



Provincial Gazette;

NOTICE ON DETERMINING WHAT CONSTITUTE SERIOUS MISCONDUCT, DISCIPLINARY PROCEEDINGS AND DUE PROCESS FOR LEARNER DISCIPLINE



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NOTICE ON DETERMINING WHAT CONSTITUTE SERIOUS MISCONDUCT, DISCIPLINARY PROCEEDINGS AND DUE PROCESS FOR LEARNER DISCIPLINE

Draft Notice for the determination of Serious Misconduct, Disciplinary Proceedings and Due Process for learner discipline

PROVINCIAL NOTICE

Limpopo Department of Education

Notice for the determination of **Serious Misconduct, Disciplinary Proceedings** to be followed and the provision of **Due Process** in disciplinary proceedings for learners in public schools.

I **Shela Paulina Boshielo**, member of the Executive Council responsible for Education in the province of Limpopo have determined in terms of section 9(3) of the South African Schools Act, 1996 Act No. 84 of 1996) as amended, hereby determine -

- (a) the behaviour by a learner at a public school which constitutes serious misconduct;
- (b) disciplinary proceedings to be followed in such cases; and
- (c) provisions of due process safeguarding the interests of learners and any other party involved in disciplinary proceedings ,

(Signed)

S.P. Boshielo

Member of Executive Council: Education

07/11/2019

Date

1. Definitions

(1) Subject to subparagraph (2) and unless the context indicates otherwise, a word which is defined in section 1 of the South African Schools Act, 1996 (Act 84 of 1996 as amended) shall have the same meaning in this notice.

(2) In this notice, unless the context indicates otherwise-

No	Concept	Meaning
01	Code	Means the code of conduct of a school;
02	Department Head	Means any person appointed to teach, managing the teaching staff, learners and financial resources allocated to them under their department. and in charge to raise the standards attained by learners within that subject area
03	Deputy Principal	Means an educator deputising the teacher appointed or acting as the head of a school
04	Disciplinary Panel	Means a disciplinary panel consisting of presiding officer, prosecutor / initiator and two assessors(one appointed by the presiding officer and the other one appointed by school governing Body)); or Means a disciplinary panel consist of presiding officer and the Initiator / prosecutor.
05	Expulsion	Means the permanent prohibition of a learner from attending a school; OR a particular school

06	Governing body	Means the governing body as contemplated section 16(1) of the Act;
07	Grade Head / Senior teacher	Means a person allocated responsibility to manage teaching staff and learners in a particular grade(s)
08	Head of Department	Means the head of the education department or the Superintendent General in Limpopo Province
09	Learner	means any person receiving education or obliged to receive education in terms of this Act;
10	Member of the Executive Council	Means the Member of the Executive Council responsible for education in the Limpopo Province;
		Means misconduct committed by a learner and includes the following:
		(a) misconduct committed on the premises of a school, whether during or outside of school hours;
		(b) misconduct committed during any school activity, irrespective of whether it is committed within or outside the school premises, and during or outside of school hours; and
		(c) any conduct, committed in or out of school uniform and within or outside the school premises, which-
11	Misconduct / Transgression	i. tends to bring the school into disrepute;
		ii. interferes with the governance, authority and proper administration of the school;
		iii. interferes with the conditions necessary for any school activity;
		iv. subject to the reasonable exercise of the right to assemble, demonstrate, picket and petition as provided in the Constitution, 1996 and the code, is committed with the intention of preventing any person from exercising his or her rights, powers or duties as a member of the school community, or is committed in retaliation against such exercise; or
		v. is prohibited by the code of the school;
12	Parent	Means a parent as defined in section 1 of the Act;
13	Precaution Suspension	Means a learner may be suspended by the governing body on the basis of precautionary measures such as protecting the learner or other learners and school properties and safe guarding important information.
14	Principal	Means an educator appointed or acting as the head of a school
15	Prosecutor / initiator	means the principal of the school or an educator appointed by the principal to present the case against a learner
16	Provisional Suspension	Means a learner may be provisionally suspended by the principal from the time transgression has been committed or charges of serious misconduct have been laid against a learner if, in the opinion of the principal it is in the interests of the learner or educators and the school community:
17	Representative	Means a parent of a learner, a co-learner or any other person chosen by the learner to represent the learner at a disciplinary hearing;
		"; "serious misconduct" Means misconduct as contained in Schedules 1 and 2;
18	School	Means a public ordinary and Special school which may include a hostel;
19	School days	Means days of the week, excluding Saturdays, Sundays, public holidays and school holidays
20	School Management Team [SMT]	Is management team led by the principal
21	School Support Based Team [SSBT]	Is a team comprise various role players in the school, meant to support teaching and learning
22	Serious misconduct	Means misconduct as contained in Schedules 1 and 2;
		(a) the temporary prohibition of a learner from attending a school;
		(b) a learner may not be entitled to attend a class at the school;
		(c) a learner may not be entitled to hold office or perform any duties and functions contemplated by any relevant law relating to school governance for the period of the suspension
23	Suspension	(d) a learner may not be entitled to participate in extra-curricular activities at the school; or
		(e) a learner may not be able to attend school for a period of time that may not exceed seven or fourteen school days
		Means any person, who teaches, educates or trains

