

Understanding School Governance

Manual 6

Discipline and Codes of Conduct for Learners



DEPARTMENT OF EDUCATION AND CULTURE
UMNYANGO WEMFUNDO NAMASIKO
DEPARTEMENT VAN ONDERWYS EN KULTUUR



PROVINCE OF KWAZULU-NATAL
ISIFUNDAZWE SAKWAZULU-NATAL
PROVINSIE KWAZULU-NATAL

Materials developed by the Media in Education Trust (MiET) for the KwaZulu-Natal Department of Education and Culture, under a subcontract with Aurora Associates International, Inc., Washington, D.C., for the U.S. Agency for International Development.

This Manual was compiled and published for the KwaZulu-Natal Department of Education by a team that included: Dr M Lotter, Department of Education; Mr C Waddy, Education Consultant; Mr S Naicker, Education Consultant; and Mr F Goolam, USAID/South Africa.

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This manual is based on an earlier version produced by the School Governance Unit, KwaZulu-Natal Department of Education and Culture.

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This publication was made possible through support provided by the U.S. Agency for International Development, under the terms of Contract No. 674-I-00-00-00007-00. The opinions expressed herein are those of the author(s) and do not necessarily reflect the views of the U.S. Agency for International Development.

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A comprehensive index can be found at the back of Manual 7.

Glossary:

The meaning of some of the words used in this manual

A statement of behavioural norms compiled in terms of the South African Schools Act, No. 84, 1996, to regulate the conduct of learners attending a public school.

The recognition that certain procedures are underpinned by fairness and just application of laws; rules and regulations are applied in decisions that may affect the rights and interests of a person.

The permanent removal of a learner from attendance at a particular public school.

Any person, whether child or adult, who receives education or must receive education in terms of the South African Schools Act.

The Member of the Executive Council of a province who is responsible for education and culture in the province.

An act or omission that is punishable because it is contrary to a law, regulation, rule or code of conduct.

A parent is:

- (a) the natural parent of a learner,
- (b) the guardian of a learner,
- (c) a person legally entitled to custody (physical control) of a learner,
- (d) a person who undertakes to act as a parent of a learner for the purpose of the learner's education.

The head of the KwaZulu-Natal Department of Education and Culture. Also called Head of Department (HoD), Superintendent-General (SG) or Chief Executive Officer (CEO).

Statement / explanation with the purpose of reducing the severity of a sentence / decision / judgement.

The temporary exclusion of a learner from attendance at a particular public school.

A disciplinary hearing comprising two members with the sole purpose of determining whether a learner should be subject to some form of disciplinary measures, or not.

Code of Conduct

Due Process

Expulsion

Learner

MEC

Offence
(Misconduct)

Parent

Secretary

Statement in
mitigation

Suspension

Tribunal

INTRODUCTION TO THE MANUALS

What are these manuals for?

This series of manuals has been designed to help school governing bodies in their task of overseeing the governance of schools. The manuals give an overview of the main issues that all school governing bodies need to understand and put into practice in order to be effective.

The manuals are an accessible training and reference guide for governing bodies. They explain the key requirements of National and Provincial legislation, and some of the practicalities of putting them into practice.

These manuals replace earlier manuals produced by the KwaZulu-Natal Department of Education and Culture soon after the South African Schools Act of 1996 required all public schools to form governing bodies.

The Manuals

Manual 1:

Each manual deals with specific issues in school governance.

Manual 2:

Introduction to School Governance

Manual 3:

School Governing Body Elections

Manual 4:

Conducting Meetings and Keeping Records

Manual 5:

School Fund: Departmental Regulations

Manual 6:

Basic Financial Systems for Schools (training manual)

Manual 7:

Discipline and Codes of Conduct for Learners

The School as Employer

Manual 6:

Discipline and codes of conduct for learners

This manual deals with the dynamic issue of learner conduct and discipline.

In many ways the school sets the tone for a person's entire outlook and approach to life. Discipline, especially self-discipline, is an important aspect of human experience. If we are successful in instilling a balanced approach to conduct and discipline at school we will have laid a sound foundation for a life-long approach.

In addition South Africa is relying on its schools to help construct a peaceful society where human life is regarded as valuable and human dignity is upheld. Schools can help in transforming society and ensuring that future citizens develop self-discipline and a sense of self-worth. It is therefore vital that governing bodies take a positive approach to the issue of conduct and discipline, and that this is reflected in their code of conduct for learners.

At the same time governing bodies need guidance on the handling of disciplinary matters, especially those of a serious nature, and this issue is dealt with in this manual.

How to use these manuals

As a reference tool

The manuals are designed to be an accessible reference for members of governing bodies. They have been written and designed so that citizens who are not experts, but who play a role in school governance, can have their questions answered in a way that is easy to understand and is applicable to their own situations.

Wherever possible, the approach that has been used features:

- non-technical language;
- a 'frequently asked questions' approach;
- brief and straight-forward answers;
- references throughout the text to legislation which applies to particular issues;
- additional information and examples that will assist you to apply the information;
- exercises which can be used by individuals or governing bodies to help consolidate information;
- format and templates to help in carrying out various tasks;
- a comprehensive index.

The approach in these manuals is specifically designed to help with immediate queries and to allow members to become familiar with governing body issues. For technical and legal matters it is essential that the manuals be read in conjunction with the relevant legislation, most of which can be found in the two volumes making up the 'Operations manual for Kwazulu-Natal schools' which is available in all schools.

As a training tool

The exercises at the back of this manual are designed to be used for training of new governing bodies and new members of governing bodies. Members can work through the exercises on their own, or as a group. Even members of governing bodies who are familiar with the information may find the exercises useful. Some of them are based on case study examples or areas where there is often confusion or difficulty with putting the legislation and regulations into practice.

As a reference tool

As a training tool

In this column you will find additional information in boxes. The boxes for different kinds of information look different from each other. They are explained on this page.



How is this manual designed?

This manual is designed in the same way as this page. A question which is often asked by members of school governing bodies is given. The question is answered directly below it. The answers are as brief and direct as possible. They usually explain what is required by law in a way that is easier to understand than the legislation itself.

Where there is information that is regulated by legislation, you will see a box like this.



This box will tell you where to find more information in another manual or part of this manual.

eg

This box will give examples.



This box will give you the definition or meaning of a word or concept.



The information in this box is an exception to the rule or a special case.



If there is more detailed information about how to do something it will be in a 'how to' box.



The information in this box is something that you should take particular note of.

1.1 Where does conduct and discipline fit in to school life?

When you play a game of mlabalaba there are certain rules that you have to follow. If you refuse to follow the rules it will cause arguments and the game cannot progress.

For a school to progress the same conditions apply. A school is a complex organisation, with many different people and personalities assembled to achieve a common purpose, as described in its mission statement.

For these people to work effectively together there has to be agreement on conduct and behaviour. The rules of conduct of any organisation define what is regarded as

acceptable and not acceptable. These rules make clear the rights and responsibilities of all role players. They also prescribe penalties if the rules are not obeyed.

Often the conduct and discipline in a school is a reflection of other aspects of school life. Disciplinary breakdowns such as poor attendance, confrontational behaviour and deliberate flouting of the rules may indicate underlying problems such as poor relationships between certain role players, demoralised learners and bad management. In such cases the cure does not lie in applying harsh disciplinary measures; the answers may rather be found in the factors that could be causing the problems.

On the other hand, in a school where there are very few disciplinary problems there are often happy and stable conditions underpinned by firm and clear principles.

Ideally a school should aim to develop a community of self-disciplined educators and learners who have a sense of responsibility for their own behaviour and who respect the rights of others.



A 'code of conduct' could be described as a set of rules governing standards of behaviour.

Paragraph 2 (4)
of KZN Notice
285/1997.

See:

- SASA Regulations 8 and 20(1)(d)
- KZN Act 3 of 1996 Reg. 4.(1)(d)
- KZN Notice 285/1997 dated 21 August 1997
- KZN Circular No. 61 of 1998

See also Part 3 of the document:
Alternatives to Corporal Punishment: the Learning Experience sent to all schools in 2000 by the National Department of Education.

1.2 What is a code of conduct?

A code of conduct is a statement that sets rules that must be followed by members of the school community. The rules are usually negotiated, and apply to particular conditions and problems in that school.

