



BE PREPARED

Educators have a professional, moral and legal duty to protect learners from any harm while they are at school.

They therefore have a leading part to play in protecting learners from sexual violence and harassment – which is currently occurring at too many of our schools.

Teachers also have primary roles to play should any of their learners, or colleagues, become victims of sexual violence and/or harassment.

Supporting good work

The Department of Education recognises the challenges this represents to educators and have developed *Guidelines for the Prevention and Management of Sexual Violence and Harassment* to support them in dealing with such difficult issues.

The *Guidelines* set out ways to stop such incidents from occurring, as well as how to manage them fairly and effectively should they occur.

Complex and challenging

Managing such incidents can be complicated in a number of ways.

It is not always easy to get to the truth of such an incident, and therefore arriving at a fair judgment can be very challenging.

Another complex area is that there are different procedures to be followed, depending on the legal status of both the complainant and the perpetrator (ie whether it involves learners or educators or both).

For example, if a learner sexually abuses another learner, the procedures will be different to those that must be followed if an educator is involved.

Be ready

Schools must ensure that they have certain policies and structures in place so they are prepared to manage incidents of sexual violence and harassment, should they occur.

These include:

- **Building and maintaining a strong human rights culture** at school that is practiced by learners and teachers alike. By doing this, the whole school community will clearly understand that each of its members is to be treated with dignity and respect at all times;
- Ensuring there is a **Code of Conduct for Learners** that sets out kinds of behaviour that is unacceptable and appropriate measures that will be taken against anyone who acts in unacceptable ways. See *“Setting out school rules for learners” in Generations 4 for more.*
- **Setting up a school care committee/support team.** These committees/teams should include trusted adults from the school itself, such as educators and/or members of the School Management Team (SMT); parents and/or members of the School Governing Body (SGB);

and officials from relevant professions, such as health and social welfare.

The committee/team should have clear lines

of communication and responsibility.

It should be prepared to act when incidents of sexual violence and harassment occur, and should also play a role in managing other sensitive issues, such as learner pregnancy.

Make the most of these resources

Find out more about strategies to prevent sexual violence and harassment from happening at your school in previous editions of *Generations*.

In *Generations 4*

we focused on:

- Understanding the types of behaviour considered to be acts of sexual violence and/or harassment;
- The importance of a clear learner’s Code of Conduct to express types of behaviour that are unacceptable, as well as consequences a learner faces should he/she break these school rules; and
- The Code of Ethics applicable to educators, as well as the legal obligations and restrictions concerning the actions of educators.

In *Generations 5* we focused on strategies schools can use to help prevent incidents of sexual violence and harassment from occurring. These included:

- Identifying the role that gender stereotypes and inequalities play, and looking at practical steps to shifting one’s own attitudes;
- Ways of sensitising the whole school community to these dangers linked to gender, from the staffroom to the classroom;
- The role of Life Orientation in this process of deepening learners’ understanding and awareness of issues linked to gender; and
- Practical steps the school can take to improve the safety and security of everyone on the school grounds.

In *Generations 1 to 3*, you will find a wealth of information and advice on handling learner pregnancy, based on the Department of Education’s *Measures for the Prevention and Management of Learner Pregnancy*.

For more information on this series, contact the Gender Equity Directorate (turn to page 3 for contact details).



A Bill of Responsibilities for the Youth of South Africa

The Bill of Responsibilities is a resource for schools developed by the Department of Education and the National Religious Leaders’ Forum in 2008.

This Bill outlines the responsibilities that flow from each of the rights enshrined in the Constitution of the Republic of South Africa.

Educators should use this Bill to teach learners about rights, responsibilities, and our country’s Constitution.

The following is the responsibility in ensuring the right to education:

The right to education places on me the responsibility to:

- attend school regularly, to learn, and to work hard,
- cooperate respectfully with teachers and fellow learners and
- adhere to the rules and the Code of Conduct of the school

and concurrently places on my parents and caregivers the responsibility to:

- ensure that I attend school and receive their support

and places on my teachers the responsibility to:

- promote and reflect the culture of learning and teaching in giving effect to this right.

To get your copy of the Bill, visit www.education.gov.za or contact the Gender Equity Directorate (turn to page 3 for contact details).





Your guide to managing sexual abuse at school

Managing incidents of sexual harassment and/or violence is never easy. Such incidents can cause huge disruptions, not only to the victim (or complainant), but also to the school community. It is therefore vital that such incidents are handled with the greatest care and sensitivity. This will help to support the complainant through a traumatic experience, as well as to protect the school from what could become a damaging crisis.

Act calmly, quickly and fairly

With the correct policies and structures in place, educators and others will be able to follow clear procedures should such an incident occur.

