
MANAGING SCHOOLS

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Introduction

One of the most important aspects of the *South African Schools Act (No 84 of 1996)* is the law relating to school governing bodies. At the heart of this is the idea of a partnership between all people with an interest in education. Schools will be improved only through the joint efforts of parents, educators, learners, members of their local communities and various education departments.

Types of schools

South African schools have traditionally been classified as either independent (also known as 'private') or public schools. While both types of schools receive funding from the state, private schools generally demand much higher school fees from the parents of children that attend, with the result that they are much wealthier schools.

Public schools are designed to be more inclusive, because the fees they charge are much lower.

Most public schools that serve poor learners, charge no fees at all. Schools are divided into five quintiles (20% of schools) according to the levels of income of parents. The three lowest quintiles (so 60% of all schools) are not allowed to charge school fees.

Public Schools can be further categorised as "Section 20 or Section 21" Schools. This refers to the section in the Schools Act which allows for the establishment of the Schools Governing Body. Section 20 schools receive little money directly but get services and textbooks paid for by the provincial department. Section 21 schools are able to manage their own finances and purchases, usually charge school fees, and get money from the department.

School governing bodies (SGBs)

FUNCTIONS OF SGBs

The SA Schools Act Section 20 describes the functions of the school governing body. This includes:

- Promoting the best interests of the school and its development
- Adopting a constitution and mission statement
- Introducing a code of conduct
- Providing support to educators and the principal in carrying out their duties
- Determining times of the school day
- Administering and controlling the school's property, and buildings and grounds
- Involving parents and others to undertake voluntary duties and tasks
- Recommending to the Head of Department the appointment of educators and non-educator staff at the school, subject to the relevant legislation Educators Employment Act, 1994 (Proclamation No. 138 of 1994), and the Labour Relations Act, 1995 (Act No. 66 of 1995);
- Managing and allowing the use of school facilities for fundraising, community, and social uses.

WHO SITS ON A SGB?

There are three groups represented on a governing body:

- **Elected members** who can be parents of learners at the school, educators at the school, staff members who are not educators, such as secretaries and

gardeners and/or learners at the school who are in grade 8 or above (they must be elected by the representative council of learners, which is made up of class representatives)

- **School principal**
- **Optional co-opted members** who don't have the right to vote, for example: members of the community, or former learners with specific expertise like accounting.

The number of parents on a governing body must be one more than half of all of the members who may vote. Parents who are employed at a school can only be elected as a representative of staff members not as a representative of parents.

RULES GUIDING SGBs

Each governing body must draw up a constitution that says how it will work. The constitution must fit into the minimum requirements given by the provincial MEC for Education. The constitution must say:

- The governing body will meet at least once every school term
- A separate meeting will be held with each of these groups at least once a year: parents, learners, educators and other staff
- The governing body will report to parents, learners, educators and other staff at least once a year
- How minutes of governing body meetings must be kept

The provincial minister of education will publish these details:

- How the governing body will be elected
- How long members and office bearers may serve on a governing body
- How to remove a member from the governing body if there is a good reason
For doing this
- How to fill a vacancy
- What sub-committees must be set up e.g, executive for day-to-day decisions, committees for fund-raising, finance, sport, staff appointments, school environment and health

Each committee chairperson must be a member of the governing body, but other committee members need not be on the governing body.

CODE OF CONDUCT FOR SGBs

The provincial MEC for Education must draw up a code of conduct for the members of the SGB after consultation with associations of governing bodies in each respective province. All members are required to comply with the code of conduct. The code of conduct must include provisions that allow for disciplinary action to be taken against a member of the governing body and also protect the member who is being disciplined. The Head of Department may suspend or terminate the membership of a governing body member for breaking the code of conduct once proper disciplinary procedures in terms of the code have been followed. A member may appeal to the provincial MEC against a decision of the Head of Department regarding a suspension or termination of membership as a governing body member.

