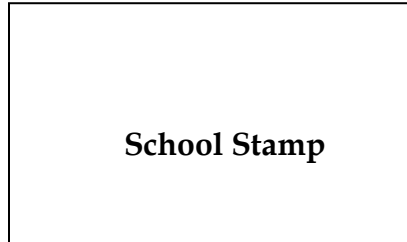


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# CODE OF CONDUCT FOR THE LEARNERS OF \_\_\_\_\_ SCHOOL

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**Date of adoption by SGB**

**Signed**

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**Date of verification by Department**

**Signed**

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## 1. Preamble

The South African Schools Act (SASA, Act 84 of 1996) obliges the School Governing Body (SGB) of a public school to adopt a Code of Conduct for Learners. In this school community the Code of Conduct is aimed at the learners' total education and the establishment of a disciplined and purposeful school environment in order to reach the educational goals of the school. The Code of Conduct for learners of

..... School is based on principles as stipulated in the Constitution (1996), South African Schools Act (1996) and the Northern Cape Schools Act (1997).

Provincial Notice 10 of 2007 and Circular 74/2009 give guidance in terms of managing serious misconduct.

National Guidelines on School Uniforms GG 28538 of February 2006:

- Refusal to wear school uniform may be treated as a disciplinary matter.
- School uniform shall take into account religious and cultural diversity within the community served by the school.
- Measures should be included to accommodate learners whose religious beliefs are compromise by a uniform requirement.

- Schools should not prohibit the wearing of a particular attire as part of religious practice of learners or an obligation, this include male learners requesting to keep a beard.
- The School may request that a letter be produce from the religious teacher or organisation.

## 2. Principles and Values: The Rights of Learners

(See Government Gazette 18900 of 1998 for further clarity)

- a. All learners and parents shall have the democratic right to due process and participation in decision-making on matters affecting them at school. Learners shall have the right to the following procedures, as agreed to by the SGB and Representative Council of Learners (RCL), for expressing and resolving school-related grievance.
- b. No-one shall unfairly discriminate against a learner, as he/she is entitled to equal treatment before the law and should enjoy the privileges and protection thereof.
- c. A learner shall not be suspended or expelled from the school or any school activity, denied his/her results or certificates or otherwise victimised on the grounds that the parent:
  - i. is unable to pay the required school fees;
  - ii. does not subscribe to the Mission Statement and/or Code of Conduct of the school; or
  - iii. refuses to enter into a contract in terms of which the parent waives any claims for damages arising out of the education of the learner.
- d. Respect for the human dignity of the learner, including his/her religious, cultural and other convictions, shall be maintained.
- e. All learners have a right to privacy and shall not have their property confiscated without reasonable suspicion.
- f. Discipline shall be based on dignity and respect. No learner shall be degraded or treated in an inhuman manner.
- g. There shall be no application of corporal punishment.
- h. Learners shall not be locked in solitary confinement or detention.
- i. Learners have the right to freedom of expression. However, insubordination and insults are not part of freedom of expression. This freedom is also limited not to include an infringement on the rights of others or a disruption of school.
- j. Learners have a right to a clean, safe, harassment-free, and healthy environment with clean water, conducive to learning and teaching.
- k. Learners have the right to expect educators to maintain high standards of professional ethics.
- l. The right to education includes the right to attend all classes in all approved subjects, to be informed regularly about school progress, to make use of all school facilities and to have one's potential fully developed.

- m. A pregnant learner shall not be denied access to school. However, she may be referred to a hospital school for pregnant girls.
- n. The following values/ethos of the school shall also be promoted through the Code of Conduct. (Refer to school mission and vision.)
- o. Learners have a right to expect the protection by educators under whose care they are from bullies at school as part of ensuring the safety of learners at school or during activities of school occurring away from school.
- p. Learners have a right to expect assistance from the school should they come in harm's way or suffer injury that require urgent medical attention.



