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one INTRODUCTION

At the start of every school year, thousands of learners all over South Africa are refused admission to schools. School principals, school governing bodies and even individual teachers give many different reasons for denying admission to learners. In most cases, the schools or school governing bodies are acting unlawfully. This booklet will provide you with information to challenge unlawful exclusions.

The booklet will also outline the steps that communities with the assistance of the Education Rights Project (ERP) have taken to ensure that all learners are admitted to school.

The laws governing admission of learners to any public school are:

- the South African Schools Act (1996) – (SASA)
- the Admission Policy for Ordinary Public Schools (1998)

Section 5 of the South African Schools Act sets out the reasons why schools cannot refuse admission to learners.

The Admission Policy for Ordinary Public Schools states that all eligible learners of compulsory school-going age must be suitably accommodated in schools. No-one who applies for admission to a school can be unfairly discriminated against. In terms of the law, ex-Model C schools are public schools and the same rules apply.

Your constitutional right to education can be enforced in different ways: by knowing your education rights and enforcing them at schools; by appealing to the department of education to enforce your education rights; by appealing to courts to compel schools and/or the department of education to observe your rights; or by mobilising the community around these rights.

Section 29. (1) of the Constitution (Act 108 of 1996) says:

Everyone has the right...

a. to a basic education, including adult basic education; and

b. to further education, which the state, through reasonable measures, must make progressively available and accessible.

Section 10 of the Constitution provides everyone with inherent dignity and the right to have their dignity respected and protected.

This booklet will tell you which part of the law to use in different situations where learners have been refused admission.

It is important to remember that if children are going to school for the first time, going from primary to secondary school or moving to a new school then they must formally register in the school.

REQUIREMENTS FOR ADMISSION TO SCHOOL

What is the age of admission?

The admission age of a learner to Grade 1 is age five turning six by 30 June in the year of admission. The admission age of a learner to Grade R (Reception Year) is age four turning five by 30 June in the year of admission.

Any parent who wishes to make an application for admitting a learner below this age or an underage learner must make an application to the principal of the school. Such an application must be accompanied by a school readiness report. A school readiness report could be a report from a psychologist or similar professional person, or an acceptable progress report from a qualified educator.

Should the principal decide that it would not be in the child's best educational interest to be admitted to Grade R or Grade 1 as an underage learner, then the parent must be furnished with reasons for this decision in writing and given the opportunity to appeal to the *Member of the Executive Committee* (*MEC*). (Contact details and word list at the end of this booklet).

What documents should learners produce in order to be admitted?

The Admission Policy for Ordinary Schools says that the only documents that parents need to show the school when they apply for a learner to be admitted are:

- The learner's **birth certificate**. If the parent is unable to supply a birth certificate, the school must conditionally accept the learner until a copy of the birth certificate is obtained from the Department of Home Affairs.
- **Proof of *immunisation***. If a learner has not been immunised, the principal must admit the learner and advise her or him how to get immunised.
- If the learner is transferring from another school, she or he must produce a transfer card, or a **report card** or any document from the previous school with an *affidavit* stating why the learner does not have a transfer card.

Does a learner have to bring any document proving that he or she will be able to pay fees?

No. Some schools have been asking learners to bring a copy of their household's water and electricity accounts. These learners have been told that the schools cannot afford to admit learners whose parents were not good at paying bills. This is illegal.

Section 5 (3) of SASA says: No learner may be refused admission to a public school on the grounds that his/her parent/care-giver is unable to pay, or has not paid, school fees that have been lawfully determined.

Section 10 of SASA says: No learner may be refused admission to a public school on the grounds that his/her parents/caregiver is unable to pay, or has not paid, school fees.

Can the school ask the learner to take a test as a condition for admission?

NO. Section 5 (2) of SASA says that testing as a condition for admission is illegal. Schools are not allowed to administer or ask learners to undergo HIV tests before being admitted. Schools are not allowed to administer drug tests or language tests as a condition for admission. Testing may be a form of discrimination, which is unlawful.

Section 5 of SASA says: The governing body of a public school may not administer any test related to the admission of a learner to a public school, or direct or authorise the principal of the school or any other person to administer such test.

Section 5 (1) of SASA says: A public school must admit learners and serve their educational requirements without unfairly discriminating in any way.

Section 2 (2) of SASA says: The testing of learners for HIV as a prerequisite for admission or continued attendance is prohibited.

Can a learner go alone to the school to be admitted?

