

EDUCATION RULES 2006

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The Minister, in exercise of the powers conferred by section 8(1) of the Education Act 1996, makes the following Rules:

PART I GENERAL

Citation

1 These Rules may be cited as the Education Rules 2006.

Interpretation

2 In these Rules —

“Act” means the Education Act 1996;

“administrator” means the executive authority of a school;

“alcohol” has the same meaning as given under section 2 of the Alcohol Advertisement (Health Warning) Act 1993;

“compulsory school age” means the age of a child as referred to in section 40(1) of the Act;

“controlled drug” has the same meaning as given under section 3 of the Misuse of drugs Act 1972;

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“feeder school” means the primary school as referred to in section 55 of the Act;

“middle school” means a school offering middle school education;

“Ministry” means the Ministry of Education;

“preschool” means a school offering pre-school education;

“primary school” means a school offering primary school education;

“principal” means the administrator of any primary school, middle school, senior school or special school;

“school laboratory” means any place on a school premises in which practical experiments or demonstrations in any subject are carried out, including a place where instruction is given in domestic science or homecraft;

“school workshop” means any place on a school premises in which instruction is given for the use of tools or machinery, or where tools or machines are used for the repair, adjustment or manufacture of articles, or for training children for any trade or commercial occupation;

“senior school” means a school offering senior school education;

“special school” means a school offering programmes and services to children with moderate to severe and profound educational, behavioural, medical or social challenges;

“staff” means school staff including teachers and other support staff of a school who assist the administrator in carrying out the responsibilities under the Act.

PART II CURRICULUM

Curriculum, instruction and assessment

3 (1) Subject to sections 22, 23, 24, 25 and 26 of the Act, all schools shall follow the curriculum established by the Minister and may also supplement that curriculum.

(2) Staff shall use a variety of instructional methods and materials to implement the curriculum established under paragraph (1).

(3) Subject to the Act, the method of instruction shall be under the direction of the administrator unless the Chief Education Officer, in exceptional circumstances, requires staff to follow specific instructional methods in order to achieve specified objectives.

(4) The Chief Education Officer may, subject to section 25(2) of the Act, direct that specific assessments be conducted at regular

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intervals during a child's school career to determine the achievement of system outcomes.

(5) Teachers shall, subject to section 25(2) of the Act, use a variety of assessment methods and materials to evaluate learning.

(6) The Minister shall determine the criteria for graduation from the school system or for promotion from one level of the school system to the next.

PART III SCHOOL STAFF

Appointment of staff

4 (1) Subject to paragraph (4), every school shall have an administrator and as many teachers and other support staff as the Minister shall determine from time to time.

(2) Staff who are also public officers shall be appointed according to the Public Service Commission Regulations 2001.

(3) The appointment of staff who are not public officers, except those employed under section 19 (1)(e) of the Act, shall be approved by the Minister

(4) The Minister shall determine the number of staff at each aided and maintained school except that of the secretaries, custodial staff and staff employed under section 19(1)(e) of the Act.

Qualifications of staff

5 (1) The Minister shall determine the qualifications required for the employment of a teacher in a school.

(2) The qualifications required for the employment of custodial and secretarial staff in a school shall be determined by the Permanent Secretary.

(3) Persons who do not possess the qualifications specified under paragraph (1) or (2) may be employed on a temporary basis.

(4) A person who does not possess the specified qualifications for teaching may be employed to give instruction in any art or skill or in any subject or group of subjects the teaching of which requires special qualifications.

Attendance of Staff

6 (1) Staff are required to be at their place of work fifteen minutes before the opening of the school or such other length of time as may be determined by the Chief Education Officer.

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(2) Staff absenting themselves without leave are liable to forfeiture of pay for the period of absence and for loss of increment in the subsequent year, and may also be liable to disciplinary action including dismissal.

Duties of administrator

7 (1) Subject to the Act and to these Rules regarding administration of a school, the administrator shall be responsible for the organization and implementation of all aspects of the educational programme in a school.

(2) The administrator shall be responsible for executing all the functions as may be assigned to him by the board of governors under the Act.

(3) The administrator, or his designate, shall be present on the school premises and be responsible for the management of the school at all times.

(4) The administrator shall comply with any direction given by the Minister in the exercise of the Minister's powers of control and supervision under section 26 or any other provisions of the Act.