They should be able to protect and support the complainant, as well as investigate the allegations against the perpetrator fairly and effectively.

Steps to take if a learner has been sexually harassed

1. INCIDENT OCCURS

Where possible, the learner should ask the perpetrator to stop. This can be done verbally or in writing.

In cases where the learner feels unable to do so, the incident should still be followed up if reported.

2. INCIDENT REPORT: INTERNAL

Note: It is important that the privacy of the learner involved be protected at all times.

Even though a number of responsible people need to be informed about the complaint, all of them must ensure that they treat this information confidentially.

The incident should immediately be reported to a trusted educator, such as the Life Orientation teacher; a member of the School Management Team (SMT); a member of the School Governing Body (SGB); or a member of the school's care committee/support team.

This trusted adult/educator should:

- Inform the educator who has been designated by the school to help manage such incidents or the principle within one day;
- Not attempt to conduct an investigation alone; and
- Offer counseling to the learner, or if not in a position to do so, refer the learner immediately to a relevant individual or organisation (*turn to the back page for some useful contacts*).

Set up an investigation team

After the incident is reported, two individuals should be nominated by the care committee/support team, the SMT and/or the SGB to investigate the complaint immediately.

The complainant should be informed beforehand by the SMT or the SGB that he/she may request that one of the investigators be of the same sex as the complainant.

3. INCIDENT REPORT: EXTERNAL

Support from education structures

- If the school feels unable to deal with the incident internally, it should be reported to the district education office.
- If the action taken at district level is unsatisfactory, it should be reported at provincial level.
- If the action taken is still not helping to resolve the incident, the matter should be reported at national Department of Education level.

In each instance,

the matter must be dealt with sensitively and with strict confidentiality.

4. INFORM PARENTS AND/OR GUARDIANS

On receipt of the complaint, the designated official (a member of the care committee/support team, the SMT or the SGB) should write a letter to the complainant's parents or guardians.

A letter must also be written to the alleged perpetrator's parents or guardians, if this person is a learner (*turn to the back page for more on how to manage the incident when the perpetrator is a learner*).

5. INVESTIGATIONS

The school/education structures will hold their own investigations, unless the incident was that of sexual violence and hence a criminal offence (*see column on right*).

Delegated investigators from the school community/education structures should investigate the case without delay. At each stage of the investigation, the complainant should be kept informed and know the options open to him/her.

Keep in mind that a "guilty" finding by the school and/or education authorities is not dependent on the outcome of any criminal or civil trial related to the incident, which often take years to conclude.

Starting a criminal case

- If the learner is under the age of 18, then the South African Police Services (SAPS) must be informed.
- If the learner is over 18, then he/she has the choice whether or not to lay a criminal charge.
- If the over-18 learner is not sure whether he/she would like to lay a criminal charge, he/she should still make a statement of the incident to the SAPS. Reporting the incident to the SAPS is *not* the same as laying a criminal charge, but gives the victim time to think about whether or not he/she wishes to continue with a criminal case or not.

Criminal procedures will continue at the same time as the school's investigations.

What is a criminal case?

The law says that when a crime such as sexual harassment and/or violence is committed, this does not only harm the victim of that crime but also the whole society.

Therefore, it is the State (and not the individual victim) that brings a criminal case against the accused person.

The State Prosecutor will prosecute the case, which means that the complainant does not need a lawyer.

Starting a civil case

A learner who has suffered sexual harassment or been the victim of violence may, if he/she is over 18, choose to sue the perpetrator for damages (ie money) for pain and suffering, and for past and future medical expenses.

Here the learner will need to have a lawyer representing him/her, and can decide when to withdraw or continue with the case.

If the learner is under 18, his/her parents/guardians may sue the perpetrator on their dependent's behalf.

6. FINALISATION OF THE CASE

The investigation team should meet and finalise the findings of their investigation.

Should the investigations satisfy the school authorities that the perpetrator is guilty, there are a number of alternatives open to it.

The correct course of action to take will depend on:

- The seriousness of the offence;
- Whether the complainant is a learner, an educator, or a non-educator adult; and
- Whether the perpetrator is a learner, an educator, a non-educator adult, or another adult.

Turn to the back page for more on how to manage the incident when the perpetrator is a learner.

7. JUDGMENT IS PRONOUNCED

The outcome should be presented to both the complainant and the perpetrator within seven days of the complaint being made.

The accused should be given information about the right to appeal against the judgment, should he/she wish to do so.

8. REPORTING

The incident and how it was managed should be written up by the SMT or SGB member/s in the form of a formal report. This information should be used to reflect on how the incident

was managed, and whether it points to areas to do with school safety that should be strengthened to prevent such an incident from reoccurring.

The report should also be forwarded to the district and provincial education structures, or the national Department of Education, if appropriate.