Yes. Many learners are orphans. Others live with elderly caregivers, like grandparents, who are too old to accompany them to school. Many schools have in the past chased away unaccompanied learners. But this is unlawful. Schools must conditionally admit learners who do not have all the necessary documents.

Articles 15 and 16 in the Admission Policy for Ordinary Schools apply here.

To which schools can learners go? School Feeder Zones.

The Department of Education in consultation with school governing bodies establishes feeder zones. Feeder zones are areas that schools should prioritise when admitting learners. This means learners who live in the feeder areas or whose parents work and / or live close to where the school is located must be prioritised in admissions. It is important to note that school feeder zone areas do not have to be geographically adjacent to each other or to the school. This does not mean that learners from outside a feeder zone are prevented from applying for admission at any school of their choice, but it does mean that such learners may be placed on a waiting list.

Sections 34 (d) (I-iii) of the Admissions Policy for Ordinary Public Schools says:

...the preference order of admission to schools is

(i) learners whose parents live in the feeder zone, in their own domicile (residential area) or their employer's domicile;

(ii) learner's whose parents work address is in the feeder area; or

(iii) other learners: first come first served.

three Problems Around Admission

Can a school refuse to admit a learner because he or she is late in registering?

NO. Early registration is advisable but not legally binding. The registration process exists to enable schools to plan properly and to avoid chaos at the beginning of the new school year. Registration should not be used to exclude learners from school. It is advisable that children are registered between August the 1st and September the 30th in the year before their entry into a new school.

Section 5 of the Admission Policy for Ordinary Schools says: The Head of Department must determine a process of registration for admission to public schools in order to enable the admission of learners to take place in a timely and an efficient manner. The Head of Department and the school governing bodies should encourage parents to apply for the admission of their children before the end of the preceding school year.

Can a learner be refused admission for not affording a uniform or school books?

No. The ability to pay for school uniforms and books is not a condition for admission to a school.

Can a school refuse to admit a learner to the next year because he or she has not paid school fees from the year before?

NO. Learners cannot be punished in any way for not having paid fees – this applies whether they are learners who would have qualified for exemption from paying fees if they had applied, and those who did not qualify for exemption, but still have not paid fees. SASA says it is unlawful to humiliate learners and exclude them from school at any point for unpaid fees.

Must the learner pay school fees or registration fees before being admitted?

Schools are not allowed to refuse to register learners who cannot pay a registration fee. If teachers talk about fees during the

registration, parents who cannot afford to pay fees are advised to tell the school that they want to apply for exemption from the fees.

Can a learner be refused admission because he or she is not a South African citizen?

NO. The Department of Education has issued an additional policy on education for foreign learners. This says that no foreign learner should be denied admission to a school due to insufficient documents. Learners whose parents do not have a residence permit must be conditionally admitted to school. (See ERP booklet on Refugees, Asylum Seekers and Migrants).

Section 21 of the Admissions Policy for Ordinary Public Schools says: Persons classified as legal aliens must, when they apply for admission for their children or for themselves, show evidence that they have applied to the Department of Home Affairs to legalise their stay in South Africa.

(This includes non-South Africans who have applied for temporary residence but have not yet received the permit.)

Section 27 (g) of the Refugee Act 1998 says: Refugees as well as refugee children are entitled to the same basic health service and basic primary education, which inhabitants of the Republic receive from time to time.

Can a learner be refused admission on grounds of language?

NO. Language cannot be used as a reason to refuse admission to learners. The language policy must reflect the language or languages spoken by the learners and the school must show how it is promoting multilingualism.

In Limpopo province in January 2004 many black pupils were refused admission at four formerly Afrikaans only schools on grounds that they were not Afrikaans speakers. The learners were admitted following intervention by the Education Department. At a school in Delft, in the Western Cape, a schoolteacher reported that isiXhosa and English speaking learners, who moved to Delft from the Eastern Cape, were refused admission on the grounds that they cannot speak Afrikaans. (See ERP booklet on language policy).

Section 2 (6) (3) of SASA Admission Policy for Ordinary Public Schools, says:	No form of racial discrimination may be practiced in implementing language policy determined under this section.
Section C (1) of SASA, Norms and Standards Regarding Language Policy, says:	(…) in determining the language policy of the school, the governing body must stipulate how the school will promote multilingualism through using more than one language of learning and teaching, and/or by offering additional languages as fully-fledged subjects, and/ or applying special immersion or language maintenance programmes (...)

Can a disabled learner be refused admission?