(5) The administrator shall —

- (a) ensure, so far as is practicable, the health, safety and welfare of all persons who have reason to be at the school, in particular, at times when the school is open;
- (b) ensure that records of the academic progress of each child are maintained and also are available for examination by the Chief Education Officer and by the parents of the child;
- (c) cause, in such form as the Minister may require, the following registers to be kept —
 - (i) an Admission Register;
 - (ii) an Attendance Register;
 - (iii) a Punishment Register to maintain records of corporal punishment including the name of the witnesses to the corporal punishment, suspension and expulsion;
 - (iv) a Log Book containing all current necessary entries concerning the school's routine, including all educational visits made by the children;
 - (v) a Register of Accidents that occur during the normal operation of the school, including any occurrence that results in injury to a child or

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member of the staff whether on or off the premises, performing school activities, or to a visitor to the school premises during the normal operation of the school; and

- (vi) such other registers as may be required from time to time by the Minister;
- (d) inform, before travelling abroad during school holidays, the Chief Education Officer of the address and telephone number where he may be reached and the name, address and telephone number of the person delegated to act on his behalf during his absence;
- (e) inform the Chief Education Officer of his success in any course of study relevant to his duties as an administrator; and
- (f) inform the Chief Education Officer of any change in his marital status or citizenship status.

Duties of other staff

8 (1) All other staff shall diligently and efficiently perform all reasonable duties as directed by the administrator.

(2) All other staff shall facilitate any visit by the administrator at any time to observe staff engaged in their normal duties.

(3) A teacher travelling abroad over weekends during term time or during any holiday shall ensure the administrator of his return to duty on time.

(4) A teacher shall inform the Chief Education Officer of any change in his marital status or citizenship status.

(5) A teacher wishing to engage in gainful employment outside of school hours shall apply through the administrator to the Minister, provided such additional employment does not impinge on his ability to fulfill his duties within the normal working week and year.

(6) In pursuance of paragraph (5), a non-Bermudian teacher must also seek the approval of the Department of Immigration.

(7) Teachers and support staff working on a periodic basis shall be under the direction of the administrator when they are on duty at the particular school.

Discipline and rules of conduct of staff

9 (1) The principal shall follow the discipline enunciated in the Public Service Commission Regulations 2001 and in the Agreement with the Association of School Principals.

(2) Teachers shall follow the discipline enunciated in —

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- (a) the Public Service Commission Regulations 2001;
- (b) the Public Service (Delegation of Powers) Regulations 2001; and
- (c) the Agreement with the Bermuda Union of Teachers.

(3) In the event of conflict between these Rules and any Agreement specified in this rule, these Rules shall prevail..

(4) In the event of conflict between these Rules on the one hand and the Public Service Commission Regulations 2001 or the Public Service (Delegation of Powers) Regulations 2001 on the other hand, the Public Service Commission Regulations 2001 or the Public Service (Delegation of Powers) Regulations 2001 as the case may be, shall prevail.

(5) Unauthorised absence from duty shall be considered gross misconduct.

(6) Teachers may contribute articles to recognized educational journals on methods of teaching or other matters related to the instruction of children or the organization of instruction.

(7) Teachers may make presentations to conferences of recognized professional organizations on methods of teaching or other matters related to the instruction of children or the organization of instruction.

(8) A teacher wishing to engage in political activities or wishing to make his views known to the general public shall be free to do so, subject to the following restrictions—

- (a) in making his views known on matters of general interest to the community, he shall ensure that his statement is attributed to him by name;
- (b) in publishing or causing to be published his opinions concerning matters of educational policy, he shall concern himself with matters which may reasonably be regarded as relating to general principles and not to particular details of administration involving criticism of the Government, public officers or other teachers;
- (c) he may not act as the editor of any newspaper on sale to the general public, or take part directly in the management thereof or contribute anonymously thereto on any matter related to education or his conditions of employment;
- (d) he shall not undertake any form of political activity during school hours or while he is on duty as a teacher.

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Retirement of Staff

10 (1) Retirement of staff shall be in accordance with the Public Service Superannuation Act 1981.

(2) The retirement of any staff of aided school must be approved by the appropriate authority.