RESPONSIBILITIES OF SGBs

The governing body must:

- Decide on an admissions policy that doesn't go against the National Constitution
- Decide on the language policy of the school
- Decide on what religious practices will be followed at the school (attending any religious practices must be free and voluntary for learners and staff)

- Adopt a code of conduct for learners after consulting with learners, parents and educators

A governing body must:

- Promote the best interests of the school and encourage its development by providing quality education for all learners
- Adopt a constitution
- Adopt the mission statement of the school (this sets out the values and beliefs of the school)
- Decide the times of the school day
- Administer the school property, buildings and grounds
- Encourage parents, learners, educators and other staff to offer voluntary services
- Recommend to provincial heads of departments on the appointment of educators at the school
- Allow school facilities to be used by the provincial education department
- The governing body can allow the community to use its facilities for community, social and school fund-raising purposes.

In addition, a governing body can be given any of these functions:

- Maintaining and improving the school's property, buildings and grounds
- Deciding on the extramural curriculum and the choice of subject options according to provincial curriculum policy
- Buying textbooks, educational material or equipment for the school
- Paying for services to the school

BUILDING CAPACITY FOR SGB MEMBERS

The provincial Head of Department must set up a programme to provide training for newly elected governing bodies to help them perform their functions.

ADDITIONAL POWERS THAT CAN BE GIVEN TO SGBs

The provincial education department can decide to give additional management functions to school governing bodies that function well and have proved themselves capable of improving their schools.

The *South African Schools Act* identifies two kinds of schools: Section 20 and Section 21 schools. Section 21 schools have greater powers and responsibilities than Section 20 schools, especially for financial management and purchasing. Section 20 schools receive allocations of textbooks and stationery from government. They also have their lights and water accounts paid directly by government. When something is broken at the school, the Provincial Education Department must send someone from Public Works to do the repairs.

Section 21 allows a school to apply in writing to the Head of Department for additional powers. This gives more independence and responsibility to the SGB, but SGBs are encouraged to make application only if they have the capacity required to manage these additional functions and increased responsibility.

Section 21 schools are allocated finances by the department for additional functions which include:

- Maintaining and improving the school's property, and buildings and grounds
- Deciding on the extra-mural curriculum of the school as well as the choice of subject options
- Purchasing textbooks, educational materials or equipment for the school;
- Paying for services to the school

Section 21 school SGBs may also raise money to employ additional staff or educators – these are often called SGB posts.

PREFECTS AND REPRESENTATIVE COUNCILS OF LEARNERS (RCLS)

To promote responsibility and involvement amongst learners in schools, all high schools must hold elections for RCLs. RCLs offer a useful opportunity for young people to learn about leadership and to understand the relationship between responsibility and authority.

RCLs are made up of one elected representative per class. The RCL must elect two members to represent learners on the SGB.

Admission of learners to schools

GOVERNMENT POLICY ON ADMISSIONS

Government policy on school admissions and school fees is guided by three basic principles:

- **Equity:** to make sure that government gives the same basic resources to all government schools
- **Redress:** to give more government resources to learners in historically disadvantaged communities so that they have more money for textbooks and stationery, and to build schools – especially no-fee schools – in areas where none exist, and to upgrade existing schools
- **Access:** to make sure no one is excluded from attending school on the basis of race or religion or because they cannot afford the cost of school fees.

The *South African Schools Act* says that all children between the ages of 5 and 15 have to go to school. Children can be accepted in Grade R in the year they turn 5 and in Grade One in the year they turn 6 (this applies to both state and private schools). No learner can be refused admission to a school on the basis of their race or religion or their inability to pay school fees.

No learner registering at a state school can be charged a registration fee or asked to pay fees in advance. No learner can be refused entry to a state school because his or her parents have not paid outstanding school fees.

Where possible, learners should be given access to a state school within 5 kilometres of their home. In some provinces the education department assists learners with transport when they live more than 5 kilometres from school.

The provincial department of education makes regulations guiding admissions. Here are some practical steps that can be taken if a school tells a learner that it is full:

- Ask the principal if the school had been officially declared full by the Education Department. Ask to see the letter which says the school is full. If there is no letter then the school must accept the learner. If the school refuses permission then contact the district office
- If the school does have a letter then the department must find a place for the learner in the nearest school to where he or she lives.

DOCUMENTS THAT LEARNERS SHOULD PRODUCE IN ORDER TO BE ADMITTED TO A PUBLIC SCHOOL

The Admission Policy for Ordinary Schools says that the only documents 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 produce a **birth certificate**, the school must accept the learner on condition that the parent gets a copy of the birth certificate from the Department of Home Affairs).

- 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.
- In terms of a person with no documents, the school can still accept the learner but the documents must be brought within a reasonable time.