NO. The law says that 'learners with special education needs' must in most cases have the chance to attend ordinary public schools. The school has to follow a process where the *Head of Department* (*HOD*) first consults parents and other educators to see if the learner can be admitted. This might include adapting some of the school's facilities.

If the school feels that they do not have the capacity to admit the learner then the law says the HOD must have the learner admitted at another suitable school in the province. Learners with special needs cannot simply be refused admission. (See ERP booklet on disability)

> These learners are governed by Sections 22-25 of the Admissions Policy for Ordinary Public Schools.

Can a school say that it is too crowded to accept more learners?

NO. Schools in most poor communities are genuinely overcrowded. But even then, a school cannot refuse admission to a learner from its feeder zone. It is the responsibility of the school and the HOD to ensure that all learners have places.

Learners at a secondary school near Cape Town held a mass protest and took an education department official and the governing body hostage for four hours when schools re-opened in January 2004. They took this action because some learners were refused admission after the school said it was over crowded.

About 159 pupils had been crammed into one classroom, with up to three teachers teaching different subjects at the same time. More than 650 pupils were being taught in 10 classrooms.

COMMUNITY ACTION ISSUE

This is one area where the community needs to take action. In many crowded schools, platooning has been introduced (where learners are split into two groups – morning and afternoon shifts). This is a bad solution because learners and educators are tired in the afternoon so that it is difficult to learn and teach. Furthermore, learners who attend afternoon classes do not get as many hours of education per day as they would in a normal school day.

The community needs to ensure that schools and the government do proper planning and provide schools with enough resources for learners to get a quality education. Schools must inform the department of education about overcrowding and work with the community to mobilise against overcrowding. The Department of Education must be persuaded to:

- Build new classrooms and schools in communities
- Provide free transport for learners to attend other schools that are not filled to capacity
- Provide mobile or temporary classrooms as an emergency measure
- Provide more educators at schools where the learner:educator ratio is too huge for learners to receive a meaningful quality education

The community could start its own school. For example, the Mandela Park community of Khayelitsha, Cape Town, occupied a local community centre after 2000 learners were refused admission at the existing secondary schools. They called the school 'Peoples Power Secondary School' and staffed it with retrenched educators from the community. They pressured the government to register the school and allocate it a subsidy, books, and salaries for the teachers. After six months the school closed down when the government promised to build a new school in the community and to admit Peoples' Power Secondary learners at other local schools.

Is it lawful for schools to refuse admission on racial or 'cultural' grounds?

NO. It is illegal to discriminate. In January 2004, four formerly Afrikaans schools in Limpopo tried to keep out black learners by limiting their intake of Grade 8 pupils to 35. After an investigation, it was found that the school was using this excuse to practice racism and to only admit white learners. The school was ordered by the Department of Education to admit about 100 Grade 8's.

Chapter 2 of SASA says: No school may refuse to admit pupils on the grounds of religion or ethnicity.

Section 5 (1) of SASA says: A public school must admit learners and serve their educational requirements without unfairly discriminating in any way.

In this case, the Department of Education said that schools must admit as many pupils as they can accommodate and then afterwards apply to the department for extra teachers. Primary schools must admit all pupils from the area, regardless of 'race'. High schools must admit all pupils from local primary schools. This also applies to the admission of domestic workers' children to formerly white schools.

Communities or parents should contact the Department of Education immediately when learners are discriminated against. Some former model C schools have been found to inflate school fees in order to keep away black learners. Others have allegedly bussed in white learners from outside the feeder zones while denying admission to local black learners. The Department of Education must investigate your complaints about these cases and force the schools to comply with the law.

Can a learner be refused admission to a school because of his or her religion?

NO. In 2003, a school in Brakpan refused admission in the last term of school to three Catholic brothers who had been learners at the school since 1999. The Department of Education investigated a complaint from the South African Human Rights Commission and confirmed that the schools discriminated on the basis 'of religion and ethnicity'. The school was ordered to re-admit the learners. (See ERP booklet on religion policy).

Chapter 2 of SASA says: No school may refuse to admit pupils on the grounds of religion or ethnicity.

Section 5 (1) of SASA says: A public school must admit learners and serve their educational requirements without unfairly discriminating in any way.

Can a learner be refused admission because he or she is HIV positive?

NO. Refusing to admit HIV positive learners is a violation of the learner's constitutional right to equality — to be treated in the same way as other learners — and to human dignity — not to be stigmatised because of their HIV status. (See ERP booklet on HIV/AIDS)

Section 2 of SASA says: No learner will be denied admission or continued attendance at school on account of his or her HIV status or perceived HIV status.

