

LEGAL FRAMEWORK WITH REGARD TO CHILD PROTECTION

Department of Education

(Most of the Information was taken from Education Labour Relations Council: *Policy Handbook for Educators*. Universal Print Group. 2003)

The Department has several policy documents in place that promotes the protection of children. Provinces do have protocols in place that specifically deals with the management of child abuse and neglect. The National Department provides a national framework for provincial policies and strategies. An inter-sectoral collaborative approach forms the basis of all policies.

1. National Education Policy Act, Act 27 of 1996

The overall objective of this Act is to provide for the determination of national education policy in order to ensure that all learners would reach their full potential and to put structures in place to provide resources to implement the policies. It is based on the principles as is in the Constitution and promotes the best interest of the child.

□ Admission Policy for ordinary schools:

This policy ensures that a learner is admitted to the total school programme and may not be suspended from classes, denied access to cultural, sporting or social activities of the school, denied a school report or transfer certificates, or otherwise victimised on the grounds that his or her parent is unable to pay or has not paid the required school fees. The rights and wishes of learners with special education needs, must be taken into account at the admission to an ordinary school.

□ National Policy on HIV/AIDS for Learners and Educators in Public Schools, and Students and Educators in further Education and Training Institutions:

This policy seeks to contribute towards promoting effective prevention and care within the context of the public education system with regard to HIV/AIDS. It deals with the protection of learners who are infected and affected by HIV/AIDS, the provision to implement universal precautions to eliminate the risk of transmission in an effective way as well as provision for an effective and sustainable education programme on HIV/AIDS. Age appropriate education on HIV/AIDS forms part of the curriculum for all learners and are integrated in the life skills education programme for pre-primary, primary and secondary school learners. This programme forms part of the Life Orientation Learning Area as is outlined in the Revised National Curriculum Statement. The programme includes the following:

- Providing information on HIV/AIDS and developing life skills necessary for the prevention of HIV transmission as well as basic first aid principles;
- Emphasising the role of drugs, sexual abuse and violence, and sexually transmitted diseases in the transmission of HIV, and empowering learners to deal with these situations;
- Encouraging learners to make use of health care, counselling and support services offered by community service organisations and other disciplines;
- Teaching learners and students how to behave towards persons with HIV/AIDS, raising awareness on prejudice and stereotypes around HIV/AIDS;
- Cultivating an enabling environment and a culture of non-discrimination towards people with HIV/AIDS; and
- Providing information on appropriate prevention and avoidance measures, including abstinence from sexual intercourse and immorality, the use of condoms, faithfulness to one's partner, obtaining prompt medical treatment for sexually transmitted diseases and tuberculosis, avoiding traumatic contact with blood, and the application of universal precautions.

This policy also provides for the establishment of a possible Health Advisory Committee in each school that can offer support and guidelines to the school.

❑ **National Policy on the Management of Drug Abuse by Learners in Public and Independent Schools and Further Education and Training Institutions:**

This policy gives clear guidelines to schools for the management of learners and educators who are experimenting with, using, abusing, dealing in and in possession of drugs. The policy deals with drug screening and searches of learners, Education and information on intervention strategies as well as a School management form an important part of this policy.

2. South African Schools Act, Act 84 of 1996:

This Act provides for a uniform system for the organisation, governance and funding of schools. An important part of this Act is the establishment of School Governing Bodies that promotes parent participation in the governance of the School. One of their responsibilities is to develop a Code of Conduct for learners .

❑ **Guidelines for the consideration of Governing Bodies in Adopting a code of conduct for Learners:**

Guidelines have been established that specifically deals with the rights and responsibilities of learners. Non-violence and the freedom and security of a learners are ensured.

❑ **Regulations for Safety Measures at Public Schools:**

These regulations deals with the promotion of violence and drug free schools, and access to public school premises. This serves to protect learners from all forms of violence and issues such as abduction and exploitation.

❑ **Regulations to Prohibit initiation Practices in Schools:**

These regulations place the responsibility on principals. Educators and governing bodies to ensure that learners will be protected against initiation practices that endangers the mental or physical health or safety of the learner; undermines the intrinsic worth of learners; submission to humiliating or violent acts which undermine the dignity of the child; undermines the fundamental rights and values that underpin the Constitution; destroys public or private property.

3. Employment of Educators Act, Act 76 of 1998:

This Act provides for the employment of Educators, for the regulation of the conditions of service, discipline, retirement and discharge of educators and for matters connected therewith.

One of the provisions of this Act is the dismissal of an educator if he or she is found guilty of theft, bribery, fraud or an act of corruption in regard to examinations or promotional reports; committing an act of sexual assault on a learners, student or other employee; having an sexual relationship with a learner of the school where he or she is employed; seriously assaulting, with the intention to do grievous bodily harm to a learner; illegal possession of an intoxicating, illegal or stupefying substance; or causing a learner to perform any of the acts contemplated in this paragraph.