There are certain regulations outlining some of the rules that the principal and governing body must ensure are included in the code. The code of conduct must:

- include rules relating to school wear (if applicable);
- aim to establish a disciplined and purposeful school environment; dedicated to the improvement and maintenance of the quality of the learning process;
- outline how learners who disobey the code of conduct will be punished;
- include a process for protecting the learner and any other party involved in disciplinary proceedings;
- be a written document which all learners and parents know about and have read;
- be drawn up after considering guidelines determined in accordance with section 8(3) of the South African Schools Act, No. 84 of 1996.

1.3 Why is the code of conduct the responsibility of a school governing body?

Every school has to adopt a code of conduct. SASA makes it clear that adopting a code of conduct for learners is an important function of a governing body. Subsequent legislation and departmental notices also identify this as a role for the school governing body.

The school governing body is the most appropriate body to draw up a code of conduct as it is made up of representatives of a range of stakeholder groups within the school. Most of the voting members of a school governing body are parents and parents are the people primarily responsible for the conduct and discipline of their children. Also there are learner representatives (in high schools) and staff representatives, all of whom have a direct interest in matters of conduct and discipline.

Every school is different, so although codes should not contradict provincial and national stipulations, they should meet the unique needs of each school. The governing body should have a good understanding of the needs of its particular school.

The law also gives governing bodies the task of making recommendations on the basis of disciplinary tribunals for learners. In order to fulfil this task well, the governing body needs to be the central point of drawing up the code of conduct.

1.4 What should go into our code of conduct?

The national Minister realised that most school bodies would not have the legal expertise to draw up a code. The code of conduct has to be written in a way that it can stand up to scrutiny in a court of law if there is a dispute.

In 1998 the National Department of Education published guidelines to assist school governing bodies in drawing up their codes of conduct. You will find the guidelines in Volume 1 of the Operations Manual for KwaZulu-Natal schools.

The guidelines contain all the provisions of the law with regard to matters such as education rights, personal rights, discipline and punishment at schools, the obligations of learners, parents and educators towards school attendance and promoting a culture of learning. The guidelines should not be seen as prescriptive. They are there to help you, and to give you ideas. They are for the consideration of governing bodies when they are in the process of adopting a code of conduct for learners.

The national document spelling out alternatives for corporal punishment gives a comprehensive overview plus a graded list of various types of misconduct, with suggestions of appropriate disciplinary actions.

It would also be useful to look at the codes of other schools to see how they approached the task, but do not be tempted to simply adopt the code of another school. Each school has unique characteristics. Individual schools might want to emphasise some aspects that are particular to their circumstances. On the other hand there might be some matters that they do not see as especially important. Your school will have to decide what it wants to incorporate in your particular code.

See:

- KZN Notice 285/1997 dated 21 August 1997
- GN. 776 of 1998 - GG 18900 dated 15 May 1998.
- National Education document: Alternatives to Corporal Punishment: the Learning Experience.

Government Gazette No. 18900 (Vol. 395) dated 15 May 1998.

eg

Some schools place great emphasis on the school uniform of their learners being absolutely correct; others are more flexible about what learners wear to school.

1.5 What should the governing body check for when adopting the code of conduct?

In checking that the code is acceptable, the governing body may wish to ensure that all aspects of school life were considered whilst drawing it up. These could include:

- the journey between home and school;
- opening and closing times;
- the length of the breaks;
- the length of the lessons;
- learner movements between classrooms;



- learner movements during breaks;
- possible crowding;
- toilet facilities;
- the boundaries of the school premises;
- possible temptations in the vicinity;
- uniform issues;
- format and length of assemblies;
- religious differences;
- cultural differences;

- absentee parents;
- possible lack of parental/guardian guidance;
- inappropriate curriculum;
- poverty;
- peer pressure;
- role models; and
- political tensions.

The governing body should also ensure that:

- all role players were consulted and their views taken into account;
- local custom and tradition were considered;
- the code suits the development of the learners and is appropriate to the different school levels;
- the language used is easily understandable;
- the format is user-friendly;
- the spirit and requirements of the Constitution and the Bill of Rights are reflected; and
- there is no conflict between the code and national and provincial legislation.

Codes of conduct are seen as instruments of change in the national education system and should therefore reflect the new democratic order in South Africa. The governing body should check that the code is underpinned by this principle. For example, the importance of the individual rights of the learners should be a feature of all codes of conduct.

eg

A school's code of conduct cannot determine that there will be corporal punishment for certain offences, even if it is claimed that corporal punishment is acceptable to all the stakeholders. This would be contrary to the law. (Section 10 of SASA)



1.6 Who should be consulted?

The code of conduct must be drawn up after open and democratic consultation with all relevant role-players. These are:

- The parents
- The educators
- The non-educators
- The representative council of learners, if in a secondary school.

A code of conduct may only be adopted after this consultation has taken place.

It must be a truly consultative process. This means that all attempts must be made to hear the opinions of all members of the school community, to encourage participation of those who are uninterested, or too shy to speak and to help those intimidated by peer pressure or fear of recrimination. Assistance should be given to illiterate parents to help them understand the code.

The opinions of minorities and alternative thinkers should be given careful attention and respect.

At the end of the process all members of the school community should feel that, as participants in the drawing up of the document, they have ownership and will support it.

1.7 How can we ensure that all role players accept the code of conduct?

The key words are 'participation' and 'consensus'. If there was widespread consultation during the compilation of the code, and there were genuine attempts to incorporate reasonable suggestions, there will be little room for disagreement once the document has been adopted.

This consultation should not end after the code of conduct has been adopted. A code of conduct must be subject to review. Society is dynamic with continual change and the governing body must accept that attitudes also change. The norms and standards that applied a few years ago may be inappropriate today. There must be a routine consultation and review programme (at least annually) for the code of conduct.

The governing body must try to ensure that all stakeholders continue to agree with and accept the code of conduct, and remain committed to its implementation.

1.8 How binding on a learner is a school's code of conduct?

The code of conduct is binding on every learner at the school. SASA empowers a governing body of a school to maintain discipline in the school. Its instrument in doing this is the code of conduct. There is nothing in the Act that allows a learner to contravene his or her school's code of conduct.

The code of conduct carries the force of law. The governing body can, in the case of a serious transgression of the code, recommend that a learner be expelled from the school.

Nevertheless, a learner should never feel powerless if he or she thinks an aspect of the code, or the way it is implemented, is unjust. All codes must be applied in a fair, consistent and just manner. Every code should include the communication channels, the grievance procedures and due process during hearings, and all learners should be familiar with their rights in this regard.



1.9 What type of rules should we include in a code?

You will find an example set of school rules in section 5 of this manual. This example is included to give you some ideas, and should not be used as it stands by a school. You might choose to include some of the rules listed there, and include some of your own which are suitable for your particular school.

1.10 Where does the code of conduct apply?

A code of conduct applies on school property before, during and after school hours. It must be adhered to at all official school events, even if not on school property. A learner in school uniform, off the school's property but in view of the public, must comply with the code of conduct.

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A learner in school uniform, travelling to or from home on public transport, must comply with the code. Similarly a learner in school uniform, who stops off at a shopping centre on the way from school, must adhere to the code.



1.11 How should the code of conduct be publicised?

It is essential that the code be well-known to all role-players in the school community. Ideally, every learner should sign a document that says that they have read the code of conduct, have understood it and agree to abide by its provisions. The school may also consider setting aside a period annually where learners are taken through the code so that unclear or problem areas can be dealt with. This is especially important with the admission of new learners.

Parents should be given copies of the code. There should be consultation with all role-players, including parents, before the code is amended, and the amended code should again be given to all parents.

A copy of the code should be sent to the Department.