Section 4.1 of the National Policy on HIV/AIDS for learners and educators in public schools and students and educators in further education and training institutions says: No learner or student may be denied admission to or continued attendance on account of his or her HIV/AIDS status or perceived HIV/AIDS status.

Section 5.1 says: Learners with HIV have the right to attend any school or institution. The needs of learners and students with HIV/AIDS with regard to their right to basic education should as far as is reasonably practicable be accommodated in the school or institution.

Can a learner be refused admission because she is pregnant?

NO. Pregnant schoolgirls may not be turned away from school or expelled. Pregnant learners must be considered as learners who need special support from the school and the community. The principal can hold a meeting with the learner and her parents in order to find the best way of helping the learner. School management is obliged to supply pregnant learners with health information.

Nomsisi, 18, was expelled from a high school in Mowbray, Cape Town, in March 2004. She was eight months pregnant. The school said she fell asleep in class, was moody and was a bad influence. The school allegedly refused to allow her back after she had given birth and tried instead to transfer her to an ABET centre to complete Grade 12. This was unlawful.

SASA requires ...every School Governing Bodies to adopt a code of conduct. The primary aim of such a code of conduct is to help all learners to enjoy their right to education. A code of conduct cannot be used to exclude pregnant learners.

SASA Chapter 2 Section 5 says: A school must admit learners and serve their educational requirements without unfairly discriminating in any way.

Can learners be refused admission on the grounds that they are "too old"?

YES. Learners over the age of 18 are finding it difficult to gain admission into ordinary public schools. Many of the learners are often told to go to Public Adult Learning Centres.

SASA, Age Requirements for Admission to an Ordinary Public School, Section 3: ...prescribes age-grade norms. This means SASA says at what age learners can start schooling and at what age they are expected to have completed schooling:

The statistical age norm per grade is the grade number plus 6.

Example:
grade 1 + 6 = age 7
grade 9 + 6 = age 15
grade 12 + 6 = age 18

COMMUNITY ACTION ISSUE

Teenage learners in many communities are being denied the right to complete their education because they are over 15 years of age. This practice is unfortunately not against the law but it is against the spirit of the constitution. The fact is that in many communities there are no Public Adult Learning Centres and where these exist they are often beset with many problems. Communities need to mobilise for each and every learner to be admitted to school until he or she completes Matric, regardless of age.

4 Problems After Admission to a School

Can a school admit a learner but refuse to promote him or her to the next grade because of unpaid fees?

NO. 16 year old Nonceba from Limpopo province who was forced to repeat a year for unpaid school fees had this to say about her experience: "Problems that I have at home are that my parents are not working and they have HIV together with my baby sister. I have not paid school fees that year, last year and this year. When I was supposed to go to grade 3 they made me repeat grade 2 because I had not found school fees. When they want school fees I go home. They send me home," she said. (Alliance for Children's Entitlement to Social Security, Fieldworkers Manual, Chapter 2). This was unlawful.

Can a learner be admitted to school but refused admission to certain facilities, classes or activities of the school?

NO. This is unfair discrimination. The Department of Education has said that unfair discrimination includes treating learners whose parents have not paid school fees less favourably to those whose parents have paid.

Section 5 (1) of SASA says: A school must serve its learners' educational interests without unfairly discriminating in any way.

Exclusion from certain school activities or being made to sit on the floor instead of at a desk is illegal.

Section 10 of the Admissions Policy for Ordinary Schools says: A learner is admitted to the total school programme and may not be suspended from classes, denied access to cultural, sporting or social activities of the school, denied a school report or transfer certificates, or otherwise victimised on the grounds that his/her parent/care-giver is unable to pay, or has not paid, the required fees.

Is it lawful for a learner to remain on the waiting list after the school year has started?

NO. This normally happens when schools decide to register a certain number of learners in the previous year. After they have

registered a certain number of learners, they unlawfully decide to ignore the rest of the admissions process, which includes ensuring that all learners in a feeder area are admitted to schools.

A learner can choose to be on a waiting list for the closest school available to them, but before the beginning of the new school year, the school and the Department of Education must have solved the problem of where all learners should be schooled. Schools must inform you in writing that you are on a waiting list. In one instance the ERP found that a Grade 8 learner stayed on the waiting list of a school in Eldorado Park for one whole year without going to school. This was unlawful.

