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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF HIGHER EDUCATION AND TRAINING

NO. 1147

28 OCTOBER 2020

HIGHER EDUCATION ACT, 1997 (ACT No.101 OF 1997), AS AMENDED**CALL FOR PUBLIC COMMENT ON THE DRAFT PROPOSAL ON THE IMPLEMENTATION OF THE PROVISIONS OF SECTION 74 (S74) OF THE HIGHER EDUCATION ACT 1997 (ACT 101 OF 1997): ABOLITION OF STATUTORY STATUS OF COMMITTEE OF UNIVERSITY PRINCIPALS, MATRICULATION BOARD AND COMMITTEE OF TECHNIKON PRINCIPALS**

Whereas section 74 of the Higher Education Act provides that:

- (1) The Committee of University Principals, the Matriculation Board and the Committee of Technikon Principals continue to exist and to perform their functions until the date or dates contemplated in subsection (2), as if the Universities Act, 1955 (Act No. 61 of 1955), and the Technikons Act, 1993 (Act No. 125 of 1993), had not been repealed.
- (2) Subject to subsection (3), the Committee of University Principals, the Matriculation Board and the Committee of Technikon Principals cease to exist as statutory bodies on a date or dates determined by the Minister by notice in the *Gazette*.
- (3) The Minister may only make a determination in terms of subsection (2) –(a) after consulting SAQA and the body concerned; and (b) after the Minister has considered the recommendations made by SAQA and the body concerned, as contemplated in section 15 (2) of the South African Qualifications Authority Act, 1995 (Act No. 58 of 1995).
- (4) Notwithstanding subsection (3) (b) the Minister may make a determination in terms of subsection (2) if SAQA and the body concerned have not made recommendations as contemplated in subsection (3) (b) within a reasonable period after a written request by the Minister to do so.
- (5) The Committee of University Principals and the Committee of Technikon Principals must determine the manner in which their assets and liabilities are dealt with upon their dissolution as statutory bodies.
- (6) The joint statutes and joint regulations and rules made in terms of the Universities Act, 1955 (Act No. 61 of 1955), and the Technikons Act, 1993 (Act No. 125 of 1993), continue to exist until the date or dates contemplated in subsection (2);

Whereas the South African Qualifications Authority Act, 1995 (Act No.58 of 1995) has been repealed and replaced by the National Qualifications Framework Act, 2008 (Act 67 of 2008);

Whereas UNIVERSITIES SOUTH AFRICA (USAf) has made proposals for the abolition of the Committee of University Principals, the Matriculation Board and the Committee of Technikon Principals and related matters as contemplated by s74 of the Act; and

Whereas it is desirable to bring the provisions of section 74 of the Act into operation,

I, Dr Bonginkosi Emmanuel Nzimande MP, Minister of Higher Education, Science and Innovation hereby publish the proposals set out in the SCHEDULE for public comment.

The proposals envisage the abolition of the three bodies on or before **31 March 2021**, the transfer of assets as contemplated by the Act, the transfer of the residual functions of the Matriculation Board having regard to the provisions of the Higher Education Qualifications Sub Framework (HEQSF) (of facilitating alternative access to higher education for those who do not have a National Senior Certificate (NSC), National Certificate (Vocational) (NC(V), a Senior Certificate (SC) with exemption, an (Amended) Senior Certificate) or National Senior Certificate for Adults (NASCA) with the minimum as provided for by regulation for admission to higher education) to Umalusi, and the replacement of those provisions currently regulated by the Joint statutes and Joint Regulations promulgated under the Universities Act 1955 (Act 61 of 1955) and the Technikons Act 1993 (Act 125 of 1993) that need to be so regulated, by new regulations to be promulgated by me in terms of S 69 of the Act, of which drafts are now published for comment.

All interested persons and organisations are invited to comment on the proposals and draft regulations. Comments must reach the Department within 40 days of publication of this notice.

Submissions should be directed to Ms Mampane (email: mampane.g@dhet.gov.za).

The name, address, telephone number and email address of the person, body or organisation responsible for submitting comments must also be provided.



