will not carry on any business undertaking or trading activity unless specifically permitted in terms of section 10 (1) (cN) of the Income Tax Act.

6. FEEDER AREA

The School traditionally serves the area of Brakfontein, Mooiplaas, Gonubie, Sunrise-on-Sea, Rainbow Valley, Chintsa, the East Coast Resorts and the hostel pupils are drawn from all areas of the Eastern Cape Province.

7. COMPOSITION OF THE GOVERNING BODY

The Governing Body of the School is constituted as follows: members who are elected; the school principal; and members who are co-opted in accordance with section 23 (1-9) of the SA School's Act. The MEC determines the exact number of members on the Governing Body of each school.

Parents shall form the majority on the Governing Body.

8. ELECTION OF OFFICE BEARERS FOR THE GOVERNING BODY

- 8.1 The Principal shall convene the first meeting of the Governing Body for a new term of office, within fourteen (14) days of the election.
- 8.2 At the first meeting of the Governing Body, the members shall elect a Chairperson, Vice-Chairperson, Secretary and Treasurer from their ranks. The Principal shall not be elected to any of these offices. Only a

parent member of the Governing Body, who is not employed at the school, may serve as the Chairperson of the Governing Body.

- 8.3 The Chairperson, Vice Chairperson, Secretary and Treasurer, shall, subject to the provisions of this Constitution, remain in office for a period of one (1) year from the date of the election as office bearer, and may after the expiry of the said term, be re-elected.
- 8.4 If the office of Chairperson, Vice Chairperson, Secretary or Treasurer becomes vacant, the Governing Body shall at the first meeting after the vacancy has occurred, elect one of its members to fill the vacancy for the unexpired period of office of the predecessor.
- 8.5 The Principal shall preside at an election referred to in 8.2 and an election in terms of 8.4, if both office of Chairperson and Vice Chairperson are vacant.

9. LIABILITY OF MEMBERS OF THE GOVERNING BODY

- 9.1 A member of the Governing Body *has a fiduciary responsibility to the school but* is not liable for any debt, damage or loss incurred by the school unless he/she acted without authorisation, with malicious intent or negligently and can therefore be held responsible for such debt, damage or loss.
- 9.2 No member of the Governing Body will have a direct or indirect interest in any contract or arrangement being entered into by the school, without he/she making full disclosure thereof. No activity of the school will directly or indirectly promote the economic self-interest of any of the members of the Governing Body.

10. LEGAL PERSONALITY

The school is a body corporate (with an identity and existence distinct from its governing body and office bearers) which, ex officio, is represented by the chairman or, when necessary, by a substitute nominated by the Governing Body at a meeting.

11. TERM OF OFFICE

A member of the Governing Body may not serve on the Governing Body for longer than three years without a general election having taken place. He/she can be re-elected or co-opted after the expiry of his/her term of office.

12. QUORUM

A majority (50% plus 1) of the voting members of the SGB, as constituted, form a quorum.

13. TERM OF OFFICE BEARERS

The term of office for office bearers and committees, as appointed by the Governing Body, extends for a period of one year. An office-bearer of the Governing Body, may not hold his or her position as office-bearer for longer than one year, unless re-elected.

14. APOLOGIES FOR ABSENCE OF MEMBER OF THE GOVERNING BODY

The Governing Body accepts leave of absence of a member or members for a period determined by the Governing Body in accordance with the stipulations of paragraph 16 of this constitution.

15. CASUAL VACANCIES

15.1 A casual vacancy in the Governing Body occurs when a member:-

- submits a written resignation
- dies
- is relieved of his/her office in accordance with the Regulations
- is absent from three consecutive meetings without permission of the Governing Body
- is found to be incompetent as defined in the Regulations.

15.2 A casual vacancy is filled in the same way as the member who previously held the office was nominated or appointed.

16. POWERS OF THE GOVERNING BODY

16.1 The Governing Body controls and manages the property of the school and subject to the provisions of the Act exercises control over the school and all its activities, provided that the Governing Body or a member thereof in his capacity as a member, may not interfere with the professional activities of a member of the staff in the performance of his/her duties.

16.2 The Governing Body may appoint a committee to advise it and subject to the instruction of the said Governing Body to perform such functions as the Governing Body may determine. The Governing Body may appoint to a committee a person or persons who are not members of the Governing Body, provided that the Governing Body shall appoint one of its members as chairman of such committee.