### **3. The School Premises**

- a. No learner shall be allowed to leave the school premises without the written permission of the principal.
- b. No learner shall be allowed in the school building without supervision before or after school or during breaks.
- c. Stone throwing, rough play and fighting are prohibited on the school premises.
- d. Smoking, liquor and unacceptable sexual behaviour are prohibited.
- e. The possession of pornographic material is prohibited.
- f. Littering on the school premises and in the school buildings is prohibited.
- g. Scratching or writing on walls and doors is prohibited.
- h. Vandalism shall not be tolerated.
- i. Theft on the school premises shall be investigated, communicated to parents and, if necessary, be reported to the police.
- j. Gambling on the school premises is prohibited.
- k. No other entrance shall be used except the officially designated entry and exit points. Unofficial entry and exit points of the school premises should be identified and sealed.

### **4. Responsibilities of Parents Regarding the Code of Conduct**

- a. The ultimate responsibility for learner behaviour rests with the parent, who is expected to:
  - i. support the school and require learners to observe the school rules and regulations and accept responsibility for their misbehaviour; and
  - ii. take part in the child's education and ensure completion of schoolwork.
- b. Parents should attend meetings convened for them by the SGB.
- c. Parents may take legal action against any person who infringes on the rights of their children.
- d. Parents at the entry will be provided with copies of the Code of Conduct and must familiarise themselves with its contents in order to ensure learners observe the school rules and regulations.

### **5. The disciplinary committee of the school governing body**

The composition of the disciplinary committee shall consist of:

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**The responsibility of the Disciplinary Committee Chairperson shall be:**

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## **6. The Operation of School Rules**

School rules should cover the following aspects:

Organizational aspects: School's time e.g. start of school day, breaks; late coming, absenteeism, truancy

Behaviour: in class, when on tours or trips, with visitors, with educators, with fellow pupils especially with regard to bullying, racism, sexism, sexual misconduct

Human rights

Personal appearance (clothes, hair) and school uniform

The use of the physical amenities at the school e.g. the use of learner support material, toilets, vandalism, littering and neatness.

General: smoking and the use of liquor and drugs on the school premises.

Additional school rules:

- a. An educator shall have the same rights as a parent to discipline and control a learner during any activity of the school.
- b. Learners shall be involved in the drafting and review of school rules in the following way.  
Learners should be participants in the drafting and review of school rules by contributing their own inputs and by furthermore endorsing and adopting the final product.
- c. The contents of the Code of Conduct shall be widely publicised within the school community.
- d. Ignorance of the rules is not an acceptable excuse.
- e. The disciplinary process shall be expeditious, fair, just, consistent and educative. It shall be corrective or used to inflict penalty on an offender, who must suffer the consequences of his/her deeds to maintain order in the school.
- f. Parents should be involved in the correction of learner conduct.
- g. Discipline of learners cannot be delegated to fellow learners.
- h. Every educator has a responsibility to maintain discipline at the school or any school activity and may correct learner behaviour if the need arises.
- i. Serious misconduct shall be referred to the principal.
- j. Corrective measures shall match the offence and become more severe as the behaviour becomes repetitive.
- k. If a learner cannot fit into a school he/she may be referred to the principal, who may bring in the education support services. If that does not assist the case the

case may be referred to the SGB, who shall take a decision in the best interest of the learner involved as well as other learners.

- l. Learners shall receive an explanation as to why their misbehaviour is considered misconduct and why they need to be disciplined.
- m. The principal/educator can upon reasonable suspicion search a learner for weapons, firearms, stolen property, drugs or pornographic material. This shall however be done in such a manner as to preserve the human dignity of the learner. If a search of a learner's person is conducted, a staff member of the same gender as the learner being searched should conduct this wherever possible. A record of all the outcomes shall be kept.
- n. Possible consequences to any committed offence should be explained to the offender pending the disciplinary processes running its course.
- o. The offender learner has a right to remain silent pending the disciplinary process in order to mitigate against self-incrimination.