PART IV SCHOOL ORGANIZATION

School terms and holidays

11 (1) The school year shall be two hundred teaching days, including public holidays falling within term time other than Saturdays and Sundays and half-term holidays and those special cases during which schools are authorized to be closed.

(2) Terms shall begin and end on dates that are determined by the Minister.

(3) Half-term holidays, amounting to a total of five days in the school year, shall be determined by the Minister after consultation with administrators.

(4) For organization of the school days, minimum hours of instruction per week shall be as follows —

- (a) Preschools - 20 hours;
- (b) Primary schools - 25 hours;
- (c) Middle schools - 26 hours;
- (d) Senior schools - 27 hours;

(5) Subject to the approval of the Minister, the starting times of schools may be determined by the board of governors of schools, where relevant, or by the administrator in the absence of the board.

PART V ADMISSION AND TRANSFER PROCEDURES

Admission Procedure

12 (1) Subject to section 53 of the Act, the admission procedures and the procedures for the allocation of places in schools shall be in accordance with instructions issued to these schools by the Minister and published in the Gazette.

Admission to preschool

13 (1) The maximum enrolment permissible for the entry into preschool shall be determined by the Minister.

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(2) The manager or authority concerned with admission shall, unless otherwise directed by the Chief Education Officer, when admitting a child to preschool, give preference to —

- (a) a child who resides in the same parish as the preschool to which application is being made; and
- (b) the younger child amongst those who will reach the age of four years by the end of the calendar year.

Admission to primary school

14 (1) The maximum enrollment permissible for entry into primary school shall be determined by the Minister who shall notify the manager.

(2) Subject to section 53 of the Act, the manager shall, when admitting or allocating a place to a child, give preference to a child residing closer to the school within the zone in which the school is situated over a child residing further away.

(3) The manager may relax the provisions of paragraph (2) in favour of a child who lives in the same zone within which the school where application is made is situated and whose brother or sister, including step or adopted brother or sister, is a child at that school.

(4) Notwithstanding paragraph (2), the manager of a school close to the end of a zone may give priority to children who reside between the school and the zone boundary over children who may live closer but towards the centre of the zone.

Date of application and notification

15 (1) Application for admission to schools shall be made on such days as may be designated by the Chief Education Officer and published in the media.

(2) Parents will be informed by letter of the outcome of their applications on such day as may be designated by the Chief Education Officer.

(3) Parents whose children are not admitted to the school of their choice have the right to appeal to the Appeals Committee under section 58 of the Act and the decision of the Appeals Committee shall be binding on the manager of the school.

Transfer between primary schools

16 (1) A parent may transfer a child to any primary school within the zone in which they reside provided the school has space according to the maximum enrolment and subject to any policy established by the Minister.

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(2) In case of change of residence to another zone, a parent may choose to leave the child in the original school or transfer the child to a school within the new zone.

(3) The manager will inform the parents in writing of the outcome of the applications for transfer made under paragraph (1) or (2) within such time as may be determined by the Chief Education Officer.

Admission to middle school

17 A child may be admitted to a middle school based on —

- (a) the primary school attended during the year preceding admission to middle school; or
- (b) the residence, if that child had changed residence during such period of time immediately preceding the September admission to the middle school as may be determined by the Minister.

Transfer between middle schools

18 (1) A child may transfer to another middle school if that child changes residence and the middle school to which transfer is requested is the closest middle school to the new residence.

(2) Children transferring into the public school system shall be placed in a middle school closest to their residence.

(3) If it is determined that a particular middle school is not suitable for a child, the Chief Education Officer may direct that the child be placed in another middle school which is suitable for that child.

Admission to senior school

19 (1) Admission for September 2006 and thereafter shall be based on the request of parents.

(2) If any senior school has an excessive number of applications, the successful applicants shall be selected by a random process.

Transfer between senior schools

20 The parents may request transfer between senior schools, and the admission of the child shall be based on —

- (a) the availability of space in the courses requested by the child after consideration has been given to children already at the school; and
- (b) the limitation of the maximum enrollment at the school.

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PART VI DISCIPLINE

Attendance of children

21 (1) The administrator shall maintain records of children's attendance and shall provide statistics on the same to the Department.

(2) The administrator shall notify the Chief Education Officer if he has reason to believe that any child of compulsory school age is wilfully failing to attend the school.