24	Teacher /Educator	other persons or who provides professional educational services, including professional therapy and education psychological services, at a school; and who is appointed in a post on any educator establishment under this Act;
25	The Act	Means the South African Schools Act. 1996 (Act 84 of 1996).as amended

2. Legislative frame work.

This regulation is informed by the following pieces of legislation;

- 2.1 Constitution of RSA
- 2.2 SASA (South African Schools Act 84 of 1996 as Amended)
- 2.3 Promotion of Administrative Justice Act 3 of 2000 (PAJA)
- 2.4 Dangerous Weapons Act 15 of 2013
- 2.5 Safety Regulations published by the Minister
- 2.6 National Guidelines on Code of conduct for learners
- 2.7 Departmental Circular No 96 of 2016 (Limpopo Department of Education)
- 2.8 Any other applicable law.

3. Purpose

The purpose of this notice is to assist schools in dealing with serious misconduct and to promote-

- (a) A school environment which is dedicated to the improvement and maintenance of a quality teaching and learning process,
- (b) A culture of human rights in schools;
- (c) Positive forms of discipline in schools;
- (d) A balance between maintaining discipline in schools and ensuring that learners' rights to dignity and integrity are upheld;
- (e) Restorative justice rather than retributory or punitive measures;
- (f) The principle and values of the constitution, 1996 in schools and
- (g) Effective school discipline.

4. Application

- (1) This notice and any code made in terms thereof apply to a learner who was at the time of the misconduct alleged against the learner subject to the discipline of the school.
- (2) A learner is subject to the discipline of the school if the learner is registered as a learner at a school.

5. The co-ordinated and integrated management of positive learner behaviour

5.1. Duties and responsibilities of the School Management Team

- a. The management of a culture of positive conduct requires active leadership to realise a constant flow of positive predisposition towards and belief in the basic education system.
- b. It therefore involves firm, co-ordinated and planned actions in the implementation of the general code of conduct for learners and school ethic
- c. Each member of the School Management Team has a clearly defined role in inculcating the culture of positive conduct.

5.1.1. The Principal

- i. Primarily responsible for establishing the concept of positive conduct within the school set-up.
- ii. Ensure that all personnel, parents and learners are aware of the policies regarding positive learner conduct and school based learner code of conduct.
- iii. Ensure that policy regarding disciplinary measures is implemented.
- iv. Ensure that learner conduct and learner issues are discussed regularly.
- v. Ensure that record is kept of learner conduct, which includes incident report.
- vi. Organise staff development sessions regarding the management of learners' conduct.

- vii. Organise interviews with parents about the progress and conduct of learners.
- viii. Ensure that the school has a good orientation programme for newly admitted learners.
- ix. Ensure that learners are dealt with fairly and consistently

5.1.2. The Deputy Principal

- i. Responsible for the application of discipline.
- ii. Support the principal in the performance of duties to create a school culture of positive discipline.
- iii. Support the principal in the provision of learner support and guidance regarding good discipline.
- iv. Supervise the representative council of learners.
- v. Responsible for the supervision and mentoring of a class learner representative's programme.