## 7. Ordinary Offences

- a. The following shall be regarded as ordinary offences:
    - i. arriving late for class/at school repeatedly;
    - ii. abscondence;
    - iii. making a mess of the toilets;
    - iv. scratching or writing on walls;
    - v. leaving the school premises without written permission from the principal;
    - vi. not completing homework and portfolio activities;
    - vii. disobedience towards the RCL and educators;
    - viii. writing on school uniform;
    - ix. copying work;
    - x. disruption of classes; and
    - xi. dishonesty.
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- b. Prevention, pro-active advice, counselling and corrective measures

### Punishment of Ordinary Offences

In the case of an ordinary offence the following types of punishment may be applied:

- i. verbal or written warning/reprimand by an educator or the principal;
- ii. detention – doing supervised school work intended at the behaviour, with the knowledge of the parent(s), and the learner's safety assured;

- iii. performing tasks that assist the offended person or make amends for the act;
- iv. paying affordable compensation, as agreed upon by all parties involved;
- v. replacing or repairing damaged property;
- vi. suspension from some school activities e.g. trips, sports etc;
- vii. Suspension should only be considered after every effort has been made to correct the behaviour of the learner; and
- viii. expulsion from school, which shall be the last resort for repeated offences after all other avenues of discipline have failed and which shall only be applied after following all the applicable departmental procedures.

## **8. Serious Misconduct – offences that may lead to suspension and or expulsion**

### **8.1 Definition of Serious Misconduct**

According to Northern Cape Provincial Notice 10 of 2007, the following are defined as serious offences:

- 1) Rape
- 2) Indecent assault;
- 3) Any form of harassment of a member of staff or fellow learner;
- 4) Assault with the intention to do grievous bodily harm;
- 5) Common assault of an educator;
- 6) Serious intimidation of any member of staff or fellow learner;
- 7) Malicious damage of state property;
- 8) Theft with aggravating circumstances, in the opinion of the principal, exist;
- 9) Robbery;
- 10) Possession of dangerous objects on the school premises, or during any school activity;
- 11) Possession or sale or abuse of illegal substances.
- 12) The possession or dissemination of pornography or obscene material including material depicting sexual intercourse in all its forms;
- 13) Being on school premises or at a school activity while under the influence of alcohol or illegal substances;
- 14) The possession or sale or consumption of intoxicating liquor while on the school premises or during any school activity.
- 15) The theft of examination papers or the possession or sale of stolen examination papers;
- 16) Repeated acts of ordinary misconduct as determined in the school's code of conduct;
- 17) Having a sexual relationship with any staff member or educator at the school where the learner attends;
- 18) Sexual intercourse or any other sexual activity among learners on school premises or during any school activity;



- 19) Any contravention of the Regulations to Safety Measures at Public Schools;
- 20) Any other act of misconduct that in the opinion of the principal that reasonably constitutes serious misconduct.

## **8.2 Due Process in the Event of Serious Misconduct**

- a. In accordance with Notice 10 of 2007 and Circular 74 of 2009, the procedure below shall be followed in the event of serious misconduct in order to insure a fair hearing of the case. The penalties of suspension or expulsion can only be imposed after the due process described below has been followed.
- b. Any learner alleged to have violated any rule that may require suspension or expulsion, shall be brought to the principal. The principal shall hear the evidence and then decide on the action to be taken. The following steps shall be implemented:

### **STEP 1**

The principal shall issue a written charge of serious misconduct to the learner if he/she is of the opinion that there are sufficient grounds for such a charge. The charge sheet shall contain the following:

- a) an explanation of the charge(s) against the learner;
- b) a call to the learner to submit a written admission/denial of the charge(s) and/or to submit an explanation regarding the allegation(s) within seven days;
- c) an explanation of the rights of the learner regarding the hearing, *inter alia*, the right to representation, the right to call witnesses, the right to question witnesses, the right to present oral or documentary evidence, the right to access to documentary evidence in support of the charge(s) and the right to lodge an appeal against the findings of the tribunal or SGB;
- d) a confirmation that the hearing could proceed in the absence of the learner and/or parent; and
- e) a confirmation that the charge(s) is (are) of a serious nature and may culminate in a recommendation that expulsion should be considered.

The authority to charge a learner with serious misconduct is vested in the principal and shall not be delegated to an educator.