Sections 33 – 36 of the Admissions Policy for Ordinary Public Schools governs this aspect of admissions.

five WHAT TO DO WHEN SCHOOLS BREAK THE LAW

STEP 1 The learner who has been refused admission to a school must request reasons for the refusal. Keep copies of correspondence between yourself and the school.

STEPS 2 and 3 should be done at the same time.

STEP 2 The learner's caregiver or a supportive community group should write a letter to the school principal pointing out which parts of the law the school has broken and formally appeal the decision. Send a copy of this letter to the Head of the Department in your province and/ or MEC for Education.

STEP 3 Contact the Education Rights Project or nearest social movement and ask them to intervene immediately.

STEP 4 If the school still refuses to admit the learner, or if they don't reply to the letter, the learner should write to the HOD in the province and/ or MEC for Education.

STEP 5 If you do not get help from the Head of Department or the MEC for Education contact the ERP, a public interest law organisation or a lawyer. (A list of useful contacts is listed at the end of the booklet).

Model Letter for STEP 2

DATE
Attention: The Principal
Name of School

Copy to: MEC for Education

Dear Sir or Madam

Re: Learners' name

We have been approached by (NAME OF LEARNER), a learner who was refused admission to your school on (DATE).

The reason you gave for refusing (NAME OF LEARNER) admission was (STATE THE REASON HERE)

(NAME OF ORGANISATION or CAREGIVER) hereby advise you that it is unlawful for the school to refuse admission to (NAME OF LEARNER).

In terms of the South African Schools Act of 1996 and the Admissions Policy for Ordinary Public Schools, 1998 no learner can be refused admission to a school for the reasons you have given. I enclose a copy of the law and the policy for your reference.

I request that you contact (NAME OF LEARNER) within 24 hours and make arrangements to register her in time for her to begin the school year with the rest of the learners. A copy of this letter has been sent to the MEC of Education in this province.

Please feel free to contact me to discuss this appeal further.

Yours faithfully,

(NAME)

6 LAWS YOU NEED TO KNOW

A) South African Schools Act, 1996

Chapter 2 : Learners Section 5. Admission to public schools

1) A public school must admit learners and serve their educational requirements without unfairly discriminating in any way.

2) The governing body of a public school may not administer any test related to the admission of a learner to a public school, or direct or authorise the of the school or any other person to administer such test.

3) No learner may be refused admission to a public school on the grounds that his or her –

   a) is unable to pay or has not paid the school fees determined by the governing body under section 39;

   b) does not subscribe to the mission statement of the school; or

   c) has refused to enter into a contract in terms of which the parent waives any claim for damages arising out of the education of the learner.

4) ...a) The admission age of a learner to a public school to –

   i) grade R is age four turning five by 30 June in the year of admission;

   ii) grade 1 is age five turning six by 30 June in the year of admission.

   b) Subject to the availability of suitable school places and other educational resources, the Head of Department may admit a learner who –

      i) is under the age contemplated in paragraph (a) if good cause is shown; and

      ii) complies with the criteria contemplated in paragraph (c).

   c) The Minister may, by regulation, prescribe –

      i) criteria for the admission to a public school, at an age lower than the admission age, of an underage learner who complies with the criteria;

ii) age requirements for different grades at a public school.

d) For the purpose of paragraph (b)(i), good cause shown means that –

i) it can be shown that exceptional circumstances exist which necessitate the admission of an underage learner because admission would be in his or her best interest; and

ii) the refusal to admit that learner would be severely detrimental to his or her development.

5) Subject to this Act and any applicable provincial law, the admission policy of a public school is determined by the governing body of such school.

6) In determining the placement of a learner with special education needs, the Head of Department and principal must take into account the facts and wishes of the parents of such learner.

7) An application for the admission of a learner to a public school must be made to the education department in a manner determined by the Head of Department.

8) If an application in terms of subsection (7) is refused, the Head of Department must inform the parent in writing of such refusal and the reason therefor.

9) Any learner or parent of a learner who has been refused admission to a public school may appeal against the decision to the .

Language policy of Public Schools

1) Subject to the Constitution and this Act, the Minister may, by notice in the Government Gazette, after consultation with the Council of Education Ministers, determine norms and standards for language policy in public schools.

2) The governing body of a public school may determine the language policy of the school subject to the Constitution, this Act and any applicable provincial law.

3) No form of racial discrimination may be practiced in implementing policy determined under this section.

4) A recognised Sign Language has the status of an official language for purposes of learning at a public school.