5.1.3. The Departmental Head

- i. Responsible for regular formal meetings with grade heads, senior teachers, phase leaders, teachers and any roleplayers in the upbringing of the learner etc.
- ii. Conduct discussions about disciplinary tendencies and concerns in the school.
- iii. Provide feedback regarding SSBT recommendations and interventions.
- iv. Liaison with multifunctional teams from circuit, district, province, community organisations and NGOs.

5.1.4. The Grade Head

- i. Organise regular scheduled meetings with grade, learning area and/or phase educators.
- ii. Hold discussions to identify possible referrals to the School Support Based Team [SSBT].
- iii. Organise interviews with parents to discuss learner conduct and needs.
- iv. Control and manage the administrative system of disciplinary referrals and interventions.
- v. Report to the SMT and SSBT on disciplinary tendencies and concerns.

5.1.5. The Teacher

- i. Create a learner-centred classroom where discussion is allowed between learners, but the discussion takes place in a focused and orderly manner.
- ii. Prepare well so that lessons can run smoothly and discipline can be applied more easily.
- iii. Expect co-operation of learners when learners are given lawful instruction, which must be followed.
- iv. Do not make threats that cannot be carried out.
- v. Use appreciative approach as way of maintaining discipline and not just criticise learners. When commenting on the learner's work, remember to praise the learner also.
- vi. Apply corrective measures only in accordance with the school's code of conduct for learners and the classroom code of conduct.
- vii. Make sure that the offender is taken to task. The whole class must not be punished. This is unfair and may not happen.
- viii. To avoid activities that will destabilise teaching and learning thus affecting learner discipline.
- ix. To move around and observe learners while they are busy with activities in the classroom.
- x. To report and consult with School Management Team when dealing with disciplinary problem

5.2. Duties and responsibilities of the School Governing Body

- i. Responsible for the development and regular revision of the code of conduct for learners in cooperation with parents, educators and learners.
- ii. Responsible for the creation of a disciplined and goal orientated environment to ensure teaching and learning.
- iii. Ensure that the disciplinary practices of the school take place within the framework of the South African Constitution and the South African Schools Act.

- iv. Appoint a disciplinary committee.
- v. Conduct fair hearings in which the focus is on positive intervention as a restorative option.
- vi. Keep full minutes of disciplinary hearings and meetings making recommendation to head of department
- vii. Hold regular meetings with parents to discuss disciplinary matters.

5.3. Duties and responsibilities of the Representative Council of Learners (RCL)

- i. Develop and promote a positive learner spirit and culture within the school.
- ii. Encourage fellow learners to participate and are responsible for the sound functioning of the school.
- iii. Promote good discipline by holding regular learner meetings and discussions.
- iv. Use communication channels to discuss learner frustrations and fears.
- v. Promote positive communication with educators and school management.
- vi. Create clubs and special projects to promote learner involvement.
- vii. Take part in school governing body activities.
- viii. Act as ambassadors in the school and community

5.4. Duties and responsibilities of the Class representative

- i. Promote good discipline in class and on the school premises.
- ii. Ensure a clean and tidy classroom.
- iii. Promote classroom pride.
- iv. Monitor class attendance.
- v. Liaise with class teachers about learner issues and learner grievances.

6. Serious misconduct

6.1. Serious misconduct that may lead to suspension as a sanction

A learner will be guilty of serious misconduct if he or she, intentionally and without just excuse-

- (a) seriously threatens, disrupts or frustrates teaching or learning in a class;
- (b) engages in a conspiracy to disrupt the proper functioning of the school through collective action;
- (c) Insults the dignity of or defames any learner or any other person, which includes racist remarks;
- (d) distributes, or is in the possession of any test or examination material that may enable another person to gain an unfair advantage in a test or examination;
- (e) cheats in a test or examination or any other form of assessment such as assignments;
- (f) engages in any act of public indecency;
- (g) sexually harasses another person;
- (h) is found in possession of or distributes pornographic material; or
- (i) is under the influence or in the possession of alcohol.

