

2021 SGB TRAINING ON

LEARNER DISCIPLINE, MANAGEMENT OF SERIOUS MISCONDUCT & EXPULSION OF LEARNERS



Northern Cape
Department of Education

Recap SGB Broad responsibilities

- Promote the best interests of the school
- Develop/review/consult and approve school policies (Admissions, Language, Code of Conduct, Constitution, Finance,)
- Control and manage school finances – **Principal must have access to monthly statements and notification of payments from Bank. Section 38 A, please budget and get approval first from HOD, don't use Section 21 allocations for this purpose. Section 36 (4) – get approval from MEC first when the SGB want to lease, convert or alter immovable property, or when the SGB need to allow any person to conduct any business on school property**
- Manage internal appointments
- Recommend appointment(s)
- Manage school assets
- Manage learner serious misconduct
- Meet and encourage school stakeholders to render voluntarily services

Common mistakes when recommending for expulsion

- SGBs tend to expel learners without a recommendation been made to the District Director
- SGBs often submit the Disciplinary Chairperson recommendation to the District Director
- SGBs do not allow learners to make pleadings to the charges which have been leveled against them
- SGBs tend to deliver charge sheet only to the learner and omit giving the charge sheet to parents/guardian
- SGBs often failed to complete the disciplinary hearings timeously
- Aggravating and mitigating factors are often missing
- In making the recommendations for expulsion often neglect to submit the full record of proceedings

Brain teasers!

Identify 10 schools, 30 sec read 1 min to respond

1. Can the SGB institute disciplinary process without a Code of Conduct?
2. Should a learner, as a precautionary measure, be suspended when it is an alleged ordinary theft on school premises
3. 18 year old learner in school uniform seen by a community member drinking alcohol
4. Learner at home seen smoking dagga with his father
5. Learner 19 years old in plain clothes drinking beer at a school rugby game
6. Allegations of alleged sexual assault that happened outside school premises
7. Alleged assault, should the SGB proceed with due process when the parent decide to also lay a criminal charge with the Police?
8. Grade 12 learner caught smuggling dagga on school premises, can the SGB recommend expulsion after all the correct due processes was followed?
9. Can a Gr 3 learner with repeated acts of minor/ordinary misconduct be taken trough a disciplinary due process?
10. Should the Presiding Officer proceed with the disciplinary hearing when the Learner arrive with an Advocate and the Evidence Leader is the Deputy Principal?



Documents to read on how to manage learner serious misconduct

- Provincial Notice 10 of 2007
- Provincial Circular 74 of 2009
- School's Learner Code of Conduct
- Checklist for the recommendation of expulsion
- Checklist use by School Safety
- Pro forma charge sheet
- Pro forma notice for disciplinary hearing

Documents to utilize when reviewing the Code of Conduct

- SASA Guidelines – Notice 776 of 15 May 1998 Guidelines for the consideration of governing bodies in adopting a code of conduct for learners.
- National School Safety Framework
- DBE Example of a Code of Conduct for a School
- Policy Pro forma

Sections to be included in the Code of Conduct - to be read in conjunction with SASA Guidelines and School Safety Checklist

1. The Preamble
2. The Legal Authority of Control
3. Principles and values
4. Rights and responsibilities of learners
5. The school rules
6. Responsibilities of parents with respect to the Code of Conduct
7. Disciplinary System
8. Punishment/Sanctions = Sanctions for offences graded and offences outlined
9. Dispute resolutions
10. Prevention, pro-active advice, counselling and corrective measures
11. Offences that may lead to suspension
12. Suspension and expulsion

Sections to be included.....

- **13. Due process (Notice 10 of 2007 and Circular 74 of 2009)**
- Due process should include the following:
- **A. The disciplinary institutions**
- In this sections the institutions and persons who have disciplinary powers e.g.
- The principal
- Educators
- The disciplinary committee of the SGB

Sections to be included.....