B) Government Gazette, Vol.400, No.19377, 19 October 1998

GENERAL NOTICES

NOTICE 2432 OF 1998

DEPARTMENT OF EDUCATION

NATIONAL EDUCATION POLICY ACT, 1996 (ACT NO. 27 OF 1996)

ADMISSION POLICY FOR ORDINARY PUBLIC SCHOOLS

The Minister of Education, after consultation with each Member of the Council of Education Ministers, hereby give notice in terms of section 3(4)(i) of the National Education Policy Act, 1996 (No. 27 of 1996) of the admission policy for learners to ordinary public schools, as set out in the Schedule.

MINISTER OF EDUCATION
OCTOBER 1998

SCHEDULE

ADMISSION POLICY FOR ORDINARY PUBLIC SCHOOLS

Interpretation

1. In this policy any expression to which a meaning has been assigned in the National Education Policy Act, 1996 (Act No. 27 of 1996) and the South African Schools Act, 1996 (Act No. 84 of 1996), has that meaning.

Scope

2. This policy, read with the age requirement for admission to ordinary public schools, published in the same government notice, applies uniformly in all provincial departments of education and ordinary public schools.

3. The admission policy of an ordinary public school must be consistent with this policy.

Purpose

4. The purpose of this policy is to provide a framework to all provincial departments of education and governing bodies of public schools for developing the admission policy of me school.

Administration of admissions

5. The Head of Department must determine a process of registration for admission to public schools in order to enable the admission of learners to take place in a timely and an efficient manner. The Head of Department and the school governing bodies should encourage parents to apply for the admission of their children before the end of the preceding school year.

6. The Head of Department is responsible for the administration of the admission of learners to a public school. The Head of Department may delegate the responsibility for the admission of learners to a school to officials of the Department.

7. The admission policy of a public school is determined by the governing body of the school in terms of section 5(5) of the South African Schools Act, 1996 (No. 84 of 1996). The policy must be consistent with the Constitution of the Republic of South Africa, 1996 (No. 108 of 1996), the South African Schools Act, 1996 and applicable provincial law. The governing body of a public school must make a copy of the school's admission policy available to the Head of Department.

8. The Head of Department must co-ordinate the provision of schools and the administration of admissions of learners to ordinary public schools with governing bodies to ensure that all eligible learners are suitably accommodated in terms of the South African Schools Act, 1996. Subject to this policy, it is particularly important that all eligible learners of compulsory school going age are accommodated in public schools.

9. The admission policy of a public school and the administration of admissions by an education department must not unfairly discriminate in any way against an applicant for admission.

10. A learner is admitted to the total school programme and may not be suspended from classes, denied access to cultural, sporting or social activities of the school, denied a school report or transfer certificates, or otherwise victimised on the grounds that his or her parent -
    a. is unable to pay or has not paid the required school fees;
    b. does not subscribe to the mission statement and code of conduct of the school; or

c. has refused to enter into a contract in terms of which the parent waives any claim for damages arising out of the education of the learner.

11. The governing body of a public school may not administer any test relating to the admission of a learner to a public school, or direct or authorise the principal of the school or any person to administer such a test. Where placement in a specific course or programme, e.g. technical field of study, dance or music, is required and where it would be in the educational interest of a learner, he or she may be requested by the Head of Department to undertake a suitable test to assist a placement decision.

12. The name of a learner must be removed from a school's admission register when the learner

a. leaves the school after grade 12 or after completing the compulsory school attendance period, or is granted exemption from compulsory attendance according to section (4) of the South African Schools Act;

b. applies for a transfer to another school and the transfer is effected;

c. is expelled from school; or

d. dies.

13. If a learner of compulsory school going age fails to attend school, the Head of Department may act in terms of section 3(5) and (6) of the South African Schools Act, 1996.

Documents required for admission of a learner

14. A parent must complete an application form for admission, which should be made available to him or her by the principal of the school together with the admission policy and the code of conduct for learners of the school. The principal must ensure that parents are given whatever assistance they may require to complete the form.

15. When a parent applies for admission of a learner to an ordinary public school, the parent must present an official birth certificate of the learner to the principal of the public school. If the parent is unable to submit the birth certificate, the learner

may be admitted conditionally until a copy of the birth certificate is obtained from the regional office of the Department of Home Affairs. The principal must advise parents that it is an offence to make a false statement about the age of a child. (See Births and Deaths Registration Act, 1992 (No. 51 of 1992).) The parent must ensure that the admission of the learner is finalised within three months of conditional admission.