6.2. Serious misconduct that may lead to expulsion as a sanction

A learner will be guilty of serious misconduct if he or she-

- (a) is found guilty of misconduct as contemplated in serious misconduct that may lead to suspension after having been found guilty of the same or similar misconduct on two previous occasions;
- (b) fails to comply with a punishment of suspension as a correctional measure; or
- (c) intentionally and without just excuse-
 - i. forges any document or signature to the potential or actual prejudice of the school;
 - ii. trades in any test or examination question paper or in any test or examination material;

- iii. attempts to bribe or bribes any person in respect of any test or examination to enable himself or herself or another person to gain an unfair advantage therein;
 - iv. engages in fraud;
 - v. engages in theft, or otherwise acts dishonestly to the prejudice of another person;
 - vi. is in possession, of, consumes or deals in any illegal substance or other harmful substance;
 - vii. is in possession of, uses or transmits narcotic or unauthorised drugs or on visible evidence of such possession, use or transmission;
 - viii. is in possession of any dangerous weapon;
 - ix. assaults or threatens to assault another person;
 - x. holds any person hostage;
 - xi. murders any person;
 - xii. rapes any person, or engages in any sexual activity which amounts to an offence in law; or
 - xiii. Maliciously damages property.
- d. a learner at a school who has been convicted by a court of a criminal offence and sentenced to imprisonment without the option of a fine; or used or had in his or her possession intoxicating liquor or other drugs on the school grounds or during a school activity;

7. Contravention Of Hostel Rules

Any contravention of hostel rules is, for the purposes of the application of these regulations, also regarded as a contravention of school rules.

8. Disciplinary Panel for serious misconduct

- (1) Upon notification by the principal to a learner that disciplinary action is instituted against that learner, the governing body must constitute a disciplinary panel.
- (2) The panel comprises of presiding officer, initiator and two assessors if required or presiding officer and the initiator
- (3) The presiding officer / chairperson of the panel shall adjudicate on the allegation of serious misconduct.
- (4) The appointment of persons to a disciplinary panel is subject to the following conditions:
 - (a) The presiding officer / chairperson of the disciplinary panel must be a parent member or community member in particular with legal background will be for the advantage;
 - (b) Initiator will be the principal or his /her delegate,
 - (c) Where there is a need the SGB may designate one SGB member to be an assessor and the presiding officer may also appoint the second assessor.
 - (d) No person may be appointed to the disciplinary panel if the person has personal knowledge of or any interest in any matter before the disciplinary committee except the initiator.
 - (e) An executive committee member of the representative council of learners (RCL) may attend the hearing as an observer.
- (5) A decision of the presiding officer shall be taken to the SGB meeting for ratification

9. Procedure for hearing of serious misconduct

9.1. Disciplinary Hearing Notices and a Charge of Misconduct

- (1) The appointed Presiding Officer shall issue a notice of disciplinary hearing containing charges.
- (2) The Notice shall be signed by both the presiding officer and the School Principal.
- (3) The notice shall be issued according to Annexure 1 of this regulation.
- (4) A learner charged with serious misconduct must be given no more than 7(seven) school days written notice of the hearing into the alleged misconduct unless-
 - (a) the governing body directs, with good cause, that a shorter notice period shall apply; and
 - (b) there is no prejudice caused to the learner by the shorter notice period

- (5) A learner charged with serious misconduct is entitled to a hearing adjudicated upon by the presiding officer.
- (6) The notice contemplated in subparagraph (1) must-
 - (a) contain sufficient particularity of the **date, place and nature of the alleged serious misconduct** to enable the learner to identify the incident in question and to respond thereto;
 - (b) inform the learner of the charges, place date and time of the hearing;
 - (c) The Notice shall clearly indicate or state the transgressed or violated clause or paragraph in the school code of conduct
 - (d) Inform the learner of the rights of a learner in terms hereof. Rights of representation or legal representation, bringing witnesses or any form evidence in the hearing, leading evidence and cross-examining the school witnesses
- (7) The principal must give the notice contemplated in subparagraph (1) and (2) to the learner and deliver a copy thereof to the parents of the learner at the address of the learner as indicated in the school register. Or request the parent to collect a copy of the notice at school
- (8) All recipient (the learner and Parent) of the notice are to acknowledge receipt of the notice.
- (9) At least one of the parents of the learner must accompany the learner at the hearing, unless the learner is 21 (twenty-one) years or older.
- (10) Inform the learner that if he or she fail to attend the hearing and fail to provide good and acceptable reason for not attending, the hearing will proceed in his or her absent

