

**CHAPTER 4****PUPIL MANAGEMENT****4.1 INTRODUCTION**

In chapter 1 it was noted that the governing body has to interact with inter-alia the professional teaching staff and the parents in order to provide what was described as "optimum educational opportunity for the pupils". Chapter 2 discussed the role of the governing body in the provision and control of the teaching staff of the state-aided school. The following chapter gives attention to the correct management of pupil matters.

Before discussing specific areas of authority and responsibilities of the governing body of the state-aided school as juristic person in respect of pupil management, it is necessary to emphasise the fact that all the role-players in the state-aided school are primarily responsible for the provision of education to the pupils in such school. Bothma (1992:10) draws attention to certain basic principles which are important to the background of the managerial responsibility of the governing body:

The provision of excellent and relevant education:

- \* originating in the cultural milieu of the local community concerned;
- \* through the medium of the mother tongue;
- \* in accordance with the approved curriculum;
- \* in accordance with a system of differentiated education concerning a pupil's ability, aptitude and interests;
- \* acknowledging parental involvement and the religious freedom of the individual.

In the task of pupil management, the governing body of the state-aided school is bound by these principles in its decision-making activities, as set out in the following sections.

#### 4.2 REGULATIONS RELATING TO THE CONDITIONS OF ADMISSION OF PUPILS (TO PUBLIC SCHOOLS) AND STATE-AIDED SCHOOLS

The admission of pupils to state-aided schools is governed by the Regulations Relating to the Conditions of Admission of Pupils to Public Schools (Excluding Industrial and Reform Schools) and State-aided Schools (Education Affairs Act (House of Assembly) 70 of 1988).

The state-aided school provides the school community a greater degree of authority in determining its policy of admitting pupils to its school. This right of the community and of the governing body representing the community remains subject to the applicable legislation. The governing body of a state-aided school as noted by Bothma (1992:21), may therefore formulate its own policy for the admission of pupils to the school " ... to augment the provisions of the relevant statutes but always subject to:

- \* adherence to the principles entrenched in the statutes:
- \* consultation with its parent community".

Section 49 of the Act (70/1988) states that "...the admission of persons to (public schools and) state-aided schools shall be subject to the prescribed conditions". The conditions as prescribed are set out in the Regulations relating to Governing Bodies of State-aided Schools, Regulation 6, which makes provision for the governing body to determine the criteria for the admission of pupils to a state-aided school after consulting the parent community and subject to the Regulations Relating to the Conditions of Admission of Pupils to State-aided Schools.

A publication of the Department of Education and Culture (ANON 1992:22) states that in the application of these regulations to a state-aided school a reference to the Head of Education or the Executive Director : Education shall be construed as a reference to the governing body concerned.

In applying the regulations mentioned above it is essential for the governing body to acknowledge that there are other people involved in the process of admitting pupils to the

school and who have been given statutory authority in this respect, namely the parent community and the principal of the state-aided school. Close consultation with these role-players is necessary when formulating an admission's policy.

**4.2.1 Requirements for the admission of pupils to state-aided schools:**

Regulation 2 makes provision to the following requirements for admission:

- application for admission:  
the parent shall apply to the principal of the state-aided school for admission of a child to the school. It is customary that the governing body will draw up an application form on which personal details of the child and the parents are required to be given;
- age requirements:  
the child must comply with the age requirements as set out in section 50(d) of the Act (70/1988) which states that a child shall not be admitted to a public (or state-aided) school "...after he has reached the age of 19 years";
- sex stipulations:  
the child must be of the sex of the pupils admitted to the school concerned;
- level of performance  
the child, to be admitted, must have attained the level of performance required by the school concerned;
- medium of instruction  
the medium of instruction of the child as referred to in section 57 of the Act (70/1988) is a medium of instruction in the state-aided school concerned, except that in the tenth, eleventh and twelfth levels in a school, the parent "...may choose which official language shall be the medium of instruction for his child..." as provided for in section 57 (2) of the Act (70/1988).