16. On application for admission, a parent must show proof that the learner has been immunised against the following communicable diseases: polio, measles, tuberculosis, diphtheria, tetanus and hepatitis B. If a parent is unable to show proof of immunisation, the principal must advise the parent on having the learner immunised as part of. the free primary health care programme.

17. When a learner transfers from one public school to another, the principal must complete a transfer card and hand it to the parent, or forward it to the principal of the receiving school. The learner's transfer card must be attached to the application form for admission to the receiving school.

18. If the transfer card is not available the principal of the receiving school may admit the learner and place the learner in a grade on the basis of the following documentation:
    a. the last report card issued by the previous school;
    b. other equivalent documentation from the previous school; or
    c. a written affidavit of the parent stating the reason for not having the transfer card and the grade the learner attended at the previous school.

Admission of non-citizens

19. The South African Schools Act, 1996 and this policy apply equally to learners who are not citizens of the Republic of South Africa and whose parents are in possession of a permit for temporary or permanent residence issued by the Department of Home Affairs.

20. A learner who entered the country on a study permit must present the study permit on admission to the public school.

21. Persons classified as illegal aliens must, when they apply for admission for their children or for themselves, show evidence that they have applied to the Department of Home Affairs to legalise their stay in the country in terms of the Aliens Control Act, 1991 (No. 96 of 1991).

Learners with special education needs

22. The rights and wishes of learners with special education needs, must be taken into account at the admission of the learners to an ordinary public school. The South African Schools Act, 1996 requires ordinary public schools to admit learners with special education needs, where this is reasonably practical. Schools are encouraged to make the necessary arrangements, as far as practically possible, to make their facilities accessible to such learners.

23. Where the necessary support which would facilitate the integration of a learner in a particular educational context, cannot be provided, the principal of the school must refer the application for admission to the Head of Department to have the reamer admitted to a suitable public school in that province or to a school in another province.

24. Before the Head of Department refers a learner as contemplated in paragraph 23, the Head of Department must arrange for consultation with parents, educators and other support personnel concerned. These consultations must form part of the assessment of the learner before the learner is referred to another public school. This process should be handled as a matter of urgency to facilitate the admission of a learner as soon as possible to ensure that the reamer is not prejudiced in receiving appropriate education.

25. Assessment and consultation relating to a change of placement must be carried out by a team based at the school in consultation with parents, educators and other relevant support personnel. The Head of Department of the province concerned must approve the placement.

Age requirements for the admission of a learner to an ordinary public school or different grades of a school

26. Learners are to be admitted to public schools and placed in

different grades in the school according to the age requirements published in the same notice.

27. If a learner has been admitted to a public school at an age above the age norm for a grade, such learner must, as far as possible, be placed in a fast track facility, or with his or her peer group, unless it is not in the educational interest of the learner. In the latter case the learner must be placed in a suitable lower grade, and an accelerated programme must be worked out for the learner to enable him or her to catch up with the peer group as soon as possible.

28. The age-grade norm does not apply to a learner who is already enrolled at a public school on 1 January 2000, except that paragraph 27 may apply if it is deemed to be in the best interests of the learner.

29. A learner who is 16 years of age or older and who has never attended school and who is seeking admission for the first time or did not make sufficient progress with his or her peer group, must be advised to enroll at an Adult Basic Education and Training (ABET) centre.

Repetition

30. A learner who has repeated one or more years at school in terms of this policy is exempt from the age grade norm, except that, if a learner is three years older than the norm age per grade, the dead of Department must determine whether the learner will be admitted to that grade.

31. In principle, learners should progress with their age cohort. Repetition of grades seldom results in significant increases in learning attainment and frequently has the opposite result. The norm for repetition is one year per school phase where necessary. Multiple repetition in one grade is not permissible.

32. The norm is not to be construed as promoting the practice of automatic promotion. A learner's needs must be attended to through the efforts of the learner, and his or her teachers, with support from the learner's family and peers.

School zoning

33. A Head of Department, after consultation with representatives of governing bodies, may determine feeder zones for ordinary public schools, in order to control the learner numbers of schools and co-ordinate parental preferences. Such feeder zones need not be geographically adjacent to the school or each other.