(Refer to Point 18 of this Constitution: Committees of the Governing Body)

16.3 The Governing Body may alter or invalidate any decision of a committee.

16.4 The Governing Body may levy school fees and enforce the payment thereof, in accordance with section 40 and 41, the SA Schools Act.

16.5 The Governing Body may determine criteria for the admission to the school, as long as these criteria are not in conflict with the SA Schools Act or applicable laws in the province.

17. MEETINGS OF THE GOVERNING BODY

17.1 Number of meetings:

The Governing Body shall meet at least once every school term.

17.2 Extra-ordinary meetings:

An extra-ordinary meeting is convened by the chairman when he deems it necessary or when at least 4 members submit a written request for such a meeting together with reasons for this request.

17.3 Agenda:

The Governing Body deals with matters of which prior notice has been given, as well as matters which the chairman or any other committee member raises with the approval of the meeting. Any person can, upon invitation of the Governing Body, attend the meeting of the Governing Body, and participate in the

discussion, but without the right to vote. The Governing Body can summon any staff member of the school to attend the meeting for the purpose decided on by the Governing Body.

- 17.4 **Votes:**
Each member of the Governing Body has one vote. At the conclusion of voting, the chairperson has the casting vote.
- 17.5 **Minutes:**
The secretary of the Governing Body minutes all decisions taken by the meeting and provides each member with a copy thereof. A member is at liberty, with or without a precise statement of reasons, to have it noted that he/she voted against a specific decision, or that he/she was not present when the decision was taken.
- 17.6 **Approval of Minutes:**
The minutes of meetings are approved at the next meeting and signed by the chairperson and secretary. The Head of Department will at his/her request be provided with a copy of such minutes.
- 17.7 **Standing orders and procedures:**
The chairperson decides on a matter of standing order and procedure. Should a member question such a decision, the question is submitted to the meeting without further discussion.
- 17.8 **Notice of Meetings:**
- 17.8.1 Ordinary and extraordinary meetings shall take place after written notice of these meetings has been issued at least seven (7) days prior to the meeting. The notice of these meetings must include an agenda of the matters to be discussed at the meeting.
- 17.8.2 If the extraordinary meeting is to be held less than seven (7) days after notification, the Chairperson shall arrange for members of the Governing Body to be contacted telephonically to notify them of the proposed meeting. Such telephone contact is to be confirmed by letter, facsimile or email, which includes an agenda of the matters to be discussed at the meeting.

18. COMMITTEES OF THE GOVERNING BODY

- 18.1 **Executive Committee of the Governing Body**
The Executive Committee shall consist of the chairperson, the vice chairperson, the treasurer, the principal and additional members of the Governing Body, if so required. The task of the committee is to ensure the smooth day to day running of the school and to make urgent decisions where necessary.
- 18.2 **Financial Committee of the Governing Body**
The financial committee shall consist of the chairperson, vice-chairperson, the treasurer, the principal and any other member appointed by the Governing Body with the understanding that such person has the necessary financial skills to contribute to the affairs of the committee.

Objectives of the financial committee:

- to advise the Governing Body on matters with financial implications;
- to establish guideline and procedures for the control and administration of the school finances;
- to keep written records of all financial transactions and to maintain a register of all the property of the school;
- to develop strategies to enhance the income of the school and to ensure the optimum use of existing funds;
- to ensure that the cash of the school is handled in an as safe and proper manner as possible;
- to prepare and draw up financial statements in accordance with the requirements as set out in the Act with reference to sound accounting procedures and to submit financial statements for annual independent auditing.

18.3 The Parent Teachers' Association (PTA)

The Governing Body may establish a parent committee to advise it and to perform such functions as the Governing Body determines.

18.3.1 The objectives of the Association shall be:

- to promote and facilitate the exchange of views and the maintenance of relationships and harmony between parents of learners attending the school and educators at the school.
- to assist the Governing Body as may be required by it in all matters which may be of benefit to the school and the learners and their education generally.
- generally to promote the interests of the parents and educators in the involvement in the general life and interests of the school and the learners.

The PTA understands that the Governing Body, elected in terms of the Act, is the official channel for expressing and co-ordinating views of the parents of the school and general school policy and direction with the Department of Education, within the prescribed jurisdiction as a Governing Body.