REFUSING TO ADMIT A LEARNER TO A SCHOOL

WHAT HAPPENS IF A CHILD IS REFUSED ACCESS TO A SCHOOL ON GROUNDS OF LANGUAGE?

Language cannot be used as a reason to refuse admission to learners. The language policy of the school must reflect that language or languages spoken by the learners and the school must show how it is promoting multilingualism. Government policy is clear on allowing all learners access to state schools. It also supports mother tongue instruction where this is possible. Some communities have successfully solved this matter by entering into negotiations with the school governing body.

When faced with a problem where a number of learners cannot access a school because of its language policy, paralegals or community workers can begin by finding out how many learners are without a school to attend in the community. They can then request a meeting with the Principal and the school governing body. The local Education District Office can also be approached to assist.

CAN A LEARNER BE REFUSED ADMISSION FOR FAILING TO PAY SCHOOL FEES?

The law says that no child can be refused admission to a school because his or her parents cannot afford to pay school fees. It is also illegal for the following to take place in relation to fees:

- To charge registration fees or other advance payments from parents when admitting a learner to a school
- To send a learner home from school because of unpaid school fees
- To refuse to give the results of tests or exams if fees have not been paid.

The law says that the paying of fees is a matter between the SGB and the parent of the learner and not a matter between a learner, educators and/or principals. *(See next page School Fees and page 588 Problem 1: Parents cannot afford to pay school fees)*

CAN A LEARNER BE REFUSED ADMISSION FOR BEING UNABLE TO AFFORD A UNIFORM, SCHOOL BOOKS OR A REGISTRATION FEE?

The ability to pay for school uniforms and books is not a condition for admission to a school. Schools are also not allowed to refuse to register learners who cannot pay a registration fee. *(See page 581 No-fee and Fee-charging schools)*

CAN A LEARNER BE DISCIPLINED FOR CULTURAL PRACTICES THAT ARE 'AGAINST SCHOOL RULES'?

In the case of *MEC for Education (KZN) v Navaneethum Pillay* the Constitutional Court found that the refusal by a school to allow one of its pupils to wear a small gold nose stud (which she argued was part of her cultural heritage and identity) constituted unfair discrimination against the pupil on both a cultural and religious basis, and the school was ordered to let the pupil wear the nose stud.

CAN A DISABLED LEARNER BE REFUSED ADMISSION?

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

CAN A LEARNER BE REFUSED ADMISSION BECAUSE HE OR SHE IS HIV POSITIVE?

Every learner has a right to be treated:

- In the same way as other learners
- With human dignity

Therefore no learner may be discriminated against on grounds of his or her HIV status.

There is a National Policy on HIV/AIDS for Learners and Educators which aims to respond to the wide variety of circumstances involving HIV/Aids in schools and to acknowledge the importance of SGBs, councils and parents in responding to this. Governing bodies are expected to implement the National Policy by developing and adopting an HIV/AIDS Implementation Plan. The National Policy deals with the following:

- Non-discrimination and equality with regard to learners and/or educators with HIV/Aids
- HIV/Aids testing and admission to schools and appointments of educators
- Attendance at schools by learners with HIV/Aids
- Disclosure of information and confidentiality
- Creating a safe school environment to prevent risk of transmission of HIV/Aids, particularly during play and sport
- Education of HIV/Aids
- Duties and responsibilities of all learners, educators and parents
- Consequences of refusing to study with or teach a learner with HIV/Aids, or to work with or be taught by an educator with HIV/Aids
- School Implementation Plans
- Health advisory Committees

You can find a copy of the full National Policy at www.education.gov.za

CAN A LEARNER BE REFUSED ADMISSION OR EXPELLED BECAUSE SHE IS PREGNANT?

A learner may not be refused admission to a school or expelled from a school because she is pregnant. The school principal and the school community should look at ways to support learners who are pregnant. The school is required to provide pregnant learners with health information.

The Constitutional Court rules in 2013 that expelling a pregnant learner is against the law and undermines the right to education.