9.2. Provisional Suspension

1. The principal may, on reasonable grounds suspend a learner who committed serious misconduct immediately from attending school. without hearing
2. Provisional suspension shall be done immediately in consultation with the Governing Body Chairperson.
3. The learner shall be informed of provisional suspension, if any, the reasons therefore and any other matter required in connection with the provisional suspension; and
4. The learner shall be given opportunity to continue with school work under supervision of the parents.
5. The provisional suspension of a learner shall not exceed three school days.
6. If it warrant precautionary suspension, the governing body shall provide the parent of the learner and the learner to make representation.

9.3. Precautionary Suspension

- (1) The governing body may, on reasonable grounds and as a precautionary measure, suspend a learner who is suspected of serious misconduct from attending school.
- (2) Precautionary suspension may only be enforced after the parent of the learner and the learner has been granted a reasonable opportunity to make representations to it in relation to such suspension.
- (3) No Precautionary suspension without a hearing.
- (4) Reasonable Precautionary suspension hearing notice shall be two to three days.
- (5) The SGB can suspend a learner for 7 school days only. Any extension of the suspension period must be approved by the Head of Department.

9.4. Disciplinary Hearing

- (1) If a member of the disciplinary panel, the learner, his or her representative or a witness requires an interpreter, the disciplinary panel may not proceed with the hearing until an interpreter competent in the relevant language has been made available: Provided that it is not necessary to make use of a formally qualified interpreter.
- (2) If the learner fails to appear before the disciplinary Panel after due notice in terms of subparagraph (1) and without just cause for not attending the hearing, the hearing may continue in the absence of the learner.
- (3) The disciplinary panel in particular the presiding officer must keep a full and accurate record of all proceedings before it.
- (4) All panel members and attendees of the hearing shall complete attendance register. [Annexure 2]

- (5) The presiding officer must write a typed detail comprehensive disciplinary hearing report, [See Annexure 3]
- (6) The presiding officer must commence proceedings at the hearing by setting out ground rules on how the proceedings will be conducted, based on the principle of fairness and just, that is without prejudicing any party.
- (7) The initiator or prosecutor must commence proceedings at the hearing by setting out the charge against the learner and thereafter presenting the case against the learner.
- (8) The presiding officer must ask the learner whether the learner pleads guilty or not guilty to the charge. The learner must respond thereto. Should the learner fail to respond, the learner will be deemed to have pleaded not guilty to the charge.
- (9) If the learner pleads guilty to the charge -
 - a. the presiding officer must question the learner with reference to the alleged facts comprising the misconduct as outlined by the initiator in order to satisfy the panel that the learner is indeed guilty of the charge;
 - b. if, upon questioning the learner, it appears that the version of the learner materially differs from the facts as outlined by the prosecutor, or if the presiding officer is not satisfied that the learner is guilty of the charge, the presiding officer must enter a plea of not guilty in respect of the charge on behalf of the learner;
 - c. if the presiding officer is satisfied that the learner is guilty of the charge, he / she must find the learner guilty of the charge.
 - d. If the learner understands the charges, the presiding officer announces a finding of guilty. The hearing goes directly to mitigation and aggravation.
- (10) If the learner pleads not guilty to the charge-
 - a. the initiator / prosecutor may call witnesses or present other evidence on oath in respect of the allegations against the learner;
 - b. the learner or the representative of the learner may question any witness and examine any evidence presented by the prosecutor;
 - c. after all the evidence has been led against the learner, the learner or the representative of the learner may call witnesses or present other evidence on oath in support of the defense;
 - d. the initiator may question any witness and examine any evidence presented on behalf of the learner;
 - e. the presiding officer may question any witness or examine any evidence at any time;
 - f. after all the evidence has been presented, first the initiator and then the learner or the representative of the learner may address the disciplinary committee as to the guilt or otherwise of the learner;
 - g. the presiding officer must thereafter adjourn the hearing for not more than an hour or two school days depending on the nature of the offence and evidence presented, in order to decide whether, on a balance of probabilities, the learner is guilty or not guilty of the charge; and
 - h. If the hearing is adjourned for more than a day the learner must immediately be notified of a specified place, date and time of continuation of the hearing
 - i. At the date and time contemplated in subparagraph (h), the presiding officer must inform the learner of his her findings.