34. If a feeder zone is created

    a. preference must be given to a learner who lives in the feeder zone of a school or who resides with his or her parents at an employer's home in the feeder zone;
    b. a learner who lives outside the feeder zone is not precluded from seeking admission at whichever school he or she chooses. However, access to a chosen school cannot be guaranteed;
    c. a learner who lives within the feeder zone of a school A must be referred to the neighbouring school B. if school A is oversubscribed. If school B is oversubscribed, an alternative school within a reasonable distance must be found by the Head of Department. If that is not possible, school A must admit the learner;
    d. the preference order of admission is:
        i) learners whose parents live in the feeder zone, in their own domicile or their employer's domicile;
        ii) learners whose parent's work address is in the feeder area; or
        iii) other learners: first come first served.

35. A school with a specific field of study, e.g. a technical school, must have much larger feeder zones to accommodate learners with specific aptitudes, interests or needs.

Register of admission

36. The principal of a public school must keep a register of admission to the school. All admissions of learners to the school must be recorded in the register of admission. The register must contain the name, date of birth, age, identity number, if applicable, and address of the learner as well as the names of the learner's parents as defined in the South African Schools

Act, 1996 (see footnote 1) and their addresses and telephone numbers, where applicable.

37. Entries in the register of admission must be verified against the birth certificate or identity document of the learner concerned.

38. Officials of the provincial education department must have access to the register of admission.

Rights and obligations of parents

39. The governing body of a school must inform all parents of learners admitted to a school of their rights and obligations in terms of the South African Schools Act, 1996, any applicable provincial law. Parents must specifically be informed about their rights and obligations in respect to the governance and affairs of the school, including the process of deciding the school budget, any decision of a parent meeting relating to school fees, and the Code of Conduct for Learners.

40. Parents have an obligation to support their children to attend school regularly.

Home education

41. A parent who wishes to provide home education for his or her child must apply to the Head of Department for registration.

42. The Head of Department will register such a learner if he or she is satisfied that the conditions stipulated in section 51 of the South African Schools Act, 1966, are complied with.

Right of appeal

43. Any learner or parent of a learner who has been refused admission to a public school may appeal against the decision to the Member of the Executive Council in terms of section 5(9) of the South African Schools Act, 1996.

"Parent" means

a. the parent or guardian of a learner,
b. the person legally entitled to custody of a learner, or
c. the person who undertakes to fulfill the obligations of a person referred to in paragraphs (a) and (b) towards the learner's education at school.

seven USEFUL CONTACT DETAILS

Departments of Education

Admissions Hotline
(Toll free)
0800 005 175

Eastern Cape
Tel: (040) 606 4205
Private Bag X0032
Bisho
5608

Free State
Tel: (051) 407 4041 or
(051) 4003
Swarts Building
55 Elizabeth Street
Bloemfontein
9300

Gauteng
Tel: (011) 355 0511 or
(011) 355 0476
111 Commissioner Street
Johannesburg
2000

KwaZulu Natal
Tel: (0358) 874 3594 or
(0341) 32200
Po Box
Dundee
4001

Limpopo
Tel: (015) 297 0895
Private Bag X9489
Polokwane
0700

Mpumalanga
Tel: (013) 297 633
The Oaks Building
Long Street
Middleburg
1050

North West
Tel: (0140) 873 428/9
Private Bag X2044
Mmabatho

Northern Cape
Tel: (0152) 970 895
Private Bag X5041
Kimberley
8306

Western Cape
Tel: (021) 403 6236
Private Bag X45
Parow
7500

Other Organisations

South African Human Rights Commission

Eastern Cape
Tel: (021) 582 4094/2611/4302

Free State
Tel: (051) 447 1130/3

Johannesburg (Head Office)
Tel: (011) 484 8300

KwaZulu-Natal
Tel: (031) 304 7323/4/5

Limpopo
Tel: (051) 291 3500/4

Mpumalanga
Tel: (013) 752 5870/8292/5890

Northern Cape
Tel: (054) 332 3993/4/5293

Western Cape
Tel: (021) 426 2277

Alliance for Children's Entitlement to Social Security (ACESS)
(021) 761 0117

Children's Rights Centre
(031) 209 6239/ 307 6075

Legal Resources Centre
(011) 403-0902

8 WORD LIST

Affidavit: a written statement taken under oath (that you swear is true) and that can be used as evidence in a court of law.

Head of Department (HOD): in the South African Schools Act the Head of the Department is the head of a provincial Department of Education.

Immunisation: by giving a person an injection of a substance (vaccine) they will be protected from a disease. A record of the diseases one is immunised against appears on the immunisation card.

Member of the Executive Committee (MEC): the MEC is the provincial minister of education and s/he is assisted by the HOD in implementing the education programmes of the province.

Stigmatised: to treat a person in such a way that makes the person feel bad or unimportant.