### **STEP 2**

The original charge sheet shall be delivered to the learner and his/her parent. The framework may provide that the charge(s) be delivered in the following ways:

- a) personal delivery to the learner and the parent; and/or
- b) sending the charge sheet to the parent at his/her last known physical address by registered mail.

### **STEP 3**

Following receipt of the learner's response, the principal shall submit a copy of the charge sheet, proof of delivery and any additions received from the learner, to the SGB. The SGB shall then appoint a disciplinary committee, consisting of three members. These members shall at all times conduct themselves in such a way as to not intimidate the learner. The presiding officer of the tribunal shall appoint a person from within the school community to act as prosecuting officer.

#### STEP 4

If the learner admits to the charge(s), and the presiding officer is of the opinion that the offence would warrant expulsion, the presiding officer shall facilitate a fair hearing, notwithstanding the admission. During the hearing the learner shall be accompanied by his/her parent or appointed representative.

The hearing shall only continue in the absence of the learner, parent or appointed representative if the SGB provides evidence that there are reasonable grounds for such continuation. Reasonable grounds usually entail that, even after thorough notification with regard to the hearing has been given, the parent purposefully avoids accompanying the learner to the hearing or the learner neglects/refuses to attend the hearing.

The presiding officer has the right to appoint a mediator for any witness younger than 18 years if it should become evident that the hearing would cause strain or suffering to the witness. Questioning of such a witness shall only be conducted through the mediator, who would explain the general meaning of the questioning to the witness.

The presiding officer may also indicate that the testimony of such a witness should be heard at an informal, predetermined location, arranged so as to prevent the witness from delivering his/her testimony in the presence of the person who might upset him/her.

#### STEP 5

The prosecuting officer has the responsibility to lead the witnesses on behalf of the SGB. This may be done orally, or by means of documents, written testimony, questioning of witnesses and arguments supporting the charge(s). The parent, learner or appointed representative has the responsibility to lead the defence.

The presiding officer has the responsibility to lead the hearing, to ensure that it is fair, consistent and reasonable and to protect the interests of all the parties involved. The presiding officer should furthermore lead all parties with regard to the procedures that should be followed and the implications of exercising certain rights, such as the right to remain silent.

The learner may admit guilt at any time during the hearing and would then be found guilty on the relevant charge(s). The hearing shall be closed to anyone who is not directly involved with the case.

**STEP 6**

Following the conclusion of the hearing, the presiding officer shall find the learner guilty or not guilty, based on the evidence presented. If the learner is found guilty, he/she shall be granted an opportunity to present extenuating factors, while the prosecuting officer shall be granted an opportunity to present aggravating factors. The presiding officer shall inform all parties regarding the importance of presenting such factors. These factors may be presented either orally or in writing.

The presiding officer shall submit the findings and recommendations, together with the records of the hearing, to the SGB. The SGB shall communicate a decision to the parent and learner within seven days of completion of the hearing.

An SGB is allowed to apply the following sanctions:

- a) suspension for a period not exceeding seven days;
- b) a monetary fine not exceeding R 500,00; and
- c) any sanction provided for in the school's Code of Conduct.

If expulsion is recommended by the SGB, the District Director must be notified within three days following the decision of the SGB. Such a recommendation shall be accompanied by all records of the hearing.

**STEP 7**

The learner or his/her parent shall be allowed to appeal to the MEC against the findings and/or sanctions of the tribunal or SGB within seven (7) days of notification.

## **9. Promotion of the Code of Conduct**

- a. This code shall be displayed openly in the school at the following locations:
  - i. staff room;
  - ii. offices;
  - iii. foyer; and
  - iv. classrooms.

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- b. This code shall be advocated to parents and the wider school community in the following way:
- i. meetings;
  - ii. circular letters; and
  - iii. yearbooks.
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- c. This policy shall clarify in positive terms what the school expects from its learners. The following actions shall be taken to clarify the expectation of the school to learners.
- i. Parents of learners at entry grade shall receive a copy of the Code of Conduct at the beginning of each year. Younger learners shall be informed verbally.
  - ii. Classroom rules shall be pasted in the class, with the consequence of breaking each rule clearly outlined.
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