Regulation 2(2) makes provision for the principal of the state-aided school, should he suspect contravention of the Act or the regulations in the admission of the child to the school to request the parent to submit documentation justifying the continued attendance of the child at the school or for the parent to admit to a transgression as the case may be. If after examination of the documents there still appears to be a contravention, the principal shall notify the parent in writing that the admission of the child is withdrawn or refused as the case may be.

#### **4.2.2 Admission of alien children to state-aided schools**

Subject to the provisions in the above regulation, a principal may, according to Regulation 3 admit alien children to the state-aided school provided that:

- the child is in possession of a study permit;
- accommodation is available;
- the pupils for whom the school was established will not be adversely affected; and
- the required school fees are paid quarterly in advance.

#### **4.2.3 Contract/agreement between the governing body of a state-aided school and a parent**

Bothma (1992:53) believes that it is imperative that an "agreement of tuition" be entered into between the governing body as representative of the state-aided school as juristic person and the parents or legal guardians of the pupil.

It should be noted at this point that there appears to be a degree of overlapping of the admissions policy formulated by the governing body and the contents of a contract or agreement of tuition between the governing body of the state-aided school and the parent of a child. The formal admissions policy of the governing body must conform strictly to the provisions set out in Regulation 2. The augmentation of the regulations appears in many cases to be contained in the contract or agreement between the governing body of the state-aided school and the

parent of the child. Bothma (1992:53) suggests the agreement of tuition contains such matters as school rules, uniform, payment of school fees, acceptance of the admissions policy, ethos of the school, indemnities and a guarantee of education. The implication of such an agreement is that certain criteria have to be agreed to by the parent as part of the admission requirement of the child to the state-aided school. This suggestion is supported by Nel (1992:211-231) who quotes examples of criteria appearing in various admission policies of state-aided schools but which include matters such as undertakings regarding fee payments, school uniform, school rules, regular attendance, participation in extra-mural activities, maintenance of academic standards, avoidance of political activities and other such matters which are regarded by Bothma (1992:53) as being part of a contract or agreement.

Nel (1992:204) states that there is nothing to prevent a state-aided school (as juristic person) from entering into a contract with parents, and further suggests that "a governing body may insist that parents sign a contract before admitting any pupil to the school...", but with the following provisions:

- the contract should not contain any clauses which are contrary to the Act (70/1988) which may result in a child being expelled from school should the parent fail to meet those terms in the contract;
- that the criteria for admission have been discussed with the parents and that the contract is in no way contradictory to the provisions in the Regulations and the Act (70/1988);
- that should a parent or guardian of a child refuse to sign a contract with the state-aided school, but the child is admitted to and attends the school concerned, the parent still gives his tacit acceptance of the conditions of the contract (Nel, 1992:216).

While governing bodies of state-aided schools are at liberty to determine their own admission requirements

as set out in Regulation 6(5), Nel (1992:213-231) warns that governing bodies should take care not to include conditions in admission policies or contracts that are unacceptable, unlawful or senseless. Examples of clauses should to be avoided in a contract are:

- any threat that the child will be suspended or expelled if any unlawful undertaking contained in the contract is not observed such as: the failure of the child to wear the school uniform; failure of the parent to pay school fees; failure of the child to achieve academically and the like;
- any unlawful conditions such as: insisting on a medical certificate as a condition of admission or the governing body appointing a medical practitioner at the parents' expense to do a medical assessment of a child;
- any conditions that are unacceptable or that are invalid such as: the determining of the school's own financial year: insisting on parents signing indemnity forms; forcing pupils to participate in extra-mural activities;
- any senseless conditions such as: insisting that pupils have their own transport to school in order to attend school functions.