Keeping reliable statistics on the incidents of sexual harassment at schools helps to guide policy makers in supporting schools to handle such incidents.

Steps to take if a learner is the victim of sexual violence

Great caution should be exercised when dealing with sexual violence against a learner.

Many forms of sexual violence, such as child abuse, sexual assault and rape, are criminal offences.

It is therefore vital that educators and others responsible for managing such incidents carefully follow the steps set out below.

No attempt should be made to investigate such cases by members of the school community.

This is the responsibility of the South African Police Services (SAPS) (*see "Starting a criminal case", left*).

Ensure the learner's safety first

The first step is to designate a trusted member of the educator staff, care committee/support team, the SMT or the SGB to directly comfort and care for the learner.

At least two further members of these school structures should work together to ensure the incident is properly managed.

The immediate steps those responsible must take are:

- Offer counselling to the learner, or refer the learner immediately to professional counselling services. Childline can be contacted on the toll free number **0800 055 555** (*turn to the back page for other useful contacts*).
- Try to ensure the learner does not drink or eat anything, or wash his/her mouth, or shower, or take any medicine until he/she has been examined by a medical professional. This is especially important for collecting medical evidence if the learner has been raped or forced to perform oral sex, for example.
- Ensure that the learner undergoes a medical examination at the nearest clinic, hospital or doctor within 72 hours of the incident occurring. This is important for the collection of medical evidence of sexual abuse, as well as to provide medication to prevent pregnancy or to reduce the risk of HIV infection.
- Report the incident directly to the SAPS and Social Welfare Department. The district or provincial education offices should also be informed.
- Inform the parents or guardians of the victim; and
- Inform the learner about the steps that are being taken and who will be involved in helping him/her.

YOU'RE NOT ALONE
THE DEPARTMENT OF EDUCATION HELPLINE
0800 202 933

Contact details:
Website: www.education.gov.za
Thutong Education Portal:
www.thutong.org.za

GENDERATIONS

Know which procedure to follow

When managing incidents of sexual violence and/or harassment, it is important to remember that there are different procedures to be followed, depending on who is involved.

Procedures matter

Procedures for handling such incidents are designed to protect the rights of all parties involved.

It is important to follow them as closely as possible. Failing to do so can result in someone who is guilty of an offence not having to face the consequences because of a technical flaw in the way the case against him/her was handled, for example.

If at any stage you are uncertain about the next step to take, consult with those who have experience and expertise in such matters within education structures, or within the legal profession.

IF THE PERPETRATOR IS A LEARNER

The school's Code of Conduct for learners will guide the action to be taken against a learner accused and found guilty of sexual harassment or violence.

Depending on the seriousness of the offence, the school may recommend that:

- The learner receives counselling;
- The learner writes a letter of apology to the victim;
- The learner is suspended from attending school for a week as a correctional measure. This period of suspension will also apply when the Head of Department's decision about whether or not a learner should be expelled is still pending. Expulsion can only take place after a fair hearing has been conducted; or
- The Head of Department make an alternative arrangement for the learner's placement at another public school as a temporary measure, or that the learner is directed to an alternative supervised location if he/she is still in the compulsory attendance age group. This is to provide a more conducive learning environment for the victim.

Once a learner has been accused of sexual harassment or violence, the learner's parents or guardians must be informed. In the event that the learner comes from a child-headed household, there might also be a need to involve social workers.

When a decision about the action to be taken has been communicated to both the victim and the perpetrator, a letter outlining the decision should be placed in the learner's personal file.

IF THE PERPETRATOR IS AN EDUCATOR

An educator alleged to have behaved in a disgraceful, improper or unbecoming manner may be charged with misconduct in terms of the Employment of Educators Act, as well as the Code of Good Conduct of the South African Council of Educators (SACE) Act.

These acts require provincial departments of education to *dismiss* any educator found guilty of misconduct.

Examples of dismissable offences are:

- Committing an act of sexual assault on a learner, student or other employee;
- Having a sexual relationship with a learner; and
- Seriously assaulting, with the intention to cause grievous bodily harm, a learner, student or another employee.