Dr B E Nzimande, MP
Minister of Higher Education, Science and Innovation

Date: 20/10/2020

SCHEDULE**DRAFT PROPOSALS FOR PUBLIC COMMENT FOR THE IMPLEMENTATION OF THE PROVISIONS OF S74 OF THE HIGHER EDUCATION ACT 1997 (ACT NO. 101 OF 1997)**

1. That the Committee of University Principals (CUP) and the Committee of Technikon Principals (CTP) cease to exist on 31 March 2021, save that each body shall as soon as possible after that date adopt, and furnish the Minister with, audited financial statements for the year ended 31 March 2021.
2. That the assets and liabilities of the CUP and CTP devolve on 1 April 2021 to Universities South Africa (registered under the Companies Act as *Public Universities South Africa NPC* (Registration Number 2005/013211/08)) save that
 - (a) the assets held in trust by the CUP for the *Joint Prizes and Scholarships* as provided for in the Joint Regulations, shall be transferred in trust to the University of South Africa, or failing it, to a university to be determined by the Minister; and
 - (b) the staff employed by the CUP and USAf and the assets and liabilities held by the CUP for the Matriculation Board shall be transferred to Umalusi on 1 April 2021.
3. That the role of holding in trust and investing the capital funds supporting the *Joint Prizes and Scholarships* and of administering these awards be assigned to the University of South Africa or, failing it, to a university to be determined by the Minister, provided that
 - (a) the CUP and/or USAf approach the High Court, ex parte, for orders setting aside and amending as necessary the provisions for such prizes that are discriminatory, extending eligibility to all public universities in South Africa; and
 - (b) the University of South Africa, or such university as the Minister determines, shall administer these awards in terms of the provisions currently contained in the joint regulations, as may be amended by orders of the High Court, or *cy pres*.
4. That the Joint Statute and Joint Regulations of the universities and of the technikons cease to exist on the promulgation under S 69 of the Act of the regulations set out in Appendix A and Appendix B to this Schedule.
5. That with effect from 1 April 2021 the alternative access to degree programmes in higher education in South Africa afforded by the Matriculation Board not already provided for by the provisions of the HEQSF be
 - (a) provided by Umalusi (the Council for Quality Assurance in General and Further Education and Training, as provided for in the General and Further Education and Training Act 2001 (Act no 58 of 2001));
 - (b) for alternative access to higher certificate, diploma and bachelors degree programmes of study; and
 - (c) until amended by Umalusi, Umalusi using the rules, *mutatis mutandis*, set out in GN 1317 of 5 December 2008,

as provided for under the policy determined by me in terms of S3 of the Act as set in Appendix C to this Schedule.

Appendix A to Schedule**DRAFT REGULATIONS FOR STUDENT
RECORDS, TRANSCRIPTS AND CERTIFICATES OF CONDUCT****Higher Education Act 101 of 1997**

The Minister of Higher Education, Science and Innovation as in terms of Section 69 of the Higher Education Act (Act 101 of 1997) made the following regulations in order to regulate the keeping of student records and the issuing of academic transcripts by higher education institutions, to give effect to each higher education institution's responsibilities to be the custodian in perpetuity of a complete *academic record*, and to provide both certification and verification of qualifications obtained by past and present students.

DEFINITIONS

In these regulations any word or expression to which a meaning has been assigned by the Act, bears that meaning unless the context indicates otherwise and:

"Academic transcript" means a complete record of a student's academic performance at a higher education institution as determined by these regulations and may include a statement of conduct.

"Act" means the Higher Education Act (Act 101 of 1997).

"Applicant" means a person who has applied for an academic programme offered at a higher education institution.

"Course/module" means an academic offering, according to the terminology applicable at a given higher education institution as a unit for which an assessment is conducted, and a result is given.

"Course/module exemption" means a course from which the senate/academic governing body of the HEI has exempted the student in terms of the HEI's policy on credit accumulation and transfer.

"Credit" means a measure of the volume of learning required for a qualification or part qualification, quantified as the number of notional study hours required for achieving the learning outcomes specified for the qualification or part qualification. One credit is equated to ten (10) notional hours of learning).

"HEQSF" means the Higher Education Qualifications Sub Framework

"HEQF credit" is a measure of the amount of learning required to achieve the defined outcomes at the relevant level, in a course/module, expressed as units of 10 notional hours.