#### **4.2.4 Refusal to admit a child to a state-aided school**

The only statutory grounds that exist for refusing a child admission to a state-aided school are if the child fails to meet the requirements for admission set out in Regulation 2 or as provided for in the case of alien children who do not satisfy the conditions of Regulation 3. Should the principal refuse a child admission to the state-aided school on the grounds of the child having been expelled from any other school, the Executive Director may according to Regulation 5 direct otherwise.

Regulation 5 further provides for the following:

- the recording by the principal of the following particulars in respect of each application for the admission of a child which was refused:
  - (i) the date of application;
  - (ii) the name and address of the applicant;
  - (iii) the name of the child concerned; and
  - (iv) the reason for the refusal of the application.
  
- an appeal from any parent who feels aggrieved by the refusal of the principal to admit a child which must be made within 30 days of the date of refusal, and which must be done in writing to the Executive Director, stating the reasons for the appeal and subject to the decision of the Executive Director being conclusive.

#### **4.2.5 Register of admission and registers of daily school attendance**

Regulation 6 provides for the Executive Director to determine the particulars contained in a register of admission and to ensure that a register of daily school attendance shall be kept up to date for each class.

Cases of irregular school attendance shall be reported by the principal to the school attendance officer.

#### **4.2.6 Official enrolment**

Regulation 8 states that only pupils who are actually at school on the day determined as the day of official enrolment as well as pupils who for a valid reason are absent from school on such a day shall on such a day be deemed to be enrolled at the school concerned.

Pupils who were enrolled at a school the previous year and who have not yet attended school by the day of official enrolment shall not, according to Regulation 8(2) be included unless the principal is in possession of written proof that they will return to the school concerned.

#### 4.2.7 Part-time pupils

The Executive Director shall give his permission before a part-time pupil may be re-admitted to a school unless as provided for in Regulation 9 where the principal has determined the conditions in order for the part-time pupil to rewrite Senior Certificate Examinations.

#### 4.3 REGULATIONS RELATING TO THE CONTROL OF PUPILS AT, SUSPENSION AND EXPULSION OF, AND METING OUT OF OTHER PUNISHMENTS TO PUPILS

The control, suspension and expulsion of and the meting out of punishments to pupils at state-aided schools is prescribed in section 64 of the Act (70/1988) and shall be done according to the above-mentioned Regulations.

Regulation 2(2) states that in the application of these Regulations to a state-aided school, "a reference to the Executive Director or the superintendent of education shall be construed as a reference to the governing body concerned". This regulation empowers the governing body to control, expel, suspend and discipline pupils. The exercising of this power is subject to the provisions of the above-mentioned Regulations.

##### 4.3.1 School rules

The principal shall in accordance with regulation 3(1) consult with the governing body in drafting domestic rules for the control of pupils in the state-aided school or hostel concerned which may include inter alia:

- rules concerning the general appearance of pupils;
- code of conduct for pupils;
- school uniform as determined by the governing body.

Regulation 3(2) further provides that school rules shall:

- make provision for punishment for the contravention thereof;
- be approved by the governing body; and

- be made known in writing to the pupils and their parents.

A person "will be guilty of an offence" should that person prohibit or deliberately prevent a pupil of a (state-aided) school or hostel from complying with a domestic rule made in terms of these Regulations. Regulation 3(3) provides for such a person to be "liable to a fine ... or to imprisonment ...".

School rules and the enforcement thereof are often the cause of emotive reactions particularly from a parent if it involves his child. Governing bodies should exercise care in the drafting of school rules, taking the following into account:

- According to van Wyk (1986:93) it may be said that the school (governing body) is "... both obliged and empowered to draw up an effective system of rules" and that by virtue of its common law powers the school (governing body) must make such rules since the "...teacher takes the place of the parent ...and he acts in loco parentis".
- School rules are according to Prinsloo and Beckmann (1988:179) necessary for the protection (and safety) of the pupil, and tie in with the duty of obedience of the child.
- Our (South African) courts recognise the right of the governing body to lay down rules which can be applied both in school and on the way to and from school. Furthermore no court will interfere in the making of rules unless the rules are entirely unreasonable (Bothma, 1992:38).
- The legal position in South Africa according to Prinsloo and Beckmann (1988;181) requires that school rules must be published in the form of written law and given to pupils and parents, and also at the time of first registration of a child at the state-aided school concerned, and receipt of which should be acknowledged.
- School rules according to van Wyk (1986:94) have "...numerous legal implications", and may not

"...infringe the statutory and common law rights and privileges of the teacher, child or parent".