18.3.2 Membership

All parents or legal guardians and their spouses of learners at the school, and all educators on the staff and their spouses, shall be members of the PTA. The PTA committee may admit to membership of the association, upon application, other persons having association with the interests of the school.

18.3.3 Organisation of the PTA

For the purpose of administration the PTA will elect a committee from its members at the general meeting held within the first term of the year.

18.3.4 Membership of the PTA Committee

The committee shall consist of members appointed and elected on the following basis:

- In order to promote continuity within the committee four of the not more than eight committee members shall be elected each year for a period of two years.
- One member of the Governing Body.
- The Principal or HOD if the Principal is not available.
- One educator nominated annually by the principal.
- Each member of the committee shall have a vote and the chairperson shall have a casting vote in addition to his vote.
- The PTA committee shall elect from its members annually, a chairperson, a vice chairperson and a secretary and such office bearers as may be necessary.

18.3.5 Function of the PTA Committee

- the raising of funds for the benefit of the school subject to consultation with the Governing Body fundraiser. Such funds to be subject to the administration and control of the treasurer of the Governing Body.
- arranging and holding functions for members to promote and facilitate a creative relationship and harmony between parents of learners attending the school and educators at the school.
- fulfilling a support function with regard to the educators of the school.

19. ACTIVITIES OF THE GOVERNING BODY

19.1 To perform activities which, besides any other stipulations, fall within the powers of the Governing Body and which are necessary for the welfare of the school.

19.2 To appoint and administer personnel in accordance with the Act and Regulations and the policy of the Governing Body.

- 19.3 To make and withdraw investments in the name of the school or the school fund.
- 19.4 To utilize funds, in accordance with the stipulations, of the Act, ***the Tax Exemption Guide for PBO's in RSA (attached hereto as Annexure B)*** the Regulations and the constitution of the Governing Body for the purpose of realizing the above objectives.
- 19.5 To provide services and facilities in the interests of the pupils and of education, in accordance with the Act, the Regulations and the constitution of the Governing Body.
- 19.6 To obtain and alienate moveable and immovable property in accordance with the prescriptions of Section 5(6) of the Act.
- 19.7 To appoint external auditors in terms of the Public Accountants and Auditors Act, 1991 (Act No. 80 of 1991) to audit the records and financial statements referred to in Section 42 of the Act.
- 19.8 To admit, suspend and expel pupils in accordance with the prescriptions of the Act and Regulations
- 19.9 The School will not, in the event of dissolution, distribute its assets to individuals or tax paying entities. In the event of dissolution, any/all assets which are the property of the Eastern Cape Department of Education ("the Department") will devolve to the Department. An inventory will be kept and updated from time to time identifying the property of the Department. In the event of dissolution, any/all assets which are not the property of the Eastern Cape Department of Education ("the Department") will devolve to a PBO similar to and nominated by the School and approved in terms of Section 30 of the Income Tax Act.
- 19.10 School funds will be generated from various avenues, including but not limited to fees, contributions from the Department of Education, fundraising and donations. Donations will not be accepted by the school if they may be recalled by the donor (other than when/if the school fails to abide by the conditions of the donation). A donor may never impose conditions which will entitle a donor or a connected person to obtain some direct/indirect benefit from the application of the donation.

20. DUTIES OF THE GOVERNING BODY

- 20.1 The Governing Body must:
 - 20.1.1 Adopt a Constitution to ensure that it remains relevant.
 - 20.1.2 Develop a Mission Statement of the school and ensure that it remains relevant.
 - 20.1.3 Adopt a Code of Conduct for learners, after consultation with the parents, educators and learners of the school, in accordance with the provisions of Section 8 of the Act and ensure that it remains relevant.
 - 20.1.4 Administer and control the school's property, buildings and grounds occupied by the School.
 - 20.1.5 At the request of the Head of Department, allow the reasonable use on fair conditions of the facilities of the School for educated programmes not conducted by the school.
- 20.2 The Governing Body may:
 - 20.2.1 allow the reasonable use of the facilities of the School for community, social and school fundraising purposes, subject to such reasonable and equitable conditions as the Governing Body may determine, which may include the charging of a fee or tariff which accrues to the School.