School fees

Public schools are funded by the government and through school fees and/or school fundraising. Laws and regulations governing school fees are as follows:

- The *South African Schools Act (Act 84 of 1996)* as amended by the *Education Laws Amendment Act, 2005 (SASA)*

- The Regulations Relating to the Exemption of Parents from the Payment of School Fees, 2006
- The Amended National Norms and Standards for School Funding, 2006
- The Admission Policy for Ordinary Public Schools, 1998

The government pays most of the teachers' salaries and bigger building costs, and makes some contribution, per learner, to pay for the equipment and running costs. Over and above the government's contribution, parents of learners pay school fees that contribute to finance some schools' operating expenses.

According to *South African Schools Act (SASA)*, the SGB of a school must take all reasonable measures within its means to supplement the resources that are supplied by the government in order to improve the quality of education that is provided to all the learners at the school.

NO-FEE AND FEE-CHARGING SCHOOLS

Schools are divided up into 5 categories or quintiles, with the poorest schools being in quintile 1, and the least poor being in quintile 5.

The amount contributed by the state in a quintile 1 school (the poorest school according to the quintile status) will be higher than the amount contributed in a quintile 4 or a quintile 5 school (least poor). In other words all these schools receive subsidies but the amount varies depending on which quintile the school is determined to be. The amount that the state contributes per learner decreases as you move up the quintiles.

Theoretically, schools falling into quintiles 1 and 2 ought to be no-fee schools, and some schools falling into quintile 3 may be no-fee schools too, although this is voluntary in each province. Parents sending their children to these schools should not have to pay any fees, including registration or activity fees.

In some instances, the MEC for Education may stipulate that a school will be a no-fee school for learners in Grade R to Grade 9, but will charge fees after this.

EXEMPTION FROM SCHOOL FEES

Government regulations specify the formula that must be used to calculate whether parents or caregivers qualify for a full or partial exemption. The formula takes into account the number of school-going children supported by a parent or caregiver and provides specific guidelines for calculating the amount of partial exemptions. In terms of these regulations, certain categories of children are automatically exempt from paying fees. These include Child Support Grant beneficiaries and children in foster care. In order to work out whether parents or caregivers qualify for a full or partial exemption, they will need the following information:

- What the annual school fees are of the school
- What the parent or caregiver's annual income (or earnings) is OR if it is a two-parent household, what the combined gross income is of both parents/care-givers
- How many learners from the same family attend 'fee-charging' schools

CALCULATING EXEMPTION FROM SCHOOL FEES

When applying for an exemption from school fees, the SGB will apply a certain formula. The formula is used to work out what proportion (or percentage) of the family income would be spent on school fees. If the school fees are 10% of the parent/caregiver's total income, they will be entitled to a full exemption and will not have to pay school fees.

The formula for working out exemption is as follows:

$$E \text{ (Exemption)} = 100 \frac{[F \text{ (Annual fees)} + A \text{ (Additional contributions demanded by the school)}]}{[C \text{ (Combined gross income of both parents)}]}$$

Do this calculation as follows:

1. Calculate the amount in the brackets on the top line.
This gives the amount in fees that the parent has to pay the school.
2. Calculate the amount in the brackets on the bottom line.
This gives the income of the parents.
3. Divide the top line by the bottom line
4. Multiply the figure reached in (3) by 100 (in order to get a percentage)
5. E will now equal a certain percentage

If $E = 10\%$ (or more than 10%), then the parent qualifies for a full exemption because this means school fees are 10% of his or her income.

EXAMPLE

FULL EXEMPTION FROM SCHOOL FEES

Nelisiwe is a domestic worker earning R1 500 per month. Her gross income for the year is therefore R18 000. She is a single parent with one child. The annual school fees for her child's school are R2 000 per year. Additional school expenses amount to R100 for the year. Would she qualify for a full exemption in school fees?

$$E (\text{Exemption}) = 100 \frac{[F (\text{Annual fees}) + A (\text{Additional contributions demanded by the school})]}{[C (\text{Combined annual gross income of both parents})]}$$

$$E = 100 \frac{[R2\ 000 + R100]}{[R18\ 000]}$$

$$E = 100 \frac{[R2\ 100]}{[R18\ 000]}$$

$$E = 100 \times 0.12$$

$$E = 12\%$$

Nelisiwe would qualify for a full exemption because the school fees amount to more than 10% of her income.