2.1 What is the governing body's role?

The governing body is tasked with:

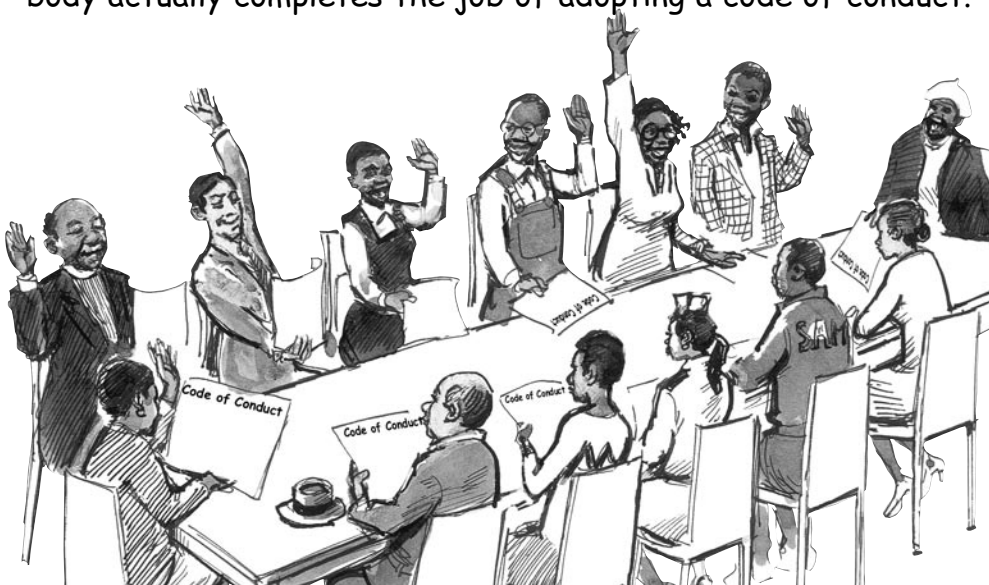
- drafting the code of conduct after consultation with all roleplayers;
- adopting the code of conduct;
- making recommendations on the outcomes of learner disciplinary tribunals; and
- giving support to the school management team if there are widespread problems with discipline, or a breakdown of discipline in the school. Such support may include backing the management team if necessary, but should also include re-examining the code of conduct to ensure that it is not contributing to the problem.

The legislation emphasises that the governing body is the authority that is actually responsible for the code of conduct.

This does not mean that the entire governing body must be involved in the detail of compiling the code. Every governing body should approach the task in the way that is most appropriate for it, but usually a committee of the governing body is appointed to draw up the code. This may be an ad hoc committee appointed specifically to tackle the task of drawing up the code, or it may be a standing committee to handle all aspects of conduct and discipline. The committee, on completion of its work, reports back to the governing body, which, after consideration, can choose whether to adopt the recommended code. It is the principal's duty to ensure that the governing body actually completes the job of adopting a code of conduct.



SASA Sections
8(1) and 9(1).



2.2 What is the role of the school management team?

The role of the school management team is to administer the code of conduct.

Obviously in drawing up the code, the school governing body would have consulted all role-players, including the school management team. This would ensure both familiarity with the code, and ownership.

The school management team will be an important group in reviewing the code on an annual basis, as they will have the experience of administering the code on a day-to-day basis.

The school management team (and educators) should never be seen in the role of policemen, imposing a code that is unacceptable to the vast majority of learners. Rather they should be seen as facilitators, using the code to ensure the smooth running of the school. In drawing up the code the governing body must ensure that they do not inadvertently force the management team into the role of 'law enforcers', by placing the emphasis on punishment for various offences, rather than on discipline as an educative and corrective practice.

2.3 What is the role of the school's educators?



See GN 776 of 1998 - GG18900 dated 15 May 1998.

- The educators, as major stakeholders, must be consulted whilst the code is being drawn up. It is essential that they participate during the initial stages, to ensure that they agree with the content of the code.
- Once the code has been adopted the educators become key players in ensuring that it is successful. The 'guidelines' state that an educator at the school has the same rights and responsibilities as a parent to control and discipline a learner according to the code of conduct, during the time the learner is in attendance at the school or involved in any classroom, school function, school excursion or any school-related activities.
- Serious misconduct must be referred to the principal of the school. It would be a good idea for each school to create a mechanism to handle disciplinary problems, to reduce the load of the principal. Some of the responsibilities could be delegated to educators or the management team.

- When a learner is doing something that could harm another learner or him or herself, or is violating the rights of another learner, educators should use reasonable measures to prevent such actions. 'Reasonable measures' implies that the educator should exercise restraint when applying such measures.
- The guidelines make provision for a liaison mechanism, or an objective and impartial adjudicator to be set up to resolve disputes between learners and educators.

Educators must remember that they are role models for the learners, so they should always behave in a professional and responsible way.



The law does not give educators the right to delegate authority to certain learners to discipline fellow learners.

eg

If, for example, a learner is seen deliberately tripping up another, the educator should try to defuse any tension by taking the offender to somewhere private, and pointing out the potential seriousness of the offence. The offender should be warned that if there is a repetition of this behaviour he will be referred for further disciplinary measures which could ultimately result in him being suspended.

2.4 What is the role of parents/guardians?

The ultimate responsibility for a learner's behaviour rests with his or her parents. Parents should support the code of conduct for learners and ensure that their child observes it. They should tell the school authorities about any problem concerning their child and accept responsibility for any misconduct by the child. Where possible parents should be informed and involved in the correction of the child's behaviour. Parents are expected to take an active interest in their child's school career and to attend meetings that the governing body convenes for them.



GN. 776 of 1998-GG. 18900 dated 15 May 1998



Parents/Guardians are not obliged to sign a document acknowledging that they agree with a school's code of conduct. They may refuse and such refusal can in no way jeopardise their child's presence in or admission to the school. (See No.10 (b) of G.N. Notice 2432 of 1998 dated 19 October 1998) Note that a parent's disagreement with the code does not exempt his/her child from having to comply with it.

2.5 What is the role of learners?

Above all learners must identify with the code. Having had an input into its composition, learners should willingly subscribe to the principles inherent in their code. The guidelines have some interesting things to say about Rights and Responsibilities of learners. (See the guidelines in the Operational Manual).

The KZNDEC Schools Governance Training Unit enlarged on these with the following suggestions for inclusion in a code of conduct for learners:

I have a right	AND it is my responsibility
1. To be educated in a controlled and structured academic environment.	To create the opportunity for others to work without hindrance and to pay full attention.
2. To be respected by other members of the school community, regardless of personal, religious or cultural differences.	To respect the individuality, convictions and beliefs of others.
3. To freedom of speech and to voice my opinion in a mature, tactful and appropriate manner.	To listen to and respect the opinions of others.
4. To be treated with fairness,	To treat others in a fair and just manner.
5. To the security of my person and my property.	To uphold the honest behaviour and safety of the school.
6. To make use of available school facilities and property.	To respect and maintain these facilities and the property.
7. To the support of the school in my participation in cultural, sporting or academic activities.	To engender and to uphold school spirit by participating in and supporting cultural, sporting and academic activities.
8. Where possible and when appropriate, to be involved in and informed about decisions taken in the school.	To respect the decisions made and react to them in a mature and sensitive manner.
9. To work in a clean and litter-free environment.	To maintain a clean and litter-free environment.
10. To ask for help and advice.	To ask for help and advice at an appropriate time and in an appropriate manner, and to give advice and help myself.
11. To have school activities begin punctually.	To be punctual in every part of my school life.
12. To be allocated books and appropriate texts which are in a serviceable and usable condition.	To care for my books and return them as I received them.
13. To participate in the life of the community.	To uphold the values of the school when out of school uniform.

2.6 Does the KZN Department of Education and Culture have to approve of a school's code before it comes into force?

There is no requirement that the code has to be approved by the department prior to its implementation, but, if the governing body decides to recommend the expulsion of a learner, a copy of the code must be sent to the department along with the relevant forms and copies of the correspondence.

The code will be scrutinised by the District Manager who will give an opinion as to whether expulsion is appropriate in the light of the code and the misdemeanour.

NOTES

There are many kinds of misconduct, some more serious than others. Your school will need to make a list of kinds of misconduct and decide how serious you regard that misconduct to be, and how you would deal with a learner for that misconduct. All of your decisions will then have to be incorporated in your code of conduct.

3.1 National Department of Education's suggestions

The National Department of Education has produced a graded list of misconduct that could be used as a guideline.

Level 1 misconduct

These are regarded as minor and include:

- Failure to be in class on time
- Bunking class
- Failing to finish homework
- Failing to respond to reasonable instructions
- Being dishonest with minor consequences

Level 2 misconduct

These are regarded as somewhat more serious and include:

- Frequently repeated Level 1 misconduct
- Smoking or carrying tobacco
- Leaving school without permission
- Using abusive language
- Interrupting education in the classroom
- Showing disrespect for another person
- Engaging in minor vandalism, like graffiti
- Being dishonest with more serious consequences

Level 3 misconduct

These are regarded as serious and include:

- Frequently repeating Level 2 misconduct where action taken by school authorities is considered ineffective



See

Alternatives to Corporal Punishment: the Learning Experience.

eg

A minor injury could result from the stupid but not malicious behaviour of a learner. For example, waving a stick around wildly and connecting with another learner.

eg

For

example, repeated use of derogatory racist or sexist terms in addressing members of another race or gender.

eg

Intentional

limited injury could result from one youth inflicting cuts and bruises on another in an unprovoked fight.

eg

A learner

who alters a final report to reflect a pass instead of a failure could succeed in attaining promotion as a result.