Prohibition on controlled drugs, etc

22 A child shall not possess, use or distribute any controlled drug, alcohol, tobacco, knife or weapon on school premises or while in uniform on the way to or from school.

Penalties for infraction

23 (1) The principal may impose immediate registerable penalties of suspension, corporal punishment or recommendation for expulsion for acts of violence or acts related to the possession, distribution or use of any controlled drug, alcohol, tobacco, knife or weapon on school premises or while in uniform on the way to or from school.

(2) For all other infractions, there shall be a series of progressive penalties imposed prior to the registerable penalties being imposed.

(3) Every child shall have a right to be heard before any penalty is imposed for an infraction, and at his request, may have a right, if the principal considers the infraction as a major one, to be accompanied by another person during the hearing.

Corporal punishment

24 (1) Corporal punishment shall not be administered except by the principal or the deputy principal.

(2) Corporal punishment shall always be administered in the presence of another staff member as a witness.

(3) If the principal authorizes another teacher to administer the punishment then the principal or the deputy principal must witness the punishment.

(4) A child shall not receive corporal punishment except at the hands of a member of the same sex unless, in exceptional circumstances, the Chief Education Officer authorizes a female to administer corporal punishment to a male.

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Children under investigation

25 (1) A child under an investigation by external authorities should, except in case of suspected abuse or child protection issues, be attended by staff if the parents are not able to attend.

(2) For the purpose of paragraph (1), “external authorities” include staff of the Bermuda Police Service and staff of the Department of Child and Family Services.

Suspension of children

26 (1) Subject to section 67 of the Act, the principal, if he considers it necessary, may suspend a child for a period not exceeding five school days, and shall notify the Chief Education Officer of the suspension in writing with reasons.

(2) An appeal against a decision taken under paragraph (1) shall lie to the Chief Education Officer who shall make a decision as he considers appropriate under the circumstances.

Expulsion of children

27 (1) No child shall be expelled except by the Minister.

(2) The parent of the child expelled may, subject to sections 58 and 59 of the Act, appeal to the Appeals Committee against the decision of the Minister.

PART VII AIDED SCHOOLS

Part VII applies to aided schools only

28 This Part shall apply to aided schools only.

Manager, to comply with directions

29 The manager shall comply with any direction of the Minister given to the manager in the exercise of the powers of the Minister under section 26 of the Act or which are otherwise vested in the Minister under any law.

Employment of teaching staff

30 (1) It shall be the duty of the manager to ensure that the conditions of employment of members of the teaching staff (including salaries, emoluments, allowances and leave privileges) are the same as those of members of the teaching staff employed by the Government.

(2) No teacher shall be appointed without the consent of the Minister.

(3) Every locally engaged teacher shall receive a letter of appointment from the manager, and every other teacher shall enter into a

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contract, in such form as the Minister may approve: such contracts and letters of appointment shall contain provisions for the termination thereof by notice of not less than three months to be given by either party.

(4) In the case of a notice given by the teacher under paragraph (3)—

(a) it shall not be such as to result in the termination of service except at the end of any particular term; and

(b) in the case of termination to take place after the end of the summer term and before the beginning of the Christmas term, it shall be given not later than the 1st day of January of the same year, to be confirmed or withdrawn not later than the 1st day of February of the same year.

(5) Paragraph (4) shall be without prejudice to the power of the manager acting with the approval of the Minister to terminate a contract without notice, for misconduct or inefficiency or to terminate a probationary appointment; but such powers shall be exercised in accordance with rule 32.

(6) All new appointments shall be subject to a probationary period of twelve months.

Suspension of teachers

31 The manager shall as soon as practicable, report the suspension of a teacher to the Chief Education Officer and the Chief Education Officer may, either confirm the suspension or order its revocation.

Termination of employment of teachers

32 (1) The manager shall not dismiss or retire a teacher without —

(a) giving the teacher an opportunity of appearing before the manager, accompanied, if the teacher so desires, by someone to speak on his behalf; and

(b) the approval of the Minister.

(2) Notwithstanding any term to the contrary in a teacher's contract of employment, no teacher who has served in a school for ten or more years and therefore entitled to a pension under the Public Service Superannuation Act 1981, shall be dismissed or retired without—

(a) the approval of the appropriate authority under that Act, in the case of retirement on grounds where the approval of such authority is a condition precedent to the granting of a pension; or

(b) the approval of the Minister in all other cases.