Thabo and Maria earn a total income of R2 500 per month. This means their gross annual income is R30 000. They have a single child who attends a school where the annual school fees are R4 000 with additional costs of R500. Would they qualify for a full exemption in fees?

$$E (\text{Exemption}) = 100 \frac{[F (\text{Annual fees}) + A (\text{Additional contributions demanded by the school})]}{[C (\text{Combined annual gross income of both parents})]}$$

$$E = 100 \frac{[R4\ 000 + R500]}{[R30\ 000]}$$

$$E = 100 \frac{[R4\ 500]}{[R30\ 000]}$$

$$E = 100 \times 0.15$$

$$E = 15\%$$

E in this case is greater than 10% which means Thabo and Maria would qualify for a full exemption.

AUTOMATIC EXEMPTION

The following learners may not be charged any school fees:

- An orphan in an orphanage
- A child in foster care
- A child who has been placed in the care of a family member ('kinship caregiver')
- A child who heads a household or is part of a child-headed household
- A child whose parents receive a social grant on behalf of the same learner, for example, a Child Support Grant

NO EXEMPTION

If the school fees are 2% of a parent's total income, the parent does not qualify for any exemption unless she or he has five or more children at a 'fee-charging' school. If the school fees are less than 2% a parent does not qualify for any exemption. However, if the financial position of parent changes for example, if a parent is retrenched, and he or she is unable to continue paying the compulsory school fees, then the parent must apply to the SGB to ask for the school fees to be waived until he or she is employed again. It will be up to the SGB to decide whether or not to give the parent an exemption, and if so, what the exemption should be.

If the parent has made an application and they are found to be not eligible for exemption and are in arrears with their school fees, then the SGB may decide to take legal action against the defaulting parents. It would be important to help the parent consider whether they should move their child to a no-fee school to avoid incurring further debt if they are experiencing financial difficulty. In addition they could be advised with regard to settling their outstanding debt.

PARTIAL EXEMPTION

According to the exemption formula, if the school fees are between 3.5% and 10% of the total income, a parent will qualify for a partial exemption (see example on opposite page). Partial exemption

According to the exemption formula, if the school fees are between 3.5% and 10% of the total income, a parent will qualify for a partial exemption (see example on opposite page). The school *cannot* ask the parents to sign an Acknowledgement of Debt in lieu of the possibility of defaulting on payment at a future date.

EXAMPLE

PARTIAL EXEMPTION FROM SCHOOL FEES

Suraj has one child in a school. The annual school fees are R3 000 with additional costs of R150 for the year. Together Suraj and his wife earn an annual gross income of R35 000. Will they qualify for a partial exemption from school fees?

$$E (\text{Exemption}) = 100 \frac{[F (\text{Annual fees}) + A (\text{Additional contributions demanded by the school})]}{[C (\text{Combined annual gross income of both parents})]}$$

$$E = 100 \frac{[R3\ 000 + R150]}{[R35\ 000]}$$

$$E = 100 \frac{[R3\ 150]}{[R35\ 000]}$$

$$E = 100 \times 0.09$$

$$E = 9\%$$

Suraj and his wife would qualify for a partial exemption because the fees are between 3.5% and 10% of their combined income. In other words, Suraj will have to pay a portion of the fees. To find out how much he will have to pay, look at the Table on page 585. According to this Table which is included in the regulations, parents with one child at a school who spend 9% of their joint income on school fees, qualify for a 94% fee exemption.

$$94\% \text{ of the joint income of } R3\ 000 = R2\ 820$$

$$R3\ 000 - R2\ 820 = R180$$

Suraj will therefore have to pay R180 in school fees for their child for the year.

PARENTS WITH MORE THAN ONE CHILD AT SCHOOL

According to the exemption formula, if the school fees are 2.5% of a parent's total annual income, the parent does not qualify for any exemption unless she or he has three or more children at the same school or at another public fee-charging school.

If the school fees are 3% of a parent's total income, the parent does not qualify for any exemption unless she or he has two or more children at the same public school or at another 'fee-charging' school. While this sounds very complicated, it is easy to work out by using the Table on page 565. Also see the example on page 564.

APPLYING FOR AN EXEMPTION IN SCHOOL FEES

It is the duty of the school to inform parents about exemptions. In the case of *Two Mothers v Hunt Road Secondary School*, the Court held that the school had acted unlawfully in attempting to sue the mothers in question for unpaid school fees, when the mothers in fact qualified for an exemption from fees in terms of their incomes but were never advised by the school of their rights to apply for such exemptions.