9.5. Adducing Evidence in the Hearing

- (1) Every person giving evidence must do so under Oath, Affirmation or Admonition to speak the truth
- (2) When taking oath an individual will swear that the evidence that he / she will take shall be the truth, the whole truth, nothing but the truth, so help me God.
- (3) Those who do not believe in God shall be made to give evidence through Affirmation or Admonition to speak the truth.

9.6. Mitigation and Aggravating Factors

- (1) If the finding is guilty the learner will give mitigating factors (reasons why a lighter sanction should be imposed) and the initiator will give aggravating factors (reasons for heavy

sanction).

- (2) Mitigating and aggravating factors will include but not be limited to evidence of the personal circumstances of the learner, general record of past conduct at the school, the nature and seriousness of the misconduct in question, and the interests of the school community.
- (3) Immediately after considering any evidence presented in terms of subparagraph (1), the presiding officer must impose on the learner a penalty that is prescribed in terms of the school code of conduct and this notice and inform the learner in writing thereof.
- (4) If the presiding officer decides that the learner should be expelled from the school, he / she must make a recommendation to that effect to the Head of Department through governing body
- (5) The presiding officer must present detail report, all minutes and attendance registers of the hearing to the SGB.
- (6) The report should include actual mitigating and aggravating factors

10. Governing body meeting on Presiding officer's report

- (1) The governing body holds another meeting to discuss the report of the presiding officer.
- (2) If the governing body take a decision to expel the learner shall submit its recommendation to Head of department. Submission to the Head of Department should include the following:-
 - a. The notices and the charge sheet.
 - b. Acknowledged Suspension letter received by the learner
 - c. The Detail report of Presiding officer, which will include detail information on mitigation and aggravating factors.
 - d. Minutes and attendance register of the hearing wherein attendees have appended their own signatures.
 - e. Recommendation of the SGB signed by the chairperson, secretary of the SGB and Ex Officio member.
 - f. SGB Minutes of the meeting and Attendance register must be attached.
 - g. Code of conduct for Learners of the school. (Highlight the relevant clause
- (3) If the governing body take a decision to expel may suspend or extend the suspension of a learner for a period not longer than 14 days pending the decision by the Head of Department whether or not to expel such learner from the public school.
- (4) No any governing body or the principal has the right to expel or indirectly expel the learner from the school using admission

11. Decision by the Head of Department

- (1) Head of Department must consider the recommendation by the governing body and decide whether or not to expel a learner within 14 days of receiving such recommendation.
- (2) If the period of 14 days elapses before the Head of Department takes a decision, the learner must return to classes and wait until the decision arrives.
- (3) Keeping the child out of the school for more than 14 days while waiting for the decision will only be done by Head of Department's approval.
- (4) The Head of Department's decision shall be informed by the best interest of the learner
- (5) A letter of expulsion to the learner and the parent, shall include reasons for the expulsion and their right of appeal to the MEC
- (6) Any learner who is expelled from a school because of serious misconduct towards the end of the year must be afforded the opportunity to be assessed or to write the final examination of the year in which he or she was expelled.
- (7) The condition to be assessed or to write the final examination shall be in accordance to the manner determined by the Head of Department

12. Appeal against decision of Head of Department to expel a learner

- (1) A learner or the parent of a learner may appeal to the Member of the Executive Council against-
 - (a) any finding of guilt by the Head of Department in respect of which a penalty of