"Language of tuition" means an official language designated by a Higher Education Institution as a language of teaching and learning.

"Official language" means an official language under the Constitution.

"Part qualification" means an assessed unit of learning that is registered as part of a qualification.

"Qualification" means a qualification registered in the NQF.

"South African Qualifications Authority (SAQA)" means the South African Qualifications Authority in terms of Act 67 of 2008 as amended.

"Student Record" means a record of an applicant to or a student who is or was registered at a higher education institution, as provided for in these regulations.

"Student in good standing" means a registered or former student who has complied with the contractual agreements of the higher education institution concerned.

"Transcript supplement" means the supplement issued with the transcript in accordance with the provisions of the HEQSF and these regulations and which must reflect the description of each completed course/module, with its HEQSF credits, HEQSF level and third-order CESM category.

APPLICATION

1. These regulations apply to all public and private higher education institutions (HEIs).

APPLICANT AND STUDENT RECORDS

2. A higher education institution must:

- (1) Create and retain a record for each **applicant** reflecting at least the following:
 - (a) school,
 - (b) school-leaving or other admission qualification(s);
 - (c) the qualification(s) to which the applicant seeks admission; and
 - (d) the outcome of the applicant's application and admissions status.
 - (e) credits and/or exemptions that the higher education institution grants to the applicant towards the applicant's intended academic/learning programme based on work done elsewhere and/or through the recognition of prior learning.
- (2) Create and retain a record for each **applicant who registers as a student** at the higher education institution (HEI) concerned, reflecting at least the following and any additional information the higher education institution deems necessary to meet its reporting and governance requirements:
 - (a) Biographical information of the student including the student's:
 - (i) Full name and any former names known to the HEI;
 - (ii) Date of birth.
 - (iii) South African Identification number (for all South African citizens and permanent residents) or passport number (for others).
 - (iv) Physical address while a student and address of domicile, if not the same.
 - (v) Postal address.
 - (vi) Email and telephonic contact details.
 - (vii) Race, if the applicant is South African, if declared by the student.
 - (viii) Gender.
 - (ix) Nationality, including residence status where applicable.
 - (x) Declaration of a disability where applicable.
 - (xi) Financial status, including where relevant:
 - The student's fee account;
 - Results of financial means test where an applicant or student has sought financial aid; and
 - All financial prizes, scholarships, and bursaries, awarded to the student by or through the HEI or NSFAS;
 - (xii) Fee payer details, if applicable, with full contact details and Income Tax Reference Number.
 - (xiii) Previous post-school studies, qualifications, or relevant experience.
 - (xiv) Names and contact details of parent(s) and/or next-of-kin and/or guardian(s).
 - (b) An academic record of the student's achievements including, but not limited to, at least the following:
 - (i) The result for each course/module attempted by the student and the year(s) in which this was attempted;
 - (ii) The number and level of credits (as defined by the HEQSF) for each course/module attempted;
 - (iii) The courses/modules for which credit or exemption have been granted for a qualification;

- (iv) The student's progression status for each year of registration;
 - (v) Any prizes, scholarships, merit awards and/or distinctions;
 - (vi) A record of each qualification awarded or conferred to the student and the date(s) of each award/conferral;
 - (vii) The Grade Point Average (GPA) where the HEI provides a GPA
- (c) The student's disciplinary record, if any, reflecting at least a record of all disciplinary findings against the student by a competent disciplinary body established in terms of the higher education institution's Institutional statute (or, in the absence of an institutional statute, the Standard Institutional Statute for public higher education), or institutional rules, and such sanction(s) as may have been imposed, including whether the student was suspended, rusticated or expelled.
3. A higher education institution must:
- (1) Keep a student's academic record in perpetuity.
 - (2) Keep such disciplinary, biographical, and financial records of every student as are necessary, for such periods as it determines, but at a minimum must do for the period of the student's registration:
 - (i) For effective administration and good governance; and
 - (ii) To provide the data/information required by the Minister for HEMIS reporting and for the NLRD.
4. The permanent academic record must reflect the data necessary to provide academic transcripts and may contain such additional data/information as the higher education institution concerned may wish to retain which, where this constitutes personal information, is data/information that the higher education concerned has informed the person concerned in terms of the Protection of Personal Information Act 2013, (Act No 4 of 2013) that it will retain these records.