Most level 4

and 5 misconducts can be regarded as criminal acts.

- Inflicting minor injury on another person
- Gambling
- Being severely disruptive of classes
- Forging documents or signatures with minor consequences
- Racist, sexist or other discriminatory behaviour
- Possessing or distributing pornographic, racist or sexist materials
- Possessing dangerous weapons
- Theft
- Vandalism
- Cheating during examinations

Level 4 misconduct

These are regarded as very serious and include:

- Repetition of level 3 misconduct
- Threatening another person with a dangerous weapon
- Causing intentional limited injury to another person
- Verbally threatening the safety of another person
- Engaging in sexual activity
- Selling drugs
- Possessing or using alcohol or narcotics
- Disrupting the entire school (eg boycotting or picketing without consent)
- Forging documents or signatures with serious consequences

Level 5 misconduct

- Repetition of level 4 acts
- Intending to inflict major physical injury on another person (assault)
- Intentionally using a dangerous weapon
- Sexual harassment
- Sexual abuse and rape
- Major theft
- Breaking and entering locked premises
- Murder



How the school will deal with each level remains a school-based decision. The National Department of Education produced the following suggestions:

If measures to prevent minor misconduct are not successful and proactive advice and counselling have also not succeeded, educators could apply one or more of the following:

- Verbal warning or written reprimand by an educator;
- Supervised school work that will contribute to the learner's progress at school;
- the improvement of the school environment, provided that the parents are timeously informed and the security of the child is assured;
- Demerits;
- Performing tasks that would assist the offended person;
- Agreed affordable compensation;
- Replacement of damaged property;
- Detention in which learners use their time constructively but within the confines of the classroom;
- Suspension from school activities, eg sport, cultural activities.



Schools could consider using a system of peer mediation to defuse many disciplinary issues. In this system learners trained as mediators guide their fellow learners in resolving disputes.

eg

A learner who is repeatedly distracting others.

Very often a problem like this should be approached at two levels:

- 1) Sorting out the immediate misconduct
- 2) Probing for possible underlying causes

So your code of conduct should encourage authorities to think about WHY this is happening; it may lead to a more appropriate way of dealing with the problem. For example, it may be that the learner cannot grasp the work, or has grasped it so quickly that he or she is bored with the follow-up. This could indicate that, while the immediate problem with the learner can be sorted out by giving him or her a simple exercise or more challenging exercise to complete, changes in the teaching approach may also be necessary.

Examples of disciplinary action which should be carried out by higher authority such as a school head of department, include the following:

- Any of the disciplinary actions listed above
- Disciplinary talk with the learner
- Talk with the learner's parents or guardians
- Written warnings
- Signing contract with learner who agrees to improve
- Daily report carried by learner to all classes and signed by all educators
- Performing duties that improve the school environment- such as cleaning, gardening or administrative tasks.

Examples of disciplinary actions, carried out by the principal for serious misconduct, include the following:

- Any of the disciplinary actions listed above
- Written warning of the possibility of suspension from the school
- Referral to a counsellor or social worker
- Community service once permission is granted by the Department of Education and Culture

eg

A learner is seen, some time after school has closed for the day, deliberately breaking windows by throwing stones at them.

Here again it is worthwhile building into the code the need to approach such problems at two levels, by suggesting ways of sorting out the immediate situation AND probing for possible underlying reasons.

- Was it sheer boredom?
- Is he upset with some aspect of school life?
- Why has he such a low regard for school property?

Irrespective of the reasons the behaviour is unacceptable, so the principal may decide to issue a written warning of possible suspension if the offence is repeated, in addition to trying to find out reasons.

Examples of disciplinary actions for very serious misconduct include the following.

- Any of the actions listed above
- Referral of the learner to an outside agency for counselling
- Application to the Department of Education and Culture for limited suspension from school

The principal or the school governing body, together with the Department of Education and Culture, should carry these out.

Examples of disciplinary actions for criminal misconduct include the following:

- Application to the Department of Education and Culture for expulsion of the learner from the school
- Allowance for criminal or civil prosecutions which may follow, given that the misconduct is of a criminal nature

The principal and the school governing body, together with the Department of Education and Culture, should carry these out.

Another way of outlining how your school will deal with a range of misconduct is illustrated on page 24. The misconduct is categorised by the way that it will be dealt with by the school.

Weighting the disciplinary measures

It will probably be necessary to introduce a weighting factor/scale in order to apply the disciplinary measures in each category. For example, you will need to decide how many times a learner can be warned for misconduct, before his or her suspension is considered. You might also want to introduce a system of merits and demerits where learners can have warnings deleted from their record if they fulfil a set of responsibilities well.

eg

For example:

- A stipulated number of warnings within a specified period of time leads to one week's suspension.
- A stipulated number of one-week suspensions within a specified time leads to a recommendation of expulsion.
- A system of points leading to a warning - again within a specified time scale.
- Accumulated warnings and suspension can be deleted from the learner's record.
- The inclusion of responsibilities which learners may strive to adhere to and which could form the basis of the deletion referred to above.

3.2 An alternative way of grading misconduct

WARNING	SUSPENSION	EXPULSION
Cheating in class.	Cheating in tests/examinations.	
Petty theft.	Theft - major.	Theft involving violence.
Lying.	Blatant dishonesty.	
Actions obviously aimed at humiliating educators and fellow learners. Hurtful, nasty, personalised graffiti.	Threats to educator. Threats of violence to fellow learners. Intimidation of others to enforce acquiescence.	Possessing a weapon at school, eg firearm, knife with blade longer than 4 cm, dagger, panga, stick, etc. Serious assault: educator, non-educator, learner. Any act, which in the opinion of the disciplinary tribunal, endangers the life and safety of others.
Damage to school's property - minor. Damage to property of others - minor.	Damage to school's property - major. Damage to property of others - major.	
Possession of obscene/pornographic material.		Distribution of obscene/pornographic material. Possession/Use/Sale (peddling) of drugs, and similar morally debilitating actions.
Smoking at school. Use of vulgar language in public. Bringing school's name into disrepute.	Use of alcohol at school.	
Persistent disobedience. Persistent non-co-operation with an educator or with the school authorities.	Deliberate and serious undermining of the authority of the principal and educators. Truancy.	Repeated defiance of the school authorities.
Sexual remarks. Sexual harassment.	Repeated gender harassment.	Sexual coercion: aggressive action aimed at procuring sexual favours. Sexual assault: sex-related crimes/ misconduct - including rape and sexual assault.
	Actions provoking racism.	Guilt proven in a court of law.

A learner suspected or accused of serious misconduct is always referred to the principal first. If the principal believes that the misconduct is of such a nature as to merit the attention of the governing body the matter should be referred to the governing body.

In this section you will read information that should be considered by a governing body, when a disciplinary matter is referred to it. These procedures are designed to assist members of schools' governing bodies to apply the provisions of the South African Schools Act and other legislation in respect of the discipline of learners in a fair, just and legal manner.

4.1 What does the Department of Education and Culture regard as misconduct serious enough to warrant expulsion?

A learner may be expelled from a school if he or she -

- a) Intentionally violates any regulation in terms of the Act or any provision of the code of conduct framed in terms of Regulation 2 and which may be grounds for expulsion;
- b) In or outside of the building or on or off the premises of the school and whilst under the control of school authorities, intentionally conducts himself/herself in a manner which is or could be seriously detrimental to the maintenance of order and discipline at the school;
- c) Intentionally damages, destroys, uses or appropriates property of the school or another person or body;
- d) Intentionally contravenes any regulation or instruction pertaining to examinations;
- e) Wilfully disobeys a legitimate instruction given by the principal or an educator authorised to do so by the principal;
- f) Intentionally gives false information to the principal or any educator;
- g) Has been convicted in a court of law of a serious offence;
- h) Incites, instigates or procures a fellow learner to contravene or to fail to comply with any regulation or instruction made in terms of this Act, or any rule of such school;

Expulsion:

The permanent removal of a learner from attendance at a particular public school.