#### 4.3.2 Corporal punishment

A record of every case of corporal punishment shall, in terms of Regulation 4(3), be kept in a punishment register by the principal shall be kept available at all times for inspection by the governing body and shall contain the following details:

- name and age of the pupil concerned;
- the reason for the punishment;
- the number of strokes inflicted;
- the date of the punishment; and
- the name of the person who inflicted the punishment.

Governing bodies should note that while the child in terms of common law (Prinsloo and Beckmann, 1988:270) is protected, parents and other persons having power over children such as teachers (the principal) and hostel personnel have disciplinary powers. However, if the person in loco parentis of the child goes beyond the bounds of his disciplinary power/authority, such a person "... may be liable for damages and/or compensation and may be prosecuted for assault under criminal law". It could be further assumed, according to Prinsloo and Beckmann (1988:271) that the person concerned may be charged with misconduct or be liable for disciplinary action by the Teacher's Federal Council.

Governing bodies shall therefore ensure that the provisions contemplated in the Regulations are adhered to by all persons concerned and that newly appointed teachers in particular should be informed in writing about the directives regarding corporal punishment. In the event of a teacher acting contrary to the regulations it becomes possible for the governing body, as the teacher's employer, to be sued for damages.

By implication it follows that when corporal punishment is administered the following should apply: (Prinsloo and Beckmann, 1988: 273, 283, 286)

- the punishment must be moderate and reasonable;
- the offence must merit the punishment and visa versa;
- the teacher (principal) must act fairly;
- the statutory enactments must be complied with.

#### 4.3.3 **Suspension of pupils of compulsory school-going age and those not of compulsory school going age**

Oosthuizen and Bondesio (1988:83) describe suspension as a temporary denial to a pupil to attend a school or hostel, which usually precedes expulsion. The pupil concerned is removed from the school (or hostel) and is refused admission until such time as the governing body in terms of the powers conferred on it makes a decision. The Manual for General School Organisation (T.E.D., 1992:4.3.8) states that "Suspension should only be used as a last resort, and should never be used as a means of punishing a child while the intention is later to re-admit the child to the school"

Subject to the Regulations a principal may "...after consultation with the governing body ..." order the suspension of a pupil pending a decision as contemplated in Regulation 5(1) for the following reasons:

- the language and conduct of the pupil is of such a nature as to endanger the maintenance of a proper standard of moral conduct, and/or discipline and/or affects the social well-being in the state-aided school concerned;
- the pupil has committed a reprehensible act; or
- the pupil refuses to attend religious ceremonies or Bible education or to participate in the physical education programmes which have been approved. Exemption from religious ceremonies or Bible education may be obtained in terms of section 62(4) of the Act (70/1988). Section 63(1) of the Act provides for exemption to be

granted from participation in the physical education programme.

Regulation 5(2) and (3) provide for the procedures to be followed when a principal, after consulting the governing body, considers the suspension of a pupil. The procedures are:

(i) in the cases of unacceptable language or conduct of a reprehensible nature the principal shall:

- put all the material facts which are relevant to the pupil concerned and his parent during an interview;
- allow them to make representations why the pupil should not be suspended;
- provided that the case is urgent he may summarily suspend the pupil without interviewing the pupil and his parent beforehand;
- if after consideration of the representations made he still decides to order the suspension he shall include those representations in his report to the governing body;
- inform the pupil and notify the parent in writing of this decision to suspend the pupil and he shall submit a full report on the matter to the governing body.