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(3) A teacher retired or dismissed with the approval of the Minister under paragraph (2) on grounds other than misconduct may, for the purposes of claiming a pension under the Public Service Superannuation Act 1981 [*title 9 item 31*], require the Minister to certify to him the grounds upon which he was retired.

(4) Nothing in this rule shall apply —

- (a) where a teacher has been engaged for a period of time fixed in his contract, to the termination of such teacher's employment at the end of such period;
- (b) to the dismissal of a teacher during his period of probation;
- (c) to the termination of the employment of a temporary or substitute teacher;
- (d) to the termination of the employment of a teacher who fails to comply with a condition of the nature specified in rule 5(1).

Grants

33 (1) Grants may be made out of public funds to or in respect of a school —

- (a) in respect of expenditure on the acquisition of any land or buildings, or the provision of buildings, furniture or equipment;
- (b) in respect of the maintenance and operation of a school;
- (c) in respect of the salaries, emoluments and allowances of teachers, and other staff.

(2) Grants shall be paid on condition that the school observes the requirements applicable to it in the Act and these Rules.

(3) Where the Government engages in any construction work on a school premises, such works shall be deemed to be a capital grant-in-aid of such amount as the Minister of Works and Engineering may certify as being the true cost thereof.

(4) A grant may be made subject to such conditions, including conditions as to the repayment thereof, as the Minister may determine.

(5) A grant in respect of the salary, emoluments or allowances payable by the manager to any teacher —

- (a) shall be at the rates from time to time applicable in relation to the salaries, emoluments and allowances of teachers who are employees of the Government; and

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(b) shall be paid directly by the Accountant General to the teacher in respect of whom the grant is made.

(6) In making any payment to a teacher under paragraph (5) the Accountant General shall be deemed to be the agent of the manager and may, on behalf of the manager, deduct from the payment any moneys which the manager is required or permitted under any provision of law to deduct.

(7) The Manager shall keep proper accounts of all grants he receives and their disbursements.

Repair

34 All school premises shall at all times be kept in a satisfactory state of repair.

Lighting and ventilation

35 All school premises shall be adequately ventilated and lighted.

Structural alterations

36 There shall be no structural alterations to a school premises except with the consent in writing of the Minister.

PART VIII MISCELLANEOUS

Inspection

37 (1) Subject to sections 29 and 30 of the Act, the Chief Education Officer shall cause inspections of aided and maintained schools to examine the proper operation and management of the school in terms of the attendance, instructions and safety and health of the children.

(2) The Chief Education Officer will inform the administrator of the purpose of the inspection and provide the principal in a timely manner with a report on the inspection.

(3) Subject to section 60 of the Act, the Chief Education Officer may visit or inspect any private school.

Safety precautions

38 (1) The administrator shall ensure that all necessary safety precautions are adopted in the following areas —

- (a) school workshops;
- (b) school laboratories;
- (c) exercise areas in the school;

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- (d) areas in which children use electrical or mechanical equipment;
- (e) dance areas in the school;
- (f) gymnasias of the school; and
- (g) other areas in school premises where children participate in vigorous physical activities.

(2) The administrator shall ensure that provision is made for at least one first aid box maintained and fully equipped at all times in the premises of the school.

Emergency precautions

39 (1) The administrator shall ensure that fire drill, bomb threat drill and drill for protection against harmful intruders including the use of all exits from the school premises and securing each classroom and workshop against access by intruders are carried out by the teachers and children at least once in every term, and shall keep a record of all drills in the school Log Book.

(2) The Chief Education Officer may, by notice in writing to the manager of an aided school, require the installation of any apparatus or equipment necessary as a safeguard against fire, bomb threat and harmful intruders and the manager shall comply with the notice within the period specified in the notice.

Serious accidents

40 The administrator shall notify the Chief Education Officer in such form as the Chief Education Officer determines, of any serious accident involving a child or a teacher on school premises, or sustained by a child off school premises while in the charge of a teacher, as soon after the accident as is reasonably practicable.

Application

41 These Rules shall not apply to private schools.

Revocation

42 The Education Rules 1974 are revoked.

Made this 26th day of July, 2006

Minister of Education and Development