To apply for an exemption in fees, the parent must do the following:

- Ask the school for an application form
- Complete the application form. If there is no application form, write a letter to the Chairperson of the SGB requesting to be exempted in part or totally from fees.

EXAMPLE

EXEMPTION FROM FEES: MORE THAN ONE CHILD AT SCHOOL

1. *Thabiso has 4 children registered in the same school. The joint annual income of Thabiso and her husband is R25 000. The annual school fees for one learner is R1 500 and the additional costs at the school amount to R50 per learner. What exemption in school fees will Thabiso qualify for?*

$$E (\text{Exemption}) = 100 \frac{[F (\text{Annual fees}) + A (\text{Additional contributions demanded by the school})]}{[C (\text{Combined annual gross income of both parents})]}$$

$$E = 100 \frac{[R1\ 500 + R50]}{[R25\ 000]}$$

$$E = 100 \frac{[R1\ 550]}{[R25\ 000]}$$

$$E = 100 \times 0.06$$

$$E = 6\%$$

The school fees are between 3.5% and 10% of the parents' total income. The parents will therefore qualify for a partial exemption. What will this exemption be worth to Thabiso? To find this out, look at the Table on page 538. According to the Table, a parent with 4 children attending 'fee-charging' schools, who spends at least 6% of the joint family income on school fees, qualifies for an 81% fee exemption.

$$81\% \text{ of the school fees of } R1\ 550 = R1\ 255.50$$

$$R1\ 550 - R1\ 255.50 = R294.50$$

Thabiso will therefore have to pay R294.50 school fees for each of her children.

1. *According to the exemption formula Mary qualifies for a 7% exemption from school fees for each of her two children who attend 'fee-charging' schools. The fees are R500 per year per child. How much of these fees will Mary be exempt from paying for each child?*

In the table opposite, look along the top horizontal line until you get to '2' learners. Next, look down the vertical line of the table and find '7%'. Move your finger along the 7% line until it meets the '2' learners column. This will tell you that Mary qualifies for an exemption of 83% of the school fees for each child.

To calculate how much this is worth to her:

$$83\% \text{ of } R500 \text{ (the cost of school fees per child per year)} = R415 \text{ per child.}$$

$$R500 - R415 = R85.$$

Mary will have to pay R85 school fees per year per child.

- If the parent needs help in completing the application form or writing the letter, the principal of the school must help him or her.
- Provide a pay slip or letter from the employer explaining how much the parent earns.
- If the parent is unemployed, or self employed, they should make an affidavit saying what they earn or how they support the child, for example, on a pension or a child care grant.

Parents/caregivers who qualify for fee exemptions should apply to the SGB every year.

The SGB has 30 days (one month) to consider and decide on an application. The decision must follow what the law says in the Regulations. In considering an application for exemption, the SGB must take into account:

- The financial position of the applicant, including:
- The total gross annual income of the parents
- The total of their necessary annual expenses
- A statement of their assets and liabilities.
- The number of dependants of the applicant
- The applicant's standard of living
- Any other relevant information the applicant supplies.

The SGB then has 7 days (one week) to tell the parent/caregiver what it has decided.

TABLE FOR CALCULATING EXEMPTIONS FROM SCHOOL FEES				
PERCENTAGE OF INCOME SPENT ON SCHOOL FEES (DIVIDE ANNUAL FEES BY TOTAL PARENTAL INCOME)	EXEMPTION PER NUMBER OF LEARNERS AT SCHOOL IN SAME FAMILY			
	1 LEARNER	2 LEARNERS	3 LEARNERS	4 LEARNERS
2%	0%	0%	0%	0%
2.5%	0%	0%	0%	14%
3%	0%	7%	22%	33%
3.5%	7%	26%	50%	47%
4%	25%	40%	40%	57%
4.5%	39%	51%	59%	65%
5%	50%	60%	67%	71%
5.5%	59%	67%	73%	77%
6%	67%	73%	78%	81%
6.5%	73%	83%	82%	85%
7%	79%	87%	86%	88%
7.5%	83%	90%	89%	90%
8%	88%	88%	92%	93%
8.5%	91%	93%	94%	95%
9%	94%	96%	96%	97%
9.5%	97%	98%	98%	98%
10%	100%	100%	100%	100%

HOW TO USE THE TABLE

Look along the top horizontal line and find the number of children or learners. Next, look down the vertical line and find the percentage that has been worked out *according to the exemption formula on page 583*. Move your finger along the percentage line until it meets the horizontal column coming down from the number of learners. The figure in the square is how much the exemption will be worth to the parents for each child.