(ii) in the cases of a refusal of the pupil to participate in religious ceremonies, Bible education or physical education the principal shall:

- afford the pupil and his parent the opportunity to show cause why the pupil refuses to attend any of the programmes concerned;
- if not satisfied with the reasons given, he shall warn the pupil and his parent in writing that the pupil will be suspended from the date of the warning if he does not attend the programme concerned;
- if his warning is not heeded, notify the

parent in writing that the pupil concerned is suspended with effect from a particular date;

- if such a notification is given then to submit a full report on the matter as prescribed, to the governing body.

#### 4.3.4 Expulsion of pupils

- \* **Pupils subject to compulsory school attendance:**  
The expulsion of pupils who are of compulsory school-going age from a state-aided school is subject to the conditions provided for in regulations governing the suspension of pupils and specifically the full report on each case as contemplated in those Regulation 5(2)(c)(ii) or 5(3)(c).

Regulation 6(1) states that after consideration of the reports on suspension, the governing body shall decide whether a pupil suspended by the principal of the state-aided school concerned:

- shall be expelled from the school concerned, or shall be allowed again to attend the school subject to the conditions determined by the governing body, or
- According to Oosthuizen (1993) governing bodies of state-aided schools may only decide to expel a pupil from the state-aided school concerned and not from any other school. It is in the case of public schools that the Executive Director of Education decides whether a pupil shall be expelled from the public school concerned or from all other schools.

- \* **Pupils not subject to compulsory school attendance:**

Regulation 6(2) states that a pupil who is not of compulsory school-going age may be expelled from a state-aided school by the principal of the school concerned with the approval of the governing body if:

- the pupil attends such school irregu-

- larly without furnishing reasons acceptable to the principal for his irregular attendance;
- provided that the principal shall not take steps to expel the pupil without previously having warned the pupil and his parents in writing that the pupil will be expelled if he is again absent without reason from the school.

Regulation 6(3) makes provision for the parent who is aggrieved by the decision of the principal to expel the child concerned to appeal to the governing body which may confirm the decision or set it aside. The decision of the governing body shall be final.

When the governing body has to take a decision to suspend or to expel a pupil from a state-aided school it must bear in mind that such a decision "...can seriously affect the entire future of a pupil, and can adversely affect the pupil's rights as a person..." (Manual for General School Organisation T.E.D., 1992:4.3.9). Governing bodies and principals should therefore act with the greatest circumspection in considering the circumstances of each case likely to result in suspension and expulsion.

#### 4.3.5 Suspension and expulsion from a hostel

Regulation 7 states that the regulations pertaining to the suspension and expulsion of pupils shall mutandis mutatis (with the necessary changes) apply to the suspension and expulsion of a pupil from a hostel.

In addition, if a pupil residing in a hostel is suspended or expelled from a school to which a hostel is attached, he shall be considered to have been suspended or expelled from the hostel as well. It may occur that the pupil, depending on the decision of the governing body, may be suspended or expelled from hostel without being suspended or expelled from the school to which the hostel is attached.

It should be noted that apart from the provisions made in Regulation 7 as described above, there are no other Regulations relating directly to hostels attached to state-aided schools. As a result there are no statutory provisions made for the management and control of the hostel by the governing body of the state-aided school concerned.

#### 4.4 SUMMARY

The law is very specific in setting out the responsibility of the governing body of the state-aided school towards the pupils of that school.

The entire intention of the law is that the child may not be prejudiced in any way by the actions of the state-aided school. Even though the governing body has the authority to determine its own admissions policy, it must do so within the context of the law and in the interests of the community.

The law is also very specific in dealing with the aspects of control, suspension, expulsion and punishment of pupils. Governing bodies are therefore advised to follow correct legal procedures and to act within the law with regard to their decisions regarding pupils. While sound interaction between the governing body and the other role-players in the state-aided school is essential, the provision of effective education within the school can only take place on a foundation of sound financial planning and management. The following chapter will deal with this important aspect.