CIRCULAR D1 OF 2014

COMPLIANCE WITH SECTION 58B OF THE SOUTH AFRICAN SCHOOLS ACT

1. Introduction

This circular addresses compliance with the provisions of section 58B of the South African Schools Act, 1996 (Act No. 84 of 1996) (SASA), in respect of the management of underperformance at schools. It also outlines the process for managing and supporting underperforming schools.

2. Background

Ever since the insertion of section 58B into the SASA in 2007, the Provincial Education Departments (PEDs) have struggled to comply adequately with the provisions of this section. In particular, the PEDs have not complied adequately with the identification and management of underperforming schools and the submission of reports to the Minister of Basic Education (the Minister), detailing how underperformance is managed in each province, as prescribed in section 58B (7).

Section 58B (7) provides that the Member of the Executive Council for Education (MEC) must, within three months after the end of the school year, report to the Minister on the actions taken by the Head of Department (HoD) with regard to managing underperforming schools in the province.

3. Purpose

The purpose of this circular is to set out for PEDs the process that they have to follow to comply with the provisions of section 58B of the SASA.

4. Legislative framework

a) Chapter 2 of the Bill of Rights [section 29(1) of the Constitution of the Republic of South Africa, 1996], provides that everyone has the right to basic education.

b) Sections 3(4) and 8 of the National Education Policy Act, 1996 (Act No. 27 of 1996) mandate the Minister to determine national policy for the planning, provision, financing, coordination, monitoring and evaluation of education to ensure the delivery of quality education.

c) The SASA, as amended:

i. Section 16A outlines the roles and responsibilities of principals in regard to planning, reporting, accountability and the performance of schools; and

ii. Section 58B, subsections (1) to (7), refers to the identification of underperforming schools.

5. Process for managing underperforming schools

As mentioned above, two sections of the SASA make reference to underperforming schools. Furthermore, in December 2012, the Department of Basic Education sent all the MECs a letter referring to the management of underperforming schools in the system.

(a) A primary school is deemed to be underperforming if, using Literacy as a proxy; it has more than 50% of learners performing at level 3 and below in the Annual National Assessment in Grades 3 and 6.

(b) A secondary school is deemed to be underperforming if its percentage pass in the National Senior Certificate examination falls below 60%.

The following process, based on the letter of December 2012 and the guidelines set out in the SASA, must be applied for the successful management of underperforming schools. The HoD must—

a) identify underperforming primary and secondary schools using the report contemplated in section 16A or any other relevant report;

b) issue a written notice to the principals of the schools identified as underperforming, requesting them to submit their plans for improving their performance;

c) insist on academic performance improvement plans from the principals of those schools;

d) evaluate the Academic Performance Improvement Plans received from principals and approve them, if satisfied, or return them to the principals with recommendations; and

e) Insist on a report from the school principals on the progress made in implementing the Academic Performance Improvement Plans.
The MEC must, on or before 31 March of each academic year, submit a report to the Minister on actions taken by the HoD in managing underperformance at schools.

6. Management plan in regard to underperforming schools

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<thead>
<tr>
<th>Nr</th>
<th>Activity</th>
<th>Timeframe</th>
<th>Responsible person</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Identify underperforming primary and secondary schools</td>
<td>2nd Week of January</td>
<td>HoD</td>
</tr>
<tr>
<td>2</td>
<td>Issue written notices to the principals of the underperforming schools</td>
<td>Last week of January</td>
<td>HoD</td>
</tr>
<tr>
<td>3</td>
<td>Prepare and submit the Academic Performance Improvement Plan</td>
<td>Within 21 calendar days after receipt of notice of underperformance</td>
<td>School principal</td>
</tr>
<tr>
<td>4</td>
<td>Evaluate Academic Performance Improvement Plans</td>
<td>Within 14 calendar days after receipt of the Academic Performance Improvement Plan</td>
<td>HoD</td>
</tr>
<tr>
<td>5</td>
<td>Submit a report to the Minister on actions taken by the HoD when managing underperforming schools</td>
<td>On or before 31 March of each academic year</td>
<td>MEC</td>
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</tbody>
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The management of underperformance is important for compliance with legislation, and plays a crucial role in ensuring that learners receive quality education across the country. It also helps the system to function optimally and assists the Department in determining the level of support that must be provided to a certain group of learners.

You are kindly requested to bring this information to the attention of all officials responsible for these processes to ensure the smooth management of underperforming schools in the system.

Yours sincerely

[Signature]
MRS AM MOTSHEKGA, MP
MINISTER
DATE: 31 March 2019