See P.N. No. 285, 1997 of 21 August 1997 -

Regulation 4

See also G.N. 776 of 1998 - 18900 dated 15 May 1998 (The Guidelines) Sections 11 to 14

- i) Violates the rights of other learners to receive education by disrupting classes, preventing other learners from attending classes, preventing educators from providing classes or in any other manner;
- j) Refuses, without good reason, to attend classes or to receive tuition or without sound reason deliberately absents him/herself from school or classes;
- k) Commits an act of insubordination towards an educator or other person who occupies a position of authority over him/her at such school;
- l) Prevents or attempts to prevent an educator or other staff member from carrying on his/her normal duties;
- m) Conducts him/herself in a disgraceful, improper and unbecoming manner; and
- n) Possesses or uses a habit-forming drug without a prescription from a registered medical practitioner.

4.2. What does the law say about discipline?

It is important to deal with disciplinary matters, especially with regard to serious misconduct, within the law. The Bill of Rights outlines principles on which to base your approach to discipline. The SASA gives clear guidelines and rules about the procedures to be followed.

The Constitution

The Constitution of the Republic of South Africa, Act 108, 1996, in particular Chapter 2, the Bill of Rights, stipulates that:

- Everyone is equal before the law and has the right to equal protection and benefit of the law.
- There may not be unfair discrimination on the basis of race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language or birth.
- Everyone has the right to dignity as a human being
- Corporal punishment is not allowed - a person cannot be treated or punished in a cruel, inhuman or degrading manner.

 Fair discrimination is allowed. This could happen if an institution wishes, for example, to address a racial imbalance on the staff.

- Every person has the right to privacy, i.e a person cannot without justifiable reason (i.e. taking in account the right of all to a safe environment) be searched or have his/her property searched.

South African Schools Act

Section 8 of the Act states that a code of conduct must contain provisions of due process safeguarding the interests of the learner and any other party involved in disciplinary proceedings.

Section 9: Suspension and expulsion from a public school, says:

- A learner can be suspended by the governing body, if he or she has had a fair hearing. A learner can be suspended either
 - ❖ for one week or less as a correctional measure, or,
 - ❖ in consultation with the Head of Department, pending a decision by the Head of Department as to whether to expel the learner.
- A learner can be expelled only by the HOD and then only if he or she has been found guilty of serious misconduct at a fair hearing.
- The MEC must outline in the Provincial Gazette the offences which constitute serious misconduct and the disciplinary proceedings to be followed. The MEC must also outline procedures that protect the learner and the other parties involved in disciplinary hearings.
- A learner or the parent of a learner who has been expelled from a public school may appeal against the decision of the Head of Department to the Member of the Executive Council.
- If a learner who is subject to compulsory attendance is expelled from a public school, the Head of Department must make an alternative arrangement for his or her placement at a public school.



Section 36 of the Constitution does indicate that there can be limitations to individual Rights, but only in certain very specific circumstances. Obviously therefore, there would have to be extremely sound reasons for a search.

Suspension:

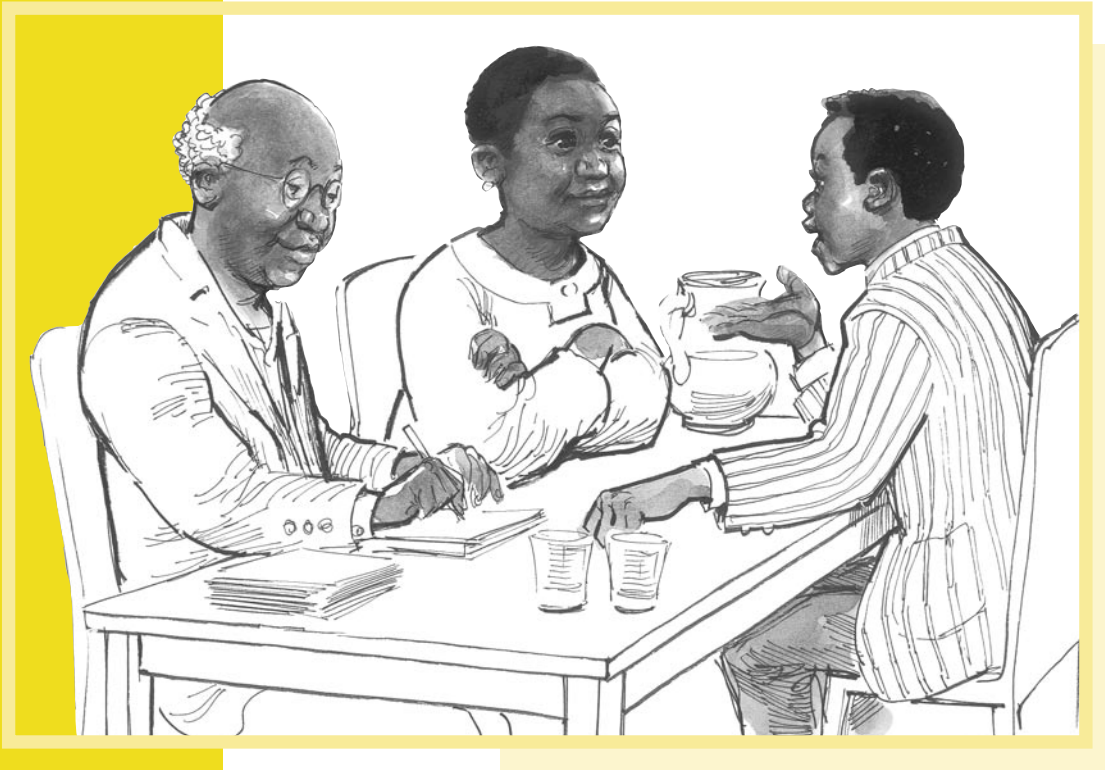
The temporary exclusion of a learner from attendance at a particular public school.



See section 7 of Act 48, 1999

4.3 What should we remember in a disciplinary process?

A disciplinary process must include a fair hearing. This hearing is conducted by a tribunal.



When conducting a disciplinary hearing you should always remember:

- The future prospects of the accused learner may be destroyed by the findings of the tribunal.
- The educational welfare of the other learners at the school may be disadvantaged by the findings of the tribunal, There is a possibility that it may create the impression that discipline and order at the school are not conducive to effective education.
- Your code of conduct must form the basis of the investigation, the hearing and the findings and recommendation.

All disciplinary hearings must take place with the following principles in mind:

- Audi alteram partem. This means granting both parties to a dispute equal opportunity to present their case.
- Due process. This means ensuring that the hearing takes place in a fair and just manner.
- Reasonableness.
- Consistency in the application of procedures and evaluating evidence.



The process that is followed has the following steps:

1. An Investigation preceding the tribunal.
2. The tribunal.
3. Recommendation to the governing body.
4. Recommendation to the HOD, if expulsion is recommended.

4.4 What should we do before a tribunal hearing?

You need to have an investigation to determine whether a tribunal should sit to consider the case. The governing body should appoint someone to do the initial investigation and to make a recommendation to the governing body.

The purpose of an investigation is to ascertain whether the allegations made against an accused learner have sufficient substance to warrant a disciplinary hearing (tribunal) to determine whether the learner should be subjected to disciplinary measures in terms of the law, regulations and the code of conduct of the school.

In conducting the investigation the investigator should exercise sound judgement in ensuring that the provisions of the Bill of Rights of the Constitution are respected; for example, the right to privacy and the right to a safe and healthy environment.

Remember that no-one can be forced to respond to questions if he or she feels that this response might compromise him or her in respect of the investigation.

4.5 What is a tribunal?

The tribunal is the group of people who have been appointed to manage the disciplinary hearing.

The function of the tribunal is:

- To give the learner and his or her parents at least 5 days' written notice of the time, date and venue of the hearing and the charges brought against the learner.
- To warn the learner and his or her parents that the hearing could result in the expulsion/suspension of the learner from the school.
- To inform the learner and his/her parent(s) of their right to place evidence before it in support of representation that the learner should not be expelled/suspended from the school, should this be the finding of the tribunal.



In sensitive cases (child molestation, rape, intimidation, and suchlike), provisions should be made for witnesses to be protected. The services of the facilities of other institutions (colleges of education, courts of law, other schools with such facilities, etc) may be used after due negotiation with the people involved. The governing body or the tribunal may request the services of the Child Protection Unit of the South African Police Services, social workers and members of the KwaZulu-Natal Department of Education and Culture Psychological Services.

Tribunal:

A disciplinary hearing made up of two members with the sole purpose of determining whether a learner should be subject to some form of disciplinary measures, or not.



See section 5 of the Regulations (KZN Notice 285/1997 dated 21 August 1997).