4. South African Council of Educators Act, Act 31 of 2000:

The **Code of Professional Ethics** that forms part of this Act, clearly states that an educator should avoid any form of humiliation and refrains from any form of abuse, physical or psychological; should refrains from improper physical contact with learners; refrains from any form of sexual harassment, physical or otherwise, of learners; refrains from any form of sexual relationship with learners at a school. It is expected of an educator to use appropriate language and behaviour in his or her interaction with learner, and acts in such a way as to elicit respect from the learners; takes responsible steps to ensure the safety of the learner.

5. General Policy Documents:

□ **Signposts for Safe Schools:**

The Department of Education and the Department of Safety and Security have developed a Manual, *Signposts for Safe Schools* that deals with several social issues that impact on the safety at schools. This document is intended to provide schools with strategies to address specific social issues, focussing on improving the impact, authority and efficiency of school management and school services, development of policies, procedures and plans for their implementation, including policies for non-adherence, and strategies to involve, mobilise and capacitate youth in prevention programmes, projects and campaigns. The manual deals with issues such as bullying, gangs, racism, guns and weapons, truancy, witchcraft, child abuse, HIV/AIDS, stress and suicide and substance abuse.

□ **Revised National Curriculum Statement (RNCS) - grades R - 9 (2002):**

The RNCS adopts an inclusive approach by specifying minimum requirements for all learners. The special educational, social, emotional and physical needs of learners will be addressed in the design and development of appropriate Learning Programmes. The Learning Area Statements provide a guideline of requirements and expectations from Grade R to 9. The RNCS has tried to ensure that all Learning Area Statements reflect the principles and practices of social justice, respect for the environment and human rights as defined in the Constitution. In particular the curriculum attempts to be sensitive to issues of poverty, inequality, race, gender, age, disability and such challenges as HIV/AIDS. The Life Orientation Learning Area guides and prepares learners for life and its possibilities. Life Orientation specifically equips learners for meaningful and successful living in a rapidly changing and transforming society. It develops skills, knowledge, values and attitudes that empower learners to make informed decisions and take appropriate actions regarding:

- Health Promotion
- Social Development
- Personal development
- Physical development and movement
- Orientation to the world of work.

□ **Education White Paper 5 on Early Childhood Development:**

The White Paper 5 promotes a comprehensive approach to policies and programmes for children from birth to nine years of age with active participation of their parents and caregivers. Its purpose is to protect the child's rights to develop his or her full cognitive, emotional, social and physical potential. The strategic plan focus on the delivery of appropriate, inclusive and integrated programmes, with a particular emphasis on the development of a national curriculum statement, practitioner development and career pathing, health, nutrition, physical development, clean water and sanitation, and a special programme targeting four year old children from poor families with special needs and those infected with HIV/AIDS.

□ **Education White Paper 6 on Special Needs Education: Building an Inclusive Education and Training System:**

The White Paper 6 focuses on the transformation of the former segregation of learners with disabilities to a system of inclusive education where the principle of "Quality Education for All" forms the basis of the document. The term "inclusive education" can be defined as:

- Acknowledging that all children and youth can learn and that all children need support
- Enabling education structures, systems and learning methodologies to meet the needs of all learners
- Acknowledging and respecting differences in learners, whether due to age, gender, ethnicity, language, class, disability, HIV/AIDS or other infectious diseases

- Broader than formal schooling and acknowledging that learning also occurs in the home and community, and within formal and informal setting and structures
- Changing attitudes, behaviour, teaching methods, curricula and environment to meet the needs of all learners
- Maximising the participation of all learners in the culture and the curriculum of educational institutions and uncovering and minimising barriers to learning.

The White Paper 6 outline the strategies to address barriers to education, of which child abuse and neglect are also seen as “barriers to education”

□ **Girls Education Movement (GEM):**

GEM is a child-centred, child-led grassroots movement that was launched in March 2003 in Parliament. The objectives are as follows:

- To protect and promote the rights of all girls to quality education
- To enable African girls to participate in decision making about their education
- To provide girls with opportunities to develop and exercise their leadership and technical skills
- To tap the potential of boys, men and women to work in partnership with girls to promote equitable, accessible, high quality education in Africa and through education to create equitable, justice societies
- To protect the rights of girls with special needs and any child at risk of exploitation or abuse in or outside school
- To sensitise key actors in the importance of girls education and mobilise policies and programs that will ensure quality education for all girls.

6. Child Care Act, Act 74 of 1983:

The Department of Education has a specific role with regard to the placement of learners in Schools Of Industries and Reform Schools. The National Interim Protocol document that is issued by the National Inter-sectoral Committee for Child Justice, serves as practice guidelines for departmental officials.

Educators are compelled to notify the Department of Social development of suspected and confirmed cases of child abuse. Provincial Departments of Education are responsible to implement strategies to encourage notification of alleged cases as well as to provide for the necessary support for both educator and learner.