- **The disciplinary committee of the school governing body**
 1. The composition of the disciplinary committee
 2. Powers of the chairperson
 3. Functions and procedures
 - a. Deals with who is the investigator for the committee
 - b. The investigators powers and responsibilities
 - c. The disciplinary hearing
 - d. Notices needed

Sections to be included.....

e. The rights of the learner when appearing before the disciplinary committee

4. Jurisdiction and sanctions

5. Appeal process

6. Reporting

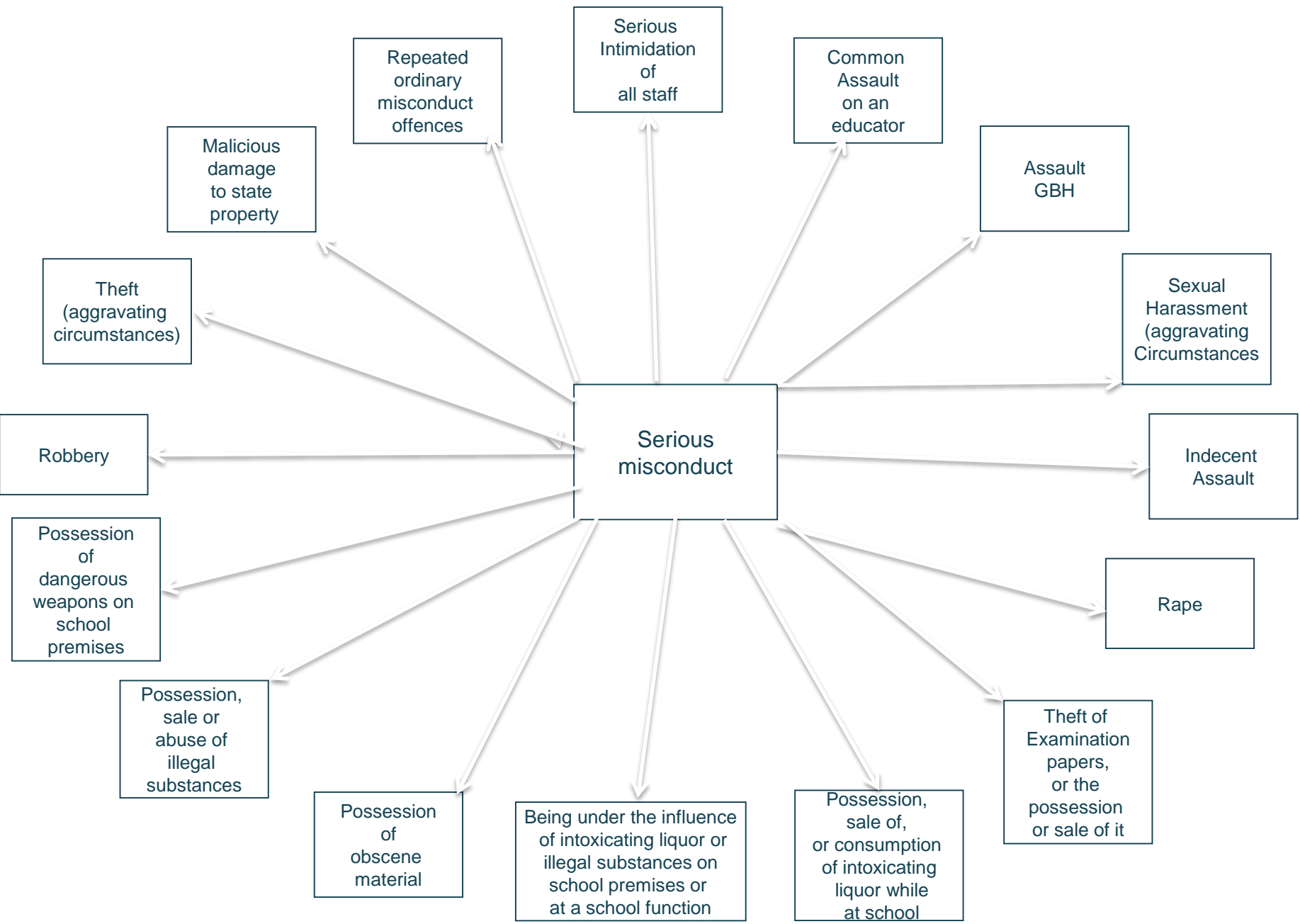
7. General Principles

- This code is subject to careful and conscientious monitoring and the total involvement of the staff as a whole.
- The effectiveness of any disciplinary code is depended on how conscientious the principal and staff implement the disciplinary code.

WHAT CONSTITUTES SERIOUS MISCONDUCT

**(Notice 10 of 2007 and Circular
74 of 2009)**

Serious misconduct



Important legal time lines

SASA Section 9/Notice 10 of 2007

- As a precautionary measure suspend a learner who is suspected of serious misconduct, only after the learner has been granted an opportunity to make representation in relation to the suspension – not more than 7 school days
- SGB must conduct disciplinary hearing within 7 school days after the suspension
- If it is not conducted within 7 school days, SGB must obtain approval from District Director for the continuation of the suspension of the learner.
- SGB may, if learner found guilty of serious misconduct during disciplinary proceeding impose a sanction for a period not longer than 7 school days
- **SGB must communicate in writing its decision to the learner/parent within 7 days of the conclusion of the hearing**
- **In the event SGB recommend expulsion to District Director must be within 3 days of the SGB meeting decision – provide full record of proceedings**
- District Director must consider recommendation and must decide whether or not to expel within 14 days of receiving such recommendation
- SGB may suspend or extend suspension for a period not longer than 14 days pending the decision by the District Director
- Parent/learner must appeal within 14 days of receiving notice of expulsion
- If MEC upheld expulsion, MEC must ensure a suitable sanction is impose within 14 days of the date on which the appeal is upheld