SACE will remove the name of an educator found guilty of having a sexual relationship with a learner, or of sexually abusing a learner, from their register. This means that *the dismissed educator may not work again as a teacher – not at state schools, nor at an independent school.*

You can report any case of sexual violence or harassment involving an educator anonymously to SACE at:

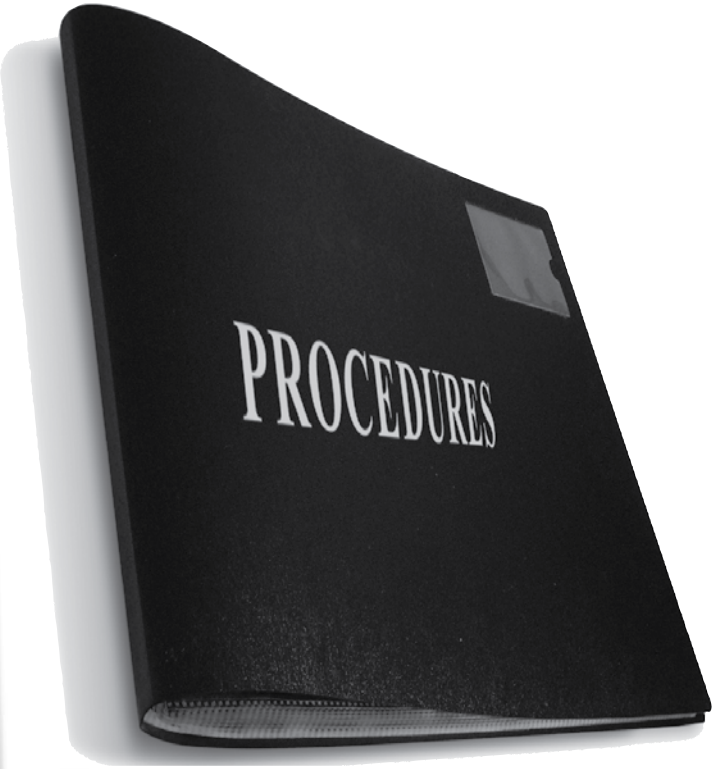
Helpline: (012) 663 0419

Tel: (012) 679-9700

Fax: (012) 663-3331

Email: info@sace.org.za or pr@sace.org.za

Please make sure that you supply as much information as possible to SACE so that the lead can be properly followed up. This includes details such as the name and address of the school, and the names of the perpetrator and the victim.



IF THE PERPETRATOR IS AN ADULT, BUT NOT AN EDUCATOR

If the adult involved is a non-educator but is employed as a public servant, the matter may be dealt with in terms of the Disciplinary Code and Procedure for Public Service (Resolution 2/99).

The legal procedure set out is very detailed, and a failure to follow it precisely may result in the rights of the alleged perpetrator being violated, or the disciplinary action failing because of a technical matter.

If the school does not have the expertise itself, you should contact your district or provincial education department for the expertise and support you will need in managing a case.

It is also possible that the alleged perpetrator is a member of the broader school community, or someone employed by the SGB. The perpetrator may even be a stranger to the school who managed to gain access to the school grounds.

There is existing legislation that can be applied in charging such an individual. Once again, the school should seek the support and expertise of its district or provincial education departments in managing such cases.

USEFUL CONTACTS:

Childline: Tel: 0800 055 555

Lifeline: Tel: 0861 322 322

Rape Crisis: Tel: (012) 342-2222

SAPS Crime Stop: Tel: 08 600 10 111

SAPS emergency number: Tel: 10111

Women Abuse Helpline: Tel: 0800 150 150

Department of Social Development: Tel: (012) 312-7883

National Prosecuting Authority (NPA) Sexual Offences

and Community Affairs Unit: Tel: (012) 845-6100/6136

People Opposing Violence Against Women (POWA):

Tel: (011) 642-4345

Have you heard about the GEM/BEM clubs?

These are school-based clubs made up of boys and girls.

They're motivated and thinking youngsters who are committed to the promotion of equal human rights, dignity for all, and mutual respect between boys and girls.

FOR LEARNERS, BY LEARNERS

These clubs are started, organised and run by learners themselves.

In this way, these young adults will learn to become self-reliant and active participants in life. Of course, they will need the support and

guidance of a number of adults, including their educators, and members of business and NGO communities.

THEY'RE ABOUT GETTING THINGS DONE

GEM/BEM clubs are the start of a movement – so they're about taking action, not just talking.

Some of the activities South African GEM/BEM clubs are involved in include:

- Starting campaigns to keep school premises clean and safe;
- Setting up recreational activities such as

drama, art or sports codes at schools;

- Edutainment events that include activities such as gumboot dancing, choir, drama, poetry and story telling, which use talent and entertainment to get important social messages across;
- Debating, especially on topics to do with healthy living and gender equality;
- Charity activities, such as collecting and donating clothes and food to those in need in a community;
- Forming walking teams to ensure the safety of learners on their way home; and

- Inviting speakers to present information on different topics in their schools.

START YOUR OWN GEM/BEM CLUB

For more information on how to set up GEM/BEM clubs at school, request a copy of the GEM/BEM Guidebook for Schools from the Gender Equity Directorate at the National Department of Education:

Tel: (012) 312-5383;

Fax: (012) 312-5218; or

Email: ramatlo.c@doe.gov.za or hlatshaneni.d@doe.gov.za