If the accused learner and/or his or her parent(s) do not attend the tribunal, the hearing may still proceed.

4.6 What should be the composition of the disciplinary tribunal?

The governing body invites people to serve on the tribunal. They must then formally appoint the tribunal (consisting of two persons) to conduct an enquiry into allegations of misconduct against a learner.

An essential requirement is that any person directly or indirectly involved in the case against the accused learner should not be a member of the tribunal. The tribunal could be composed of people from outside the school, with the written approval of the governing body.

Note that the governing body may have appointed a person or persons to conduct preliminary investigations to determine whether there is a need to proceed with the sitting of the tribunal.

Parents have the right to be present at the hearing.

4.7 What happens at the hearing?

Logistical arrangements

- All documentation must be made available to all participants at the hearing - this includes written statements, a record of the learner's behaviour whilst at the school, written statements by people who wish to make them, for example, character references, etc.
- Arrangements must be made for the proceedings to be recorded in detail, word for word. If it is possible, tape or video recordings should be made of the proceedings.
- The enquiry may be conducted in a way that the tribunal decides, as long as the accused learner and his or her parents are:
 - ❖ informed in writing of the allegations made against him or her; and
 - ❖ given the opportunity to refute, or argue against the allegations.

Rights of the accused learner

- The accused has the right of reply to the accusations made and this can be done in writing or orally.

- The accused and his or her parents must be given the opportunity to make statements in mitigation of the findings of the tribunal.

Witnesses

Witnesses who need to be questioned or to make submissions to the tribunal should be treated in accordance with point 4.4 above:

- Once a witness has submitted evidence in support of allegations made against the accused learner, the learner and his or her parent(s) must be given the opportunity to question the witness(es).

Questioning

Always remember that a tribunal hearing is not a court case. The formal nature of the process can be very intimidating to all concerned. Learners especially must be well-prepared by having the processes clearly explained to them beforehand. Leading questions may not be asked. Aggressive questioning is unacceptable and cross-examination is not permitted.

eg A leading question is a question that suggests an answer, such as "You saw John hitting James?" Rather ask: "What did you see?" or "Who was hitting who?"

Findings and recommendations

The tribunal must decide whether, on a balance of probabilities, but considering what is fair;

- a) the learner is not guilty of misconduct and may resume his/her position in the school.

or

- b) the learner is guilty of misconduct.

The recommendation of the tribunal must be conveyed in writing to the governing body, which must confirm or reject the decision of the tribunal.

Penalties

If the learner is found guilty by the governing body, it may impose one or more of the following penalties:

- a) Warn the learner in writing.



In terms of regulation 8 of the Regulations, the Secretary may delegate powers bestowed on him/her, excluding the power to hear an appeal, to an official in the employ of the department.

- b) Impose a penalty provided for in the code of conduct.
- c) Require a written undertaking of good conduct from the learner.
- d) Suspend the learner from school for a period of not more than ONE week.
- e) Recommend to the Secretary the expulsion of the learner from the school.
- f) Recommend to the Secretary the suspension of a learner in terms of sub-regulation 3(5) pending the outcome of the Secretary's decision on the expulsion of the learner. In cases where the tribunal recommends to the governing body that the nature of the offence is so serious as to warrant expulsion, the Secretary of Education and Culture must be informed in writing of the recommendation. All documentation which was used at the hearing and during the investigation must be submitted to the Secretary in support of the recommendation.

(NOTE: This could mean that a learner could be suspended for longer than ONE week, but only in consultation with the Secretary).

- g) Expel a learner from a hostel of the school.

If the suspension or expulsion coincides with the writing of assessment tests or examinations, the principal must make arrangements for the affected learner to write the tests or examinations.

The governing body is empowered in cases of gross and undoubted misconduct to suspend a learner on the basis of a recommendation from the tribunal to recommend expulsion. If this suspension will last for longer than a week it should be done in consultation with the Secretary. The learner will be suspended from school until the outcome of the governing body and Secretary's decisions are known.

4.8 Can an expelled learner stay on in the hostel?

If a learner residing in a hostel attached to a school is suspended or expelled from the school, he or she is considered to also be suspended or expelled from the hostel.

A learner may be expelled or suspended from a hostel without being suspended or expelled from the school to which the hostel is attached.

4.9 Who is responsible for alternative placement of an expelled learner?

It is the responsibility of the Secretary of the KZNDEC to find a school for an expelled learner to attend if the learner is of compulsory school-going age.

4.10 How should recommendations to the Department of Education and Culture for suspension and expulsion of a learner be processed?

The Department has issued specific guidelines for this process

This circular sets out the procedure to be followed when referring recommendations to the Head of Department, and spells out the responsibilities of the different officers involved.

It also provides forms and route cards to help the process.



See KZN
Circular No. 61
of 1998

4.11 Is it possible to appeal against a decision to suspend or expel a learner?

Any person, (including learners or their parents or guardians) is fully entitled to appeal against such decisions and the principal should assist them with the procedure, which is also dealt with in Circular No. 61 of 1998.

The appeal can be at two levels:

- An appeal against a decision of the governing body (to the Head of Department).
- An appeal against a decision of the Head of Department (to the Minister).



See SASA
Section 9(4)
KZN Notice 285
of 1997 dated 21
August 1997. Reg.
6(1) ,(2) and (3)



See Sections
13 and 16 of
KZN Circular
No. 61 of 1998.

A person who does not agree with a decision taken by the governing body, including a decision to expel a learner from a hostel, may appeal to the Head of Department.

A learner or his/her parent(s) / guardian who does not agree with the decision of the Secretary to expel a learner may appeal to the Minister (MEC).

A governing body which does not agree with the decision of the Secretary not to expel a learner, may appeal to the Minister (MEC).

NOTES

Example for your information.

Although there are a number of regulations that help in the smooth running of the school, there is really only one guiding principle:

"At all times use your common sense and do not do anything that will bring you or your school into disrepute."

Attitude, Manners and Respect for Others:

- Develop a positive attitude towards your school, your studies and your involvement in activities.
- Develop self-discipline and responsibility for your own academic progress.
- Identify with the traditions of the school.
- Good manners and respect for others are expected at all times.
- Be respectful to adults at all times, and courteous to visitors to the school.
- Bullying is forbidden.
- Do not use offensive or foul language.

School Uniform and Appearance:

- Show pride in your school by ensuring that your uniform is always neat.
- Full uniform must be worn at all times between school and home, at all functions and on excursions.
- Full uniform or a school tracksuit must be worn after sports practices.
- Medical identification may be worn but not jewellery or lapel badges unrelated to School.
- No bleaching, highlighting of hair or 'steps' are permitted. Learners must be clean-shaven at all times.
- All items of clothing must be marked with the owner's name.

Punctuality and Bounds:

- Be punctual in attending school and all classes.
- Observe all regulations that specify areas that are out of bounds, or where access is restricted to certain times.
- No learner may leave school at any time except with the permission of the principal or class educator.

Respect of Property:

- Take care of your own belongings, and show respect for the property of others.
- Do not bring valuables to school unnecessarily. Any large sums of money or valuables should be handed to an educator for safekeeping. Take pride in the school grounds and buildings by assisting to keep them neat and free of litter.
- Any breakage or damage to property must be reported immediately.



Transport:

Full discipline must be observed when using transport to and from school.

Co-curricular Programme:

- Every learner is expected to participate in the cultural and sporting life of the school.
- Correct kit must be worn for all activities.
- Sportsmanship and teamwork are the values the school strives for.

Classroom Code of Conduct

- Everyone has the right to learn without interference from others.
- Be punctual and prepared for the lesson (books/files/equipment).
- Use appropriate language - encourage communication.
- Show politeness and consideration - exercise self-discipline.
- Take care of furniture and equipment.
- Respect the property of others.

Note: If for sound reasons, such as religious observance, a learner has difficulty with any of these rules, he or she is encouraged to make the problem known to the governing body. In doing this he or she should follow the normal channels, for example, by speaking in the first instance to the class educator or RCL, who will take the matter further.

NOTES

6

FORMS

Example of a letter informing parents of the fact that their child is required to appear before a hearing of the disciplinary tribunal of the School Governing Body

(School's address)

 Date: _____

(Address of parents of accused learner)

NOTIFICATION OF A SITTING OF A DISCIPLINARY TRIBUNAL

Dear Mr and Mrs _____,

This letter serves to inform you of a meeting of the disciplinary tribunal of this school scheduled to take place on (date) _____ at (time) _____ at (venue) _____ before which your son/daughter, (name) _____ ID No: _____ is required to appear.