APPEALING AGAINST A DECISION

If the parent/caregiver is unhappy with the decision she or he has 30 days to appeal against the decision in writing to the head of the Department of Education in the province. A parent should be informed of the decision of the Head of Department within 7 weeks from the date the appeal was first made. *(See page 691 Resources for contact details of the provincial basic education departments)*

[Acknowledgements to the Education Law Project (ELP), Centre for Applied Legal Studies (CALs) at www.law.wits.ac.za/cals for the information contained in this section. For further information read their online publication: 'School fees: Your rights!']

Discipline in schools

According to the *SA Schools Act* a governing body of a public school must draft and adopt a Code of Conduct for the learners. This needs to follow a consultative process with learners, parents and educators of the school.

This Code of Conduct must include the types of behaviours that will be punished, the types of punishments that will be given for different forms of misbehaviour, policies on making the school a safe place, against bullying and drugs, as well as grievance procedures for learners and parents if they want to take up a matter against another learner or the school, and disciplinary procedures that the school will follow if it plans to discipline a learner.

KINDS OF PUNISHMENT

CORPORAL PUNISHMENT

The Act bans corporal punishment such as canings or hidings because Section 12 of the Constitution says no one should be punished or treated in a cruel or degrading way. A person who is found guilty of using corporal punishment can be charged with assault. The kinds of punishments that schools can use include a demerit system, detention, picking up rubbish on the playing field and so on. Degrading punishments like cleaning toilets are not allowed.

SUSPENDING A LEARNER FROM SCHOOL

For serious offences that school may suspend a learner for up to one week from school. This can only happen once there has been a fair hearing where the learner has had a chance to put his or her side of the story.

EXPELLING A LEARNER FROM SCHOOL

If a school feels that the offence which the learner has committed is so serious that he or she should be expelled from the school, the learner can be suspended from the school while the provincial Head of Department decides whether or not to expel the learner. Only the provincial Head of Department can expel a learner from a school. The principal cannot make that decision. If a learner is expelled he or she can appeal against the Head of Department's decision to the provincial MEC of education. The Head of Department has to make arrangements to place an expelled learner in another public school.

TAKING DISCIPLINARY ACTION AGAINST A LEARNER

Where a learner has been told to appear in a disciplinary hearing for any misconduct identified in the Code of Conduct, he or she must be accompanied by a parent or person designated by the parent at the disciplinary proceedings, unless the SGB can give good reasons for continuing without the parent.

COMPLAINTS OF SEXUAL HARASSMENT OR ABUSE

If a learner complains that he or she has been sexually harassed or abused in any way the following action should be taken. Either the learner and/or the guardian may lay an official complaint with the school management through an interview and in writing. may lay an official complaint with the school management through an interview and in writing. As gender discrimination and sexual harassment and violence are against the law, the school management is obliged to follow prescribed legal procedures when dealing with grievances of this nature.

Language policy in schools

The goals of the language policy of the Department of Basic Education are to:

- Undo the neglect of the historically disadvantaged languages in basic school education
- Promote full participation in society and the economy through equal and meaningful access to education
- Follow the language policy that most supports general growth amongst learners
- Avoid the disadvantages that result from different kinds of mismatches between home languages and languages of learning and teaching

The policy addresses two aspects: language as a subject, and the language of learning and teaching.

Individual rights in relation to language are protected as follows:

1. The learner must choose the language of teaching when applying for admission to a particular school.
2. Where a school uses the language of learning and teaching that has been chosen by the learner, and where there is a place available in the relevant grade, the school must admit the learner.
3. If there is no school in a school district that offers the preferred language of the learner then the learner can request the provincial education department to make provision to be taught in his or her chosen language. The provincial education department must make copies of the request available to all schools in the relevant school district. The language policy states that it should be possible to provide education in a particular language of learning and teaching if at least 40 learners in Grades 1 to 6 or 35 learners in Grades 7 to 12 in a particular Grade request it in a particular school.