THE ACADEMIC TRANSCRIPT

5. A higher education institution must issue an academic transcript(s) of a student's or former/past student's academic record:
- (1) Upon request of a student or former/past student in good standing; or
 - (2) Upon request of someone authorised by the student or former student in good standing; and
 - (3) Subject to payment of such fee determined by the higher education institution for the issuing of academic transcripts.
6. An academic transcript is a complete record of a student's academic performance at a higher education institution and it is not a statement of credits.
7. The academic transcript:
- (1) Must include:
 - (i) A record of every course/module attempted by the student and the result achieved by the student for each course, or, where the course is in progress or the results are outstanding, that fact.
 - (ii) An explanation of the higher education institution's system of classifying academic results.
 - (iii) A statement of the student's conduct (with due regard to the policy principles contemplated in sections 10 to 15).
 - (iv) A record of each qualification awarded or conferred to the student and the date(s) of such award(s) or conferral(s).
 - (v) A supplement compiled in accordance with the requirements of the Higher Education Qualifications Sub-Framework and these regulations.

(2) May include:

- (i) Scholarships, prizes, and awards obtained by the student or former student for academic achievement(s).
- (ii) Details of continuing and/or further professional development courses/modules attended and/or completed by the student or former student.
- (iii) Additional records of the student's or former student's achievements.

(3) Must be certified by the Registrar (or equivalent of a private higher education institution) as a true and complete academic transcript of the student's or former/past student's academic record;

(4) Must be issued in the language of tuition (teaching and learning) of the higher education institution concerned, or where the higher education institution has more than one language of tuition, the language of tuition chosen by the student or former student concerned.

8. A higher education institution may issue academic transcripts:

- (1) In a printed (hard copy) format in accordance with the higher education institution's stipulated security measures/rules, or.
- (2) In electronic format in addition to a printed (hard copy) format; or
- (3) Only in electronic format where such issuing meets the needs of the student or former/past student requesting the academic transcript.

9. A higher education institution may not issue statements of credits that do not meet the requirements of an academic transcript as reflected in this regulation.

THE STATEMENT OF CONDUCT

10. A student who was registered at a higher education institution in South Africa or elsewhere must upon application to any other higher education institution submit a current academic transcript from each higher education institution at which he or she was registered with reference to academic achievement(s) and a statement of conduct.

11. The transcript must (a) include certification of a student's conduct while a student or (b) state that it does not and that a certificate of conduct may be obtained upon application to the higher education institution concerned.

12. A higher education institution may refuse admission to an applicant if the applicant does not submit a certificate of conduct acceptable to the HEI from each HEI that the applicant has attended.

13. The certificate of conduct must be founded on the principle that discipline in a higher education institution is by its nature rehabilitative and progressive.

14. The certificate of conduct, whether on the transcript or issued separately must take one of the following two forms:

- (1) **The student qualifies for a Certificate of Good Conduct.** *(where the student had no record of any transgression of the disciplinary code or had complied with conditions of any sanction laid down for a transgression deemed not to be a serious infraction).*
- (2) **The student does not qualify for a Certificate of Good Conduct** *(where the student had been found guilty of an infraction of the student disciplinary code deemed to be a serious infraction).*

15. The Higher Education Institution may review the Certificate of Good Conduct subject to institutional processes in this regard determined by its Council.

THE TRANSCRIPT SUPPLEMENT

16. The transcript supplement is compiled in accordance with the requirements of the HEQSF and reflects at least the following for each course/module successfully completed by the student or former/past student:

- (1) The syllabus description;
- (2) The number of NQF credits;
- (3) The HEQSF level; and
- (4) The third order CESM category.

APPLICATION TO ANOTHER HIGHER EDUCATION INSTITUTION

17. A person who is, or was previously, registered at any higher education institution, or more than one higher education institution, who applies for admission to another higher education institution, must

- (1) submit with his/her/their application; or
- (2) authorise the Registrar (or equivalent of a private higher education institution) of the institution(s) at which he or she is or was previously registered to submit/release to the institution to which he/she they are to apply

a current academic transcript of each higher education institution at which he/she/they was registered.

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