The reason for the tribunal is to consider a charge of misconduct against your child; that he / she allegedly (state nature of the alleged misconduct)

_____ and to determine what action, if any, should be taken against him/her.

It is your right to attend this hearing of the tribunal. Should you not exercise the right the disciplinary hearing will proceed and all decisions taken will be binding on those concerned.

Yours faithfully

_____ (Signature)
Chairperson : Governing body

Please return this slip to the school.

Receipt of the notification dated _____ informing me/us of a sitting of a disciplinary tribunal is hereby acknowledged.

Signature of parent/guardian

Example of a letter to a learner accused of misconduct and requiring him/her to appear before a disciplinary tribunal

(School's address)

Date: _____

(Address of parents of accused learner)

NOTIFICATION OF A SITTING OF A DISCIPLINARY TRIBUNAL

Dear (Insert name of learner) _____,

This letter serves to inform you that you are required to appear before a disciplinary tribunal on (date) _____ at (venue) _____ at (time) _____ to answer charges of alleged misconduct, viz that you (state nature of the alleged misconduct) _____

It is your right to be accompanied by your parents and / or a representative of your choice.

Kindly note that should you not appear before the above tribunal the hearing will proceed without you and any decisions taken will be binding on all concerned.

Yours faithfully

_____ (Signature)

Chairperson : Governing body

Please return this slip to the school.

Receipt of the notification dated _____ informing me of a sitting of a disciplinary tribunal on is hereby acknowledged.

Signature of learner

Example of a letter to parent(s) of a learner in connection with the decision of a governing body

Warning

(School's address)

Date: _____

(Address of parents of accused learner)

DECISION OF THE GOVERNING BODY ON THE ALLEGATIONS MADE AGAINST YOUR SON/DAUGHTER : _____

ID NUMBER : _____

Dear Mr and Mrs _____,

I regret to inform you that the governing body of the _____ School, has found your SON / DAUGHTER, _____, guilty of misconduct in terms of the Code of Conduct of this school. The clause of the Code of Conduct under which HE / SHE has been found guilty states " _____ "

In view of the above decision and owing to mitigating factors submitted at the hearing, the decision is to warn your SON / DAUGHTER that a similar finding of guilty, in the future, may lead to HIS / HER suspension or expulsion from this school.

Your assistance in making the rest of your SON'S / DAUGHTER'S stay at this school happy and constructive, will be greatly appreciated.

As stated at the hearing, you have the right of appeal against this decision to the Secretary of the Department of the KwaZulu-Natal Department of Education and Culture, Private Bag X04, Ulundi, 3838.

Yours faithfully

_____ (Signature)

Chairperson : Governing body

Please return this slip to the school.

Receipt of the notification dated _____ of the decision of the Disciplinary Tribunal on the allegation against my son/daughter is hereby acknowledged.

Signature of parent/guardian

Example of a letter to parent(s) of a learner who has been suspended for one week from attending the school

Suspension for One week

(School's address)

Date: _____

(Address of parents of accused learner)

DECISION OF THE GOVERNING BODY ON THE ALLEGATIONS MADE AGAINST YOUR SON/DAUGHTER : _____

ID NUMBER : _____

Dear Mr and Mrs _____,

I regret to inform you that the governing body of the _____
School, has found your SON / DAUGHTER, _____, guilty of misconduct in
terms of the Code of Conduct of this school. The clause of the Code of Conduct under which
HE / SHE has been found guilty states " _____
_____ "

In view of the above the governing body has decided to suspend your SON / DAUGHTER from
attendance at this school for the week commencing on _____ (DATE) and ending on
_____ (DATE).

On your SON'S / DAUGHTER'S return to school it would be appreciated if you could
accompany HIM / HER so that we could discuss HIS/HER future attendance at this school with
a view to making it happy and constructive.

As stated at the hearing, you have the right to appeal against this decision to the Secretary of
the KwaZulu-Natal Department of Education and Culture, Private Bag X04, Ulundi, 3838.

Yours faithfully

_____ (Signature)

Chairperson : Governing body

Please return this slip to the school.

Receipt of the notification dated _____ informing us of the decision of the Governing Body
to suspend my son/daughter for a period of one week, is hereby acknowledged.

Signature of parent/guardian

Example of a letter to parent(s) of a learner in connection with the decision of a governing body

Expulsion

(School's address)

Date: _____

(Address of parents of accused learner)

DECISION OF THE GOVERNING BODY ON THE ALLEGATIONS MADE AGAINST YOUR SON/DAUGHTER : _____

ID NUMBER : _____

Dear Mr and Mrs _____,

I regret to inform you that the governing body of the _____ School, has found your SON / DAUGHTER, _____, guilty of misconduct in terms of the Code of Conduct of this school. The clause of the Code of Conduct under which HE / SHE has been found guilty states " _____ "

In view of the above it has been decided to recommend to the Secretary of the KwaZulu-Natal Department of Education and Culture that your SON/DAUGHTER be expelled from this school. Pending the decision of the Secretary your SON/DAUGHTER will be suspended from attending this school with effect from _____ (Date).

As soon as the Secretary has made HIS/HER decision you will be informed in writing.

Should you wish to appeal against the decision of the Secretary, you have the right to appeal to the Member of the Executive Council of the Province of KwaZulu-Natal who is responsible for Education and Culture, address: Private Bag X01, Ulundi, 3838.

However, should your appeal be unsuccessful and since your SON/DAUGHTER is of compulsory school-going age, please contact the local District Office, address: _____ telephone number: _____ to make arrangements for the placement of your SON/DAUGHTER at another school.

Yours faithfully

_____ (Signature)

Chairperson : Governing body

Please return this slip to the school.

Receipt of the notification dated _____ informing us of the decision of the Governing Body to expel my son/daughter is hereby acknowledged.

Signature of parent/guardian

Example of a letter to parent(s) of a learner in connection with the decision of a governing body

Not Guilty

(School's address)

(Address of parents of learner)

Date: _____

DECISION OF THE GOVERNING BODY ON THE ALLEGATIONS MADE AGAINST YOUR SON/DAUGHTER : _____

ID NUMBER : _____

Dear Mr and Mrs _____,

I am pleased to inform you that your SON / DAUGHTER, _____
has been found not guilty of the allegations made against HIM / HER, i.e. that HE / SHE

I assure you of our full support in making the rest of your SON'S / DAUGHTER'S stay at school enjoyable and constructive.

Yours faithfully

(Signature)

Chairperson : Governing body

Please return this slip to the school.

Receipt of the notification dated _____ informing us of the decision of the Governing Body on the allegations made against my son/daughter is hereby acknowledged.

Signature of parent/guardian

ACTIVITIES

A. The code of conduct

Choose the most correct answer.

1. Adopting a code of conduct for learners is
 - a) a compulsory function for all public schools.
 - b) an allocated function.
 - c) a function of section 21 schools.
2. The KZNDEC requires that the governing body of a secondary school adopts the code of conduct only after consultation with the
 - a) parents and SMT.
 - b) RCL, the staff and the parents.
 - c) parents, the RCL and the SMT.
3. The code of conduct must include
 - a) specific punishments for all offences.
 - b) provision for punishment of learners who disobey it.
 - c) procedures to be followed by staff disciplining learners.
4. The code of conduct for learners must be publicised by
 - a) reading it out at assembly.
 - b) posting it out on the notice board.
 - c) giving it to each learner in writing.
5. To 'adopt' a code of conduct means to
 - a) take over a code from another source.
 - b) accept a code and make it part of school policy.
 - c) adapt a code and incorporate it.
6. Corporal punishment can be incorporated in a code of conduct
 - a) as long as it is administered by the principal only.
 - b) if the local custom favours it.
 - c) under no circumstances.
7. A code of conduct for learners should be seen as
 - a) dynamic so that changes can be made periodically.
 - b) fixed and stable; not easily changed.
 - c) guidelines which can be overlooked if necessary.

8. Codes of conduct

- a) carry the force of law.
- b) can be over-ruled by parents.
- c) can only be applied on the school premises.

9. The school management team ensures that the code of conduct is

- a) drawn up.
- b) adopted by the governing body.
- c) administered.

10. In the event of a breakdown in school discipline a governing body

- a) is obliged to step in to solve the problem.
- b) must co-operate with the school management to sort it out.
- c) may decide to review the code of conduct for learners.