21. ANNUAL BUDGET OF THE SCHOOL

The Governing Body shall draw up a provisional annual budget in accordance with the guidelines set by the MEC of education for the province. Such budget shall be presented to a general meeting of parents subject to a notice of 30

days from such meetings. The budget shall be deemed finalized after approval by the majority of parents present and voting at such a meeting.

22. BANK ACCOUNT

Bank deposits and all other financial transactions are executed in the name of the school. The School's cheques, bills and other such documents are signed on behalf of the school by two persons from the number of persons appointed by the Governing Body.

23. CLOSING OF THE FINANCIAL YEAR

The financial year ends on the 31st day of December, after which the accounts and account books are checked by an external auditor and final statements are drawn up.

24. SUBMISSION OF FINANCIAL STATEMENTS

24.1 The audited financial statements of the School are submitted annually to the relevant provincial education department as prescribed.

24.2 The statements referred to in 24.1 may also be submitted to the parent body for their information if requested.

25. AMENDMENT OF THE CONSTITUTION

25.1 A decision to amend this Constitution requires a two thirds majority of the total membership of the Governing Body after all members have been informed of the proposed amendment at least two months in advance.

25.2 If too few members are present at the meeting convened for this purpose, a second meeting must be called exclusively for this purpose at least two weeks after the first meeting. If two thirds of the members are not present at the second meeting, the amendment may be effected by two thirds of the members present, after which it is submitted to the relevant provincial education departments for approval.

25.3 ***A copy of any/all amendments to this CONSTITUTION will be submitted to the Commissioner for the South African Revenue Services.***

26. REGISTRATION: NONPROFIT ORGANISATIONS ACT

The School shall take all necessary steps to ensure that it is registered in terms of the Nonprofit Organisations Act ("the NPO ACT"), as required by section 30(3)(g) of the Income Tax Act, No 58 of 1962, with respect to "Public Benefit Organisations" exempted from income tax in terms of section 10(1)(cN) of the Income Tax Act.

Accordingly, and in compliance with the prescriptive requirements of the Act, it is stipulated with respect to the School as follows:

26.1 the School's name shall be as stated in clause 2;

26.2 the School's sole object shall be as stated in clause 5;

- 26.3 the School's income and property shall not be distributable to its members or office-bearers, and no activities will directly or indirectly promote the self-interest of any fiduciary or employee of the School, save insofar as they may be reimbursed for reasonable out of pocket expenses incurred in the execution of their duties on behalf of the School, and with the authority of the Governing Body;
- 26.4 At least three persons who accept fiduciary responsibility for the School will not be connected person in relation to each other, and no single person directly or indirectly controls the decision-making powers relating to the School.
- 26.5 No remuneration will be paid to any employee, office bearer, member or other person which is excessive, having regard to what is generally considered reasonable in the sector and in relation to the services rendered. No person as contemplated above will benefit economically in a manner which is not consistent with the objectives of the School.
- 26.6 the School shall continue to exist notwithstanding changes that may occur in the composition of its office-bearers, as envisaged by clause 8;
- 26.7 the members of the Governing Body or office-bearers shall have no rights in the property or other assets of the School by virtue of their membership or office;
- 26.8 the powers of the Governing Body and Committees shall be as set forth in Clause 16 and Clause 18 of this Constitution;
- 26.9 the organisational structure and mechanisms for the School's governance shall be as set forth above in this Constitution;
- 26.10 the rules for convening and conducting meetings, including quorums required for and the minutes to be kept of those meetings, shall be as stated in clauses 12 and 17;
- 26.11 the manner in which decisions are to be made shall be as stated in clauses 17;
- 26.12 the School's financial transactions must be conducted by means of a banking account, as stated in clause 22;
- 26.13 the date for the end of the School's financial year shall be as stated in clause 23;
- 26.14 The School will submit the required returns for income tax together with the relevant supporting documents.
- 26.15 No School resources will be utilized directly or indirectly to support advance or oppose the aims or objectives of any political party.

- 26.16 The School will not be a party to or knowingly permit (and has not knowingly permitted) itself to be used as part of any transaction, operation or scheme of which the sole or main purpose is the reduction, postponement or avoidance of liability for any tax, duty or levy which, but for such transaction, operation or scheme would have been or would have become payable by any person under the NPO Act or similar.
- 26.17 the procedure for changing the constitution shall be as stated in clause 25;