- expulsion has been imposed;
- (b) a penalty of expulsion imposed by the Head of Department; and
 - (c) An order made by the Head of Department.
- (2) A learner or the parent of a learner who wishes to appeal against a decision contemplated in subparagraph (1) must, within **14 (fourteen)** days of being notified of the decision, hand deliver a notice of appeal together with the grounds for the appeal to the office of the Member of the Executive Council.
 - (3) Unless the Member of the Executive Council on good cause orders otherwise, the lodging of an appeal shall not have the effect of suspending the penalty imposed by the Head of Department.
 - (4) Within five (5) days of receiving the notice of appeal, the Member of the Executive Council must inform the Head of Department and the governing body of the lodging of an appeal against HoD's decision.
 - (5) A learner who has appealed against Head of Department's decision must, pending the outcome of the appeal, be given access to education in the manner determined by the Head of Department
 - (6) Within 5 (five) days of receipt of the notice of appeal from the Member of the Executive Council, may require the Head of Department and the governing body to make a written representation stating the reasons why the appeal should be dismissed.
 - (7) Member of the Executive Council may handle the appeal without requesting written representation from the Head of department and governing body, base his or her decision on the submitted documents.
 - (8) Within 5 (five) days of receipt of the submissions contemplated in subparagraph (5), the Member of the Executive Council must-
 - (a) dismiss the appeal;
 - (b) impose on the learner a lesser punishment permitted by the code and this notice;
 - (c) impose any other sanction deemed appropriate by the Member of the Executive Council; or
 - (d) Find the learner not guilty; and notify the learner, parents and the representative of the learner and the Head of Department of the decision.
 - (9) The decision of the Member of the Executive Council in respect of the appeal shall be final.

ANNEXURE 1

[School Emblem depending on how your school letter head is arranged]

Ref No: [Learner Admission Number]

Date [Written Notice Date]

Enq: [Name of the Principal]

Tel No: [School Contact Number]

Personal Particulars of the learner

Name of the learner: _____
 Learner Identity Number: _____
 Learner Grade: _____
 Parent/Guardian Names: _____ and _____
 Parent/Guardian Identity Number: _____ and _____

Subject: Notice of Disciplinary Hearing

1. The transgression / charge against the learner

1.1. On this _____ [date] you have contravened _____ [specify the violated clause] of the school code of conduct, level/grade _____ offence, by _____ [actual alleged committed offence]

[Note if a learner has committed two or more transgressions the second shall be 1.2. avoid writing two or more transgression in one paragraph]

2. Details of Hearing

2.1. The hearing is scheduled as follows:

Date of the Hearing: _____

Venue of the Hearing: _____

Time: _____

3. Learner Rights

3.1. You have the right of representation, you may be represented by your parent or by a legal practitioner appointed by your parent at their own cost.

3.2. Furthermore you have the right to an interpreter if you do not understand the language used

3.3. You may give evidence at the hearing and adduce evidence in the form of documents or through witnesses

3.4. You are entitled to question any witness called by the initiator as well as the initiator is entitled to question your witness.

4. Failure to attend Hearing

4.1. If you do not attend and cannot provide reasonable acceptable grounds for failing to attend, the hearing will be held in your absence.

Signature: _____
[Name of Principal]
[Title]

Signature: _____
[Name of Presiding Officer]
[Title]

Date: _____
Signature of recipient: _____
[Name of Learner] _____
Date received: _____

Date: _____
Signature of witness: _____
[Name of Parent] _____
Date: _____

ANNEXURE 2

Attendance Register of Learner Disciplinary Hearing

Date of Hearing:
Venue of Hearing:
Time:

No	Designation / Position	Full Name	Signature	Contact No
01	Presiding Officer			
02	Assessor 1 if there is any			
03	Assessor 2 if there is any			
04	Initiator			
05	Learner			
06	Parent / Guardian			
07	Parent / Guardian			
08	Learner Representative			
09	Witness for school			
10	Witness for school			
11	Witness for school			
12	Witness for Learner			
13	Witness for Learner			
14				
15				
16				
17				
18				