The governing body of the school must say how the school will promote multi-lingualism (different languages) in the school. This might include having more than one language of learning and teaching, offering additional language subjects, or other language programmes.

In 2015 the Gauteng High Court found that the SGBs determine language and that the department cannot force it to change in a particular school if the SGB opposes it. This judgment is being used by some schools to keep their schools Afrikaans, even when they have space for many more learners, and the department is prepared to pay for more teachers to create a dual medium school. Gauteng government will take the matter to the Constitutional Court for a final decision.

PROBLEMS

1. Parents cannot afford to pay school fees

David and Naledi have two children at school. David was retrenched and now does casual work at a supermarket where he earns R1 600 per month (R19 200 per year). Naledi cannot find a job. They cannot afford to pay the required school fees for their children. The school has sent David and Naledi a number of reminders about the payment of school fees. The school now sends them threatening letters saying that their children will not be allowed to write the final exams unless the fees are paid. The fees for each child are R1 500 per year.

WHAT DOES THE LAW SAY?

The *Schools Act* says no child can be refused admission from a public school because his or her parents cannot afford to pay school fees. The right to a basic education is also entrenched in the Constitution.

Parents can apply for a full or partial exemption. *The formula for calculating exemptions and an explanation is on page*

WHAT CAN YOU DO?

Work out whether the parents qualify for full or partial exemption using the required formula.

$$E (\text{Exemption}) = 100 \frac{[F (\text{Annual fees}) + A (\text{Additional contributions demanded by the school})]}{[C (\text{Combined annual gross income of both parents})]}$$

$$E = 100 \frac{[R1\ 500]}{[R19\ 200]}$$

$$E = 100 \times 0.08$$

$$E = 8\%$$

The school fees are between 3.5% and 10% of the parent's total income. David and Naledi will therefore qualify for a partial exemption. What will this exemption be worth to them? *Check the Table on page 565* to work out what the value of this exemption is. According to the Table, a parent with two children attending 'fee-charging' schools, who spends at least 8% of the joint family income on school fees, qualifies for a 90% fee exemption.

$$90\% \text{ of the school fees of R1 500} = R1\ 350$$

$$R1\ 500 - R1\ 350 = R150$$

David and Naledi will have to pay R150 towards the school fees of each of their children.

You can help the parents apply in writing to the school governing body for an exemption from paying school fees. Ask the school for a formal exemption application form. If this is not available then write a letter.

In the application use the formula to show why they qualify for a partial exemption and what this exemption is worth to them.

2. Learners are refused admission to a school because of outstanding school fees

A number of learners have been refused admission to a school because they are told they have not paid their outstanding fees. The parents are unable to afford the outstanding fees and want to take action against the school to force them to take their children.

WHAT DOES THE LAW SAY?

The law states that a school cannot refuse to re-admit a learner to school on grounds that they have school fees outstanding.

WHAT CAN THEY DO?

1. The learner's parents should write a letter to the school principal pointing out which part of the law they are breaking and formally appeal to the SGB against the decision. Send a copy of this letter to the Head of the Department in the province and /or the Provincial MEC (Member of the Executive Council) for Education.
2. 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 and advise them that the school continues to refuse to admit the learner.
3. If the HOD or MEC does not respond contact a public interest law organisation or a lawyer for support.

(See page 682 Resources: Legal Aid Justice Centres)

CHECKLIST

REGULATIONS FOR THE EXEMPTION OF PARENTS FROM PAYMENT OF SCHOOL FEES	
MARK WITH A CROSS IN APPLICABLE BOX	
Has the principal informed you about the amount of the annual school fees to be paid?	<input type="checkbox"/>
Has the principal informed you that you are liable to pay part of school fees unless you are totally exempted from paying school fees?	<input type="checkbox"/>
Has the principal informed you about your right to apply for exemption from paying school fees, or part of school fees?	<input type="checkbox"/>
Do you wish to apply for such an exemption?	<input type="checkbox"/>
Do you wish to be assisted in such an application?	<input type="checkbox"/>
Has the principal provided you with the relevant form for application for exemption?	<input type="checkbox"/>
Has the principal signed this form?	<input type="checkbox"/>
Have you signed this form?	<input type="checkbox"/>
Has the principal handed over the signed copy of this form to you?	<input type="checkbox"/>