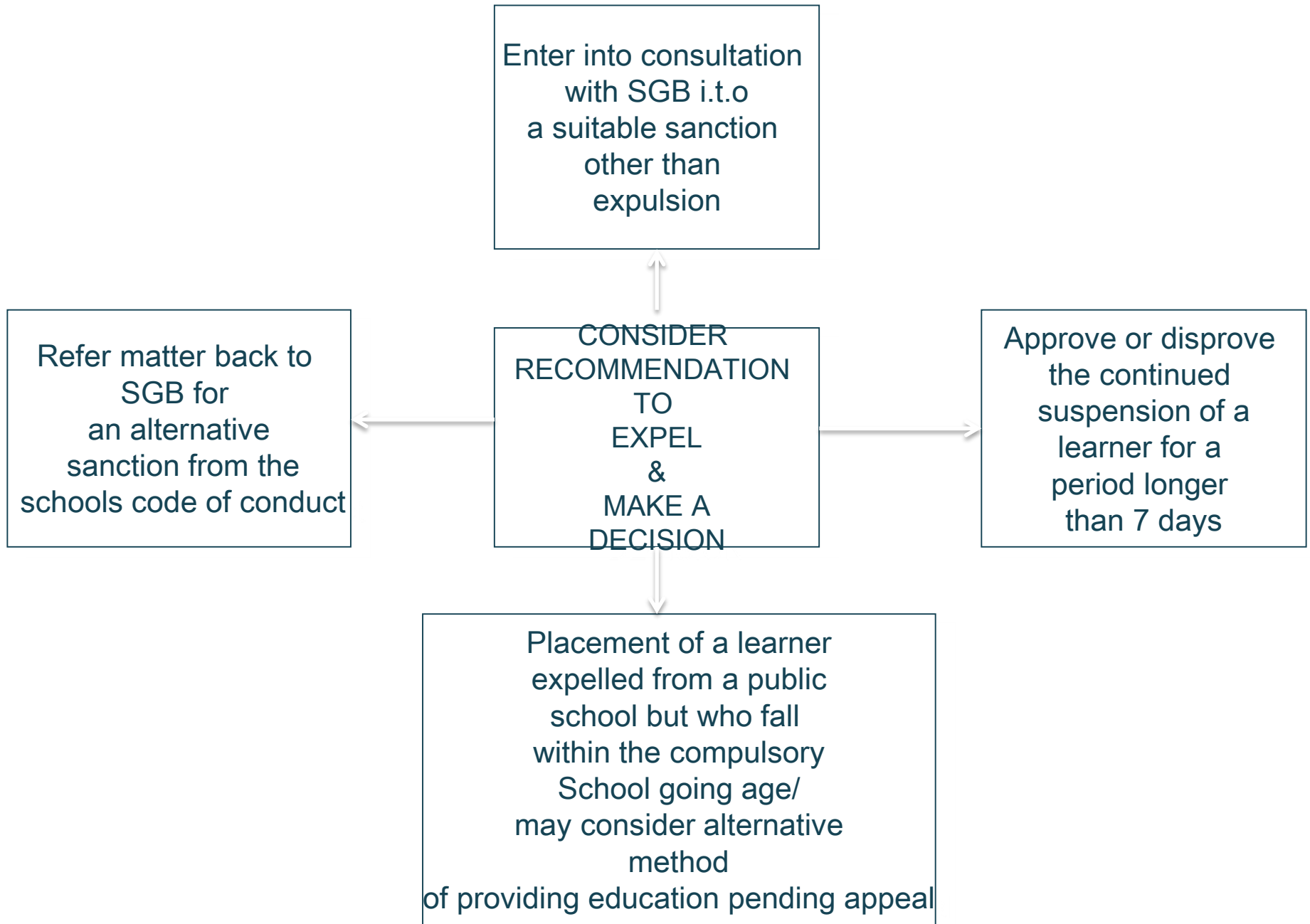
DISCIPLINARY HEARING

- Presiding officer
- Prosecuting officer/Evidence leader
- Learner entitled to a representative
- Evidence- oral, documentary, witnesses
- Intermediaries
- Aggravating and mitigating
- Presiding officer submit findings recommendation including all the record of proceedings to the SGB

DELEGATIONS TO DISTRICT DIRECTORS in consultation with CD – 1 NOVEMBER 2010

SASA section 9

- 1(B) Granting approval of a continued suspension of a learner pending finalization of a disciplinary hearing.
- 1(D) Consideration of a recommendation for expulsion of a learner after a disciplinary hearing.
- 9(5) Placement of a learner expelled from a public school but who falls within the compulsory school going age must make alternative arrangement for placement at a public school
- **9 (6) Learner who has appealed must pending the outcome of the appeal be given access to education in the manner determined by the HOD – not delegated!**
- 9 (7) HOD in determining the manner must take reasonable measures to protect the rights of other learners or may consider an alternative method of providing education to the learner



WHAT REMEDIES ARE AVAILABLE TO THE GOVERNING BODY UPON A LEARNER BEING FOUND GUILTY OF SERIOUS MISCONDUCT

- Impose the suspension of a learner for a period not exceeding 7 school days
- Impose any other sanction in the school's code of conduct

REMEDIES AVAILABLE TO THE GOVERNING BODY CONT.....

- Make a recommendation to the District Director to expel the learner
- Detention
- Caution or reprimand the learner
- Impose a fine not exceeding R500. 00

WHAT OPTIONS ARE AVAILABLE TO THE DISTRICT DIRECTOR SHOULD HE DECIDE AGAINST EXPULSION

- After consultation with the SGB impose a suitable sanction
- Refer the matter back to the SGB for an alternative sanction other than expulsion, contemplated in the school's code of conduct
- The SGB has the responsibility of implementing that sanction despite which route is taken

***LEARNER SERIOUS MISCONDUCT DUE
PROCESS IS NOT A CRIMINAL PROCEDURE!!!***

THANK YOU