ANNEXURE 3

DISCIPLINARY HEARING REPORT SUMMARY

Name of the School: _____

Name of Learner Attending Hearing: _____

Name of the Presiding Officer: _____

Name of the Initiator: _____

Date of the Hearing: _____

Time and Duration of the Hearing: _____

Venue of the Hearing: _____

1. Presentation of the charge: _____

- 1.1. Who presented the charge
- 1.2. Types of transgression committed

2. Plea by the alleged transgressor

- 2.1. Recording of plea for each transgression alleged to have been committed

3. Oath, Affirmation or admonition

- 3.1. Every person giving evidence must do so under oath, or Affirmation or admonition and be recorded

4. Presentation of school case

- 4.1. Recording the name of witnesses
- 4.2. Recording summary of facts in evidence-in-chief
- 4.3. Recording summary of facts in cross examination
- 4.4. Recording summary of facts in re-examination
- 4.5. Note the procedure above apply to all witnesses

5. Presentation of Learner case

- 5.1. Recording the name of witnesses
- 5.2. Recording summary of facts in evidence-in-chief
- 5.3. Recording summary of facts in cross examination
- 5.4. Recording summary of facts in re-examination
- 5.5. Note the procedure above apply to all witnesses

6. Findings

- 6.1. Recording whether the learner is found guilty or not guilty per transgression
- 6.2. Recording reasons for findings

7. Evidence in Mitigation by the Learner

- 7.1. The learner provide reasons why a particular sanction should not be imposed.
- 7.2. Record mitigation submission made by the learner through his / her representative or witness.

8. Evidence in Aggravation by the school

- 8.1. The initiator provide reasons why a particular sanction should be imposed.
- 8.2. Record aggravation submission made by the Initiator either through documents or witness

9. Second Mitigation by Learner

- 9.1. The learner will be provided with second opportunity to give reasons why a particular sanction should not be imposed.
- 9.2. Record second mitigation submission made by the learner.

10. Recommendation of the Sanction

- 10.1. The presiding officer makes recommendation on the basis of cross examination, mitigation and aggravating circumstances.
- 10.2. Record recommended sanction.
- 10.3. Provide reasons for the type of sanction recommended

- 11. The Report must be signed by the presiding officer and two assessor [if any]

Signature: _____

[Name of Presiding Officer]

[Title]

Date: _____

Signature: _____

[Name of Assessor 1]

[Title]

Date: _____

Signature: _____

[Name of Assessor 2]

[Title]

Date: _____

ANNEXURE 4

Attendance Register for School Governing Body Disciplinary Hearing Meeting

Date of Meeting: _____

Venue of Meeting: _____

Time: _____

Name of the Learner(s): _____; _____; _____

Transgression(s) Committed: _____

(1) _____

(2) _____

(3) _____

No	Designation / Position	Full Name	Signature	Contact No
01	Chairperson			
02	Deputy Chairperson			
03	Secretary			
04	Deputy Secretary			
05	Treasurer			
06	Principal			
07	Additional Member			
08	Additional Member			
09	Additional Member			
10	Additional Member			
11	Additional Member			
12	Additional Member			
13	Additional Member			
14	Additional Member			
15	Additional Member			
16	Additional Member			
17	Additional Member			

Total Number Of SGB Members: _____ Number Present: _____

Number Absent: _____ Is the Quorum Formed: _____ [Yes/No]

ANNEXURE 5

School Governing Body Recommendation to Head of Department

NAME OF LEARNER(S): 1. _____; 2. _____;
 ADMISSION NO / ID NO: 1. _____; 2. _____;
 AGE: 1. _____; 2. _____

1. The School Governing Body of the above mentioned school at its meeting held on: _____ at _____ decided that a proper sanction for the offence or transgression committed by the above mentioned learner(s) is expulsion

2. It is therefore recommended that the learner(s) be expelled from this school with immediate effect.

3. Reasons for our recommendation are as follows:

3.1. _____

3.2. _____

3.3. _____

Name(s): _____
 Signature: _____
 Title: Secretary Chairperson Principal

[Note all Annexures must be retyped and put on the school letterhead]