B. Guidelines

Choose the best answer to fill in the blanks

1) A code of conduct must not be _____
(punitive, purposeful, positive.)

2) Codes of conduct are directed specifically at _____
(all school personnel, educators and learners, learners.)

3) SASA _____ a governing body to maintain discipline.
(empowers, encourages, requests)

4) Learners should be given a copy of the code of conduct _____
(when they enrol at the school, when they commit an offence, when they request it.)

5) A learner is exempted from complying with the code of conduct _____
(if he/she objects for religious reasons, if his/her parent objects to it, at no time.)

6) Whilst a learner is at the school the rights of an educator at the school to discipline that learner are the same as those of the _____
(parent, principal, chairperson.)

7) Protected speech does not include _____
(religious utterances, vulgar language, critical comment.)

(punish learners for minor offences, require offenders to appear before them, promote proper conduct.)

9) Educators_____where necessary to prevent a learner from harming him/herself or others.
(must call on the authorities, may use reasonable measures, may not use physical means.)

10. Educators should _____
(refer all disciplinary issues to the principal, resolve minor disciplinary issues themselves, refer all disciplinary issues to the SMT.)

C. True / False questions on the Code of Conduct

	True	False
1. The primary purpose of the Code of Conduct for Learners is to maintain discipline at the school.		
2. An accused learner has the right to be represented by a person of his/her choice at a hearing of the disciplinary tribunal.		
3. A tribunal comprises two people appointed by the governing body.		
4. The Code of Conduct must define what is meant by 'misconduct'.		
5. An accused learner and / or his / her parents have the right to question witnesses at a hearing of the tribunal.		
6. In the event of the tribunal deciding on expulsion the learner / his-her parents have the right of appeal should the HoD support the recommendation of the tribunal.		
7. Only the HoD can expel a learner from a school.		
8. The Code of Conduct provided by the Education Department must be made relevant to the situation at the school by the governing body of the school.		
9. The decision of the HoD to expel a learner from a school is final.		

10. Discrimination is permitted in applying disciplinary procedures.
11. The Code of Conduct for Learners at a school must be adopted by the governing body in consultation with the main role-players: parents, educators and learners.
12. Audi alteram partem means that both sides to a dispute should be given an opportunity to present their case.
13. A tribunal must give the accused learner and / or his / her parents 5 days' notice of the time, date and venue of the hearing before which he-she / they are to appear.
14. The composition of the tribunal is determined by the principal.
15. Parents may attend a sitting of the tribunal only if invited to do so.
16. The secretary to the tribunal must record only the decisions made.
17. The tribunal does not make the final decision on the form of the disciplinary measures to be taken against the learner.
18. A warning to an accused learner found guilty may take the form of a verbal reprimand from the governing body.
19. A learner found guilty of any offence whatsoever may register an appeal with the HoD.
20. A governing body has no right of appeal if the Secretary does not support its recommendation.
21. The suspension of a learner may not exceed one week under any circumstances.
22. A learner has the right to equal treatment by the tribunal even in the event of a dispute with the school authorities.
23. Misconduct may be defined as an act or omission that is punishable because it is contrary to a law, regulation, rule or code of conduct.
24. Corporal punishment is allowed only in extreme cases.

True

False

25. If a learner falls pregnant disciplinary steps may be taken against her and the male concerned.
26. In conducting an investigation prior to a tribunal the principal of the school may search the private property of a suspect.
27. Suspension may be defined as the permanent removal of a learner from a school.
28. A learner may be an adult.
29. A tribunal is in effect a sub-committee of the school's governing body.
30. The code of conduct of a school has the force of law as a mechanism for maintaining discipline in a school.
31. The investigation which precedes a tribunal is conducted by a person or persons appointed by the governing body.
32. The decision as to whether or not to proceed with an expulsion is final.

True	False

D. Case Study No. 1

The governing body of the school adopts a Code of Conduct for learners after consulting the parents, the learners and the educators. In the Code of Conduct it states that any learner who, without justifiable reason, absents him or herself from school attendance for a total of three days, consecutively or separately, may be suspended from school attendance for a week after a fair hearing conducted by the tribunal of the school.

A learner, whose parents have recently divorced, stays away from school. The reason he proffers for this absence is that he had made an attempt to persuade his parents to come together again. However, after due investigation and questioning of witnesses, it transpires that he had in fact accompanied his father on a fishing trip to recover from the divorce.

As chairperson of the tribunal what would your response be to the following questions you would have to answer prior to making a decision:

- (i) Was the learner's action acceptable under the circumstances?
- (ii) Would you condone the lie he had proffered to cover up for his actions?
- (iii) Would you rather attribute blame to the father for taking his son with him on the fishing trip, and, by implication absolve the learner from blame?
- (iv) Should you find that the learner is not entirely blameworthy, what action would you take against him?

E. Case Study No. 2

In the Code of Conduct for learners of the school the following is stated: " A learner found guilty after a fair hearing of insubordination towards an educator of the school will be suspended from attending the school for a week. Should the offence be repeated the school authorities will recommend to the Head of Department that the learner be expelled from the school."

A learner is found guilty at a fair hearing of the school's tribunal and is suspended for a week.

Two months after his return an educator who teaches him refers to him as "the boy with a criminal record". He loses his temper and attacks the educator verbally, insulting and denigrating the educator.



The educator reports the matter to you as principal and you in turn report to the governing body. A meeting of the school's tribunal is called.

At the hearing the learner pleads that his action was the result of extreme provocation since he had lived with the threat of expulsion since his previous offence.

What steps would you take against the educator who admits that he/she had denigrated the learner in front of his fellow-learners?

How would the fact that the learner acted under extreme provocation affect your decision?

Should the tribunal decide against recommending expulsion, what course of action would you take against the learner?

Activity Answers

Answers to A

- | | |
|------|-------|
| 1) a | 6) c |
| 2) b | 7) a |
| 3) b | 8) a |
| 4) c | 9) c |
| 5) b | 10) c |

Answers to B

- 1) punitive
- 2) learners
- 3) empowers
- 4) when they enrol at a school
- 5) at no time
- 6) parent
- 7) vulgar language
- 8) promote proper conduct
- 9) may use reasonable measures
- 10) resolve minor disciplinary issues themselves

Answers to C. (True / False Questions)

- | | |
|----------|--|
| 1. True | Notes: Act 84, 1996, Section 8(2) |
| 2. True | Notes: Common law |
| 3. True. | Notes: KZN Notice 285/1997 Regulation 5(1) |
| 4. True | Notes: Act 84, 1996, Section 9 (3)(a) |
| 5. True | Notes: Common law |
| 6. True | Notes: Act 84, 1996, Section 9(4) |
| 7. True | Notes: Act 84, 1996, Section 9(2)(a) |
| 8. True | Notes: Act 84, 1996, Section 8(1) |
| 9. False | Notes: Act 84, 1996, Section 9(4) |

10. True Notes: Unfair discrimination is not permitted, Constitution, Act 108, 1996, Section 9
11. False Notes: Act 84, 1996, Section 8(1) note 'after' consultation
12. False Notes: Both sides to be given an equal opportunity
13. True Notes: Regulations 5(2)(a)
14. False Notes: By the Governing Body - Regulation 5(1)
15. False Notes: It is their right as guardians of their children
16. False Notes: Regulations 5(5): verbatim record.
17. True Notes: Governing Body makes the decision - could be a recommendation to the Secretary
18. False Notes: Must be in writing for record purposes
19. True Notes: Common law right Act 84, 1996, Section 3(c)
20. False Notes: Common law Regulations 6(3)
21. False Notes: Act 84, 1996, Section 9(i)(b)
22. True Notes: Constitution, section 9 - equal before the law and protected by the law
23. True Notes: Refer to Procedure on Discipline and Regulation
24. False Notes: Constitution, Act, 108, 1996, Act 84, 1996, Section 10
25. False Notes: Constitution, Act 108, 1996, Section 9(3)
26. True Notes: Constitution, Act 108, 1996, Section 24(a) - encouraging a healthy environment and protecting well-being of others at the school
27. False Notes: KZN Notice 285/1997, No. 3
28. True Notes: SASA Definitions No.(ix)
29. False Notes: A tribunal is, in effect, a committee (see Guidelines) but not a subcommittee of the SGB. Such committees have to have chairpersons who are members of the SGB.
30. True Notes: SASA Section 8(1) and (4), and Section 20(1)(d)
31. True Notes: Guidelines
32. False Notes: Appeals from all parties are permissible.

